

## IZARD WESTON

### INFORMATION FOR CLIENTS & TERMS OF ENGAGEMENT

#### INFORMATION FOR CLIENTS

The following information is required by the Rules of Conduct and Client Care for Lawyers.

1. **Fees:** The basis on which fees will be charged is set out in the terms below and in our confirmation of instructions.
2. **Professional Indemnity Insurance:** We hold professional indemnity insurance that exceeds the minimum standards specified by the Law Society.
3. **Lawyers Fidelity Fund:** The New Zealand 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. 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.
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 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 to John Burton, Senior Partner at IZARD WESTON.

He may be contacted as follows:

- by letter to PO Box 5348, Wellington;
- by email at [john.burton@izardweston.co.nz](mailto:john.burton@izardweston.co.nz);
- by telephoning him on 04 494 6270.

The Law Society also maintains a complaints service and you are able to make a complaint to that service. To do so you should contact the Law Society:

- by letter to PO Box 5041, Wellington;
- by email at [complaints@lawsociety.org.nz](mailto:complaints@lawsociety.org.nz)

- by telephone on 0800 261 801
5. **Persons Responsible for the Work:** The names and status of the person or persons who will have overall responsibility for the services we provide for you are set out in our confirmation of instructions.
  6. **Limitation on extent of our Obligation or Liability:** Any limitations on the extent of our obligations to you or any limitation or exclusion of liability are set out in terms of engagement.
  7. **Client Care and Service:** The Law Society client care and service information is set out below.

*Whatever legal services your lawyer is providing, he or she must:*

- *Act competently, in a timely way, and in accordance with instructions received and arrangements made.*
- *Protect and promote your interests and act for you free from compromising influences or loyalties.*
- *Discuss with you your objectives and how they should best be achieved.*
- *Provide you with information about the work to be done, who will do it and the way the services will be provided.*
- *Charge you a fee that is fair and reasonable and let you know how and when you will be billed.*
- *Give you clear information and advice.*
- *Protect your privacy and ensure appropriate confidentiality.*
- *Treat you fairly, respectfully and without discrimination.*
- *Keep you informed about the work being done and advise you when it is completed.*
- *Let you know how to make a complaint and deal with any complaint promptly and fairly.*

The obligations lawyers owe to clients are 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 to the justice system. If you have any questions, please visit [www.lawsociety.org.nz](http://www.lawsociety.org.nz) or call 0800 261 801.

## **TERMS OF ENGAGEMENT**

1. These are the standard terms on which Izard Weston provide services to clients.
2. Unless we agree different terms, these terms will apply without the need for a record of their acceptance.

### **Scope of Services**

3. A description of the services we have been asked to undertake for you is set out in our confirmation of instructions. If you are expecting us to, or would like us to, perform any services in addition to those we have recorded or described, it is important that you let us know.

### **Professional Duties and Obligations**

4. We will act at all times in accordance with your instructions and in your best interests and will use all due care and skill in doing so, in accordance with the Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society, legislation governing the legal profession and any other relevant legal principles.
5. We owe our duties to you. Unless otherwise agreed in writing or required by law, those duties will not extend to other parties, for example directors, shareholders, employees, related or associated parties or entities or other family members.
6. If any other parties intend to rely on advice that we give you, then we must first agree in writing.

### **People Acting**

7. The intention at all times is that your work is carried out by people within the firm having the most relevant expertise and that work is carried out, subject to your instructions, at the appropriate level and in the most expeditious and cost effective way.

### **Fees**

8. Our standard practice is to send monthly invoices for work we undertake on your behalf, which are due for payment on the 20<sup>th</sup> of the month following the date of the invoice.
9. GST (if any) is payable by you on our fees, disbursements and expenses.
10. We record all of the time that we spend in attending to your instructions at our standard hourly rates (which are available on request, and which we may change from time to time). That recorded time is a primary factor in determining the appropriate fee. Other factors may include specialist knowledge, expertise or experience, the amounts involved, the complexity or importance of the matter, urgency and the results achieved.

11. We are happy to give estimates of likely fees. Any estimates given are a guide only; they are not a fixed quotation.
12. We may ask you to pre-pay amounts to us on account of fees and expenses. In that case you authorise us to:
  - a. debit against amounts pre-paid by you; and
  - b. deduct from any funds held on your behalf on our trust account any fees, expenses or disbursements for which we have provided an invoice.
13. Where we have an arrangement with you that we will address the invoice to another person, you will pay that invoice if that other person does not pay the invoice.

