

CONTRACT FOR SERVICES

BETWEEN **LEGAL SERVICES AGENCY**
(referred to herein as “the Agency”)

AND

(referred to herein as “the Listed Provider”)

BACKGROUND

- A The Legal Services Act 2000 requires that providers be listed as approved to provide Legal Services.
- B The Lawyer or Non-Lawyer has applied for listing as a Listed Provider and the Agency has accepted all or part of the Lawyer’s or Non-Lawyer’s application, and given listing approval in writing.
- C The Listed Provider has agreed to undertake and supply Legal Services on the terms set out in this Contract.
- D The Agency has agreed to meet certain obligations to the Listed Provider.

THE PARTIES AGREE:

1. Interpretation

1.1. In this Contract, unless the contrary intention appears:

“**Act**” means the Legal Services Act 2000.

“**Agency**” means the Legal Services Agency, a body corporate established by Section 91 of the Legal Services Act 2000.

“**Auditor**” means a person employed or appointed by the Agency for the purpose of conducting examinations, or audits, or both, as defined under section 78 of the Act.

“**Complaint**” means a written grievance about a Listed Provider’s obligations under this Contract.

“**Contract**” means this Contract for Services and includes all the attached Schedules, as may be varied from time to time.

“**Day**” means any day other than a Saturday, Sunday or statutory public holiday.

“**Lawyer**” means a barrister or solicitor, as those terms are defined in section 2 of the Law Practitioners Act 1982.

“Lead Provider” in relation to a grant of legal aid, means the Listed Provider identified in the Letter of Grant as the Lead Provider for that matter.

“Legal Services” has the meaning defined in the Act.

“Legal Service List” means the list of people approved by the Agency to provide Legal Services under one or more of its Schemes.

“Letter of Grant” means the letter from the Agency to the Lead Provider setting out the specific details of each legal aid grant for which the Listed Provider is to supply Legal Services.

“Listed Provider” in relation to the provision of particular services under a Scheme, means a natural person who is listed as approved to provide those services.

“Listing Criteria” means the criteria which are developed and adopted by the Agency under section 71 of the Act for determining whether a person may be approved to provide specified Legal Services.

“Non-Lawyer” means a natural person who is not a Lawyer, and includes a Law Clerk, Legal Executive, Employment and ACC advocate, Refugee and Waitangi Tribunal lay provider.

“Parties” means the Agency and the Listed Provider.

“Scheme” means any one or more of the following:

- 1.1.1. the legal aid scheme;
- 1.1.2. the duty solicitor scheme;
- 1.1.3. the police detention legal assistance scheme; or
- 1.1.4. any other approved scheme.

“Secondary Provider” means a Listed Provider whose approval is conditional on being supervised by a Lead Provider in any legal aid matter.

“Service Standards” means the standards for supplying Legal Services as may be developed and varied by the Agency from time to time.

1.2. In this Contract, unless the context otherwise requires:

- 1.2.1. references to clauses and Schedules are references to clauses of, and the Schedules to, this Contract;
- 1.2.2. references to the singular include the plural and vice versa;
- 1.2.3. headings are inserted for convenience only and do not affect the interpretation of this Contract;
- 1.2.4. references to any document include all modifications and replacement documents from time to time;
- 1.2.5. any reference to a statute or regulation includes a reference to that statute or those regulations as amended or replaced; and
- 1.2.6. where under this Contract a word or expression is defined, other parts of speech and grammatical forms of that word or expression have corresponding meanings.

2. Operation of Contract

2.1. This Contract will commence upon the date of execution by both parties and will continue until 31 March 2012 unless terminated by the Listed Provider under clause 10.1 or terminated by the Agency under legislative authority and/or under clause 9 following new or amended Listing Criteria.

2.2. For the avoidance of doubt, nothing in clause 2.1 affects the parties' rights and obligations under clauses 10 and 11.

3. Provision of Legal Services

- 3.1. The Listed Provider shall supply the Legal Services subject to:
- 3.1.1. the approvals and any conditions attaching to those approvals contained in Schedule A; and
 - 3.1.2. the terms contained in any Letter of Grant; and
 - 3.1.3. the Act.

If there is any conflict between the contents of Schedule A and the contents of any Letter of Grant, the terms of Schedule A will prevail.

- 3.2. The Agency may vary Schedule A from time to time to:
- 3.2.1. amend the Legal Services the Listed Provider is approved to provide, and any conditions attaching to those approvals, either following a request from the Listed Provider, or in accordance with clause 9;
 - 3.2.2. amend the Listed Provider's number and firm, if the Listed Provider moves to or from a firm, or to a new firm, or if the Listed Provider changes his/her contact details; or
 - 3.2.3. amend the Agency's contact details.

The Agency shall issue a revised Schedule A and that revised Schedule shall replace the existing Schedule A of this Contract from the date of issue by the Agency and be attached accordingly.

