

TERMS OF ENGAGEMENT

1. Introduction

- 1.1 These terms of engagement ("Terms") set out the standard terms on which McRae Law Limited ("MLL") provides services to clients.
- 1.2 MLL's client on any particular matter ("you") will be identified in the Letter of Engagement MLL sends on the matter or as otherwise agreed between MLL and you.

2. Application

- 2.1 Unless otherwise agreed in writing, these Terms will apply to all instructions received from you, including all current matters and future instructions. You do not need to sign any formal documentation to indicate your acceptance. It will be assumed from you continuing to engage MLL. If you have any comments or questions about these Terms or any other matters, please contact MLL at allanmcrae@mcraelaw.co.nz.

3. Who will do the work

- 3.1 MLL will advise you in its Letter of Engagement who will be responsible for the services it provides to you.
- 3.2 MLL has the usual authority of a lawyer to act on your behalf in connection with each instruction it accepts from you. This includes your authority, where reasonable, to engage law firms in other parts of New Zealand or in foreign jurisdictions; to engage barristers or experts and to incur expenses.

4. Scope of the role

- 4.1 MLL's role is to provide you with the legal services that MLL and you agree on, unless a conflict of interest or other factors prevent MLL from providing the legal services to you.
- 4.2 MLL's advice to you is;
 - (a) limited to the matters stated in it;
 - (b) limited to and governed by New Zealand law; and
 - (c) subject to changes in events or circumstances or the law after the date it is given.
- 4.3 MLL is not obliged to notify you of any change in events or circumstances or the law after advice is given, or to provide any further services related to that advice.

TERMS OF ENGAGEMENT

- 4.4 MLL is not responsible for any failure to advise on any matter that falls outside the scope of its engagement with you.
- 4.5 MLL is not responsible for advising you as to taxation or goods and services tax issues.
- 4.6 MLL's name, and the name(s) of its shareholder(s) or director(s), and MLL's advice may not be used in connection with any offering document, financial statement, report, or other public document or representation without MLL's written consent.
- 4.7 When your instructions on a matter are completed, MLL's representation of you on that matter will end.
- 4.8 MLL will not have any duty to disclose information to you which is subject to privilege or is confidential to another client.
- 4.9 Where the shareholder(s) or director(s) of MLL undertake activities outside MLL, including activities in the nature of a directorship, trustee role or other governance role, all information received by that person in that capacity will be private to that person and neither that person nor MLL will have any obligation to you in relation to that information, including any obligation of disclosure.
- 5. **Duty of care to you only**
 - 5.1 MLL's duty of care is to you and not to any other person. MLL's advice is solely for your benefit and may not be relied on by any other person, unless MLL expressly agrees to this in writing. MLL's advice is also:
 - (a) not to be disclosed to any other person, or made public or published, or filed with any entity, without MLL's prior written approval;
 - (b) not to be used or referred to other than for the purpose for which it was sought and agreed to be provided by MLL.
 - 5.2 Where you are a company or other corporate or unincorporated entity, MLL acts only for you and does not act for your shareholders, directors, agents, members or any other person unless MLL expressly agrees otherwise.
 - 5.3 Except where you have expressly advised MLL otherwise, you warrant to MLL that you are not acting in a trustee capacity or on behalf of any other person when engaging MLL's services.

TERMS OF ENGAGEMENT

6. No trust account

6.1 MLL does not maintain a trust account.

7. Fee estimates

7.1 If requested, written estimates of fees will be provided before work commences. Estimates are provided as a guideline only and are based on MLL's professional judgement. Estimates are not maximum or fixed fee quotations.

8. Quotations

8.1 If MLL provides a quotation it will be recorded in writing and clearly labelled as a quotation rather than an estimate.

9. Rate changes

9.1 MLL adjusts its hourly rates from time to time. MLL's hourly rates relevant to the services it provides are available on request.

10. Office services, word processing and disbursements

10.1 MLL charges for general office services, word processing and for disbursements incurred or which it is liable to pay others on your behalf.

