

## Terms of Engagement

Thank you for choosing to instruct Morrison Kent to act as your lawyers. This document sets out our general Terms of Engagement ("Terms"). These Terms form part of your contract with us, except to the extent that we otherwise agree with you in writing.

### When do the Terms apply?

These Terms apply once you have confirmed your acceptance of them by return email. They will thereafter apply whenever you instruct us to act for you, unless we agree (in writing) to vary them.

### Acting for You

As your lawyers, we act on instructions that you give us. When we give you legal advice, we will be relying on the information that you, and sometimes other people or agencies, provide to us. Our opinions are based on our best professional judgment.

Your instructions will be carried out by a partner, solicitor, law clerk or a legal executive, depending on the level of skill required for the particular tasks. However, at all times your affairs will be supervised by a partner.

### Our Privacy Policy - Confidentiality

While we are acting as your lawyers, we are authorised by you to collect and hold personal information about you. If you fail to provide us with the necessary information, this may prevent us from representing you effectively.

We will hold in confidence all information concerning you or your affairs that we acquire while acting for you. We will not disclose any of this information to any other person except to the extent necessary or desirable to enable us to carry out your instruction; or to the extent required by law or by the New Zealand Law Society's *Rules of Conduct and Client Care for Lawyers*.

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. We will of course not disclose to you confidential information which we hold in relation to any other client.

We may use the information we hold about you to provide you with legal services and to inform you about issues and developments that may be of interest to you. We may also use this information

to obtain credit references or other references about you, and we may give the information to debt-collection agencies if you have not paid a bill when it is due. You authorise us to obtain from any person, or to release to any person, any information that is necessary for those purposes, and you also authorise any person to release any information to us that we require for those purposes.

Under the Privacy Act 1993 you have the right to have access to personal information that we hold about you and to require us to change it if it is not correct.

The Financial Transactions Reporting Act 1996 requires us to verify the identity of our clients and to report any suspicious transactions involving our clients.

### Anti-Money Laundering

The Anti-Money Laundering and Countering Financing of Terrorism Act 2009 ("AML/CFT Act") imposes obligations on us to collect information about you and disclose information for the purposes of the AML/CFT Act.

You accept that we may use customer due diligence services (including third party systems and electronic based services from a third party, including without limitation Aply (see [www.aplyid.com](http://www.aplyid.com) for more information) to verify your identity and conduct other customer due diligence or monitoring required under the AML/CFT Act, and that when we use such services:

- (a) the other third party (a Service Provider) will exchange information about you for that purpose and the Service Provider may hold information on its system and use it to provide their customer due diligence service to their other customers; and
- (b) we may use Service Provider's services in the future for any authorised purpose (including in relation to ongoing customer due diligence). This may include using the Service Provider's monitoring services to receive updates if information held about you changes.

### Our Fees and Expenses

We will charge you a reasonable fee for the work we carry out, and this may take into account a number of factors including the skill, specialised knowledge and responsibility required to perform the work properly; the importance of the matter to

you and the results achieved; the urgency and circumstances in which we undertake the work for you and any time limitations imposed; the degree of risk assumed by us in undertaking the work for you (including the amount or value of any property involved); the complexity of the matter and the difficulty or novelty of the questions involved; the possibility that by accepting work from you this may preclude other clients engaging us; and the experience, reputation and ability of the lawyer working for you.

If the letter of engagement specifies a fixed fee, we will charge this for the agreed scope of our services. For work which falls outside that scope, we will charge you a reasonable fee based on relevant factors including the time spent on your work by us. 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.

Where our fees are calculated based on an hourly basis, the hourly rates are set out in our letter of engagement. The differences in those rates reflect the experience and specialisation of our professional staff. Time spent on your behalf is recorded in six minute units, with actual time spent rounded up to the next unit of six minutes. GST (if any) is payable by you on our fees and charges.

As well as our fees, we will charge you for direct expenses (disbursements) that we incur while carrying out your instructions, such as registration fees and funds-management fees. We will also apply an Office Charge to cover incidental office expenses, such as toll calls and photocopying. We may ask you to pay in advance for any sums that must be paid to third parties, such as registration fees or court filing fees.

### **Terms of Payment**

We will send you an invoice for our fees and disbursements at the end of each month while the work we do for you is continuing, or if expressly agreed by us when the particular matter or transaction is completed. **We require you to pay within 14 days of the date of the invoice.**

You authorise us to deduct from any money that we hold on your behalf our fees and expenses which we have invoiced to you.

To ensure that we continue acting for you, it is essential that you pay your bills promptly. If a bill is not paid by the due date we will stop acting as your lawyers. In the unlikely event that this

happens, we will notify you that we intend to stop acting for you. You will continue to be responsible for paying our fees for the work we have done for you and the expenses we have incurred.

