

Terms of Engagement

When do these terms apply?

These terms set out the basis on which Gaze Burt Limited (“we”, “us” or “our”) agree to act for you. You accept the terms, or any further terms set out in our Fee Schedule or otherwise communicated by us to you, if you continue to instruct us after receiving them.

These terms will apply each time you instruct us to act for you on a matter.

What are our service commitments?

We will always:

- 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; and
- let you know how to make a complaint and deal with any complaint promptly and fairly.

The obligations lawyers owe to our 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.

What is the scope of our services?

The services we are to provide will be set out in engagement letters or emails and Fee Schedules provided to you from time to time.

The only person who can rely upon our services is the client specifically identified in those engagement letters, emails or Fee Schedules – we are not providing services to any person or entity related to you or anyone else involved in a matter unless we specifically agree otherwise.

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

We are not qualified to provide investment advice or advice on insurance products to you but will, if you so request, assist you in obtaining such advice.

We only provide tax advice if specifically included in our Fee Schedule. In all other circumstances we will not be providing you with tax advice.

Unless we agree to do so in writing, we will not:

- (a) remind you about dates (for example, PPSR, lease or consent expiry dates); or
- (b) update advice after the completion of a matter.

How will we charge you for our fees?

We will charge you the fees set out in our Fee Schedule (if any) for the scope of work set out in that document. If a task within a scope of work is not completed, we will charge you a fair and reasonable fee for the work completed to date, which will take into account the time expended on your matter and other factors referred to below.

Any quote set out in a Fee Schedule is valid for 30 days from the date the Fee Schedule is provided to you.

If we have not quoted you for any work, or if the scope of work changes, or if we are required to do work that is outside of scope, we will charge you a reasonable fee taking into account the time expended, our standard hourly rates (which may be set out in a Fee Schedule or can be provided upon request) and other factors referred to below.

All fees are calculated in accordance with the time expended and other factors permitted by the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 ("Lawyers Conduct Rules"). These include (amongst other things) the urgency and circumstances in which we carry out your instructions, the knowledge and responsibility required and the results achieved.

We may also require you to pay a deposit in advance of work being undertaken or in some cases an agreed retainer fee.

GST is payable in addition to our fees, except in some circumstances (if any of these apply, we will let you know).

Are there other charges?

We also charge for disbursements and other costs we incur on your behalf. We may require you to pay for such costs in advance of us incurring them.

Disbursements include third-party expenses such as courier charges, registration and filing costs, Settify charges and agent fees.

We will deduct a 5% commission on the gross interest earned on funds we invest for you in an interest-bearing account with our bank. We will also deduct withholding tax on interest earned – at the default rate unless you give us your IRD number.

If you use a credit card to pay an invoice, we may charge you credit card fees in addition to the invoiced price.

If we are required to carry out customer due diligence on you pursuant to the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 ("AML/CFT Act"), we will charge you a customer due diligence fee of \$100 plus GST (or such higher fee as is quoted to you).

How will we invoice you?

We will normally send you a monthly invoice on an interim basis when a matter is in progress. We will also invoice you on completion of a matter or a task.

When will our fees and charges be payable?

You must pay for our fees and charges within 14 days of the date of invoice.

Even if we agree that our invoice can be paid by someone else (for example a tenant or franchisee), you are still liable if they don't pay on time.

We may deduct payment of our invoices from any funds held on your behalf in our trust account, whether or not an invoice has become due for payment. If you are entitled to receive any money during a transaction we are working on, you agree that this shall be paid into our trust account and we may direct the payer accordingly.

What happens if you do not pay us?

We may charge interest on overdue invoices at ASB Bank Limited's Business Base Rate (or any rate ASB substitutes for it) applicable at the time of default. You will also be liable for any costs incurred by us in recovering payment of any overdue invoice.

You authorise us to retain your file and documents while you owe us money for any invoice. You grant us a security interest over your file, all documents and property held on your behalf and all funds held in our trust account on your behalf until you have paid all money owing under this agreement.

What personal information will you have to provide?

We are required to comply with all laws binding on us in all jurisdictions, including the AML/CFT Act.

Before we can commence work on your behalf and from time to time during the course of providing services to you, we may perform customer due diligence on you and may require you to verify your identity in accordance with the AML/CFT Act. This due diligence may extend, in respect of trusts and companies, to the identity of settlors, trustees, beneficiaries, directors, shareholders and representatives of those persons.