10.2 General office services include photocopying, facsimiles, voice and data communications, postage and deliveries. These are charged to you at a standard rate equal to 3.0% of MLL's fees, unless they are for amounts that are significantly greater than what MLL normally incurs on a matter, in which case they will be charged to you at their cost to MLL.

10.3 Word processing charges are charged onto you at the amount charged to MLL by its external provider.

10.4 Disbursements include out of pocket expenses such as travel and accommodation costs, registration and filing costs, and fees of agents (including agents conducting customer due diligence on MLL's behalf for the purposes of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 and associated regulations), experts and other professionals. These are charged on to you at the amount charged to MLL.

11. Billing, payment and queries

11.1 MLL's practice is to bill its clients on a monthly basis.

TERMS OF ENGAGEMENT

- 11.2 Payment of MLL's accounts is required (free of set off or deduction) no later than 14 days following the date of the invoice.
- 11.3 If you have any queries about an account please raise them within 14 days of receiving the invoice.
- 11.4 If an invoice is not paid by the due date, MLL may:
- (a) Cease to do any further work for you, and keep your papers and files, until all accounts are paid in full; and/or
 - (b) Without prejudice to MLL's rights to recover any unpaid amounts, charge interest at the rate of 5.0% per annum above MLL's bank's usual overdraft lending rate on a daily basis from the due date.
- 11.5 MLL also reserves the right to recover the costs of collection (including legal fees) of any unpaid account.
12. **GST**
- 12.1 Unless otherwise stated, MLL's stated rates, estimates and quotations do not include goods and services tax (GST). GST and any similar taxes will, if applicable, be charged and payable by you in addition to any fee, estimate or quotation.
13. **You are responsible for fees**
- 13.1 Although you may expect to be reimbursed by a third party for MLL's fees and charges, and although MLL's invoices may at your request or with your approval be directed to a third party, nevertheless you remain responsible for immediate payment to MLL if the third party fails to pay MLL on the due date.
14. **Information you provide MLL**
- 14.1 You warrant that all information you provide MLL with is accurate and not misleading and you agree that MLL may rely on that being the case.
15. **Confidentiality**
- 15.1 MLL will hold in confidence all information concerning you or your affairs that it acquires during the course of acting for you.
- 15.2 MLL will not disclose any of your information to any other person except to the extent necessary or desirable to enable it to carry out your instructions, or to the extent required by law or by the Lawyers: Conduct and Client Care Rules or as permitted under clause 18 (Privacy) below.

TERMS OF ENGAGEMENT

- 15.3 You are not entitled to any confidential information which MLL has or obtains in relation to any other client or prospective client.
16. **Conflicts**
- 16.1 MLL has procedures in place to identify and respond to conflicts of interest. If a conflict of interest arises MLL will advise you of this and follow the requirements and procedures set out in the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (Lawyers: Conduct and Client Care Rules).
- 16.2 MLL acting for you does not restrict it from acting on separate matters for other clients, by reason only that their commercial or legal interests may differ from yours.
- 16.3 MLL may accept instructions from other clients or potential clients working in the same or competing markets and whose commercial interests conflict with yours.
17. **MLL's reliance on external information and public records**
- 17.1 In supplying its services MLL may rely on and/or provide you with advice or information it has obtained from third parties (e.g. experts, witnesses, governmental authorities and public records or registers). MLL does not accept responsibility and will not be liable for any loss or damage caused by errors and omissions in that advice or information.
18. **Privacy**
- 18.1 In acting for you MLL may collect personal information about you. If MLL collects personal information about people who are employees, directors or principals of yours you will make sure these people are aware that MLL acting for you involves collection of personal information about them.
- 18.2 If MLL does not collect this personal information, it may not be able to carry out your instructions.
- 18.3 MLL intends to use personal information collected from you for the purpose for which it was collected, to deal with legal or commercial conflicts, to conduct customer due diligence on you as required by the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 and associated regulations, to obtain credit or other references about you, to provide legal services to you, to undertake credit management (including debt recovery), to send you invitations or publications or tell you about issues and developments that may be of interest to you, and for purposes you specify. You authorise MLL to obtain from any person or release to any person any information necessary for these purposes, and you

TERMS OF ENGAGEMENT

authorise any person to release information to MLL that it requires for these purposes.

