
STANDARD TERMS AND CONDITIONS OF ENGAGEMENT AND PAYMENT OF OUR PROFESSIONAL FEES

INTRODUCTION

John Dean and his staff ("JDLO") are pleased to be of assistance, and will always act in your best interests and hold in confidence all information about you. We will sincerely endeavour to achieve the best possible results for you. We will report to you on a regular basis by letter or by telephone as to the progress of matters about which you have instructed us. We are caring about clients' results and will endeavour to deliver cost effective legal services.

1. GENERAL

- 1.1. These Standard Terms of Engagement and Conditions of Engagement and Payment of our Professional Fees (Terms) apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.
- 1.2. We are entitled to change these Terms from time to time, in which case we will send you, or notify you by posting them on our web page: www.jdlo.co.nz, of our amended Terms.
- 1.3. Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.

2. DUTY OF CARE

- 2.1. Our duty of care is to you and not to any other person. We owe no liability to any other person, including for example any directors, shareholders, associated companies, employees or family members unless we expressly agree in writing. We do not accept any responsibility or liability whatsoever to any third parties who may be affected by our performance of the Services or who may rely on any advice we give, except as expressly agreed by us in writing.
- 2.2. Our advice is not to be referred to in connection with any prospectus, financial statement, or public document without our written consent.
- 2.3. Our advice is opinion only, based on the facts known to us and on our professional judgment, and is subject to any changes in the law after the date on which the advice is given. We are not liable for errors in, or omissions from, any information provided by third parties.
- 2.4. Unless otherwise agreed, we may communicate with you and with others by electronic means. We cannot guarantee that these communications will not be lost or affected for some reason beyond our reasonable control, and we will not be liable for any damage or loss caused thereby.

3. Services ("the Services")

- 3.1. The services we are to provide for you are outlined in our letter of engagement along with any further instructions which you provide to us in writing, or which we record in writing.

4. Communications

- 4.1. We will obtain from you contact details, including email address, postal address and telephone numbers. We may provide documents and other communications to you by email, or other electronic means. You will advise us if any of your contact details change.
- 4.2. We will report to you periodically on the progress of any engagement and will inform you of any material and unexpected delays, significant changes or complications in the work being undertaken. You may request a progress report at any time.

- 4.3. You agree that we may provide you from time to time with other information that may be relevant to you, such as newsletters and information bulletins. At any time you may request that this not be sent to you.

5. Confidentiality and Personal Information

5.1. Confidence:

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:

- 5.1.1. to the extent necessary or desirable to enable us to carry out your instructions; or
- 5.1.2. as expressly or impliedly agreed by you; or
- 5.1.3. as necessary to protect our interests in respect of any complaint or dispute; or
- 5.1.4. to the extent required or permitted by law.

- 5.2. Confidential information concerning you will as far as practicable be made available only to those within our firm who are providing legal services for you.

5.3. Personal Information and Privacy:

In our dealings with you we will collect and hold personal information about you. We will use that information to carry out the Services and to make contact with you about issues we believe may be of interest to you. Provision of personal information is voluntary but if you do not provide full information this may impact on our ability to provide the Services.

- 5.4. Subject to clause 5.1, you authorise us to disclose, in the normal course of performing the Services, such personal information to third parties for the purpose of providing the Services and any other purposes set out in these Terms.

- 5.5. We may disclose your name and address to third parties such as credit agencies to perform a credit reference or to undertake credit management or collection processes if it is reasonable to do so.

- 5.6. The information we collect and hold about you will be kept at our offices and/or at secure file storage sites elsewhere, including electronic file storage sites. If you are an individual, you have the right to access and correct this information. If you require access, please contact us.

5.7. Verification of Identity:

The Financial Transactions Reporting Act 1996 requires us to collect from you and to retain information required to verify your identity. We may therefore ask you to show us documents verifying your identity, such as a passport or driver's licence. We may retain copies of these documents. We may perform such other client verification checks as to your identity and checks as to the source of any funds associated with any transaction to which the Services relate as we consider to be required by law.

