



[Date]

BY EMAIL

Email:

INFORMATION FOR CLIENT AND LETTER OF ENGAGEMENT

Thank you for your instructions for us to act for you in this matter. We are pleased to accept your instructions on the basis set out below. This letter contains our terms and conditions and the information we are required to provide to you under the Rules of Conduct and Client Care for Lawyers by the New Zealand Law Society ("Law Society").

1. Services to be provided

- 1.1. We understand that you require us to assist you (by providing legal service and advice) with the following:
- 1.2. If our understanding is incorrect, please urgently contact us and clarify with us the services you require us to assist you with. For convenience purposes, we will define the above work as the "Instructions".

2. Fees

- 2.1. How do we charge you?

We normally charge our fees on a time and attendance basis. This means our fees will largely reflect the actual time we spend on the matter, charged at the respective hourly rates set out below. Please note that you will be charged for phone calls when you telephone us to discuss matters relating to your Instructions.

- 2.2. Please note we charge our fees on a time and attendances basis plus GST and disbursements. Where we may have indicated to you our fees to complete this matter, such indication is merely an estimate of the time that we may spend on this matter. However, in the event of any unforeseen circumstances or complications resulting in further works to be done due to any party's default under the transaction, you will be charged with the hourly rate for the attendances of that solicitor on top of the fixed fee quote. Please refer to below on the hourly rates of the supervising solicitor(s).

<u>Name</u>	<u>Position</u>	<u>Hourly Rate</u>
Eva Ho	Director	\$320.00 plus GST
Simon Song	Director	\$320.00 plus GST
Keith Yung	Solicitor	\$175.00 plus GST
Barbara So	Solicitor	\$175.00 plus GST
Apple Au	Legal Executive	\$150.00 plus GST

Our fee will not include the following:

- Registration of any instrument in addition to one transfer and one mortgage.

- All attendances relating to a Kiwisaver withdrawal or a Housing New Zealand subsidy.
 - Any transaction where the subject property is being transferred / acquired for a sum exceeding \$2 million and/or where the mortgage finance being obtained is for a sum exceeding \$2 million.
 - Any element of the transaction that is out of the ordinary, including (without limitation) delays by either side to the transaction. We will endeavour to advise you if this occurs.
 - Any advice or assistance in relation to a land transfer tax statement or a Residential Land Withholding Tax Declaration.
 - Any attendances relating to the registration and/or withdrawal of a caveat on the title to a property.
 - Costs of any third party report (such as a Land Information Memorandum or building report) we order or commission on your behalf and/or our time spent in doing so.
 - Any attendances in relation to Overseas Investment Commission approval.
 - Any attendances in relation to drafting and/or reviewing a proposed agreement for sale and purchase.
 - Attendances regarding any tenancies at the property.
 - Multiple titles, even if applicable to one address.
 - Documentation and/or administration fees charged by third parties (eg, banks).
- 2.3. The Law Society stated that in fixing a fee, we are entitled to take into account the matters such as:
- (a) The time and labour expended.
 - (b) The skill, specialised knowledge and responsibility required.
 - (c) The value or amount of the property or money involved.
 - (d) The complexity of the matter and the difficulty or novelty of the matter.
 - (e) The urgency and the importance of the matter to you.
 - (f) The reasonable costs of running a practice.
- 2.4. We will advise you as soon as reasonably practicable if it becomes necessary for us to provide services outside the agreed scope and if requested, give you an estimate of the likely amount of the further costs.
- 2.5. Where our fees are calculated on an hourly basis, the hourly rates will be set out in this letter. The difference in those rates reflects the experience and specialisation of our professional staff. Time spent is recorded in 6 minutes units, with time rounded up to the next unit of 6 minutes.
- 2.6. Disbursements and expenses: In providing services, we may incur disbursements or have to make payments to third parties on your behalf. These will be included in our invoice to you when such expenses are incurred. We may require an advance payment for such disbursements or expenses which we will be incurring on your behalf.
- 2.7. GST (if any): Except in very limited cases Goods and Services Tax are payable by you on our fees and charges.
- 2.8. Invoices: We will send interim invoices to you, usually monthly and on completion of the matter, or termination of our engagement. We may also send you an invoice when we incur a significant expense.