- 18.4 If you are an individual, under the Privacy Act 1993 you have the right of access to, and correction of, your personal information held by MLL.

19. Intellectual property

- 19.1 All copyright and other intellectual property arising or created or provided by MLL in connection with its services (including all intellectual property rights in any document, advice or thing created by it in the course of providing the services to you) remains MLL's property.

20. Termination

- 20.1 Where you give MLL any instruction and it relies on that instruction (e.g. by giving an undertaking to another person), you may not revoke that instruction. Otherwise, you may terminate MLL's engagement at any time on any matter or matters. MLL may terminate or suspend its engagement with you in any of the circumstances set out in the Lawyers: Conduct and Client Care Rules or if it is required to under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 or any other legislation.
- 20.2 If MLL's engagement with you is terminated you must pay MLL all fees (billed and unbilled) up to the date of termination and all other charges incurred by MLL up to that date.

21. Enforceability

- 21.1 The enforceability of MLL's contract with you is not affected by termination of its engagement with you or any change to the shareholder(s) or director(s) of MLL or its constitution.

22. Files and documents

- 22.1 MLL may store your files, documents and personal information in any format it chooses (including electronically) at its offices or at premises outside its offices, including data storage facilities or online storage located within or outside New Zealand, which may be operated by independent service contractors. MLL does not accept responsibility and will not be liable for any damage or loss caused by independent service contractors or other third parties.

TERMS OF ENGAGEMENT

- 22.2 MLL retains the files it establishes on a matter, and any documents you leave with MLL for at least six years after completion or termination of the matter. MLL may then destroy the files and documents without further reference to you.
- 22.3 If at your request or if MLL is obliged to do so, MLL destroys any files or other documents in advance of their usual document destruction date, then any liability MLL may have in relation to the matter, files and/or documents howsoever arising will be deemed to have been waived and will end, and you will indemnify and hold MLL harmless against any such liability to a third party.
- 22.4 MLL is entitled to retain all your files and documents while you owe money to MLL.
- 22.5 If you uplift any of your files or other documents at any time MLL may make hard and/or electronic copies of them before they are uplifted. MLL may charge its time, and any photocopying charges, at its usual rates relating to the review of the files, copying of them where it does this, and making them ready for your uplifting.
23. **Electronic communications**
- 23.1 Unless otherwise agreed with you, MLL may communicate with you and others by electronic means. These communications can be subject to interference or interception or contain viruses or other defects ("corruption"). MLL does not accept responsibility and will not be liable for any damage or loss (direct or indirect) caused in connection with the corruption of an electronic communication or on account of an electronic communication being delayed or not being received. If you have any doubts about the authenticity of any communication, or document purportedly sent by MLL, please contact MLL immediately at allanmcrae@mcraelaw.co.nz.
24. **Foreign law**
- 24.1 MLL is only qualified to advise on New Zealand law. If MLL assists you in respect of matters governed by foreign law, it does so on the basis that it does not accept any responsibility in relation to your legal position under that foreign law.
25. **Professional indemnity insurance**
- 25.1 MLL holds professional indemnity insurance with QBE Insurance (Australia) Limited that meets the minimum standards specified by the New Zealand Law Society. That cover is for claims made in a claim year up to NZ\$1million for any one claim and NZ\$2 million in the aggregate via one automatic reinstatement. The excess payable by MLL under its professional indemnity insurance policy is NZ\$10,000.

