



CARTER CHUNG

LAW

Terms of Engagement

1 General

- 1.1 These Terms of Engagement (“Terms”) apply to all work carried out by Carter Chung Law Limited (“we” or “us”) for you, except to the extent that we otherwise agree with you in writing.
- 1.2 These Terms apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.
- 1.3 We are entitled to change these Terms from time to time, in which case we will send you amended Terms.
- 1.4 Our relationship with you is governed by New Zealand law and New Zealand courts have exclusive jurisdiction.

2 Services

- 2.1 The services we will provide for you are set out in our letter of engagement, or in an email we send you setting out the services. You may also instruct us to complete additional services.
- 2.2 In order to provide you with efficient and cost effective advice and services, part or all of your instructions may be delegated to other professionals in our firm.

3 Financial

Fees

- 3.1 The fees we will charge or the manner that our fee will be determined are set out in our letter of engagement or otherwise as advised to you in writing.
- 3.2 If we are able to give you a fixed fee, we will give you a list of services that the fixed fee covers. Any work you instruct us to do that does not fall within that list of services will be charged in accordance with clause 3.4 of these Terms.
- 3.3 We will advise you as soon as reasonably practicable if it becomes necessary for us to complete work outside of the list of services and, if requested, give you an estimate of the likely amount of further costs.
- 3.4 If we are not able to provide a fixed fee, our fees will be determined with reference to the time spent on a matter and the hourly rate of the staff member completing the services, with time accruing in 6 minute units.
- 3.5 Hourly fees may be adjusted (upwards or downwards) to ensure the fee is fair and reasonable considering matters such as the complexity, urgency, value and importance of the services. Full details of the relevant fee factors are set out in [Rule 9 of the Lawyers and Conveyancers Act \(Lawyers: Conduct and Client Care\) Rules 2008 \(Rules\)](#).

Estimates

- 3.6 You may request an estimate of our fee for undertaking the services at any time. If possible we will

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provide you with an estimate (which may be a range between a minimum and a maximum amount or for a particular task or step).

- 3.7 An estimate is not a quote. Any significant assumptions included in the estimate will be stated and you must tell us if those assumptions are wrong or change. We will inform you if we are likely to exceed the estimate by a substantial amount. Unless specified, an estimate excludes GST, disbursements and expenses.

Disbursements and third party expenses

- 3.8 In providing the services we may incur disbursements and payments to third parties on your behalf, which may include search and registration fees, court filing fees, and travel and courier charges. You authorise us to incur disbursements that are reasonably necessary to provide the services.
- 3.9 You also authorise us to make payments to third parties on your behalf that are reasonably required to undertake the services (which may include items such as experts' costs or counsel's fees). These will be included in our invoice to you, shown as "disbursements".

Fee payable even if transaction doesn't proceed

- 3.10 If your transaction does not proceed or if your desired result cannot be achieved we will invoice you for our fees incurred plus GST and any disbursements incurred on your behalf.

Retainer

- 3.11 We may ask you to pay fees and other expenses to us in advance of us starting or completing the services. We will hold such fees in our trust account and will not take payment until such time as we have issued you an invoice.

Funds we hold for you

- 3.12 You authorise us to deduct our fees and other expenses from funds held in our trust account on your behalf when we invoice you, unless those funds are held for a particular purpose.

GST

- 3.13 GST (if any) is payable by you on our fees and charges.

When we will invoice

- 3.14 We will send interim invoices to you, usually monthly, and on completion of the matter, or termination of our engagement. We may send you invoices more frequently when we incur a significant expense or undertake a significant amount of work over a shorter period of time.

Payment

- 3.15 Our invoices are payable within 14 days of the date of the invoice, unless alternative arrangements have been made with us.
- 3.16 If you have difficulty paying any of our accounts, please contact us promptly so we may discuss payment arrangements.
- 3.17 Payment must be made to our firm's trust account; the account details are set out on our invoice.

Third Party paying our fees

- 3.18 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, you remain responsible for payment to us in accordance with these terms if the third party fails to pay us.



If you don't pay on time

- 3.19 If your account is overdue we may:
- a require interest to be paid on any amount which is more than 14 days overdue, calculated at the rate of 10% per year for the period that the invoice is outstanding; or
 - b stop work on any matters in respect of which we are providing services to you; or
 - c require an additional payment of fees in advance or other security before recommencing work; or
 - d recover from you in full any costs we incur (including on a solicitor/client basis) in seeking to recover the amounts from you, including our own fees and the fees of any collection agency.