- 2.9. Payment: You authorise and direct us to apply any monies we are holding for and on behalf of you (whether as the Retainer/Security, or not) first in payment of any fees, expenses or disbursements for which we have provided an invoice, second in payment to any authorized third party who has rendered services on your behalf, and third in payment to any such other party as you may direct, whereupon the balance (if any) shall be remitted to you or to any such other account(s) and in such manner as you may, in writing, nominate and stipulate. Invoices are payable within 7 days of the date of the invoice, unless alternative arrangements have been made with us. We accept cheque, direct credit and credit card payment. If payment was made within 7 days of the date of the invoice no penalty interest will be charged otherwise we will require interest to be paid on any amount which is overdue and unpaid. Interest will be calculated at the rate of 5% above our firm's bank overdraft rate as at the close of business day on the date the payment becomes due. If any invoice is overdue by 90 days, we reserve our right to refer the debt to any collector for debt collection and you will be responsible for payment of any debt collection charges.
- 2.10. Retainer/Security: We may ask you to pre-pay amounts, i.e. a retainer, to us, or to provide security for our fees and expenses. You authorise us:
- (a) To debit against amounts pre-paid by you any invoices issued or any disbursements incurred; and
 - (b) To deduct from any funds held on your behalf in our trust account any invoices issued or any disbursements incurred.
- 2.11. Third Parties: Although you may expect to be reimbursed by a third party for our fees and expenses, and although our invoices may at your request or with your approval be directed to a third party, you will remain responsible for payment to us if the third party fails to pay us. For example if you are a landlord and your tenant defaults under your lease and you instruct us to undertake enforcement action, our work may then be invoiced to your tenant however if your tenant refuses to pay us you agree to be liable to pay our fees. We also have commission arrangements with other third party intermediaries such as immigration consultants. If this is applicable to you then certain part of our fees may be paid to the intermediary as commission for their referral. Please let us know if you may require any further information of such arrangements
- 2.12. If, during the course of our acting we increase our hourly rate(s), we will notify you 1 month before any such change and any time charged to you after that period will be billed at the new rate(s).
- 2.13. For a variety of reasons, some instructions may not be completed. Should this occur, we will charge you for the work undertaken and costs incurred up to the time of termination.
- 2.14. In some circumstances, we may be required to incur additional time or expense following the completion or termination of a matter. If this occurs, we will charge you in the normal way.

3. Professional Indemnity Insurance

- 3.1. We hold professional indemnity insurance that meets and exceeds the minimum standards specified by the Law Society. Further details of such insurance policy can be obtained from us.

4. Lawyers Fidelity Fund

- 4.1. The Law Society 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. 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 that a lawyer is instructed to invest on behalf of the client.

5. Complaints

- 5.1. 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 Directors, Eva Ho at eva@focuslaw.co.nz or Simon Song at simon@focuslaw.co.nz or by telephone (09) 3666 860 or by post to PO Box 3993 Shortland Street, Auckland. The Law Society also maintains a complaints service and you are able to make a complaint to that service. To do so you should contact the Law Society by phone 0800 261 901 or by fax 04 463 2984 or by email complaints@lawsociety.org.nz or by post PO Box 5041, Lambton Quay, Wellington 6145.

6. Client Care and Service

- 6.1. The Law Society 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 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.*
- *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 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.lawyers.org.nz (the New Zealand Law Society Website) or call them at (04) 472 7837

7. Limitations on extent of our Obligations or Liability

- 7.1. We limit any liability you may be able to claim from us to 5 times the total of the fees you have paid in relation to your Instructions. If you are not willing to accept such limitation please let us know immediately.

8. Confidentiality

- 8.1 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:
- (a) To the extent necessary or desirable to enable us to carry out your instructions; or
 - (b) To the extent required by law or by the Law Society's Rules of Conduct and Client Care for Lawyers.
- 8.2 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.
- 8.3 We will of course, not disclose to you confidential information which we have in relation to any other client.