6. CONFLICT OF INTEREST

- 6.1. We have procedures in place to identify and respond to conflicts of interest. If a conflict of interest arises we will advise you of this and follow the requirements and procedures set out in the Law Society's Rules of Conduct and Client Care for Lawyers.

7. TERMINATION

- 7.1. You may terminate our retainer at any time.
- 7.2. We may terminate our retainer in any of the circumstances set out in the Law Society's Rules of Conduct and Client Care for Lawyers, including the existence of a conflict of interest, non-payment of fees, and failure to provide instructions.
- 7.3. If our retainer is terminated you must pay us all fees, disbursements and expenses due up to the date of termination. You will be billed to the date of termination and for any costs of transferring files and documents to any other entity.

8. Documents, Records and Information

- 8.1. We will keep a record of all important documents which we receive or create on your behalf on the following basis:

- 8.1.1. We may keep a record electronically and destroy originals, except where the existence of an original is legally important such as in the case of Wills and Deeds.
- 8.1.2. At any time, we may dispose of documents which are duplicates, or which are trivial - such as emails which do not contain substantive information - or documents which belong to us.
- 8.1.3. We are not obliged to retain documents or copies where you have requested that we provide them to you or to another person and we have done so, although we are entitled to retain copies for our own records if we wish to do so.
- 8.2. We will provide to you on request copies or originals, at our option, of all documents to which you are entitled under the Privacy Act 1993 or any other law. We may charge you our reasonable costs for doing this.
- 8.3. Where we hold documents which belong to a third party you will need to provide us with that party's written authority to uplift or obtain a copy of that document.
- 8.4. Unless you instruct us in writing otherwise, you authorise us and consent to us, without further reference to you, to destroy or delete, in the case of paper and electronic records, all files and documents in respect of the Services seven years after our engagement ends. This does not include any documents which we hold in safe custody for you or are otherwise obliged by law to retain for longer. We may retain documents for longer at our option.
- 8.5. We may, at our option, return documents, either in hard or electronic form, to you rather than retain them. If we choose to do this, we will do so at our expense.
 - 8.5.1. If we contact you at your last advised address about returning documents to you and you do not respond within 15 working days you authorise us and consent to us, without further reference to you, to destroy or delete, in the case of paper and electronic records, all files and documents in respect of the Services.
 - 8.5.2. If you tell us you do not want your documents you authorise us act as set out in clause 8.5.1.
- 8.6. We own copyright in all documents or work we create in the course of performing the Services but grant you a non-exclusive licence to use and copy the documents as you see fit for your own personal or commercial use. However, you may not permit any third party to copy, adapt or use the documents without our written permission.

9. INSURANCE AND INVESTMENTS

- 9.1. We may be instructed or required to arrange insurance or investments on behalf of clients. Payment of commission or brokerage may be made to us by the entity with whom the insurance cover or investment is placed.

10. TRUST ACCOUNT

- 10.1. We maintain a trust account for all funds which we receive from clients, except monies received for payment of our invoices. If we are holding significant funds on your behalf we will normally lodge those funds on interest bearing deposit with a bank. In that case we will charge an administration fee of 5% of the interest derived.

11. FINANCIAL

11.1. Fees

- 11.1.1. We are happy to discuss the likely costs of undertaking work on behalf of our clients. Our fees are currently charged on a blended rate from \$50.00 per hour to \$350.00 per hour plus GST. The difference in the rates reflect the experience and specialisation of JDLO members. Time spent is recorded in six minute units, with time rounded up to the next unit of six minutes.
- 11.1.2. We may require you to pay fees and disbursements in advance.
- 11.1.3. There are a number of different factors which may determine the final fees which we charge for work undertaken, therefore only an estimate of fees can be given, except in special circumstances. The factors which determine the final fee include:
 - i The time and labour expended;

