

TERMS OF ENGAGEMENT

1. SERVICES

1.1 The services we will provide for you are set out in our letter of engagement.

2. EXCLUDED work /EXCLUDED services:

2.1 We advise on the legal effect but not the financial wisdom of transactions.

2.2 **FINANCIAL ADVICE:** Wilding Law will never give you financial advice under the Financial Advisers Act 2008 and the Financial Service Providers (Registration and Dispute Resolution) Act 2008, and in particular we will not advise you on:

- the ability of you or any other borrower to meet its financial and other obligations to the lender or on the viability of the transaction/business which the borrower is undertaking;
- your ability to satisfy any financial and other obligations (such as compliance) for any transaction you enter into except to the extent (if any) specified in the engagement letter for the relevant matter.

2.3 **TAX:** Wilding Law are not giving you tax advice unless specified in our engagement letter for the relevant matter.

2.4 **PRICE OR QUALITY:** Wilding Law will never advise you on the price, value or quality of your investment in any type of property you are buying, selling, or mortgaging.

2.5 **RELATIONSHIP PROPERTY:** Wilding Law are not advising you on relationship property consequences unless specified in our engagement letter for the relevant matter.

3. PAYMENT

3.1 You must pay within 14 days of the date of the invoice. We may charge interest calculated at the rate of 5% above Westpac's standard residential mortgage rate on the date payment became due. If the account is not paid within 30 days after the due date, we will also recover our collection costs from you.

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

- To debit against amounts pre-paid by you; and
- 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.

3.3 Where the client is a company, we may require a personal guarantee to be provided for fees payable.

3.4 You remain responsible for payment to us of any invoices which you direct us to address to a third party for our fees and expenses.

4. CONFIDENTIALITY

4.1 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:

- To the extent necessary or desirable to enable us to carry out your instructions; or

- To the extent required by law, or by the Law Society's Rules of Conduct and Client Care for Lawyers, or as specified in clause 11 (*Taxation & Anti-Money Laundering*) of these Terms of Trade;

4.2 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.

4.3 We will not disclose to you another client's confidential information.

4.4 Wilding Law reserves the right to record and retain on your file:

- All phone messages and phone conversations;
- File-notes of meetings;
- File-notes of your instructions.

This information will always be available to you, but also belongs to Wilding Law as a record of your instructions and the circumstances of our advice.

5. TERMINATION

5.1 You may terminate our retainer at any time.

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

5.3 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.

6. RETENTION OF FILES AND DOCUMENTS

6.1 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) seven (7) years after our engagement ends, or immediately if we have converted those files and documents to an electronic format.

6.2 You authorise us to:

- Operate a paperless office by retaining only electronic copies of documents and information received in relation to your instructions, and immediately destroying on a daily basis paper copies.
- Use third-party servers within New Zealand to electronically hold all information relating to your instructions.

6.3 Despite clause 6.2 above, we will when reasonably necessary, hold physical originals of important documents such as Wills, Powers and selected Deeds.

7. CONFLICTS OF INTEREST

7.1 We have procedures to identify and respond to conflicts of interest. If a conflict of interest arises we will advise you of this and follow the Law Society's Rules of Conduct and Client Care for Lawyers.

8. DUTY OF CARE

8.1 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.

9. TRUST ACCOUNT

9.1 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 7.5% of the interest derived.

10. EXCLUSION OF TAX LIABILITY

10.1 You are responsible for any tax liability which may be incurred by or assessed against you as a result of the interpretation of any legal document we prepare on your instructions.

11. ELECTRONIC SIGNING: ELECTRONIC TRANSACTIONS ACT 2002

11.1 You consent to receive from us information and documents which are electronically signed by us (rather than physically signed by us). The electronic signature will be visible on the face of the document.

12. TAXATION & ANTI-MONEY LAUNDERING

Terminology:

12.1 **AML:** *Anti-Money Laundering and Countering Financing of Terrorism Act 2009.*

12.2 **FATCA:** *United States Foreign Account Tax Compliance Act.*

12.3 **GATCA:** The OECD has developed the *Common Reporting Standard (CRS) for Automatic Exchange of Financial Account Information in Tax Matters (AEOI)* to provide a global framework for the collection, reporting, and exchange of financial account information about persons that invest outside of their jurisdiction of tax residence. This will assist in detecting and deterring offshore tax evasion.