Trust Account

- 3.20 We operate a trust account. All money received from you or on your behalf will be held to your credit in our trust account.
- 3.21 Payments out of the trust account will be made either to you or to others with your authority. Written authorisation from you (and if we are acting for more than one of you, from all of you) will be required when payment is to be made to a third party.
- 3.22 Before making a payment to another account we require verification of the account details by provision of (for example) a copy of a deposit slip, cheque or bank statement showing the account number or a signed authority from you including the bank account details.
- 3.23 A full record of our trust account is kept at all times. A statement of trust account transactions detailing funds received and payments made on your behalf will be provided to you periodically and at any time upon your request.
- 3.24 Unless it is not reasonable or practicable to do so, when we hold significant funds for you for more than a short period of time we will place them on call deposit with a bank registered under section 69 of the Reserve Bank of New Zealand Act 1989, subject to your having completed to the bank's satisfaction any request for information relating to the deposit or certification required by the bank.
- 3.25 Interest earned from call deposits, less withholding tax and an interest administration fee payable to us of 5% of the interest, will be credited to you.

4 Communications

- 4.1 We will obtain from you contact details, including email address, postal address and telephone numbers. We may provide documents and other communications to you by email (or other electronic means). You will advise us if any of your contact details change.
- 4.2 We will report to you periodically on the progress of any engagement and will inform you of any material and unexpected delays, significant changes or complications in the work being undertaken. You may request a progress report at any time.
- 4.3 We may provide you from time to time with other information that may be relevant to you, such as newsletters and information bulletins. At any time you may request that this not be sent to you.

5 Confidentiality

- 5.1 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 as expressly or impliedly agreed by you; or
 - c as necessary to protect our interests in respect of any complaint or dispute; or
 - d to the extent required or permitted by law.



Personal information and Privacy

- 5.2 To complete the services we will collect and hold personal information about you. We will use that information to carry out the services and to contact you about issues we believe may be of interest to you. Provision of personal information is voluntary but if you do not provide full information this may impact on our ability to provide the services.
- 5.3 Subject to clause 5.1 of these Terms, you authorise us to disclose, in the normal course of performing the services, such personal information to third parties for the purpose of providing the services and any other purposes set out in these Terms.
- 5.4 We may disclose your name and address to third parties such as credit agencies to perform a credit reference or to undertake credit management or collection processes if it is reasonable to do so.
- 5.5 The information we collect and hold about you will be kept at our offices and/or at secure file storage sites (including electronic file storage sites) elsewhere. If you are an individual, you have the right to access and correct this information. If you require access, please contact Hannah Carter.

6 Documents, Records and Information

- 6.1 We will keep a record of all important documents that we receive or create on your behalf on the following basis:
- a We may keep a record electronically and destroy originals (except where the existence of an original is legally important such as in the case of wills and original deeds);
 - b At any time, we may dispose of documents which are duplicates, or which are trivial (such as emails which do not contain substantive information), or documents which belong to us;
 - c We are not obliged to retain documents or copies where you have requested that we provide them to you or to another person and we have done so, although we are entitled to retain copies for our own records if we wish to do so.
- 6.2 We will provide to you on request copies or originals (at our option) of all documents to which you are entitled under the Privacy Act 2020 or any other law. We may charge you our reasonable costs for doing this.
- 6.3 Where we hold documents that belong to a third party you will need to provide us with that party's written authority to uplift or obtain a copy of that document.
- 6.4 Unless you instruct us in writing otherwise, you authorise us and consent to us (without further reference to you) to destroy (or delete in the case of electronic records) all files and documents in respect of the services 7 years after our engagement ends (other than any documents that we hold in safe custody for you or are otherwise obliged by law to retain for longer). We may retain documents for longer at our option.
- 6.5 We may, at our option, return documents (either in hard or electronic form) to you rather than retain them. If we choose to do this, we will do so at our expense.
- 6.6 We own copyright in all documents or work we create in the course of performing the services but grant you a non-exclusive licence to use and copy the documents as you see fit for your own personal or commercial use. However, you may not permit any third party to copy, adapt or use the documents without our written permission.

7 Compliance

- 7.1 We are obliged to comply with all laws applicable to us in all jurisdictions, including (but not limited to):
- a Anti-money laundering (AML) and countering financing of terrorism (CFT) laws; and
 - b Laws relating to tax and client reporting and withholdings.