TERMS OF ENGAGEMENT

26. Limitation of liability

26.1 MLL, including its director(s), consultants and employees, will not be liable, whether in contract, tort (including negligence) or otherwise, for:

(a) any loss of profit or revenue, exemplary damages or any indirect or consequential loss or damage howsoever described or claimed;

(b) any loss or damage arising from (including as a result of any delay caused by) any corruption or loss of data stored electronically, failure of any hardware, software or communications network or equipment, contamination of data (including any virus or other malicious computer code) or the malicious or intentional acts of any third party, including any unauthorised access or denial – of – service attack;

(c) any loss or damage to the extent it is attributable to your conduct or a failure by you to take reasonable care of your own interests.

26.2 To the extent permitted by law, MLL's total aggregate liability, including that of its director(s), consultants and employees, to you and all other persons, in connection with any matter (or any series of related matters) on which you engage MLL, is limited to the amount paid to MLL as indemnification by MLL's professional indemnity insurers for that liability under any relevant insurance held by MLL, up to a maximum amount of NZ\$1million (including interest and costs), plus any excess payable in relation to that insurance by MLL in relation to the matter (or series of related matters). For details of MLL's professional indemnity insurance see clause 25 above. This limitation of liability is agreed to be a reasonable restriction on the liability of MLL and all of its directors, employees and consultants.

26.3 The limitation in clause 26.2 applies to all liability of all kinds, whether in contract or in tort (including negligence), equity or otherwise.

26.4 If MLL provides services to any person or persons or entity or entities related to or associated with you or to anyone else at your request (whether or not MLL also advises you) on a matter (or series of related matters) on which you engage MLL, then MLL's aggregate liability to you and all those persons and entities in respect of that matter (or series of related matters) will be subject to and included within the limitation in clause 26.2 (and you will ensure that those persons or entities agree to this).

26.5 All the rights, benefits and limitations of liability conferred on or afforded to MLL by these Terms extend to all directors and employees of, and consultants to, MLL.

TERMS OF ENGAGEMENT

27. Limitation period

- 27.1 You may not bring any action against MLL, or any of its directors, consultants or employees, regardless of form, more than three years after the cause of action has arisen.

28. Anti-money laundering

- 28.1 You agree to provide any information and other assistance MLL requires in order to manage its anti-money laundering and countering financing of terrorism obligations. You agree that MLL may refuse to establish a business relationship with you, or may be required to stop or suspend providing services to you, if you fail to provide this information or assistance to MLL in the time frame it specifies.

29. Your rights under legislation

- 29.1 Where you engage MLL to provide legal services for you for the purposes of a business, the Consumer Guarantees Act 1993 will not apply to your engagement with MLL.
- 29.2 Nothing in these Terms is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying any rights you have under the Consumer Guarantees Act 1993 or the Fair Trading Act 1986 or rights you have under any other legislation, to the extent that those rights cannot be contracted out of, but to the extent they can be contracted out of they will not be available to you in relation to these Terms or otherwise in relation to MLL's contract with you.

30. Legal aid

- 30.1 For information on your financial eligibility for legal aid please visit: www.justice.govt.nz/courts/going-to-court/legal-aid/. It is not MLL's practice to work on legal aid matters.

31. Guarantees

- 31.1 MLL may ask for a guarantee for payment of its fees. If this requirement is set out in its Letter of Engagement it reserves the right not to undertake any work until MLL has received a copy of the Letter of Engagement signed by the guarantor(s).

32. Changes

- 32.1 MLL may change these Terms at any time, and from time to time, in which case it will publish the changed terms on its website. The change will bind you in respect of any matters on which MLL accepts instructions after publication of the change.

TERMS OF ENGAGEMENT

33. Entire agreement

- 33.1 These Terms and MLL's Letter of Engagement with you constitute the entire agreement between MLL and you relating to your engagement of MLL and MLL's provision of legal services to you, and supersede and extinguish any prior agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing.
- 33.2 You acknowledge and agree that you have not relied on any statement or representation other than those expressly set out in these Terms or MLL's Letter of Engagement with you.
- 33.3 In the event of any conflict between these Terms and MLL's Letter of Engagement, the terms of the Letter of Engagement prevail.

34. Governing law

- 34.1 MLL's relationship with you is governed by New Zealand law and New Zealand Courts have exclusive jurisdiction.