

Chapman Tripp standard Terms of Engagement

These Terms of Engagement apply except where we otherwise agree with you in writing.

Confidentiality

We will hold in strict confidence all information that we acquire through our work for you, and which concerns you, your business or your instructions to us. The only exceptions are where you authorise us to disclose such information (including in these terms of engagement) or where we, or our service providers, must do so by law (including the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (and associated regulations)).

Naturally, the reverse applies and we are not able to disclose to you information that we obtain through acting for other clients.

Where we obtain confidential information from you, we will, as far as practicable, distribute that information only to those within the firm who actually need that information to carry out your instructions.

You acknowledge that, if we are required by law to make disclosures about you or any person associated with you, we may be prohibited from disclosing that disclosure to you or any such associated person.

You authorise us to disclose information about you and persons associated with you to any bank with which we place, or seek to place, your funds through our trust account.

Conflicts of interest

We have policies in place to identify and respond to conflicts of interest. If a conflict of interest or potential conflict of interest arises, we will consult with you about the best way to resolve the matter.

We recognise that New Zealand has relatively small commercial and legal markets. As far as possible, clients should be able to retain their lawyers of choice. We may, therefore, act for other clients whose commercial or legal interests differ from yours. However, we will not act without your consent for any other client where that client's instructions:

- are substantially related to any active matter on which we are working for you, or

- involve confidential information which we hold on your behalf that would disadvantage you if disclosed to the other client and there is a real risk that the personnel within our firm who would act for that other client would obtain that information.

Where we hold confidential information on your behalf but no longer act for you on that matter, we will ensure that effective information barriers are in place so that there is no material risk that you will be disadvantaged by our holding of that information. As necessary, information barriers will include ensuring that access to hard-copy files and electronic documents is limited to the appropriate personnel.

Our duty of care

Our duty of care is to our client named in our confirmation of instruction. We do not owe any duty of care or liability to any other person. If any other person wishes to rely on our advice, they can do so only if we expressly agree. If, during the course of our appointment, we provide services to entities related to or associated with you, then these services will be provided on the same terms as these standard terms (and you will ensure that those entities agree to this).

Anti-Money Laundering and Countering Financing of Terrorism

We have obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (and associated regulations) and we have processes in place to ensure our compliance with those obligations. In order to provide, or continue to provide, legal services to you, we may be required to undertake due diligence on you and persons associated with you (potentially including your beneficial owners, persons who have or may have effective control over you and members of your governing body (relevant persons)).

By seeking to engage us, or continuing to engage us, you agree to assist us to comply with these obligations and such due diligence, and agree that we or our relevant service providers may make such enquiries (and for that purpose make such disclosures) as are reasonable for the

purposes of such due diligence. You also acknowledge that, prior to completing such due diligence, we may be prohibited from acting for you, acting for you on the relevant new matter giving rise to the need for due diligence or completing trust account transactions for you (as the case may be).

You agree to ensure that each relevant person about whom we collect, hold and disclose information as described above is aware of and consents to that collection, holding and disclosure. You also agree to ensure that all information provided to us concerning you and any relevant person is accurate and (where relevant) complete.

We are not liable to you, or anyone else, for anything done or not done by us (including any provision of information by us to any third party or any withholdings made) in order to comply with our legal obligations.

Foreign law matters

We are only qualified to advise on New Zealand law. If we assist you in respect of matters governed by foreign law, we do so on the basis that we do not accept any responsibility (and will not have any liability, whether in contract, tort (including negligence), equity or otherwise) in relation to your legal position under that foreign law.

We will give our advice in English. If we provide a translation into any other language then the English version will prevail in the event of any inconsistency.

Law, jurisdiction and assignment

These terms of engagement and any other agreement we have with you are governed by New Zealand law and are subject to the exclusive jurisdiction of the New Zealand courts. You may not transfer or assign your rights or obligations under these terms or in relation to any engagement of us on any matter.