- 7.2 We may be required to undertake customer due diligence on you, persons acting on your behalf and other relevant persons such as beneficial owners and controlling persons. This means we will need to ask you for certain identity information and detailed information regarding your transaction, which may include requiring proof of the source of funds that are being paid to our trust account.
- 7.3 Before we start the services, we will let you know what information we need, and what documents you need to provide. We will then take copies of such information and retain them in our electronic records. If the information required is not provided, or considered by us to be potentially inaccurate, misleading, or in contravention of any law, we may terminate or refuse to enter into an engagement.
- 7.4 We may be required to provide information about you, persons acting on your behalf or other relevant persons to third parties (such as government agencies). There may be circumstances where we are not able to tell you or such persons if we do provide information.

8 Conflicts of Interest

- 8.1 We are obliged to protect and promote your interests to the exclusion of the interests of third parties and ourselves as set out in the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (“Rules”). This may result in a situation arising where we have a conflict of interest.
- 8.2 We have procedures in place to identify and respond to actual or potential 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. This may mean we cannot act for you further in a particular matter and we may terminate our engagement.

9 Duty of Care

- 9.1 The obligations lawyers owe to clients are described in the [Rules](#). Those obligations are subject to other overriding duties, including duties to the courts and to the justice system.
- 9.2 We must:
- a act competently, in a timely way, and in accordance with instructions received and arrangements made;
 - b protect and promote your interests and act for you free from compromising influences or loyalties
 - c discuss with you your objectives and how they should best be achieved
 - d provide you with information about the work to be done, who will do it, and the way in which the services will be provided
 - e charge you a fee that is fair and reasonable, and let you know how and when you will be billed
 - f give you clear information and advice
 - g protect your privacy and ensure appropriate confidentiality
 - h treat you fairly, respectfully, and without discrimination
 - i keep you informed about the work being done and advise you when it is completed
 - j let you know how to make a complaint, and deal with any complaint promptly and fairly.
- 9.3 Our duty of care is to you and not to any other person. We owe no liability to any other person, including for example any directors, shareholders, associated companies, employees or family members unless we expressly agree in writing.
- 9.4 We do not accept any responsibility or liability whatsoever to any third parties who may be affected by our performance of the services or who may rely on any advice we give, except as expressly agreed by us in writing.
- 9.5 Our advice is not to be referred to in connection with any prospectus, financial statement, or public



document without our written consent.

- 9.6 Our advice is opinion only, based on the facts known to us and on our professional judgement, and is subject to any changes in the law after the date on which the advice is given. We are not liable for errors in, or omissions from, any information provided by third parties.
- 9.7 Our advice relates only to each particular matter in respect of which you engage us. Once that matter is at an end, we will not owe you any duty or liability in respect of any related or other matters unless you specifically engage us in respect of those related or other matters.
- 9.8 Unless otherwise agreed, we may communicate with you and with others by electronic means. We cannot guarantee that these communications will not be lost or affected for some reason beyond our reasonable control, and we will not be liable for any damage or loss caused thereby.

10 Limitations on our Liability

- 10.1 To the extent allowed by law, our aggregate liability to you (whether in contract, tort, equity or otherwise) in connection with our services is limited to the amount available to be payable under the Professional Indemnity Insurance held by the firm.

11 Termination

- 11.1 You may terminate our retainer at any time.
- 11.2 We may terminate our retainer in any of the circumstances set out in the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (Rules), including the existence of a conflict of interest, non-payment of fees, and failure to provide instructions.
- 11.3 If our retainer is terminated you must pay us all fees and expenses due up to the date of termination.

12 Professional Indemnity Insurance

- 12.1 We hold professional indemnity insurance which exceeds the minimum standards set by the Law Society.

13 Fidelity Fund Coverage

- 13.1 The Law Society maintains the Lawyers' Fidelity Fund for the purpose of providing clients of lawyers with protection against loss arising from theft by lawyers. The maximum amount 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.

14 Feedback and Complaints

- 14.1 If you have any concerns or complaints about our services, please raise them as soon as possible with the person to whom they relate. They will respond to your concerns as soon as possible. If you are not satisfied with the way that that person has dealt with your complaint, please raise the matter with one of our directors, Hannah Carter or Karla Ward. We will inquire into your complaint and endeavour in good faith to resolve the matter with you in a way that is fair to all concerned.
- 14.2 If you are not satisfied with the way we have dealt with your complaint the New Zealand Law Society has a complaints service to which you may refer the issue. You can call the 0800 number for guidance, lodge a concern or make a formal complaint. Matters may be directed to:

Lawyers Complaints Service
PO Box 5041
Wellington 6140
New Zealand
Phone: 0800 261 801



To lodge a concern:

www.lawsociety.org.nz/for-the-community/lawyers-complaints-service/concerns-form

To make a formal complaint:

www.lawsociety.org.nz/for-the-community/lawyers-complaints-service/how-to-make-a-complaint

Email: complaints@lawsociety.org.nz