9. Termination

- 9.1 You may terminate our retainer at any time.
- 9.2 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.
- 9.3 If our retainer is terminated you must pay us all fees due up to the date of termination and all expenses incurred up to that date.
- 9.4 On the Termination of a retainer you agree that we are entitled to retain copies of your file and related information in accordance with the guidelines set down by the law and the Rules of Conduct and Client Care for Lawyers. You also authorise us to charge you a reasonable disbursements incurred for the photocopying and uplifting of any files or materials from us.

10. Retention of files and documents

- 10.1 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.

11. Conflicts of Interest

- 11.1 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.

12. Duty of Care

- 12.1 Our duty of care is to you and not to any other person. Before any other person may rely on our advice, we must expressly agree to this.

13. Trust Account

- 13.1 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 our bank. In that case we will charge an administration fee of 10% of the gross interest derived.

14. General

- 14.1 These Terms apply to any current engagement and also to any future engagement, whether or not we send you another copy of these Terms.
- 14.2 We are entitled to change these Terms from time to time, in which case we will send you amended Terms.

15. Requirement for a land transfer tax statement

- 15.1 Pursuant to sections 156B and 156C of the Land Transfer Act 1952, a land transfer tax statement must (unless an exemption applies) be completed and signed by all parties to the transfer of any land. Please ensure all parties who are required to provide a land transfer tax statement have an IRD number. If any party does not have an IRD number you should apply for one as soon as possible.
- 15.2 The details provided in the land transfer tax statement will be submitted to Land Information New Zealand when the transfer of the property is lodged for registration on settlement. Please carefully read the Government notes to ensure that all required information can be given correctly in time for settlement. We will be unable to settle and complete any transfer of property without a signed statement of all the required details. If you have any queries regarding the form, we recommend you take advice from your accountant and / or tax adviser.
- 15.3 Please complete, sign and return to us the attached land transfer tax statement.

16. Resident Land Withholding Tax [include this paragraph if the matter relates to a SALE / DISPOSAL]

- 16.1 Residential land withholding tax (RLWT) is a withholding tax applicable from 1 July 2016 on residential property sales / disposals made by "offshore RLWT persons" within two years of purchase or acquisition (provided the purchase or acquisition occurred on or after 1 October 2015). Note, there are exclusions from RLWT for the sale / disposal of inherited properties. If RLWT applies to the sale / disposal, Focus Law will be liable to deduct the RLWT from the sale proceeds.
- 16.3 If the property is a residential property that was acquired / purchased on or after 1 October 2015 and is being sold or disposed of within two years of purchase, you will need to complete the enclosed Residential Land Withholding Tax Declaration (IR1101) form declaring whether you are an offshore RLWT person. The completed form will need to be supplied to this firm to inform whether RLWT needs to be deducted.
- 16.4 We will not disburse any proceeds of sale on a residential property until we have received a duly completed Residential Land Withholding Tax Declaration form or

we are satisfied a Residential Land Withholding Tax Declaration form does not need to be completed.

17. Anti-Money Laundering and Countering Financing of Terrorism

17.1 By accepting these terms you agree that if we require further information for anti-money laundering and/or counter financing of terrorism, or other regulatory purposes, you will provide it on request.

Yours faithfully
FOCUS LAW

[Writer]
[Position]
Email:

We/I acknowledge receipt of the above letter and accept the terms and conditions set out therein.

.....

.....
Date

.....

.....
Date

Land Transfer Tax Statement

Sections 156B & 156C of the Land Transfer Act 1952

- You can use this form to provide the required tax details as part of registering your property transfer.
- A separate tax statement will need to be completed for each individual or entity
- See notes (attached) for details on how to complete this form.