Our fees

Our fees will be charged on the basis that they will be fair and reasonable, having regard to the circumstances of the matter and the nature of our work for you. While the time and resources involved will be important factors, we will also consider the results achieved and the urgency, level of skill, complexity, responsibility and specialist knowledge involved.

For time based invoicing, our hourly rates are reviewed on 1 December annually. This review includes the promotion of our lawyers through their respective experience levels.

Often the greatest contributor to lower fees is the level of communication between us, both before the work begins and during it. Please discuss with us the outcomes that you seek, the context in which you are working and the level of legal involvement that you require.

We will arrange for each part of your work to be dealt with by the person with the most appropriate level of skill and experience.

We will send interim invoices to you, usually monthly. Our invoices include an office service charge to cover the cost of routine copying, printing, binding, telephone, fax and courier expenses. The office service charge is 3% of all fees on all invoices.

Our invoices will include any New Zealand Goods and Services Tax (GST) applicable to our supply of services to you. If you are required under applicable laws to make any withholdings or deductions from any amounts payable to us under our invoices, you will gross-up those amounts so that we actually receive the amounts we would have received if those withholdings or deductions had not been required.

Our invoices are payable by the 20th of the month following the month of the invoice. Where we do not receive payment by that date, we may charge you interest at the rate of 5% per annum above our principal banker's usual lending rate, compounding monthly.

All invoiced amounts are payable in New Zealand dollars, unless we agree otherwise.

Where we have an arrangement with you that we will address the invoice to another person, you will pay that invoice if that other person does not pay the invoice.

We may deduct any fee, expense or disbursement, for which we have provided you with an invoice, from any funds held in our trust account on your behalf except where we receive the funds from you for a special purpose (other than as security for our fees) and they remain in our trust account for that special purpose.

Where monies are held in our trust account on deposit for you, we may charge an administration fee of up to 5% of the gross interest earned.

Estimates, quotations and rates

If we provide any estimate or quote, we do so subject to the following assumptions:

- your instructions are complete and accurately describe our role
- the matter will proceed and be completed in the manner anticipated in your instructions and within any indicated, or a normal, timeframe
- you will provide any information or instructions we require to do our work in a timely and efficient manner
- no unforeseen impediments will arise and require additional work
- all parties and other advisers involved in the matter will be co-operative and will not be unreasonable, and
- any third party or regulatory consents or approvals will be given in a timely manner and will not involve protracted negotiations.

Unless specified otherwise by us in writing, GST, disbursements and our office service charge are excluded from any estimate, quotation, schedule of rates or other indication of fees. Any breakdown of costs we provide to support our estimate or quotation is indicative only and we can adjust any component of such breakdown.

Any work you ask us to do outside the scope of our estimate or quotation will be charged for separately. This includes supplementary reporting or explanations, and any additional work we do because any of our assumptions are not correct. We will do our best to advise you in the event any of the assumptions underlying an estimate or quotation are no longer valid.

Electronic services and communication

Where we provide any electronic service to you, or communicate with you by electronic means, we will take every reasonable precaution to ensure that those services and communications are accurate, reliable, adequate, complete, confidential and secure.

However, we cannot always be certain that those services and communications are error free. Also, because they will in most cases be internet based, certain risks exist that are outside our control. Consequently, despite the other provisions of these terms, we cannot and do not represent or warrant that those services and

communications will always be accurate, reliable, adequate, complete, confidential and secure. We also exclude all warranties to the extent permitted by law.

Document destruction

We retain the files on each matter, and any documents you leave with us, for seven years after completion or termination of the matter. We may then destroy the files and documents. If you wish to make other arrangements, please advise us of those arrangements.

If you ask us to destroy any matter-related files or other documents, we will do so where it is practicable and we are not otherwise obliged to retain them.

If we destroy files or documents at your request, you waive any liability we may have in relation to the matter, files or documents and we will have no liability to you or a third party.

If you uplift your files or other documents at any time, we may make and keep copies of that material before you collect it.

