



## STANDARD TERMS AND CONDITIONS

These Terms apply in respect of all work carried out by Shanahans Law Limited (“Shanahans”) for you, except to the extent that we otherwise agree with you in writing. We are entitled to change these terms from time to time and an up to date copy of these terms is available on our website [www.shanahanslaw.co.nz](http://www.shanahanslaw.co.nz)

### 1. Services

The services which we are to provide for you are outlined in our Letter of Engagement. Shanahans reserves the right to cease to act where the client cannot or will not provide instructions required in addition to those specified in our Letter of Engagement. Shanahans will take reasonable steps to keep the client informed of the steps taken to carry out the client’s instructions. In order to provide you with efficient advice and services and to provide the most cost effective service, it may be that part or all of your instructions will be delegated to other professionals in our firm. You can assist us by giving clear instructions, discussing any time constraints, asking if you are uncertain of anything, and by telling us if we are not meeting your expectations.

### 2. Duty of Care

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. Our advice is opinion only and relates only to each particular matter in respect of which you engage us and is 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.

### 3. Fees and Invoices

By instructing Shanahans, the client accepts liability to pay Shanahans’ account together with all expenses/disbursements incurred in respect of instructions. GST is payable by you on our fees and charges. Invoices are payable on settlement for conveyancing matters and within 7 days of the date of invoice for all other matters, unless alternative arrangements have been made with us. We may require interest to be paid on any amount which is more than 7 days overdue. Interest will be calculated at the rate of 2% above Westpac’s overdraft rate as at the close of business on the date payment became due and will include costs payable (including legal costs) on the recovery. We reserve the right to issue proceedings to recover any amounts owing and interest accrued thereon.

### 4. Authority to deduct our fees and expenses from funds held

We may ask you to pre-pay amounts to our trust account, 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 and/or disbursements for which we have provided an invoice.

### 5. Disbursements

In providing the services Shanahans may incur disbursements or have to make payments to third parties on your behalf. These will be included in our invoice to you. We may require an advance payment for the disbursements or expenses which we will be incurring on your behalf.

### 6. Shanahans Office Charge (administrative expenses)

In addition to disbursements, we may charge a fee of \$65.00, inclusive of GST, (this is the current fee and may be subject to change) to cover out of pocket costs which are not included in our fee and which are not recorded as disbursements. These include items such as photocopying and printing, postage and phone calls.

### 7. Trust Account

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 funds on your behalf we will normally lodge those funds, at our discretion, on interest bearing deposit with Westpac. In this case an administration fee will be charged for this of 5% of the gross interest earned.

### 8. Joint and Several Liability

If there is more than one person comprising the client, each person is jointly and severally liable for payment in due time of all Shanahans accounts and other charges.

## **9. Email Communication**

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. Lien**

Where work has been done by Shanahans but we have not been paid by the client, then as a general rule, Shanahans has the right to retain original documents and correspondence on the client's file until such time as all outstanding fees, disbursements and other expenses have been paid. This is known as a lien. This will be particularly important in circumstances where the client decides for whatever reason to instruct another firm. That other firm may be obliged to give an undertaking to Shanahans to pay all outstanding fees and disbursements before the client's file is released.

## **11. Confidentiality**

Shanahans will hold all information concerning the client's personal information, business and affairs in strict confidence and will not divulge such information except where required or permitted to do by law, or where the client expressly or impliedly authorises the firm to make such disclosure, or to the extent necessary or desirable to enable us to carry out your instructions, or as necessary to protect our interests in respect of any complaint or dispute.

Provision of personal information is voluntary but if you do not provide full information this may impact on our ability to provide the services. Subject to the above 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. 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 Frances Edmonds or Mary Anne Shanahan.

## **12. Verification of Identity**

The Financial Transactions Reporting Act 1996, Anti-Money Laundering and Countering Finance of Terrorism Act 2009 and FATCA require us to collect from you and to retain information required to verify your identity. We are required by this legislation to obtain certain information from you. We are therefore required to sight original documents verifying your identity (such as a passport, proof of address and IRD number). We may retain copies of these documents. We may perform such other customer verification checks as to your identity and checks as to the source of any funds associated with any transaction to which the services relate as we consider to be required by law and you consent to us releasing that information to Westpac New Zealand Limited if required.

## **13. Foreign Account Tax Compliance Act (FATCA)**

FATCA is US legislation directed at reducing tax evasion by US taxpayers, which is in force in New Zealand. As a result, we are required to make enquiry as to whether any controlling person of the company (director and shareholder) is a US citizen or US tax resident every time a new file is opened. If nothing has changed since your last declaration, then you do not need to do anything. If your situation has changed, then please contact us. If we do not hear from you then you are confirming that there have been no changes since your last declaration.

## **14. Retention of Files and Documents**

We will keep a record of all important documents which 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 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.

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 1993 or any other law. We may charge you our reasonable costs for doing this. 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.

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 or are otherwise obliged by law to retain for longer) 7 (seven) years after our engagement ends, or earlier if we have converted those files and documents to an electronic format.

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.

**15. Copyright**

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.

**16. Termination**

You may terminate our retainer at any time. We may terminate our retainer in any of the circumstances set out in the Rules. 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.

**17. 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 Rules.

**18. Limitations on extent of our obligations or liability**

We do not give advice as to the quality of any acquisition/investment that you may be considering or undertaking which may form all or part of your instructions to us. Any further limitations on the extent of our obligations to you or exclusion of liability are set out in our letter of engagement.