

- 1. Acceptance:** These Terms of Engagement will apply whenever you engage us to act for you, subject to any different or additional terms agreed in writing by us. You accept and agree to these standard Terms of Engagement by continuing to engage us. We reserve the right to vary these Terms of Engagement from time to time. We will notify you of any variation to these Terms of Engagement and you will be bound by such varied terms from the date of such notification.
- 2. Scope of Work and Our Role:** All matters will be carried out in accordance with applicable laws and the rules of professional conduct of the New Zealand Law Society. Our duties are owed to our client and any advice given is for the benefit of our client alone. Unless otherwise expressly agreed or required by law, our duties will not extend to any other person.

We do not purport to be experts in all fields of law and we will, where we consider it necessary or desirable to do so, secure advice on particular aspects of the matter from other lawyers. We do not provide taxation, accounting, or investment advice, because these are not areas in which we claim to have expertise. However, we will, if you so request, assist you in obtaining such advice.

We are only qualified to advise on New Zealand law. If we assist you on matters governed by foreign law, we do so on the basis that we do not accept any responsibility in relation to your position under that foreign law, whether or not we have obtained foreign law advice on your behalf.

- 3. Calculating Fees:** We will charge a fee which is reasonable for the services we provide to you. In determining our fee we will take into account the hourly rates of our personnel who have worked on the matter and the principles of charging established by the New Zealand Law Society. These principles include the following:

- The time and labour expended;
- The skill, specialised knowledge and responsibility required to perform the services properly;
- The importance of the matter to the client and the results achieved;
- The urgency and circumstances in which the matter is handled;
- The degree of risk assumed by us in undertaking the services, including the amount or value of any property involved;
- The complexity of the matter and the difficulty or novelty of the questions involved;
- Any quote or estimate of fees given;
- The fee customarily charged in the market and locality for similar services.

The relative importance of the factors set out above will vary according to the particular circumstances of each transaction.

Our standard hourly charge-out rates are quoted **exclusive** of GST and are subject to review and periodic adjustment. You are liable to pay GST on our fees and charges. For a variety of reasons some instructions are not completed. If this occurs, we will charge you for the work undertaken and costs incurred up to the time of termination. If you ask us to issue an invoice in the name of another entity you will remain liable for payment of that invoice.

- 4. Other Costs:** In addition to time, a file management and administration fee will be charged on each invoice we render. The file management and administration fee will be

calculated at 2.5% of the legal fee charged (subject to a minimum of \$50.00). This fee will typically include any internal disbursements such as photocopying, faxes, national or international telephone toll calls and mobile telephone calls.

Direct external disbursements such as travel costs, printing costs, court fees, courier costs, LINZ registration, LIM reports, valuations and search and registration fees will be charged in addition and itemised on your bill. In some circumstances we may also charge an agency fee thereon. Where any of these disbursement costs exceed \$150.00 we will ask for a payment in advance before we commence work.

- 5. Fee Estimates:** If requested prior to commencement of work, we will discuss with you anticipated fees and disbursements and our payment terms. This will be an estimate only and must be used as a guide, not a quote or maximum fee. A fee estimate will however assist with your budgeting and planning.

In some areas of the law, it is difficult to estimate the final fee because of the complexity of the matter and the range of potential outcomes. With this in mind we will keep you regularly updated on the progress of your matter, and will advise you in advance if we believe that an estimate we have provided is likely to be materially exceeded.

- 6. Payment:** It is our practice to bill on a periodic basis, usually monthly, and upon completion of the matter. Accounts are due for payment on receipt. For matters where we may hold monies on your behalf in our trust account, we may make payment of all or part of your bill (including any disbursements) by deduction from these monies. Under these terms and conditions you irrevocably consent to such deduction.

If your account remains unpaid we reserve the right to suspend work for you and retain possession of documents and files. You will be liable for all costs associated with the collection and recovery of your overdue and unpaid account. Information you have provided to us may be used to assist in collecting an overdue account. If the account is not paid within 30 days of the account date, we may charge interest at 15% per annum on the unpaid portion, from the due date until the date of payment in full.

- 7. Privacy:** Under the Privacy Act 1993 and in keeping with our professional ethical obligations to you as solicitors, you have the right to access any personal information that we hold about you. Additionally, you may require us to correct this information if it is incorrect. Your personal information which we hold will be used by us for the purpose of providing professional legal services to you and to assist with our risk and financial management.

- 8. Trust Funds:** In the course of acting for you, we may receive funds to be held in our trust account for your benefit or for the benefit of third parties. If a significant sum is held in our trust account pending disbursement it is our policy to put such money on interest bearing deposit with a branch of the ASB Bank on such terms as we may deem acceptable. Funds will be invested in this manner unless you expressly direct us otherwise or unless the quantum of the funds or the period of time for which they will be held by us make it inconvenient or impractical for us to invest them. We will have no responsibility to you or anyone else for the performance of any investments so made.

All interest earned on funds invested belongs to you or the third party beneficiary and will form part of the trust funds.

The beneficiary will be liable to pay all income tax on the interest. You must indemnify us in respect of any income tax payable in relation to the funds invested (whether for you or a third party) for which we may be assessed.

