

STANDARD TERMS OF ENGAGEMENT – D'ARCY THOMSON LAW

1. Services

The services which we are to provide for you are outlined in our engagement letter.

2. Financial

2.1 Fees

- a) The fees which we will charge or the manner in which they will be arrived at, are set out in our engagement letter. Our fees are charged in accordance with guidelines laid down by the Rules of Professional Conduct of the New Zealand Law Society. In fixing our fees we take into account the following factors:
 - the time spent
 - the skill and knowledge and responsibility required
 - the value of property involved
 - the complexity, novelty, importance and urgency of the matter
 - the reasonable costs of running a practice
 - the result
- b) If the engagement letter specifies a fixed fee, we will charge this for the agreed scope of our services. Work which falls outside that scope will be charged on an hourly rate basis. We will advise you as soon as reasonably practicable if it becomes necessary for us to provide services outside the agreed scope and if requested, give you an estimate of the likely amount of the further costs.
- c) Where our fees are calculated on an hourly basis, the hourly rates are set out in our engagement letter. The differences in those rates 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.

2.2 Disbursements and Expenses

In 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 GST (if any)

Is payable by you on our fees and charges.

2.4 Invoices

We may depending on the circumstances send interim invoices to you, usually monthly and on completion of the matter, or termination of our engagement. We may also send you an invoice when we incur a significant expense.

2.5 Payment

Invoices are payable on receipt of our invoice, unless alternative arrangements have been made with us. We may require interest to be paid on any amount which is more than 30 days overdue. Interest will be calculated at the rate of 15.00% per annum applying at the date payment became due (minimum charge \$5.00 per invoice per month). When interest has been charged, it is our policy to apply any subsequent payment to interest charged first before allocating the payment to invoices or other balances. If we are required to take recovery action against you all collection costs will be payable by you. This may include administration charges and collection costs charged by our debt collection agency. We accept payment by direct credit and/or cash.

2.6 Security

We may ask you to pre-pay an amount to us, or to provide security for our fees and expenses. You authorise us:

- a) to debit against amounts pre-paid by you; and/or
- 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.

2.7 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 direct to a third party, nevertheless you remain responsible for payment to us if the third party fails to pay us.

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 Law Society's *Rules of Conduct and Client Care for Lawyers*.

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 of course, not disclose to you confidential information which we have in relation to any other client.

4. **Termination**

4.1 You may terminate our retainer at any time.

4.2 We may terminate our retainer in any of the circumstances set out in the Law Society's *Rules of Conduct and Client Care for Lawyers*.

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

5. **Retention of files and documents**

5.1 You authorise us (without further reference to you) to destroy all files and documents for this matter (other than any documents that we hold in safe custody for you) 10 years after our engagement ends, or earlier if we have converted those files and documents to an electronic format.

5.2 We may charge a fee (advised in our engagement letter) for storage of your file, or alternatively you may choose to uplift your file upon completion of the matter.

5.3 If uplifted, you will be responsible for the storage of the file and its contents in accordance with any legislative requirements.

6. **Conflicts of Interest**

6.1 We may act for other clients who compete with, or are involved in your business or personal affairs. We will continue to act for those clients where no conflict of interest arises between your interests and the interests of the other client.

6.2 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 Law Society's *Rules of Conduct and Client Care for Lawyers*.

7. **Duty of Care**

7.1 Our duty of care is to you and not to any other person who may rely on our advice, we must expressly agree to this.

8. **Trust Account**

8.1 We maintain a trust account for all funds which we receive from clients (except monies 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 a bank. In that case we will charge an administration fee of 7.0% of the gross interest derived.

9. **General**

- 9.1 These terms will apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.
- 9.2 We are entitled to change these Terms from time to time, in which case we will send you amended Terms.
- 9.3 Our relationship with you is governed by New Zealand Law and New Zealand courts have non-exclusive jurisdiction.
- 9.4 We may also receive a commission for the placement of insurance products for client(s) (Fire and General, Personal Risk), either directly (if an agency is held) or indirectly if a referral is made to a specialist insurance advisor.
- 9.5 We may also receive a commission for referral to third parties.

10. Loan Market South Limited

Please note: Loan Market South Limited is a separate entity. If you are engaging both services a separate engagement letter will be provided setting out terms, conditions and the complaints resolution procedure that is applicable.

- 10.1 On settlement of a mortgage payment is made by way of the Bank to us directly. There is no charge to you as the client. The payment is generally of an upfront nature but may also include a small renewal or trail commission. We also do receive a fixed rate roll over fee from some providers if we assist in re fixing your loan.
- 10.2 A full schedule of all providers and their commission rates is available on request.
- 10.3 In the rare event that you may require us to act on your behalf in a transaction whereby we do not receive a commission from the panel of providers or you request us to act on your behalf with a provider that we do not hold an accreditation with we may charge a one off fee for this work to be completed. Any such fee would be agreed in advance and authorised by you in writing.
- 10.4 If undertaking a mortgage through our firm we will provide separate disclosure as required by the financial markets authority.

11. House Insurance

- 11.1 To assist with your transaction we may refer an insurance advisor for dwelling or contents insurances. We do not receive a commission and do not accept any liability if there is any liability arising from advice given on home or contents insurance.

12. Due Diligence

- 12.1 As part of our firms due diligence you may be contacted by an independent adviser to discuss Wills, Enduring Powers of Attorney, Finance (if required) and any Insurance requirements you may need.

13. AML/CFT

- 13.1 From 1 July 2018, in accordance with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT), we will be required to verify our clients' identities and addresses as well as other information. For more information please refer to our website: www.darcythomsonlaw.co.nz.

14. Complaints

- 14.1 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 Kirsten Maclean at D'Arcy Thomson Law. She may be contacted as follows:

- By confidential letter addressed to D'Arcy Thomson Law, Solicitors, P O Box 29119, Christchurch 8440;
- By email at kirsten@dtlaw.co.nz;

- By telephoning her at D'Arcy Thomson Law on 03 281 7722.

The New Zealand Law Society also maintains a complaints service and you are able to make a complaint to that service. To do so please visit www.lawsociety.org.nz or call 0800 261 801 or email complaints@lawsociety.org.nz.