

## Standard Terms of Engagement

### 1. General

These terms ("**Terms**") apply to Perpetual Guardian's<sup>1</sup> relationship with you. However, if these Terms are inconsistent with any other terms of engagement or agreement we have with you (whether generally or in respect of a specific instruction) then that other agreement prevails over these terms. We may change these Terms from time to time and will publish the changed terms on our website.

### 2. Services

The services we will provide to you are outlined in our letter of engagement ("**Services**").

### 3. Financial

- (a) **Fees:** Information about our fees is set out in our letter of engagement, and in our "Guide to Charges" which is published on our website, as amended from time to time. You authorise us to debit any funds held on your behalf in satisfaction of any fees payable to us in connection with the Services. Any amounts debited for this purpose will be retained in our client trust account but moved from your account to a Client Overdraft Suspense Account maintained on behalf of all clients pending payment to us.
- (b) **GST:** Our fees and charges are plus goods and services tax ("**GST**") (if any), which is payable by you.
- (c) **Invoices:** Attendances charged at time and cost will be invoiced either monthly or at a time that Perpetual Guardian deems appropriate.
- (d) **Payment:** Invoices are ` us.
- (e) **Unpaid invoices:** If payment of your invoice is overdue we may charge interest on any overdue amount.
- (f) **Disbursements and expenses:** In providing Services, we may make payments to third parties on your behalf. These amounts will be included and identified in our invoice to you when the expense is incurred. We may also require expenses to be paid in advance.
- (g) **Third Party:** You remain responsible for payment of our fees and expenses notwithstanding any arrangements for you to be reimbursed by a third party or for our invoices to be directed to a third party.
- (h) **Trust Account:** 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 place those funds on interest bearing call deposit. In that case we will charge an administration fee of 5% of the gross interest received.
- (i) **Shortfalls:** If the funds we hold in trust on your behalf are insufficient to settle any transaction or to meet any obligation you incur or will incur, you authorise us, if we decide to do so, in our discretion, to:
  - (i) advance sufficient funds to the trust account to settle the transaction and/or meet the outstanding obligation. Any funds advanced will be held on your behalf in accordance with clause 3(h) until disbursed to settle or meet the relevant transaction or obligation, or until otherwise dealt with in accordance with your instructions; or
  - (ii) without limiting our discretion under clause 3(f) in respect of disbursements and expenses, make payment directly to the relevant third party on your behalf and invoice you for the payment.
- (j) **Recovery of advances:** Where authorised by you, we can immediately apply any funds we receive for your credit (whether funds are received directly from you or from a third party on your behalf or from the settlement of any transaction effected on your behalf) in satisfaction of your obligation to repay any amount previously advanced to you under clause 3(i)(a) of these Terms or in meeting any invoice rendered by us in accordance with these Terms.

### 4. Termination

- (a) Subject to clause 2 above you may terminate our provision of Services subject to the terms of our appointment at any time by giving written notice to Perpetual Guardian.
- (b) If the Services are terminated, you must pay us all fees due, and all expenses incurred, up to the date of termination.

---

<sup>1</sup>Perpetual Guardian is a trading name of Perpetual Trust Limited.

## 5. Confidentiality, Personal Information & Privacy

- (a) In our dealings we will collect and hold personal information about you.
- (b) We will hold in confidence all information concerning you and your affairs that we acquire during the course of providing our Services to you. We will treat all information we hold about you in strict confidence. We will not use it or share it other than:
  - (i) if you agree or ask us to;
  - (ii) if we need to so we can carry out our Services for you, including disclosing to third parties for the purposes of providing the Services;
  - (iii) to contact you about issues we believe may be of interest to you;
  - (iv) if the law requires us to (e.g. Inland Revenue, the Financial Markets Authority, and other government agencies have powers to compel us to provide information we have about you);
  - (v) in accordance with these terms of engagement.
- (c) If we hold funds on your behalf (including any judgment, sale proceeds, settlement amount, or other money), you authorise us to:
  - (i) provide any information we hold relating to your United States Foreign Accounts Tax Compliance Act (FATCA) or Common Reporting Standard (CRS) status, or other FATCA or CRS matters, to Inland Revenue and to our banks if they request information to be able to meet their FATCA or CRS obligations; and
  - (ii) if you do not provide any such information we request, report your non-response, identity, and reportable balance to our banks and Inland Revenue (who will in turn pass this information to the relevant foreign tax authority). Please ask us if you would like more information about FATCA or CRS.
- (d) If you are an individual you have the right to access and correct personal information we hold about you. If you require access, please contact our Privacy Officer.