- ii The skill, specialised knowledge, and responsibility required to perform the services properly;
- iii The importance of the matter to the client and the results achieved;
- iv The urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those imposed by the client;
- v The degree of risk assumed by JDLO in undertaking the services, including the amount or value of any property involved;
- vi The complexity of the matter and the difficulty or novelty of the questions involved;
- vii JDLO's experience, reputation, and ability;
- viii The possibility that the acceptance of the particular retainer will preclude engagement of JDLO by other clients;
- ix Whether the fee is fixed or conditional (whether in litigation or otherwise);
- x Any quote or estimate of fees given by JDLO;
- xi Any fee agreement (including a conditional fee agreement) entered into between JDLO and the client;
- xii The reasonable costs of running a practice;
- xiii The fee customarily charged in the market and locality for similar legal services.

11.1.4. The successful completion of a transaction which has taken account of one or more of the above principles of charging may result in a fee uplift.

11.2. CORPORATE CLIENTS

Member(s), shareholder(s), officer(s) of any entity incorporated or non-incorporated association(s) for which JDLO undertakes any work are jointly and severally liable to meet payment of JDLO fees and disbursements. The undersigned party/parties acknowledge their liability to pay JDLO and agree to the terms of this retainer.

11.3. DISBURSEMENTS & THIRD PARTY EXPENSES

In providing the Services we may incur disbursements and payments to third parties on your behalf. You authorise us to incur these disbursements which are reasonably necessary to provide the Services. These may include items such as search fees, court filing fees, registration fees and travel and courier charges. You also authorise us to make payments to third parties on your behalf which are reasonably required to undertake the Services. These may include items such as experts' costs or counsel's fees. These will be included in our invoice to you, shown as "disbursements" when the expenses are incurred, or in advance when we know we will be incurring them on your behalf. We cannot undertake to pay any disbursements on your behalf where we are not holding funds, and we cannot accept any responsibility for the consequences of not making such payments.

11.4. OFFICE SERVICE CHARGE FEE (ADMINISTRATIVE EXPENSES)

In addition to disbursements, we may charge administrative expenses, being an office services and bureau fee of \$50.00, or such other reasonable sum, to cover out of pocket costs which are not included in our fee and which are not recorded as disbursements. These include items such as tolls, cellphone calls and texts, faxes, photostats, digital communications and document scanning, web server or "cloud" storage; and other like disbursements.

We also may charge an electronic fee of \$30.00 or such other reasonable sum in respect of conveyancing transactions.

11.5. TERMS OF PAYMENT OF FEES, DISBURSEMENTS AND OFFICE SERVICES CHARGES

Conveyancing: Payment in full on settlement, with costs usually being paid by deduction from moneys held on behalf of the client.

Business Transactions: For matters continuing over an extended period of time clients will be billed on a monthly or bimonthly basis.

Litigation and Tribunal Matters: These matters will be generally billed on a monthly or bimonthly basis. Where we brief counsel on a client's behalf we will generally require payment of counsel's fee to be paid immediately, or by further arrangement.

You authorise us to deduct all fees and disbursements from any funds held on your behalf in our Trust Account for any matter, even if unrelated to the bill rendered by JDLO, and in respect of which we have rendered invoices prior to this date and in the future.

Legal Aid: If an application is made to Legal Aid to fund a client's legal services then Legal Aid will pay us for the services we undertake. If such funding is not obtained or is withdrawn at any time the client will be liable to pay our costs and disbursements.

11.6. OTHER PAYMENT OPTIONS

Agreed monthly instalments can be paid based on an advance estimate of fees. That is, an invoice will be issued at the end of the assignment showing the balance to be paid or refund required to be made to the client.

A lump sum fee paid in advance in addition to disbursements. On completion of an assignment a bill will be issued for any balance due which is then payable within 30 days.

11.7. FLEXIBILITY

We will always make reasonable arrangements to suit clients' particular circumstances and will discuss any specific requirements including conditional or contingency arrangements.