1. Property details

Certificate of title reference (Computer Register)

Instrument number (if available)

Q1.1: Does the transfer involve land that has a home on it? Yes No

2. Seller /Buyer identity

Indicate if this statement is for the seller (transferor) or buyer (transferee) Transferor Transferee

Full name of the person/s or entity involved in the transaction *(Before completing the name refer to section 2 in the notes)*

Q2.1: Are you or a member of your immediate family a New Zealand citizen or a holder of either a resident, work or student visa? Yes No

Q2.2: If you are a buyer and you or a member of your immediate family hold a work or student visa, do you or a member of your immediate family intend living on the land? Yes No Not Applicable

3. Non-notifiable transfer reasons

If you wish to claim an exemption from providing tax details enter the non-notifiable reason code
Refer to section 3 in the notes

If you have claimed a non-notifiable reason go directly to section 5 to sign

4. Tax details at the date of this statement

Enter your New Zealand IRD number here
(Before completing the IRD number refer to section 4 in the notes)

Are you a tax resident in a country/jurisdiction other than (or as well as) New Zealand Yes No

If you answered no to the last question go directly to section 5 to sign

Country/jurisdiction you are a tax resident in

Country code *(refer to section 4 in the notes)*

Your taxpayer identification number for this country

Note: If you are a tax resident in more than one country/jurisdiction, other than New Zealand, complete the above three boxes for the second and subsequent country/jurisdiction and attach to this statement

5. Signature

I certify that the information in this statement is true and correct at the time of signing this. I am aware there are penalties for providing incorrect information.

Signature Date

Name Position or office held

(if signing as an authorised person)

Notes for Land Transfer Tax Statement

When do you need to complete this statement

This form will need to be completed for transfers of freehold, leasehold, life estates, stratum estates, licences to occupy and other specified estates in land as defined in section 156A(1) of the Land Transfer Act 1952. You do not need to complete the form if the transfer relates to Māori Land as defined by Te Ture Whenua Māori Act 1993, if the transfer is a part of the Treaty of Waitangi settlement process or for any contract for the transfer of land that was entered into before 1 October 2015 if the transfer is registered on or before 1 April 2016.

How to complete the statement

Your answers to these questions should be correct at the date of the statement

1. Property details

Certificate of title reference (Computer Register) can be found in the sale and purchase agreement, or your lawyer or conveyancer will be able to provide this.

Instrument Number is the number allocated by Land Information NZ for lodgement of the transfer. If entered it should include the sequence number, e.g. 123456.1

Home is defined as a dwelling mainly used as a residence e.g. house, apartment, unit whether tenanted, occupied or not

2. Seller / Buyer identity

If there is more than one seller (transferor) or buyer (transferee), each person will need to complete their own tax statement.

Transferor is the person/entity who is selling or disposing a property

Transferee is the person/entity who is buying or acquiring a property

Name of person/s or entity

For an individual, enter the full name with first name/s then the last name (family name or surname). For an entity, enter the registered name.

Where a person is acting on behalf of a person or entity or in a different capacity:

- in the capacity of the trustee of the trust – enter the name of the trustee
- as a nominee or under a power of attorney – enter the name of the person who made the nomination or granted the power of attorney
- in the capacity of a partner in a partnership – enter the name of the partnership if it is a registered entity (i.e. limited partnership) otherwise it should be the name of the individual(s). A separate tax statement is required for each individual
- on behalf of a Body Corporate under the Unit Titles Act 2010 – enter Body Corporate and the number (e.g. Body Corporate 12345).

3. Non-notifiable transfer reasons

You may claim an exemption from providing your tax details if:

A: the land being transferred qualifies as your main home

B: you are disposing of the land as part of a mortgagee sale, rating sale under the Local Government (Rating) Act 2002, a court ordered sale or statute ordered sale.

C: you are acting as a transferor or transferee on behalf of a public authority as defined in the Income Tax Act 2007 (e.g. Her Majesty the Queen)

D: you are acting as a transferor or transferee on behalf of a local authority as defined in the Income Tax Act 2007 E: you are acting as executor or administrator for a deceased person's estate

If applicable, enter the most appropriate code.

