

## Ussher Lawyers Limited | General Terms and Conditions of Engagement

a. **Purpose of terms of engagement**

Our terms of engagement set out the professional relationship with you. Unless we agree otherwise in writing, these terms of engagement apply whenever you instruct us to act for you.

b. **What is our role, as lawyer, in acting for you?**

We will act to the best of our ability on your behalf, within the scope of your instructions and in accordance with the New Zealand Law Society's Conduct and Client Care Rules for Lawyers 2008 ("**Conduct & Client Care Rules**") which govern the practice of law.

c. **Anti-Money Laundering and Countering Financing of Terrorism Act 2009 ("AML/CFT Legislation")**

From 1 July 2018 Lawyers must comply with the AML/CFT Legislation, which requires all law firms to complete customer due diligence before providing services to clients. As a result, you will be required to complete our customer due diligence processes when you engage us to do work on your behalf. If you are seeing us about company, trust, partnership or incorporated society related matters we will also need information about the people associated with the company, trust, partnership or incorporated society (such as directors and shareholders, trustees, settlors and beneficiaries, partners etc). We may also need to ask you about the nature and purpose of the proposed work you are asking us to do for you. Information confirming the source of wealth and source of funds for a transaction may also be necessary to meet our legal requirements. If we are not able to obtain the required information from you, we may not be able to continue to act for you. Because the AML/CFT Legislation applies to everyone, we need to complete our customer due diligence even if you have been a client of ours for a long time.

d. **How can you help us?**

We will always do our best to be available and responsive to you, and to provide services which are technically accurate, innovative, timely and based on sound common sense. You can help us do this by:

- Giving us clear written instructions;
- Informing us of any applicable time limits;
- Providing us with appropriate identification (ie Passport);
- Confirming your date of birth;
- Providing verification of your physical address;
- Completing any necessary client due diligence forms we ask you to complete;
- Asking us if you are not sure about anything;
- Dealing with any important questions promptly;
- Telling us if you have changed your address or contact numbers.

e. **How do we charge for our services?**

Our fees are charged in accordance with the guidelines laid down by the Conduct & Client Care Rules. In fixing the fee we take into account matters such as the:

- time spent;
- skill and knowledge and responsibility required;
- value of Property involved;
- complexity novelty importance and urgency of the matter;
- Reasonable costs of running a practice; and
- Results achieved.

f. **Disbursements and other charges**

We may also charge disbursements incurred on your behalf which include such charges as registration and filing costs, court charges, photocopying, facsimiles, tolls, deliveries etc. We may also charge an estimate of some disbursements, otherwise termed as "Office charges", such as photocopying, printing, facsimile and phone charges.

Disbursements also include payments made on your behalf such as fees of agents, experts and other professionals and are charged at the amount charged. Where you instruct us to engage outside counsel you must pay to us the fees billed to us by them. GST will be charged on all goods and services.