11.8. CONDITIONS OF PAYMENT

You will appreciate that JDLO expects to get paid for work undertaken on clients' behalf from the date of your initial instructions, which may predate this retainer. Payment may be made by cash, cheque, direct or automatic payment. JDLO will charge interest on accounts which remain unpaid one month from the date of issue at the rate of 2% per month or part thereof.

If costs are not paid in full by the due date which, unless otherwise stated, is one month after the date of the invoice, you will be liable to pay all JDLO office and/or legal costs of recovery on a solicitor-client basis, including issuing legal proceedings; and JDLO may take security over any of your property on account of outstanding costs. Until payment of all amounts owing to JDLO is made in full, JDLO may retain all your files and documents. JDLO may assign the debt at any time after it is due for payment.

12. LIMITATIONS ON EXTENT OF OUR OBLIGATIONS OR LIABILITY

12.1. To the extent permitted by law:

12.1.1. Our aggregate liability, together with and including that of our partners, consultants and employees, in respect of all causes of action and claims, whether in contract, tort or otherwise, arising in connection with, or in relation to, our engagement is limited to NZ\$1,000,000.00;

12.1.2. We shall not be liable, whether in contract, tort or otherwise, for any loss (whether direct or indirect) of profits, business, anticipated savings or other economic loss or for any indirect, special or consequential loss, even if we were or should have been aware of the likelihood of such loss; and

12.1.3. You may not bring any action against us, regardless of form, more than one year after the cause of action has arisen

13. CLIENT CARE RULES FOR JDLO CLIENTS

13.1. Attached as part of these Terms are JDLO's Client Care Rules.

Acknowledged and agreed:

Signed: _____ **Signed:** _____

Full Name(s): _____ **Full Name(s):** _____

Dated: _____

JOHN DEAN LAW OFFICE

Barristers & Solicitors • Wellington, New Zealand

7th Floor, Civic Assurance House
 116 Lambton Quay, Wellington 6011
 P.O. Box 10-107, Wellington 6143
 Fax +644 473-0784
 Telephone +644 472-9369
 Email jad@jdlo.co.nz
www.jdlo.co.nz

CLIENT CARE RULES FOR JDLO CLIENTS

*In Accordance With the Rules of Conduct and Client Care for Lawyers
 of the New Zealand Law Society ("NZLS")*

1. Caring for Clients' Results

As from 1 August 2008 Parliament promulgated Rules of Conduct and Client Care for Lawyers prescribing obligations lawyers owe to clients. John Dean Law Office ("JDLO") is pleased to be of assistance, and will always act in clients' best interests, hold in confidence all client information, be caring about clients' results, and endeavour to deliver cost effective legal services.

2. Client Care And Service

To assist clients, we set out the main points of these Rules.

JDLO shall:

- *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 your objectives with you 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 carried out and advise you when it is completed.*
- *Let you know how to make a complaint and deal with any complaint promptly and fairly.*

These obligations are subject to other overriding duties, including duties to the Courts and to the justice system.

If you have any questions, please visit the NZLS website at www.lawyers.org.nz or call the NZLS on +644-472-7837.

3. Professional Indemnity Insurance

We hold professional indemnity insurance which meets or exceeds the minimum standards specified by the NZLS. We will provide you with particulars of the minimum standards upon request.

4. Lawyers Fidelity Fund

The NZLS 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 \$100,000.00. 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 which a lawyer is instructed to invest on behalf of the client.

5. 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 or retainer agreement.

6. 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 Dean, Principal.

He may be contacted as follows by:

- letter at PO Box 10-107 Wellington 6143;
- email at jad@jdlo.co.nz;
- telephoning him at +644-472-9369;
- Skype at JDLO-JAD

The NZLS also maintains a complaints service and you are able to make a complaint to that service. To do so you should contact the Lawyers Complaint Service by:

- letter at PO Box 5041, Wellington 6140;
- in person at 26 Waring Taylor Street, Wellington Central, Wellington 6011;
- telephone at 0800 261 801;
- email at complaints@lawsociety.org.nz