Wilding Law may collect information from you and disclose that information to third parties:

12.4 Wilding Law at its sole discretion may file STR and PTR reports in relation to you under AML rules: Wilding Law has no obligation whatsoever to disclose any such filing to you.

12.5 Wilding Law at its sole discretion may file reports (including to banks) in relation to you under FATCA or GATCA rules: Wilding Law has no obligation whatsoever to disclose any such filing to you.

12.6 Wilding Law at its sole discretion may request you to provide information to Wilding Law to satisfy compliance requirements of Wilding Law in relation to AML, FATCA, GATCA or New Zealand taxation laws or conveyancing laws such as the *Land Transfer Act (1952 or 2017)*, and may disclose that information to third parties to satisfy the statutory obligations of Wilding Law.

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.

OUR CLIENT CARE CHARTER

1. **Client Care:** I am committed to doing my best to ensure that my legal work benefits you at all times.
 - 1.1 We will:
 - 1.1.1 Protect and promote your interests and act for you free from compromising influences or loyalties.
 - 1.1.2 Discuss with you your objectives and how they should best be achieved.
 - 1.1.3 Act competently, in a timely way, and in accordance with instructions received and arrangements made.
 - 1.1.4 Provide you with information about the work to be done, who will do it and the way the services will be provided. This information is set out in our Letter of Engagement.
 - 1.1.5 Protect your privacy and ensure appropriate confidentiality.
 - 1.1.6 Treat you fairly, respectfully and without discrimination.
 - 1.1.7 Give you clear information and advice.
 - 1.1.8 Keep you informed about the work being done and advise you when it is completed.
 - 1.1.9 Let you know how and when you will be billed.
 - 1.1.10 **Fees:** I charge a fee that is based a number of factors including my contribution to the value and results achieved, resources of time and expertise used, importance and urgency. My fees will represent an excellent return on investment for you and equitable compensation for me.
 - 1.1.11 **Disbursements:** We also charge for disbursements (court fees, registrations, duties/levies etc) and travel expenses incurred on your behalf. These will be itemised separately, and we will notify you if any fees or disbursements need to be paid for in advance.
 - 1.1.12 **Office Service Fee:** we also charge this fee of \$250 plus GST for all customers whose file is 'non-business' related file, or \$300 plus GST for all customers whose file is a business-related file.
 - 1.1.13 Let you know how to make a complaint and deal with any complaint promptly and fairly.
 - 1.2 Lawyers owe to clients the obligations 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 justice system. If you have any questions, please contact us on 03 358 9988 or www.wildinglaw.co.nz or the Law Society on 0800 261 801 or www.lawsociety.org.nz
 - 1.3 Any limitations on the extent of our obligations to you are set out in our *Terms of Engagement* and Letter of Engagement.
 2. **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.
 3. **Lawyers' Fidelity Fund:** The Law Society maintains the Lawyers' Fidelity Fund for the purpose 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. Except in certain circumstances specified in the Lawyers and 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 do not wish to refer your complaint to a person referred to in our Letter of Engagement, or you are not satisfied with that person's response to your complaint, please contact David Wilding.

We are committed to resolving any issues as soon as possible. You can also contact the NZ Law Society's Complaint Service at:

26 Waring Taylor Street
PO Box 5041
Wellington 6145
Tel: 04 472 7837 or 0800 261 801
Fax: 04 473 7909
 5. **Billing Arrangement:** To help you budget we issue interim accounts, usually monthly, while work is in progress, with a final bill on completion. Current payment terms are set out on invoices from time to time, and unless otherwise stated are due for payment within 14 days. We may deduct from funds held on your behalf any fees, disbursements or expenses for which we have provided an invoice.
 6. **Completion:** When the work is completed we will advise you accordingly and provide a brief summary of the work undertaken if we have not already done so. Where appropriate we will also identify any necessary future action that may be required.
- Our Client Care Charter incorporates our *Terms of Engagement* (see reverse / attached).