We will also carry out ongoing monitoring of your relationship with us and we will report any suspicious activity as we reasonably believe is required by the AML/CFT Act, or any other law. We are also required to report prescribed types of transactions under the AML/CFT Act. We are prohibited from disclosing to you, and you agree that we will not disclose to you, any such reports.

In certain circumstances as required by the AML/CFT Act or any other law, we will require you to provide proof of the source of your funds or wealth.

If we consider that any of the information you provide to us is insufficient to satisfy our internal risk assessment procedure or the requirements of the AML/CFT Act, or any other law, then we may immediately cease acting for you and/or terminate this agreement.

We may retain the information and documentation you provide to us and disclose them to any law enforcement, regulatory agency or court as required by the AML/CFT Act or any other law.

How will we use your personal information?

You agree that we may disclose information we hold about you to credit reporting and/or debt collection agencies, as necessary to recover any amount you owe us. We may also use your personal information for marketing purposes and disclose information about your personal affairs to our professional indemnity

insurers, if necessary to address any claim or potential claim. You also agree (and the guarantor agrees) that we may obtain information about your credit history from appropriate agencies.

Who owns the copyright in documents?

We own the copyright in all documents we prepare for you, unless we agree otherwise. If our logo appears on a document or you represent that the document has been prepared by us, you must obtain our approval before making any change to the document, since we will be associated with the change.

Do we hold 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.

What is the Lawyers' Fidelity Fund?

The Law Society maintains the Lawyers' Fidelity Fund for the purposes of providing clients of lawyers with protection against financial loss arising from theft by lawyers. The maximum amount payable by the Fidelity Fund is limited to \$100,000. The fidelity fund will not usually cover loss relating to money a lawyer is instructed to invest on behalf of a client.

How does our engagement end?

You may terminate this agreement at any time by giving us written notice. If you do, you must pay our fees and expenses in respect of work done up to the time of termination.

We may stop working for you and/or terminate this agreement if:

- (a) you do not pay our invoices by their due date;
- (b) continuing to act for you would (in our reasonable opinion) require us to breach any of our obligations under the Lawyers Conduct Rules and/or the AML/CFT Act or any other regulation;
- (c) you mislead or deceive us in any material respect;
- (d) you do not provide sufficiently timely instructions; or
- (e) (except in litigation matters) you adopt a course of action which is against our advice and which we believe is highly imprudent and may be inconsistent with our professional obligations.

We will give you reasonable notice of our intention to terminate this agreement and will help you find another lawyer. You must pay our fees and expenses in respect of work done up to the time of termination.

Is there a time limit for any claim against us?

You must file any claim against us in Court within two years after the date of the act or omission on which the claim is based. If you do not do so, you agree that the claim cannot be filed and, to the extent permitted by law, we will have no liability for that act or omission or for its consequences.

The above time limit overrides the time limits under the Limitation Act 2010 and applies regardless of when any fact relevant to the claim was first discovered or able to be discovered. The terms "claim" and "the date of the act or omission on which the claim is based" have the same meaning as in the Act.

Is there a limit on our liability?

Our total liability to you, and the liability of our directors, employees and contractors, whether in contract, equity, tort, statute or otherwise, in relation to any matter or any series of related matters, is limited, to the extent permitted by law, to the amount stated in our Fee Schedule or, if no amount is stated:

- (a) to the amount available to be paid out under any relevant insurance held by us, up to a maximum of \$3,000,000 (including interest and costs); or
- (b) where no amount is available to be paid out under our relevant insurance policies, to the lesser of \$100,000 and 5 times our fees applicable to the matter, or series of related matters (including interest and costs).

If we provide services to any persons or entities related to or associated with you or to any other person at your request on a matter, or any series of related matters, 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 the limitation set out above. You agree to ensure that all such persons and/or entities agree to this limitation.

What do we do with your file and documents?

We will retain your file and documents for 7 years from the completion of the matter. We fulfill this obligation by scanning and storing your file and documents electronically. You authorise us to destroy the original copies of your file and documents.

We will take reasonable steps, based on advice from reputable information technology providers, to ensure that our electronic storage systems are secure and your information is protected. We cannot, however, guarantee that our system will never be hacked or unlawfully accessed.

What is our complaints procedure?

If you have a complaint about our services or fees, you should refer your complaint to the Partner who has overall responsibility for your work. If you do not wish to refer your complaint to that Partner, or if you are not satisfied with their response to your complaint, you should refer the matter to our complaints officer, Michael Bright.

You can contact Michael Bright by email to michael.bright@gazeburt.co.nz or calling 09 303 3764. You can also contact the Law Society's Complaints Service by calling 0800 261 801.