

STANDARD TERMS OF ENGAGEMENT

These Standard Terms of Engagement (“Terms”) apply in respect of all work carried out by Keam Standen Limited (“Us,” “We” or “Our”) for Our clients (“You” and “Your”), except to the extent that We otherwise agree with You in writing.

1. Services

- 1.1 The services which We are to provide for You (“Our retainer”) are outlined in Our engagement letter.
- 1.2 Our retainer is set out in Our letter of engagement and includes incidental or related attendances and any additional tasks You give Us during the course of the matter(s).
- 1.3 Our retainer excludes providing you with advice on the risk of an investment transaction.

2. Financial

2.1 Fees:

- (a) The factors We use to calculate Our fees are listed in Our letter of engagement and rule 9.1 of the *Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008* (“Rules of Conduct”).
- (b) We keep a record of the time spent on Your matter(s) and consider this in calculating Our fees. The band of hourly rates We use are set out in Our engagement letter. The difference with the band of hourly rates We charge reflect the experience and specialisation of Our professional staff. Time spent is recorded in 6 minute units, with time rounded up to the next unit of 6 minutes.
- (c) If Our letter of engagement specifies an estimate, We will charge for this any agreed scope of services. However, work that falls outside that scope of services will be charged in addition. We will advise You as soon as reasonably practicable if it becomes necessary for Us to provide services outside Our estimate and if requested give You an estimate of the likely amount of further costs.

2.2 **Disbursements and expenses:** While providing services We may incur disbursements or have to make payments to third parties on Your behalf. These will be included in Our invoice to You when the expense is incurred. We may require an advance payment for the disbursements or expenses which We will be incurring on Your behalf.

2.3 **Treborco:** Agency services are carried out by Our agency company, Treborco Limited (“Treborco”). Where this happens a separate invoice from Treborco will be included with Our invoice. Treborco charges are (excluding GST):

- (a) \$132 each to onboard individual clients or couples;
- (b) \$198 to onboard other entities (which includes corporate bodies and trusts) including up to 4 component individuals and/or entities, and \$55 for each additional component individual or other entity;
- (c) \$22 agency for any searches of the Land Information New Zealand database;
- (d) \$55 agency for each registration including transfers, discharges, mortgages, transmissions and caveats; and
- (e) \$7 agency for each post registration search.

2.4 **GST (if any):** Is payable by You in addition to Our fees and charges.

2.5 **Invoices:** We will send interim invoices to You, monthly or on completion of the matter or termination of Our engagement.

2.6 **Payment:** Invoices are payable within 7 days of the date You receive Our invoice, or the date on which You can reasonably be expected to have received Our invoice, whichever is the earlier, unless alternative arrangements have been made with Us.

2.7 **Interest:** We may require interest to be paid on any amount which is overdue. Interest will be calculated at the rate of 2% per calendar month.

