

# Terms of Engagement

## 1. APPLICATION

These terms apply to the relationship between Ellis Law and you. However, if these terms are inconsistent with any other agreement Ellis Law may make with you (whether generally or in respect of a specific instruction) then that other agreement prevails over these terms.

## 2. AUTHORITY

Ellis Law has the authority a lawyer ordinarily has to act for you in relation to each instruction it accepts from you. This includes your authority, where reasonable, to incur expenses; engage law firms in other regions or jurisdictions; and engage barristers, valuers, accountants, tax consultants or other relevant experts.

## 3. CONFIDENTIAL INFORMATION

Ellis Law will not disclose, any confidential information which is obtained in acting for you as your lawyer to any other person except to the extent allowed or required by law of the Law Society Rules. Possession of confidential information will not preclude Ellis Law acting for any other person.

You are not entitled to any confidential information Ellis Law has or obtains in relation to any other client or prospective client.

## 4. CONFLICTS

We will comply with the Law Society Rules in respect of conflicts of interest.

In acting for you, Ellis Law is not restricted from acting for another client in relation to any separate matter, even if that other client's interests may be adverse to your interests. Ellis Law will not be required to obtain any further consent from you to act for that other client.

If you believe a conflict of interest has arisen or may arise, please inform Ellis Law immediately.

## 5. ADVICE AND SERVICE

5.1 Any advice given by Ellis Law is:

- (a) solely for your benefit. It may not be relied on by any other person unless Ellis Law agrees to that in writing;
- (b) not to be disclosed, referred to or used other than for the purpose for which it was sought unless Ellis Law agrees to that in writing;
- (c) not to be made public or published;
- (d) limited to the matters stated in it;
- (e) limited to and governed by New Zealand law; and
- (f) subject to changes in the law after the date it is given;

5.2 Ellis Law is not responsible for advising you as to taxation issues unless you specifically request Ellis Law to provide taxation advice;

5.3 The name of Ellis Law and advice it provides may not be used in connection with any public document or document that may be made available to any member of the public or to other people without the written consent of Ellis Law;

5.4 When instructions to Ellis Law on a matter are completed, the representation by Ellis Law of you for the particular matter will end. Ellis Law is not obliged to notify you of any subsequent change of law, or to provide any further services related to that matter.

## 6. FINANCIAL

6.1 Professional fees

The fees of Ellis Law are charged on the basis of the NZLS Rules which require that fees be fair and reasonable for the services provided.

The rates for fees and services provided by Ellis Law for you may vary from time to time. Ellis Law will send its invoice either as a transaction is concluded or at intervals for ongoing matters. If applicable, a statement of funds handled on your behalf will also be sent to you.

Ellis Law can provide fee estimates or quotes. Special fee arrangements can be made to meet the particular requirements of any transaction. These may include a success fee, fixed fees and capped fees.

Ellis Law recommends that you discuss with it the exact nature of the work and the manner in which it is to be undertaken. Sometimes an acceptance by you of transaction risks may reduce legal costs involved.

6.2 **Office services and disbursements**

Fees for professional legal service incorporate the overhead cost of secretarial, word processing and other assistance provided to lawyers employed by Ellis Law.

Disbursements (such as courier costs, Companies Office registration fees, court filing fees, and land title searches and registration fees and other external costs (such as experts, overseas lawyers, and barristers) are charged separately from our legal fees and itemised on statements enclosed with invoices. If Ellis Law is required to spend money on disbursements or other external

costs prior to invoices being sent to you, you may be asked to pay these in advance.

Charges for office services and photocopying, faxing, phone calls, emailing and the like are set out in invoices sent to you.

**6.3 GST additional**

Fees and charges are plus GST (if any), which is payable by you.

**6.4 Payment**

Invoices and amount are to be paid by you within 14 days of the date of the invoice unless you have made other arrangements with Ellis Law.

**6.5 Security**

You may be asked to pre-pay amounts to Ellis Law to provide security for expenses and fees. Ellis Law will have your authority to draw on the amounts paid towards fees and expenses, as they become due.

**6.6 Trust Account**

Ellis Law is entitled to charge an administration fee of 7.5% of the net interest earned if money is placed on interest bearing deposit. If funds are deposited on your behalf, you should provide either your IRD number or a copy of your interest withholding tax exemption certificate.

Ellis Law may deduct from funds held on your behalf in the Ellis Law trust account any fees, costs or disbursements for which an invoice has been provided.

**6.7 Unpaid Invoices**

If payment of our invoice by you is overdue, Ellis Law may:

- a) not perform any further work for you until all unpaid invoices are paid in full.
- b) retain custody or any of your property (including documents or files) until all unpaid invoices are paid in full;
- c) charge interest on any amount overdue at a rate of interest equivalent to that charged by ASB Bank Ltd for visa cards from time to time.

**6.8 Third parties**

You must pay the invoices of Ellis Law whether or not you have instructed Ellis Law on your own behalf or on behalf of someone else such as a Company, Trust, Incorporated Society or a Body Corporate ("Company").

If you instruct Ellis Law as a director or officer of a Company you are liable to pay the invoices of Ellis Law if the Company fails to pay them.

You acknowledge you will be regarded as a principal debtor if the Company fails to pay the invoice.

**7. TERMINATION**

You may terminate this agreement at any time. Ellis Law may terminate this agreement in the circumstances permitted in the NZLS Rules.

You must pay Ellis Law for the services it provides, and all expenses and disbursements incurred on your behalf or for your benefit, up to the date of termination.

**8. RETENTION OF YOUR DOCUMENTS**

Ellis Law usually destroys its files 9 years after a matter is completed. If you do not retrieve your documents within that period, you give us your authority to destroy them.

If this agreement is terminated, Ellis Law is entitled to retain copies of documents or records which are delivered to you or to another lawyer. The costs of taking copies or records are payable by you.

**9. INTELLECTUAL PROPERTY**

Ellis Law retains all ownership rights in all intellectual property of any kind created by Ellis Law for you. You may not reproduce or further use the intellectual property or provide it to a third party without the express consent of Ellis Law.

**10. ELECTRONIC COMMUNICATIONS**

Communication with you may be made by electronic means. Electronic communications can be subject to interference or interception or contain viruses or other defects ("corruption") Ellis Law does not accept responsibility for, and will not be liable for any damage or loss caused in connection with, or as a consequence of, the corruption of an electronic communication.

**11. GOVERNING LAW - CHANGES**

11.1 New Zealand law governs our relationship and New Zealand Courts have exclusive jurisdiction.

11.2 Ellis Law may change these terms at any time, and will publish the changed terms on its website. The change will bind you in respect of any matters on which Ellis Law accepts instructions after publication of the change.

**12. INDEPENDENT ADVICE**

These terms modify some of the duties owed by lawyers to their clients. Ellis Law recommends that you seek independent legal advice before accepting them.