9. Related Party, Third Party or Joint Instructions: In matters where you provide us with instructions for and on behalf of a related party or entity, a third party or jointly with another party, or instructions are received directly from a related party or entity, both you or your company (as the case may be) and the related entity or other party (as the case may be) and any other person who instructs us (or on whose behalf we are instructed) will be bound by these Terms of Engagement and will be jointly and severally liable to pay for our services, including disbursements, in accordance with these terms.

10. Conflicts of Interest: Professional conduct rules require us to avoid acting for clients if we have a conflict of interest. We will undertake an internal inquiry to confirm there is no conflict arising from your instructions each time we receive instructions. If a conflict should arise in relation to a particular matter, we will notify you immediately and make suitable arrangements including, if necessary, the termination of our engagement.

11. Electronic Communications: The contents of emails (and attachments) sent by us may contain copyright material of Claymore Partners or third parties. You should only reproduce or distribute the materials if you are expressly authorised by us to do so. If material contained in emails is of a kind that might attract legal professional privilege, it is possible that privilege may be lost by the act of electronic dissemination.

Our emails are not encrypted and therefore may be open to access by “hackers”. If this is of concern to you, please do not email particularly sensitive material to us and instruct us to avoid the use of emails for communications with you. You may only rely on electronically transmitted legal advice or documents from us when:

- (a) That advice is confirmed by original letter signed by a partner or authorised person of Claymore Partners;
- (b) The document has been confirmed and checked against a hard copy of that document provided by us.

We do not represent or warrant that files attached to our emails are free from computer viruses or other defects. Any attached files are provided, and may only be used, on the basis that the user assumes all responsibility for any loss or damage resulting directly or indirectly from such use. Our liability is limited in any such event to either the re-supply of the attached files or the cost of having the attached files re-supplied.

By forwarding any emails (and attachments) to us, you agree that we may copy, distribute or disclose such emails (and attachments) to other third parties for the purpose of providing our services to you. For example, we may forward your emails (and attachments) to our agents, consultants or barristers who are assisting us in providing services to you.

12. Termination of Legal Services: We may terminate the engagement at any time by written notice to you, in any of the circumstances set out in the New Zealand Law Society’s *Rules of Conduct and Client Care for Lawyers*.

If you wish to terminate our services or significantly modify your instructions, please advise us in writing as soon as possible. Until we receive this written notification we may continue with our original instructions and you may incur further costs as we do so. 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.

Regardless of who terminates our engagement you will be liable to pay our fees and the disbursements we incur (even if not paid by us prior to the termination date), up to and including the termination date.

We have no continuing obligation to provide you with additional advice following completion of a matter.

We may retain copies of any of your documents and information on our files following completion of a matter and/or termination of our engagement.

13. Document Destruction: Subject to any legal requirement, we will retain the file that we create for your work on any one matter for a minimum of 7 years after we finish working for you on that matter. We may hold all or part of that file electronically rather than physically. After that time we may destroy that file without contacting you.

14. 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:

- To the extent necessary or desirable to enable us to carry out your instructions; or
- To the extent required by law or by the New Zealand Law Society’s *Rules of Conduct and Client Care for Lawyers*.

We will, of course, not disclose to you confidential information which we have in relation to any other client.

15. General: Any dispute concerning these Terms of Engagement, or our work for you, is to be resolved in New Zealand Courts under New Zealand law.

In these Terms of Engagement, “we” and “us” mean Claymore Partners Limited. “You” means our client, being the party identified as such in the relevant letter of engagement. Our duties are owed only to you. Unless otherwise agreed in writing or required by law, those duties will not extend to others, including for example associated parties such as shareholders, or related companies, directors or employees, or family members. If any such parties wish to retain us they should do so by separate agreement. Our advice is given for your benefit only and in your interests.

1. **Introduction:** The information set out in this Charter is provided to you in accordance with the *Rules of Conduct and Client Care for Lawyers* of the New Zealand Law Society (“Law Society”).
2. **Client Care and Services:** The Law Society client care and service information is set out below. We aim to meet or exceed these client care and service requirements at all times. 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 or call 0800 261 801.
3. **Persons Responsible for Work:** The names and status of the person or person(s) who will have the general carriage of or overall responsibility for the services we provide for you are set out in our letter of engagement.
4. **Fee:** The basis on which fees will be charged and details of when payment of fees is to be made is set out in our Terms of Engagement. 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. A copy of our Terms of Engagement accompanies this Client Care Charter.
5. **Professional Indemnity Insurance:** We hold Professional Indemnity Insurance cover that meets or exceeds the minimum standards specified by the Law Society. We will provide you with particulars of the minimum standards upon request.
6. **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. 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.
7. **Complaints:** We pride ourselves on our relationships with our clients and aim to exceed our clients’ expectations. However, we recognise that even with the best intentions on both sides issues may arise from time to time and we therefore 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 liaison director 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 another director in our firm. He/she may be contacted as follows:

 - By letter at PO Box 1382, Shortland Street, Auckland 1140;
 - By email at general@claymore.co.nz;
 - By telephone on +649 379 3163The Law Society operates the Lawyers Complaints Service and you are able to make a complaint to that service. To do so, phone 0800 261 801 and you will be connected to the nearest Complaints Service Office, which can provide information and advice about making a complaint.
8. **Limitations on Extent of our Obligations or Liability:** Any limitations on the extent of our obligations to you or any limitation or exclusion of liability are set out in our letter of engagement.