- 2.8 **Collection:** Any debt collection or legal enforcement costs (on a solicitor-client basis) incurred by Us in relation to Your unpaid account will be passed on to You.
- 2.9 **EFTPOS:** We accept payment of Our fees and disbursements by bank transfer or EFTPOS. However, We cannot accept payments for any other purposes by EFTPOS.
- 2.10 **Credit Card Surcharge:** If You chose to pay Our fees using a credit card We will pass on the additional bank fees We incur (currently these are 1.8% of Our total costs including disbursements and GST).
- 2.11 **Security:** You authorise Us:
- (a) to debit against amounts pre-paid by You; and
 - (b) to deduct from any funds held on Your behalf in Our trust account any fees, expenses or disbursements for which We have provided an invoice.
- 2.12 **Liability:** Where You instruct Us as a couple, Your liability to pay Our fees is joint and several.
- 2.13 **Third Parties:** Although You may expect to be reimbursed by a third party for Our fees and expenses, and although Our invoices may at Your request or with Your approval be directed to a third party, nevertheless You remain responsible for payment to Us if the third party fails to pay Us.
- 2.14 **Instructions as Attorney:** Where You instruct Us as Attorney on behalf of a Donor, We may make reasonable enquiries into the validity of Your power of attorney and You warrant that the Donor has sufficient resources to pay Our fees.
- 2.15 **Guarantee and Authority:** Where You have chosen to instruct Us through or as agent of a company, trust, partnership, or other corporate entity which You control or in which You have an interest ("the Entity") You acknowledge that:
- (a) We are entitled to assume that You have ostensible authority to instruct Us on behalf of the Entity.
 - (b) the directors, trustees and/or partners of the Entity, as the case may be, personally guarantee payment of Our fees.
- 2.16 **Instruction of Barristers:** We may agree to act as instructing solicitors for a barrister to represent You. We will require a retainer for the barrister's estimated costs. You are responsible to reimburse Us for the full cost of the barrister's fees and disbursements. If the amount We hold as a retainer from You becomes insufficient to pay the barrister's estimated costs We will instruct the barrister to cease work unless satisfactory alternative arrangements have been made between Us, You, and the barrister.
3. **Confidentiality**
- 3.1 We will hold in confidence all information concerning You or Your affairs that We acquire during the course of acting for You. We will not disclose any of this information to any other person except:
- (a) to the extent necessary or desirable to enable Us to carry out Your instructions; or
 - (b) to the extent required by law or by the *Rules of Conduct*;
 - (c) if We are required to do so by law including under the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009 ("AML/CFT"); or
 - (d) to the extent necessary to enable Us to recover any costs which may be outstanding to Us by You.
- 3.2 Confidential information concerning You will as far as practicable be made available only to those within Our firm who are providing legal services for You.
- 3.3 We will, not disclose to You confidential information which We have in relation to any other client.
- 3.4 We will hold personal information about You in accordance with Our privacy policy.
4. **Termination**
- 4.1 You may terminate Our retainer by notifying Us in writing at any time.
- 4.2 We may terminate Our retainer with You by notifying You in writing in any of the circumstances set out in the *Rules of Conduct* and/or if payment of Our fees are overdue.

4.3 If Our retainer is terminated You must pay Us all fees due up to the date of termination and all expenses incurred up to that date.

4.4 We may continue to hold Our files and deeds until all fees, up to the date of termination and all expenses incurred up to that date, are paid.

5. **Retention of Files and Documents**

5.1 You authorise Us (without further reference to You) to:

- (a) Destroy all hardcopy files and/or documents for this matter 10 years after our engagement ends or earlier if those files or documents are converted to electronic format; and
- (b) Convert original hardcopy documents or files into exclusively electronic form.

This clause does not apply to deeds or wills that we are holding in safe custody for you until they are required.

6. **Conflicts of Interest**

6.1 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 *Rules of Conduct*.

7. **Duty of Care**

7.1 Our duty of care is to You and not to any other person. Before any other person may rely on Our advice, We must expressly agree to this in writing.

8. **Trust Account**

8.1 We maintain a trust account for all funds which We receive from clients (except moneys received for payment of Our invoices). If We are holding significant funds on Your behalf We will normally lodge those funds on interest bearing deposit with Our bank, subject to economic considerations and You providing completed Foreign Account Tax Compliance Act (FATCA) and/or Common Reporting Standard (CRS) forms. We charge an administration fee of 5% of the gross interest received.

9. **AML/CFT Compliance**

9.1 You agree to provide Us with suitable identification, proof of Your address, and verification of the sources of Your income and/or wealth (as specified in Our AML/CFT Onboarding forms). We are unable to act for You if You do not provide identification, proof of address or source of income or wealth that We consider, at Our discretion to be suitable.

9.2 You agree that We may consult document issuers, record holders, credit agencies and other third parties for the purpose of verifying Your identity, proof of address, and/or credit control/debt collection.

10. **FATCA and CRS**

10.1 Where We hold funds on deposit for You We have a legal obligation to collect and pass on details about the tax residency of Our clients. For those who are United States citizens or tax residents, information about Your financial affairs may be passed on to the United States Internal Revenue Service by Our Bank. For tax residents of other OECD countries Our Bank may pass on information about Your financial affairs to the relevant tax authorities.

For Us to place any client funds on interest bearing deposit, forms about Your tax residency must be completed and returned to Us.