#### **Disbursements and Expenses**

14. Our accounts will include charges for disbursements and a standard office expense charge. Disbursements include out of pocket expenses such as searches, registration and filing fees, court and tribunal charges, travel and accommodation costs and the fees of barristers or other professionals engaged on your instructions. The standard office expense charge covers the cost of routine copying, couriers, printing, binding, and telephone expenses. The standard office expense charge is 3% plus GST of fees charged.
15. Where we are required to travel for work associated with your instructions, we will make all our own travel arrangements, even if your organisation has an internal policy to the contrary. Where flights or hotels are required, we may book using the most flexible fare arrangements possible, including fully refundable fares/charges where available.

#### **Overdue Accounts**

16. Our objective is to work with you to address any issues that may arise. However in the absence of any arrangements that we agree about the payment of our accounts we may, if an account is overdue, elect not to do any further work for you and to retain custody of your papers or files until our accounts are paid in full and/or charge interest of up to 10% per annum, calculated daily and capitalised monthly, on any amount that is outstanding one month or more after the date of the account. We reserve the right, if necessary, to recover the costs of collection of any unpaid account on an indemnity basis (including, if we choose not retain external counsel, the costs of IZARD WESTON's own personnel).

#### **Document storage and destruction**

17. We retain the files on each matter, including any documents you provide to us, for seven years after completion or termination of the matter. We may then destroy the files and documents. If you wish to make other arrangements, please advise us of those arrangements.

18. If you uplift your files or other documents at any time, we may make and keep copies of that material before you collect it.

### **Limitation of liability**

19. Our total liability to you in connection with any matter (or series of related matters) on which you engage us will not exceed:

- a. if an amount is available to be paid out under our relevant insurance policies in respect of our liability to you, that amount, up to a maximum of NZ\$15,000,000 (including interest and costs); or
- b. in any other case, the lesser of:
  - i. NZ\$30,000; and
  - ii. An amount equal to five times our paid fees (Excluding our office service charge, disbursements, and GST), up to a maximum of NZ\$30,000 (including interest and costs).

20. This limitation applies to liability of all kinds, whether in contract, tort (including negligence), equity or otherwise, and includes losses resulting from unlawful third party interference in our computer systems.

21. If we are advising on a conveyancing transaction, we do not provide any advice as to the quality of the property involved. We do not have any expertise in this area, and no communications from us should be interpreted as advice of this nature.

22. If we provide services to any persons or entities related to or associated with you or to anyone else at your request (whether or not we also advise you) on a matter (or series of related matters) on which you engage us, then our aggregate liability to you and all those persons and entities in respect of that matter (or series of related matters) will be subject to this limitation (and you will ensure that those persons and entities agree to this).

### **Third Party Information**

23. We do not accept responsibility and will not be liable for any damage or loss caused by errors or omissions in information obtained from third parties, such as Government agencies or other professionals.

### **Conflicts of Interest**

24. We have procedures in place to identify potential conflicts at an early stage. If we perceive that a conflict has arisen or may arise, we will disclose our conflict to both parties and, unless we have instructions to the contrary, will act for neither.

### **Confidentiality**

25. Client confidentiality is essential to us. We will not disclose any confidential information obtained as a result of acting for you or any other client unless you, or that other client, authorises to do so or unless we are required by law or the Law Society's Rules of Conduct and Client Care for Lawyers.

### **Termination**

26. Where you give us any instruction and we rely on that instruction (for example, by giving an undertaking to a third party), you may not revoke that instruction. Otherwise, you may end our engagement at any time on any matter or matters. You do not need to give us any notice. We may, on reasonable notice to you, end our engagement at any time.

27. Provided that you have paid all of our invoices on all matters, we will (on request) provide to you all the documents that we have obtained or created through working for you on the matter or matters in question. Before we provide those documents to you, we may take a complete copy of them.

28. If our engagement is terminated, these terms continue to apply in respect of your instructions and our relationship with you.

### **General**

29. These terms of engagement apply to any current instruction, and to any future instruction. There is no need for you to sign these terms of engagement in order to accept them; you will accept these terms of engagement by continuing to instruct us to work for you.

30. These terms of engagement are not affected by any change to our partnership.

31. We can change these terms of engagement, in which case we will notify existing clients for whom we are working on current instructions of the amended terms of engagement. Any new instruction from an existing client will be bound by the terms posted on our website at the time of that instruction.

### **Law and Jurisdiction**

32. These terms of engagement and any other agreement we have with you are governed by New Zealand law and are subject to the exclusive jurisdiction of the New Zealand Courts.

### **Foreign law matters**

33. We are only qualified to advise on New Zealand law. If we assist you in respect of matters governed by foreign law, we do so on the basis that we do not accept any responsibility (and will not have any liability, whether in contract, tort (including negligence), equity or otherwise) in relation to your legal position under that foreign law.

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