

BlackmanSpargo Rural Law Limited

Terms of Engagement

These standard terms of engagement (“the Terms”), disclosed to the client, together with any engagement letter and any fee estimate, form the initial contract between BlackmanSpargo Rural Law Limited (“BlackmanSpargo”) and the client.

Unless otherwise agreed in writing, any subsequent services performed by BlackmanSpargo will be provided by BlackmanSpargo on the basis of the Terms. In such cases, references to the contract and the Services below will be to the Terms and any orally specified services.

1. Services

BlackmanSpargo will provide the Services specified in any initial engagement letter or, as subsequently agreed and set out, in any replacement or supplementary engagement letter or other communication (“the Services”).

The Services may include advice and recommendations, but it is understood and agreed that all decisions in connection with the implementation of such advice and recommendation shall be the responsibility of, and made by the client.

BlackmanSpargo will act in the client’s best interests to carry out the client’s instructions.

BlackmanSpargo will report to the client in accordance with the terms set out in the engagement letter.

By instructing BlackmanSpargo, the client accepts liability to pay the account that BlackmanSpargo will render for work done, together with all disbursements incurred in respect of such instructions.

2. How does BlackmanSpargo charge?

BlackmanSpargo’s fees are charged in accordance with guidelines laid down by the Rules of Professional Conduct of the New Zealand Law Society. In fixing the fee, BlackmanSpargo is entitled to take account of matters such as:

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

3. Fees

The fees which BlackmanSpargo will charge or the manner in which they will be arrived at, are set out in BlackmanSpargo’s engagement letter.

All fees charged will be based on the New Zealand Law Society requirement that all professional fees shall be fair and reasonable having regard to the interests of both the client and BlackmanSpargo.

The client will pay all out-of-pocket expenses reasonably incurred by BlackmanSpargo in performing the Services.

4. When will the client be billed?

Generally, property and similar transactional matters will be final-billed at the time of settlement or on completion of the work.

However, it is BlackmanSpargo’s policy to bill regularly during the transaction to ensure that work is paid for as various steps are completed and the client is kept informed of the ongoing costs incurred.

For other matters, BlackmanSpargo will bill the client on a monthly basis.

5. What about cash payments the client has to make?

Payments may have to be made to other people for work to be done, for example filing fees, search fees, agency fees and similar payments (called disbursements). It is BlackmanSpargo’s policy to require the client to make an immediate payment on commencement to cover the estimated disbursements. The amount of those disbursements will be shown in the engagement letter.

If BlackmanSpargo instructs any other person (including Counsel or another practitioner) BlackmanSpargo reserves the right to require payment of that person’s estimated costs into BlackmanSpargo’s trust account beforehand. By instructing that person BlackmanSpargo undertakes an obligation to pay that person’s costs and accordingly requires to be protected for these. BlackmanSpargo may require the client to enter a payment arrangement directly with that person.

6. When does the client have to pay?

Payment of BlackmanSpargo’s accounts are due on the 20th of the month following the date of the invoice. Interest at 18% per annum, calculated monthly, will be charged on all overdue accounts. All costs incurred in the recovery of any overdue account are payable by the client.

The client authorises BlackmanSpargo to deduct all fees and expenses from any money BlackmanSpargo may be holding or receives for that client (for example from the sale of the client’s house) unless alternative arrangements are made in advance.

7. What if the client can’t pay on time?

If the client anticipates difficulty in the payment of any account, the client must contact BlackmanSpargo immediately on receipt of the account and discuss arrangements for payment. Interest is payable on any overdue account.

Failure to pay fees on time may, at BlackmanSpargo’s discretion, lead to suspension of the Services or termination of the engagement. All reasonable fees up to suspension or termination shall be and remain payable, notwithstanding the suspension or termination.

8. Lien

Where work has been done by BlackmanSpargo, but BlackmanSpargo has not been paid by the client, BlackmanSpargo has the right to retain original documents and the client’s file until such time as all outstanding fees, disbursements and other expenses have been paid. BlackmanSpargo reserves the right to retain any such documents and files even if the monies are due for services unrelated to those documents or file.