These are available for individuals from:

<https://www.westpac.co.nz/assets/Business/institutional/documents/Forms/Individual-Customer-Foreign-Tax-Information-Westpac-NZ.pdf>

and for entities from:

<https://www.westpac.co.nz/assets/Business/institutional/documents/Forms/Organisation-Customer-Foreign-Tax-Information-Westpac-NZ.pdf>

10.2 We will provide You with hard copies of these forms if requested.

11. **Limitations of Liability**

- 11.1 We will provide legal services with due care and skill however We cannot guarantee any particular outcome for You.
- 11.2 You agree that We can rely upon the information that You provide to Us. You indemnify Us for any costs, expenses, damages, penalties, or losses We suffer as a result of any inaccurate or inadequate information supplied to Us.
- 11.3 To the maximum extent permitted by law, Our total liability to You for breaching any legal or equitable duties or obligations or for any other matter in relation to Our services (or series of related matters) will be the cover provided and paid out under Our professional indemnity insurance. Where no professional indemnity insurance cover applies, Our maximum liability is limited to \$10,000.00 (excluding disbursements and GST).

12. **Communication**

- 12.1 You agree that the contact information including addresses, phone numbers, and emails You supply to Us may be used to contact You unless You instruct otherwise.
- 12.2 We use standard anti-virus software, however We cannot accept liability for viruses, phishing software or the like which have infected Our information system. We cannot accept liability for changes to or interception of emails and attachments once they leave Our information system.

13. **General**

- 13.1 These Terms apply to any current engagement and also to any future engagement, whether or not We send You another copy of them.
- 13.2 We are entitled to change these Terms from time to time, in which case We will send You amended Terms.
- 13.3 Our relationship with You is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.
- 13.4 If You have a Trust which utilises a Keam Standen affiliated Trustee Company/entity ("Our Trustee"), You acknowledge and confirm that the liability of Our Trustee in relation to any matter will not be personal to Our Trustee but will always be limited to the actual amount recoverable from the assets of Your Trust from time to time.

INFORMATION FOR CLIENTS

Set out below is information required to be provided to in the *Rules of Conduct* of the New Zealand Law Society.

1. **Fees:** The basis on which fees will be charged is set out in Our letter of engagement. When payment of fees is to be made is set out in Our Standard Terms of Engagement.

We may deduct from any funds held on Your behalf in Our trust account any fees, expenses or disbursements for which We have provided an invoice.
2. **Professional Indemnity Insurance:** Our Professional Indemnity Insurance provides an indemnity on any one claim of \$1.5 million. This meets the minimum recommended by the New Zealand Law Society of \$1.5 million cover and an excess not exceeding 1% of the indemnity limit.
3. **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 \$100,000.00. Except in certain circumstances specified in the Lawyers & 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.
4. **Complaints:** We maintain a procedure for handling any complaints by clients, designed to ensure that a complaint is dealt with promptly and fairly.

If You have a complaint about Our services or charges, You may refer Your complaint to the person in Our firm who has overall responsibility for Your work.

If You do not wish to refer Your complaint to that person, or You are not satisfied with that person's response to Your complaint, You may refer Your complaint to Luke Stewart of Holland Beckett, Lawyers, 525 Cameron Road, Tauranga 3110, Phone 07 571 3835 or 027 341 8234.

Luke may be contacted as follows:

- by letter addressed to the above address;
- by email at Luke.Stewart@hobec.co.nz;
- by telephoning him at the above phone number.

The New Zealand Law Society also maintains a complaints service and You are able to make a complaint to that service. To do so You should contact the New Zealand Law Society, P O Box 5041, Wellington (Phone 0800 261 801) or email complaints@lawsociety.org.nz.

5. **Persons Responsible for the Work:** The names and status of the person or persons who will have the general or overall responsibility for the services We provide for You are set out in Our letter of engagement.
6. **Client Care and Service:** The New Zealand Law Society client care and service information is set out below.

Whatever legal services Your lawyer is providing, he or she 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.*
- *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*. Those obligations are subject to other overriding duties, including duties to the courts and to the justice system.

If You have any questions, please visit www.lawsociety.org.nz or call the New Zealand Law Society on 04 472 7837.

7. **Limitations on extent of Our Obligations or Liability:** Any limitations on the extent of Our obligations to You or any limitation or exclusion of liability will be set out in Our letter of engagement.