If your bill or part thereof remains unpaid more than 30 days after the due date, we reserve the right to charge you interest at the rate of 12% per annum. You will be responsible for all legal (solicitor/client) and other costs that we incur through recovering or attempting to recover the debt owed by you to us. Any payments made by you will be applied first in reduction of costs, secondly interest, and then principal.

### **Our Money Handling Procedures**

Any money or property which we receive from you, or on your behalf, will be held by us on trust for you unless you instruct us otherwise. We will follow your instructions as to how money or property that we hold on your behalf is to be applied or distributed.

We cannot withhold from you, nor use for our own benefit, any money or property that we hold in trust on your behalf, except for money that we use to pay fees and expenses that we incur through acting as your lawyers, or for money that we deduct as our commission from the interest received on money that we hold on your behalf, or when we are legally required to withhold the money from you.

We will keep records of all money or property that we hold on your behalf for at least the period that is legally required. During our normal office hours we can provide you with details of any financial transactions that relate to you. We will not provide you with a receipt unless you specifically ask for one, unless you pay us in cash.

Any money that you pay to us for settlement purposes should be in cleared funds, and paid either by bank cheque or direct credit, made payable to "Morrison Kent Trust Account". If money has not been provided to us in cleared funds we may delay distributing it until we have received written confirmation that the funds have been cleared from the payer bank and will not be reversed.

If your instruction to Morrison Kent relates to an investment decision, then other than providing advice that is purely incidental to the provision of legal services, we will not provide advice as to the quality of any investment decision.

### **Placing money on Interest Bearing Deposit**

While we hold money for you, it will be in our Trust Account with Bank of New Zealand (or such other New Zealand registered bank that we may have our Trust Account with). Our Trust account is not an interest bearing account. If the money we hold is significant and we are to hold it for a significant period of time, we will, at your request, place your funds on interest bearing deposit with Bank of New Zealand. Before doing so, to enable us and our bank to comply with the requirements of the Foreign Account Tax Compliance Act ("FATCA") and the Common Reporting Standards ("CRS"), we will require you to complete a self-certification form. These self-certification forms are on our website and a copy of the relevant form will be made available to you upon request. We will charge an administration fee of 7.5% of the interest earned.

### **What to Do if You Have Concerns about Our Work or a Complaint**

We value our relationship with you. If at any time you have any concerns about our work, our costs, or a complaint, please contact the partner who is supervising the work or our Client Care Partner, who is Richard Caughley (or Andrew Stewart if Richard is the relevant supervising partner).

We will endeavour to resolve your concern or complaint in an efficient manner. The partner who is supervising the work will meet with you within a week of you first contacting us with your concern or complaint.

If we cannot resolve your concern or complaint through your meeting with the supervising partner, we will ask our Client Care Partner to review the matter and formally respond to you within two weeks of the matter being referred to that partner.

If the Client Care Partner is unable to resolve this matter to your satisfaction, then we will assist you in referring your concern or complaint to the New Zealand Law Society Complaints Service. You have a right to raise any concern or complaint regarding our work with the New Zealand Law Society at any time if you so wish. To do so, you should contact the Law Society at PO Box 5041, Wellington 6145, telephone 0800 261 801, [www.lawsociety.org.nz](http://www.lawsociety.org.nz).

### **End of Your Relationship with Morrison Kent**

You can end your relationship with us at any time. Please notify us of this in writing and we will then send you an invoice for our fees and expenses up to the date of termination of the relationship. If you want the documents relating to our work for

you, we will provide you with those documents once you have paid all amounts invoiced by us to you.

We may terminate our relationship with you in any of the circumstances set out in the New Zealand Law Society's *Rules of Conduct and Client Care for Lawyers*.

### **Your Files and Information After the Work Is Completed**

Morrison Kent are using an electronic filing system. When we have completed the work you have instructed us to do, Morrison Kent will keep all documents that relate to that work on an electronic database for at least seven years. At any time you can request we give you those electronic documents, and we will give them to you when all our fees and expenses have been paid. Where we keep your electronic documents, you authorise us to destroy those documents seven years after the date of our final bill. This does not include any documents that you have given us for safekeeping: we will hold those documents until you tell us otherwise.

### **Conflicts of Interest**

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

### **Professional Indemnity Insurance**

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

### **Lawyers Fidelity Fund**

The 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.

### **Duty of Care**

Our duty of care is to you and not to any other person. We must expressly agree in writing before any other person may rely on our advice to you.

### **General**

These Terms of Engagement apply to any current engagement and also to any future engagement by you of our firm, whether or not we send you another copy of these Terms.

We may change our Terms of Engagement from time to time, and will publish the changed Terms on our website.

Our relationship with you is governed by New Zealand law.