9. Retention of files and documents

The workpapers produced by BlackmanSpargo in the course of its work in providing the Services and information are the property of BlackmanSpargo and BlackmanSpargo shall be entitled to retain its work papers and copies of any documents created by it or provided to you in the course of performing its Services.

You authorise us (without further reference to you) to destroy all files and documents for this matter (other than any documents that we hold in safe custody for you) 7 years after our engagement ends, or earlier if we have converted those files and documents to an electronic format.

10. Terms & termination

The Contract will continue until all the Services have been provided, unless sooner terminated by agreement as set out below. Either party may terminate the Contract by written notice or if the other party fails to remedy a material breach of the Contract. Termination will not affect the client's obligations to pay BlackmanSpargo's fees for all Services performed up to termination. Any of the terms and conditions of the engagement letter or the Terms that are intended to apply after completion of the Services will continue to apply following termination.

11. Confidentiality

BlackmanSpargo will not disclose to third parties any confidential information relating to the Services unless either authorised by the client or compelled by law, or as is necessary to provide the Services.

12. Indemnity

In the event BlackmanSpargo becomes involved in any claim (including actual or threatened litigation of whatever form) in relation to the Services, BlackmanSpargo will immediately notify the client. The client agrees, to the extent permitted by law, to indemnify BlackmanSpargo, its directors and employees in all respects including its reasonable costs and expenses involved in defending any such actual or threatened litigation. Where legal counsel is retained for these purposes, those costs, will be met by the client. BlackmanSpargo will use its best endeavours to agree the quantum of any such costs, recognising the need to respond to such litigation on a prompt and reasonable basis. The client agrees to meet the costs of BlackmanSpargo for reasonable time incurred by its directors and staff and any other reasonable costs and expenses in relation to any inquiry or proceeding initiated by any person.

13. Restrictions

Unless BlackmanSpargo has agreed in writing, no advice or information provided to the client is to be made available, directly or indirectly to any third party, or shall be used or relied upon by any third party. BlackmanSpargo will have no liability to any such third party. The client indemnifies BlackmanSpargo against any third party claim arising from its release of any such BlackmanSpargo advice or information.

14. Email

While we use standard virus-checking software, we accept no responsibility for viruses or anything similar in any emails or any attachments which come from BlackmanSpargo. We also do not accept any responsibility for any changes to, or interception of, any email or any attachment after it leaves our information systems.

15. No assignment

The client may not assign the benefit of the Services to any third party without the written consent of BlackmanSpargo. For the avoidance of doubt, the sole beneficiary of the Services under this Contract is the client. No other party is intended to take a benefit under the Contracts (Privity) Act 1982.

16. Guarantee

Instructions from time to time may be taken from companies or other corporate bodies and/or family trusts and/or third party individuals at the client's request. In such instances these Terms

will apply to the receipt of such instructions and the person or persons from whom BlackmanSpargo receives instructions unconditionally guarantees to BlackmanSpargo the performance of all obligations expressed or implied in these Terms.

17. Investment

From time to time BlackmanSpargo may receive on behalf of the client various funds and, unless otherwise instructed, or the quantum of the funds retained is so minimal as to not warrant investment, all funds will be deposited to the client's credit in an interest-bearing deposit account within BlackmanSpargo's Trust Account. All interest accrued less usual Resident Withholding Tax and BlackmanSpargo handling commission, at a rate of 5% of gross interest accrued, will be for the credit of the client. BlackmanSpargo will, at such time as all funds are released to the client, provide a statement identifying the sum of all interest received and any deductions made.

18. Privacy & information

The client authorises BlackmanSpargo to collect, retain and use information about the client for the purposes of carrying out legal services for the client, maintaining effective client records, credit records and credit control and providing information on services available to the client from BlackmanSpargo.

The client further authorises any other person to provide BlackmanSpargo with such information as it may require to carry out legal services for the client.

When information can be readily retrieved, the client may obtain access to and request correction of that information.

Unless otherwise required pursuant to the engagement, BlackmanSpargo will have no responsibility to independently verify the accuracy of any information and documents provided by the client or any third party.

BlackmanSpargo will not be liable for any loss or damage arising from any inaccuracy, incompleteness, or any defect in any information or documents supplied by the client.

19. General

These Terms apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.

We are entitled to change these Terms from time to time, in which case we will send you amended Terms.