Notes for main home exemption

A main home means for a person, the 1 dwelling

- a) that is mainly used as a residence by you and your family (if applicable) (a home); and

- b) with which the person has the greatest connection, if they have more than 1 home

Greatest connection includes where their immediate family live, whether the person's personal property is in the dwelling, the time the person occupies the dwelling, where their social ties are strongest and whether the person has employment, business interests and economic ties to the area where the dwelling is located.

As a seller (transferor) you can't claim the "Main home" exemption if:

- you are not a natural person (e.g. a trust or a company)
- you are an offshore person
- you have relied on this exemption at least 2 times within the 2 years immediately preceding the date of the transfer • a trust owns the home
- the land has not been used predominately, for most of the time you owned the land, for a dwelling that was your main home

As a buyer (transferee) you can't claim the "Main home" exemption if:

- you are not a natural person (e.g. a trust or a company)
- you are an offshore person
- a trust will own the home
- the land is not intended to be used predominantly for a dwelling that will be your main home

An **Offshore person** means;

- a) for an individual,—
- i) a New Zealand citizen who is outside New Zealand and has not been in New Zealand within the last 3 years:
 - ii) a person who holds a resident residence class visa granted under the Immigration Act 2009, and who is outside New Zealand and has not been in New Zealand within the last 12 months:
 - iii) a person who is not a New Zealand citizen and who does not hold a resident residence class visa granted under the Immigration Act 2009:
- b) for a body corporate or an unincorporated body of persons, including a trust or a unit trust, a person who would be an overseas person under section 7(2)(b) to (e) (f) of the Overseas Investment Act 2005, treating references to an overseas person or persons in that section as including a person or persons described in paragraph (a) of this definition

4. Tax details

If you are acting on behalf of a person or entity, or in a different capacity, the answers that you give must relate to the person or entity you are acting on behalf of, or in that capacity.

New Zealand IRD Number

If you do not have a New Zealand IRD number, you will need to get one before your land transfer can be registered. Go to www.ird.govt.nz to find out how to do this.

- for a trust - use the trust's IRD number not the trustees
- for a partnership – use the partnerships IRD number not the partners
- if acting as a nominee or under a power of attorney – use the IRD number of the person who made the nomination or granted the power of attorney
- if acting on behalf of a body corporate under the Unit Titles Act 2010 – use the Body Corporate's IRD number • if acting on behalf of an unincorporated body – use the unincorporated body's IRD number

Are you a tax resident in another jurisdiction/country?

You need to answer yes to this question if you are currently a tax resident in another jurisdiction under the tax laws of that jurisdiction. Generally you are a tax resident of another jurisdiction if you need to file an income tax return in that jurisdiction for your world-wide income (rather than just for income that has a source in that country). You need to answer yes to this question even if, under a double tax agreement, you would not be treated as tax resident in that country.

If you are not sure if you are a current tax resident of another country/jurisdiction, you will need to contact that tax authority to confirm.

Country name and code

If you are a tax resident in another country/jurisdiction other than New Zealand you need to give us that country's name and country code. You can find the country code on the Inland Revenue website www.ird.govt.nz (search keywords: country code).

Taxpayer identification number

Provide your taxpayer identification number in that country.

If you are a current tax resident in more than one country/jurisdiction, other than New Zealand, you will need to provide the country name, code and IRD number equivalent for the second and subsequent countries/jurisdiction and attach to this statement

5. Signature

Each seller (transferor) and buyer (transferee) involved in the property transfer must sign their own tax statement.

If signing as an authorised person please include the name of the person signing and the title of position held e.g. power of attorney, company director, executive office holder.

Offence

A person commits an offence under section 156E(1) of the Land Transfer Act 1952 if they give a tax statement to a certifier or to Land Information New Zealand that, to the person's knowledge or with intent to deceive, contains false or misleading tax information.

Section 156E(2) of the Land Transfer Act 1952, specifies the penalties for giving false or misleading information.

Disclaimer

The information in this document is current as at 14 September 2015. It is subject to Royal Assent for the legislation, and the passing of Regulations that set out exemptions and non-notifiable categories.

New Zealand Government