

STANDARD TERMS AND CONDITIONS

These Standard Terms of Engagement (“Terms”) apply to any current engagement and also to any future engagement whether or not we send you another copy of them. We are entitled to change these terms from time to time. Our relationship with you is governed by New Zealand law and New Zealand courts have exclusive jurisdiction.

1. Services

The Services which we are to provide for you are outlined in our Letter of Engagement. Shanahans Law Limited (“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

- (a) 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. 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.
- (b) Our advice is not to be referred to in connection with any prospectus, financial statement, or public document without our written consent.
- (c) 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.
- (d) 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.
- (e) 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.

3. Conflicts of Interest

- (a) 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.
- (b) We have procedures in place to identify and respond to conflicts of interest 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.

4. 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.

- (a) **Estimates:** You may request an estimate of our fee for undertaking the Services at any time. If possible we will provide you with an estimate (which may be a range between a minimum and a maximum amount or for a particular task or step). 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 any substantial amount. Unless specified, an estimate excludes GST, disbursements and expenses.

(b) **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 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.

5. 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.

6. Disbursements

In providing the Services we may incur disbursements and payments to third parties on your behalf. You authorise us to incur these disbursements (which may include such items such as search fees, court filing fees, registration fees and travel and courier charges) which are reasonably necessary to provide the Services. You also authorise us to make payments to third parties on your behalf which are reasonably required to undertake the Services (which may include items such as expert's costs or counsel's fees). These will be included in our invoice to you, shown as "disbursements" when the expenses are incurred (or in advance when we know we will be incurring them on your behalf).

7. Shanahans Office Charge (administrative expenses)

In addition to disbursements, we may charge a fee of \$65.00, inclusive of GST or 6% of our invoice, (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.

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. 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.

10. Trust Accounting

We operate a trust account. All money received from you or on your behalf will be held to your credit in our trust account.

(a) **Payments:** 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. Before making a payment to another account we may 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, a signed authority from you including the bank account details, or a signed letter from the relevant financial institution providing bank account details.

(b) **Trust Account Statements:** 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.

(c) **Interest-Bearing Deposit:** 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. 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. Because of the administration involved in lodging funds on interest we will not do so unless the funds are likely to earn at least \$50 in interest. .

11. 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. We will not be liable for any damage or loss that may occur to you from the interception of emails by an unauthorised third party.

12. Confidentiality:

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.

Within our firm, 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.

13. Personal Information and Privacy:

In our dealings with you, we will collect and hold personal information about you. We will use that information to carry out the Services and to make contact with 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.

As part of our Services:

- (a) 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.
- (b) 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.
- (c) 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 us.

14. Verification of Identity

The Financial Transactions Reporting Act 1996, Anti-Money Laundering and Countering Finance of Terrorism Act 2009 ("AML") 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 will also need to obtain additional information about any business or trust that we are acting for. This will include the requirement to provide evidence of the source of wealth for that entity (which may extend to requiring independent verification of that information). 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 by instructing us to act you consent to:

- (a) our carrying out such checks (including verifying your identification and address against government records using Centrix); and
- (b) our releasing any information to Westpac New Zealand Limited and/or external agencies if required.

We reserve the right to refuse to act for you, and the right to terminate an existing retainer, if you do not provide the requested information, or appear if you appear to be engaged in suspicious or illegal activities.

15. 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.

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 including the existence of a conflict of interest, non-payment of fees, and failure to provide instructions or information required for AML. 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. 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) We may, at our option, return documents (either in hard or electronic form) to you rather than retain them.

18. 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.

19. Limitations on our Obligations or Liability

To the extent allowed by law, our aggregate liability to you (whether in contract, tort (including negligence), equity or otherwise) in connection with any matter (or series of related matters) will not exceed the amount available to be payable under the Professional Indemnity Insurance held by the firm or the amount of ten times our applicable fee (excluding disbursements and GST).

If we are required to bring or defend proceedings with you then you agree that our internal legal costs and disbursements will be payable by you.

20. Feedback and Complaints

Client satisfaction is one of our primary objectives and feedback from clients is helpful to us. If you would like to comment on any aspect of the service provided by us, including how we can improve our service, please contact either Frances Edmonds or Mary Anne Shanahan.

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 Frances Edmonds or Mary Anne Shanahan. 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.

INFORMATION REQUIRED BY NZLS RULES

Set out below is information which the *Rules of Conduct and Client Care for Lawyers* ("NZLS Rules") of the New Zealand Law Society ("Law Society") require Shanahans Law Limited ("Shanahans") to provide you with.

1. Our obligations to you

The NZLS Rules require that Shanahans and each of its lawyers 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 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.

The obligations lawyers owe to you are described in the NZLS Rules. These obligations are subject to overriding duties, including duties to the Courts and the justice system. If you have any questions, please visit www.lawsociety.org.nz or call 0800 261 801.

2. Fees

Our fees are charged on the basis of the NZLS rules which require that fees be fair and reasonable for the services provided. In determining what constitutes a fair and reasonable fee a number of factors will be taken into account. This includes not only the amount of time devoted by the partner and staff to the services, but any urgency involved, the amount or value of the money or property involved, the degree of complexity and resulting skill required, the results achieved and any other criteria that are relevant.

Where possible, we will provide fee estimates upon request. Any costs estimate will be our "best guess" as to what the fees and other costs are likely to be. If the work proves more complicated than originally anticipated then we will charge for all additional work. An estimate is not a quote. Unless specified, an estimate excludes GST, disbursements and expenses.

Conveyancing matters will be billed at settlement or on completion of the work. For other matters we will send an invoice to you on completion of the matter or termination of our engagement. For significant ongoing work we may send interim invoices when we incur a significant expense. We may 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. 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.

4. 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.

5. 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 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 either to Mary Anne Shanahan or Frances Edmonds.

The Law Society also maintains a complaints service, [The Lawyers Complaints Service](http://www.lawsociety.org.nz) and you are able to make a complaint to that service details of which are set out at www.lawsociety.org.nz.