## 6. Verifying your identity and source of funds, and credit checks

- (a) We are required by law to verify your identity and, in some circumstances, the source of funds for a transaction.
- (b) We may wish to carry out reasonable credit checks on you from time to time.
- (c) You authorise us to collect information about you (including customer due diligence information and credit reports), to obtain, exchange, hold, and use such information, and to make any other enquiries we think appropriate to:
  - (i) confirm information provided to us about you is true;
  - (ii) undertake initial and on-going customer due diligence and monitoring in accordance with the Anti-Money Laundering and Countering Financing of Terrorism Act (AML/CFT Act);
  - (iii) enforce debt and legal obligations (including recovery of money owed to us); and
  - (iv) comply with other legal obligations we may have.
- (d) You authorise any person (including credit reporters) to disclose information (including credit information) to us in response to such enquiries.
- (e) You accept that we may use customer due diligence services (including electronic based services from a third party) to verify your identity and conduct other customer due diligence or monitoring required under the AML/CFT Act, and that we may use credit reporting services to credit check you, and that when we use such services:
  - (i) the other third party or credit reporter (each a Service Provider) will exchange information about you for that purpose and the Service Provider may hold information on its system and use it to provide their customer due diligence service or credit reporting service (as the case may be) to their other customers;
  - (ii) we may use the Service Provider's services in the future for any authorised purpose (including in relation to ongoing customer due diligence or the provision of credit). This may include using the Service Provider's monitoring services to receive updates if information held about you changes; and
  - (iii) if you default in your payment obligations to us, information about that default may be given to credit reporters and given by credit reporters to their other customers.

## 7. Retention of Files and Documents

We will keep and destroy records which we receive or create on your behalf on the following basis:

- (a) we may keep records electronically and destroy originals, except where the existence of an original is legally important;
- (b) at any time, we may dispose of documents which are duplicates, or which are trivial, or which belong to us;
- (c) unless required by law, 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; and
- (d) you authorise us and consent to us (without further reference to you) to destroy (or delete in the case of electronic records) all files and documents in respect of the Services 7 years after completion of a matter, other than any documents that we hold in safe custody for you or are otherwise obliged by law to retain for longer.

## 8. Intellectual Property

We retain all ownership rights in all intellectual property of any kind created by us for you. You may not reproduce our intellectual property or provide it to a third party without our express consent.

## 9. Duty of Care

Our duty of care is to you and not to any other person. We must expressly agree before any other person may rely on our advice.

## 10. Communications

- (a) You will provide us with your contact details and promptly advise us of any changes.
- (b) We may communicate with you and others by electronic means. Such communications can be subject to interference or interception or contain viruses or other defects ("**corruption**"). We do not accept responsibility for, and will not be liable for any damage or loss caused in connection with or as a consequence of, the corruption of an electronic communication.
- (c) With your permission, we may provide you from time to time with other information that may be relevant to you such as Newsletters, Investment Updates, Will Reviews and other promotions. At any time you may request that this not be sent to you.

## 11. Limitation of Liability

In providing services to you, our liability other than for dishonesty, wilful misconduct or gross negligence will be limited at all times to the value of assets we hold in trust for you. Otherwise to the maximum extent permitted by law, our aggregate liability to you (whether in contract, tort, equity or otherwise) in connection with our provision of Services to you is limited to the amount available to be paid out under any relevant insurance held by us.

## 12. Governing Law

New Zealand law governs our relationship and New Zealand Courts have exclusive jurisdiction.

## Information for Clients

Where the Services are provided by a lawyer employed by Perpetual Guardian, the Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society ("**NZLS Rules**") requires us to provide the following information to you.

### 1. Fees

The basis on which fees will be charged, and when payment of fees is to be made, is set out in paragraph 3 of the Standard Terms of Engagement. If we hold funds on your behalf you authorise us to deduct our fees from those funds (unless they have been provided for a particular purpose) and send you an invoice as required by the Lawyers and Conveyancers Act (Trust Account) Regulations 2008.

### 2. Insurance

We hold professional indemnity insurance which exceeds the minimum standards set by the Law Society.

### 3. 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 your Client Manager.

If you do not wish to refer to your Client Manager or you are not satisfied with their response to your complaint, you may refer your complaint to our Complaints Co-ordinator

**By letter:** Perpetual Guardian, Complaints Co-ordinator, PO Box 1934, Shortland Street, Auckland 1140.

**By email:** [charter@pgtrust.co.nz](mailto:charter@pgtrust.co.nz)

**By phone:** 0800 87 87 82

You may also make a complaint to the following bodies:

- (a) **Financial Services Complaints Limited** – To do so you should contact the Complaint Investigation Officer at PO Box 5697, Wellington 6145 or telephone 0800 3407 2057.
- (b) **New Zealand Law Society** – To do so you should contact the NZLS at PO Box 5041 Lambton Quay, Wellington 5145 or telephone 04 472 7837.

### 4. Client Care and Service: The New Zealand Law Society's client care and service information is set out below.

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 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 in which 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 NZLS Rules. 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](http://www.lawsociety.org.nz) or call 0800 261 801.