Limitation of liability

To the extent permitted by law, our total liability to you in connection with any matter (or series of related matters) on which you engage us will not exceed:

- if an amount is available to be paid out under our relevant insurance policies in respect of our liability to you, that amount, up to a maximum of NZ\$20,000,000 (including interest and costs); or
- in any other case, the greater of:
 - NZ\$2,000,000; and
 - an amount equal to five times our paid fees (excluding our office service charge, disbursements and GST), up to a maximum of NZ\$10,000,000 (including interest and costs).

This limitation applies to liability of all kinds, whether in contract, tort (including negligence), equity or otherwise. We may override this limitation where it is specifically agreed with you in an engagement letter signed by us.

If we provide services to any persons or entities related to or associated with you or to anyone else at your request (whether or not we also

advise you) on a matter (or series of related matters) on which you engage us, then our aggregate liability to you and all those persons and entities in respect of that matter (or series of related matters) will be subject to this limitation (and you will ensure that those persons and entities agree to this).

Termination

Where you give us any instruction and we rely on that instruction (for example, by giving an undertaking to a third party), you may not revoke that instruction. Otherwise, you may end our engagement at any time on any matter or matters. You do not need to give us any notice. We may, on reasonable notice to you, end our engagement at any time.

Your instructions will be deemed to have ended at the conclusion of our work for you pursuant to that instruction, or three months from the last date that any work was recorded against the file (whichever is the earlier).

Provided that you have paid all of our invoices on all matters, we will (on request) provide to you all the documents that we have obtained or created through working for you on the matter or matters in question. Before we provide those documents to you, we may take a complete copy of them.

If our engagement is terminated, these terms continue to apply in respect of your instructions and our relationship with you.

General

These terms of engagement apply to any current instruction, and to any future instruction, whether or not we send you another copy of them. There is no need for you to sign these terms of engagement in order to accept them; you will accept these terms of engagement by continuing to instruct us to work for you.

These terms of engagement are not affected by any change to our partnership.

We can change these terms of engagement, in which case we will notify you of the amended terms of engagement.

Any dispute concerning these terms of engagement, or our work for you, is to be resolved in the New Zealand courts under New Zealand law.

In these terms of engagement, “we”, “us” and “the firm” means Chapman Tripp, and “you” means our client. Where you are a company or other corporate or unincorporated entity, we act only for you. We do not act for your shareholders, directors or members, unless we expressly agree otherwise.

CLIENT SERVICE INFORMATION

We are committed to complying with the *Rules of Conduct and Client Care for Lawyers* of the New Zealand Law Society (*Law Society*). To assist you, the following information describes some key elements of those rules, and explains some recourse you have as a consumer of legal services.

Client care and service

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 *Rules of Conduct and Client Care for Lawyers*. Those obligations are subject to other overriding duties, including duties to the courts and to the justice system.

If you have any questions please either discuss them with us or contact the Law Society at www.lawsociety.org.nz, or on 0800 261 801.

People responsible for your work

We will advise you of the people who will have overall responsibility for your work on each matter.

Complaints

We have complaints procedures that are designed to ensure that any complaint is dealt with promptly and fairly.

If you have a complaint about our services or charges, please talk to the Chapman Tripp person you usually deal with or the partner responsible for your work.

If you do not wish to talk to that person about your complaint, or you are not happy with that person's response to your complaint, please contact our chief executive partner, who can be reached by:

- email at cep@chapmantripp.com, or
- telephone +64 9 357 9000, +64 4 499 5999, or +64 3 353 4130.

The Law Society also maintains a complaints service and you can make a complaint to that service by calling 0800 261 801.

Professional indemnity insurance

We hold professional indemnity insurance that meets or exceeds the minimum standards specified by the Law Society. We can provide you with particulars of the minimum standards upon request.

Lawyers' Fidelity Fund

The Law Society maintains the Lawyers' Fidelity Fund to provide protection against client losses arising from theft by lawyers. The most the Fidelity Fund can compensate you is NZ\$100,000. The Fidelity Fund will not usually cover loss relating to money a lawyer is instructed to invest on behalf of a client.

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