- g. **Office Service Charge Fee (Office administrative expenses)**  
In addition to disbursements, we may charge a fee of \$105 plus GST to cover out of pocket costs which are not included in our fee and which are not recorded as disbursements. These include items such as data storage, photocopying and printing, postage and phone calls.
- h. **Your instructions**  
We reserve the right to cease to act if our fees and other charges are not paid when due and where you cannot or will not provide instructions required in addition to those specified above.  
By instructing us you accept liability to pay the account we render for work done together with all disbursements and other charges incurred in respect of such instructions.  
You can end our engagement by giving us written notice at any time. You must pay our fees for work done and other charges incurred up to the time of termination.
- i. **Estimate of Fees**  
Where possible or requested we will give you an estimate of the cost to perform your instructions. The estimate will be our guide as to what the fee is likely to be and is not a fixed quote. If however the work does not proceed as we had expected due to unexpected complications, or if the work proves more complicated than originally anticipated, we reserve the rights to charge for all additional work done. However, if it appears that the estimate will be exceeded we will immediately advise you of the reasons and obtain further instructions from you.
- j. **When will you be billed?**  
General Property or transactional matters will be billed at the time of settlement or completion of the matter unless otherwise agreed.  
For other matters we will bill you on a monthly basis.
- k. **What about cash payments you have to make?**  
Payments to be made to other people for work to be done, for example filing fees, search fees, agency fees and similar payments (called disbursements) will not be made unless we receive payment from you first. We reserve the right to ask either for these specific amounts or for an approximate amount to cover these expenses to be paid to ensure that we are not out of pocket.  
If we instruct any other person (including Counsel or another practitioner) we reserve the right to require payment of that person's estimated fees into our trust account beforehand. By instructing that person we undertake an obligation to pay that person's fees and accordingly require protection for these. We may require you to enter into a payment arrangement directly with that person.
- l. **When do you have to pay?**  
Our accounts are all due within 7 days of issue of our invoice. If we are holding money for you (for example from the sale of your house) we may deduct the account from that money and give you a full statement.
- m. **What if you can't pay on time?**  
If you anticipate difficulty in the payment of any account you must contact us immediately on receipt of the account and discuss arrangements for payment. Interest is payable on any account more than 7 days overdue at the rate of 5% above BNZ Bank's business overdraft rate applying at the date payment became due.
- n. **Retention of files and documents**  
Where work has been done by us but we have not been paid by you we have the right to retain original documents and correspondence on your file until such time as all outstanding fees, disbursements and other expenses have been paid. This is known as a lien. This will be particularly important in circumstances where you decide for whatever reason to instruct another lawyer. That other lawyer may be obliged to give an undertaking to us to pay all outstanding fees and disbursements before your file is released.
- o. **Money handling procedures**  
All money you pay to us for any purpose should, wherever possible, be paid by cheque made out to "Ussher Lawyers Limited Trust Account" and crossed "not transferable" or "account payee only". By prior arrangement with us, such payments may also be made by any usual form of bank transfer directly into "Ussher Lawyers Limited Trust Account" at The Bank of New Zealand, Whangamata branch, account number **02-0466-0254512-002** or in cash. Any investment Property (such as security certificates) to be delivered to us for you should be hand-delivered, posted by registered mail or couriered to us. All investment money we receive will be held in a trust account in your name. Any investment Property we receive will be stored in a secure place until disbursed in accordance with your instructions or these terms of engagement.
- p. **Interest on money we hold in trust for you**  
Whenever it is reasonable and practicable to do so, we will lodge any funds held in our trust account on your behalf in a bank deposit account bearing interest at a rate specially negotiated for our clients. Withholding tax will be deducted and paid to the Inland Revenue Department on the interest you earn. If we have your IRD number, you can elect to have withholding tax deducted at your applicable rate. Please advise us if this changes.
- q. **Financial assurance scheme**  
The receipt, holding or disbursement of investment money on your behalf is subject to inspection pursuant to regulations made under the Lawyers and Conveyancers Act 2006.
- r. **Professional indemnity insurance**  
We hold professional indemnity insurance that exceeds the minimum standards specified by the New Zealand Law Society.
- s. **Lawyers' fidelity fund**  
The New Zealand Law Society maintains the Lawyers' Fidelity Fund for the purposes of providing clients of lawyers with protection against pecuniary loss arising from theft by lawyers. The maximum amount payable by the Fidelity Fund by way of

compensation to an individual claimant is limited to \$100,000. Except in certain circumstances specified in the Lawyers and Conveyancers Act 2006 the Fidelity Fund does not cover a client for any loss relating to money that a lawyer is instructed to invest on behalf of the client.

t. **Conflicts of interest**

Sometimes a conflict of interest may arise. We have procedures in place to identify and respond to conflicts of interest. If a conflict of interest arises, we will advise you of this and follow the requirements and procedures set out in the Conduct & Client Care Rules.

u. **Storing records of legal work and trust account transactions**

You agree that we may convert your file into an electronic format. We will store your file for at least seven years after the date of our final invoice. After that, we may destroy your file (we may destroy a paper file earlier if we have converted it into an electronic format). This does not include any documents we agree to hold for you in safe custody. Records of all investment money and investment Property will be kept in accordance with the Lawyers and Conveyancers Act (Trust Account) Regulations 2008 and the Privacy Act 1993. You may have access to all records relating solely to your investment money and investment Property without charge during normal business hours. Any investment money or investment Property we receive on your behalf cannot be used for the benefit of anyone other than you unless you owe us money in which case we may deduct the amount due from investment money we hold for you.

v. **Questions and complaints**

If you have a question about any invoice we send you or if you are unhappy with any other aspect of our work please tell us about it straight away. You can contact us by letter, by phone or by email at [michael@ussherlawyers.co.nz](mailto:michael@ussherlawyers.co.nz) and we will investigate whatever it is you are unhappy about and contact you to discuss it. This will be at no extra cost to you. The New Zealand Law Society operates the Lawyers Complaints Service and you are able to make a complaint to that service. To do so, phone 0800 261 801.

w. **Client Care and Service Information**

Whatever legal services we are providing, we must:

- act competently, in a timely way, and in accordance with instructions received and arrangements made;
- protect and promote your interests and act for you free from compromising influences or loyalties;
- discuss with you your objectives and how they should best be achieved;
- provide you with information about the work to be done, who will do it and the way the services will be provided;
- charge you a fee that is fair and reasonable and let you know how and when you will be billed;
- give you clear information and advice;
- protect your privacy and ensure appropriate confidentiality;
- treat you fairly, respectfully, and without discrimination;
- keep you informed about the work being done and advise you when it is completed; and
- let you know how to make a complaint and deal with any complaint promptly and fairly.

The obligations lawyers owe to clients are described in the Conduct & Client Care Rules. These obligations are subject to overriding duties, including duties to the courts and to the justice system. If you have any questions, visit [www.lawsociety.org.nz](http://www.lawsociety.org.nz) or call 0800 261 801.

x. **Acceptance of terms of engagement**

By instructing us to provide you with legal services you are deemed to have accepted these terms of engagement.