

**HEARTLAND LAW LIMITED –TERMS OF BUSINESS**  
(Updated 16 April 2018)

These Terms apply in respect of all work carried out by us.

**1. Services**

We will specify the scope of services we are providing in our engagement letter to you. That letter forms part of our engagement terms.

We can only act following receipt of instructions from you. It is your responsibility to ensure you provide instructions, especially when crucial deadlines/dates are involved in your matter.

**2. Client Care and Service – what you can expect from us**

You are entitled to expect that we will:

- (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) Give you clear information and advice.
- (f) Protect your privacy and ensure appropriate confidentiality.
- (g) Treat you fairly, respectfully and without discrimination.
- (h) Keep you informed about the work being done and advise you when it is completed.
- (i) Let you know how to make a complaint and deal with any complaint promptly and fairly.

The above duties/obligations are owed by lawyers to all clients, applying the Lawyers and Conveyancers Act (Lawyers Conduct and Client Care) Rules 2008. These obligations are however subject to other overriding duties including duties to the Courts and to the Justice System. Further information about our duties to you can be obtained from [www.lawyers.org.nz](http://www.lawyers.org.nz) or call the New Zealand Law Society on 04 472 7837.

**3. Fees (which include GST and expenses)**

**Fee collection by us – up-front payment**

At the start of each engagement, we will (where possible) provide you an estimate (within a range) of what we believe it will cost you to complete your work. This estimate is an early “best guess” of what we think it will cost you for us to complete the work. Our estimate is not a quote. When an estimate has been given and it later appears that it will be exceeded, we will endeavor to advise you of the reasons and obtain further instructions before proceeding further.

We do not have a debtor’s ledger – clients who owe us money. ***Unless we otherwise agree with you, we will require you to pay our estimated fee in advance, before we commence work. This sum is payable within three days of the date of our engagement letter.*** If you choose not to pay the fees, the work will not commence.

Otherwise, payment of our invoice(s) for fees, GST, and expenses for completed work is due within 10 days of invoice.

**Interim billing**

Some files will take a long time to complete. We will render regular interim bills where necessary – and particularly where it is not possible to accurately predict an estimated range of fees. Interim bills are due within 10 days of invoice. Failure to pay an interim bill may mean that work on your file stops.

**How fees/estimates are calculated**

We will charge a fee that is reasonable for the work completed.

Fees are not charged on the basis of time spent completing the work. Rather, the New Zealand Law Society has specified that the following factors are to be taken into account:

- (a) The skill, specialised knowledge, and responsibility required to perform the services properly;
- (b) The importance of the matter to the client and the results achieved;
- (c) The urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those imposed by the client;
- (d) The degree of risk assumed by the lawyer in undertaking the services, including the amount or value of any property involved;
- (e) The complexity of the matter and the difficulty or novelty of the questions involved;
- (f) The experience, reputation and ability of the lawyer;
- (g) The possibility that the acceptance of the particular retainer will preclude engagement of the lawyer by other clients;
- (h) Whether the fee is fixed or conditional (whether in litigation or otherwise);
- (i) Any quote or estimate of fees given by the lawyer;
- (j) Any fee agreement (including a conditional fee agreement) entered into between the lawyer and client;
- (k) The reasonable costs of running a practice;
- (l) The fee customarily charged in the market and locality for similar legal services;
- (m) The time and labour expended.

**Expenses – Administration fee**

Unless otherwise agreed with you, we will not charge you for minor expenses such as every phone call and photocopy. Rather, we charge a set fee as outlined in our engagement letter to you (including GST) for each file opened, as a file administration fee. This

fee covers the costs of setting up your file (both the physical file and with our Trust accountant), standard photocopying, tolls, and LINZ and PPSR searches. We will, however, pass-on to you at-cost larger expenses such as courier fees, ADLS webforms fees, LINZ registration fees, valuation fees, mileage and travel expenses.

#### **Other important matters about fees**

By choosing to instruct us you agree to the following:

- (a) If we are holding money for you, we can deduct our fees from this. In all cases we will provide you with a full statement setting out details of the money received on your behalf and fees deducted;
- (b) We will charge interest at the rate of 2% per month on outstanding accounts;
- (c) You will pay all costs incurred in recovering any overdue debt owing to us;
- (d) Failure to pay fees on time may lead to suspension of services (including Heartland Law Limited's right to refuse to settle a property, loan, commercial or other transaction or continue with any Court matter) or termination of the engagement. If suspension of services does arise, all reasonable fees up to the suspension/termination shall be and remain payable.

#### **4. Interest on Money held on-trust for you**

Where practicable, we will endeavor to ensure interest is earned on money we hold for you on-trust. We are unlikely to put your money on Interest Bearing Deposit (IBD) if the interest likely to be earned does not warrant the administrative costs involved. As a rule of thumb, we won't put funds on IBD if the interest likely to be earned is less than \$80.00. We cannot put or hold your money on IBD, unless you first complete a Certificate of Consent to the release of your information sufficient to fulfil our requirements as a non-financial foreign entity (NFFE) under the Foreign Account Tax Compliance Act (FATCA).

#### **5. Insurance/Fidelity Fund**

We hold Professional indemnity insurance that meets or exceeds the minimum standard specified by the New Zealand Law Society.

The New Zealand Law Society Fidelity Fund provides some protection against financial loss caused by theft by lawyers. Details of the Fund can be found at [www.lawyers.org.nz](http://www.lawyers.org.nz). Investment monies held by us are not covered by the Fund.

#### **6. Termination**

You may terminate our services at any time by written notice. You will be obliged to pay all our fees for services performed up to termination.

We may terminate our services in any of the circumstances set out in the Rules of Conduct and Client Care for Lawyers.

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

By instructing us you agree that we may destroy all files and documents for this matter (other than any documents that we hold in safe custody for you) seven years after our engagement ends.

The work papers produced by us while providing services to you are the property of Heartland Law Limited. We shall be entitled to retain our work papers and copies of any documents provided by you in the course of performing services. Work papers will also include documents or deeds relevant to your affairs although not necessarily relevant to the services.

#### **8. Anti Money Laundering and Countering Financing of Terrorism obligations**

New Zealand has passed a law called the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the AML/CFT law).

From 1 July 2018, lawyers are required to comply with the AML/CFT law, including legal requirements around verifying client identities and sources of wealth *before we are permitted to commence working for you*.

*If we are not able to obtain the required information from you, it is likely we will not be able to act for you. We will tell you what information we need, but ultimately it is your responsibility to ensure we receive it in a timely fashion.*

The AML/CFT law also requires us to file "suspicious activities reports" with the Financial Intelligence Unit of the NZ Police in certain circumstances. We are not permitted to tell you a report has been filed. We are obliged to comply with the AML/CFT law.

If you require further information about what types of transactions that trigger our obligation to report, then please ask.

#### **9. Problems or Concerns/Complaints**

Heartland Law has procedures to handle any complaints by you, designed to ensure that a complaint is dealt with promptly and fairly. Where possible, resolving your complaint will be overseen by a Director not involved in the work that has led to the complaint. If you have a complaint about our services, please contact the Directors either by:

- (a) Letter to Heartland Law Limited, PO Box 447, Timaru 7940;
- (b) An email to [wayne@heartlandlaw.co.nz](mailto:wayne@heartlandlaw.co.nz) or [janice@heartlandlaw.co.nz](mailto:janice@heartlandlaw.co.nz)

Alternatively, you have the right to take the matter up directly with:

New Zealand Law Society, PO Box 5041, Lambton Quay, Wellington 6145, Telephone 0800 261 801