4. General Listed Provider Obligations

- 4.1. In supplying Legal Services under this Contract the Listed Provider shall comply with all applicable statutory obligations and all relevant professional obligations. Where there is any conflict or inconsistency between the provisions of the Act or any other statutory obligation, and the Listed Provider's professional obligations, then the provisions of the Act or the other statutory obligation (as the case may be) will prevail.
- 4.2. The Listed Provider must familiarise him/herself with and comply with all policies, procedures, and practice notes which are from time to time notified by the Agency. Where there is any conflict or inconsistency between the Listed Provider's statutory or professional obligations, and the Agency's policies, procedures or practice notes, then the statutory or professional obligations (as the case may be) will prevail.
- 4.3. If the Listed Provider knows that all or part of a person's application for legal aid is incorrect, at the time of making the application or subsequently, the Listed Provider must provide the Agency with details of the discrepancies.
- 4.4. In the event that any Complaint made to the Listed Provider concerning the Listed Provider's obligations under this Contract remains unresolved within 7 Days of receiving the Complaint, the Listed Provider shall provide details of such Complaint (including a copy) to the Agency within 21 Days of receiving the Complaint. The Listed Provider shall seek the consent of the complainant prior to undertaking this obligation.
- 4.5. The Listed Provider is required, upon request from the Agency, to reply to a Complaint, including a Complaint made or received by the Agency about the Listed Provider, and any questions the Agency may ask in respect of the Complaint, within 10 Days, unless the Agency allows further time.

- 4.6. The Listed Provider shall notify the Agency of any Complaint made against him/her that has been upheld by the relevant District Law Society or the New Zealand Law Society and which may impact on his/her standing as a Listed Provider. This notification will include the Society's rationale and conclusions. The Listed Provider shall seek the consent of both the complainant and District Law Society or New Zealand Law Society prior to undertaking this obligation.
- 4.7. The Listed Provider shall notify the Agency, without delay, of a conviction for any offence against the law (apart from minor traffic convictions) that he/she receives during the term of this Contract.
- 4.8. The Lead Provider is responsible for managing the provision of Legal Services in accordance with the Letter of Grant, including the supervision of Non-Lawyers and where required, Secondary Providers. The Lead Provider, shall make a claim for payment to the Agency in the manner prescribed by the Agency of the following:
- 4.8.1. the fees claimed by, or the charges attributable to, the Lead Provider; and
 - 4.8.2. the fees claimed by, or the charges attributable to, any other Listed Provider who acted on the matter; and
 - 4.8.3. the disbursements claimed by the Lead Provider and any other Listed Provider who acted on the matter.
- Claims submitted for payment must be accurate.
- 4.9. Subject to clause 4.8, Schedule B of this Contract and the conditions of the grant, the Lead Provider acknowledges that the Agency will make payments by direct credit only and agrees to receive all such payments accordingly, and that on receipt of payments from the Agency the Lead Provider will promptly pay all other Listed Providers and all approved disbursements incurred in the course of supplying the Legal Services.
- 4.10. The Listed Provider shall notify the Agency in writing when his/her GST status changes from that advised upon listing.
- 4.11. The Lead Provider shall ensure that any Lawyer or Non-Lawyer engaged by him or her to supply Legal Services is also a Listed Provider who is listed as approved to provide those Legal Services.
- 4.12. The Listed Provider shall invoice the Agency, in the manner prescribed by the Agency, for Legal Services provided under this Contract within a reasonable time and no later than two (2) calendar months following the month in which the Legal Services were supplied.
- 4.13. The Listed Provider is solely liable and responsible for all taxes, levies, premiums and any other charges imposed on the Listed Provider in respect of the fees received for the provision of the Legal Services under this Contract and will file all necessary returns in respect of such taxes, levies, and other charges with the appropriate authority.
- 4.14. Except in exceptional circumstances the Listed Provider must give the Agency 10 Days prior notice if he/she moves to or from a firm, or to a new firm. The notice must include the Listed Provider's new contact details.
- 4.15. If for any reason the Agency requests the Listed Provider to transfer a legally aided person's file to a third party, then subject to the legally aided person's consent the Listed Provider shall effect that transfer immediately.

- 4.16. The Listed Provider must not take or in any way claim a lien over a file for Legal Services provided under the Act for which he/she has received (or is entitled to receive) fees from the Agency under this Contract.
- 4.17. The Listed Provider must not take payments from or in respect of any person to whom the Listed Provider supplies Legal Services in the same matter for which legal aid is granted, unless the payments are authorised by or under the Act, or by the Agency acting under the authority of the Act, or any regulations made under it.
- 4.18. The Listed Provider must take all reasonable steps to protect the Agency's interests under a charge in favour of the Agency. The Listed Provider must not do or permit anything that would or might effect the transfer of property subject to a charge in favour of the Agency. The Listed Provider must advise the Agency if he/she is aware that an aided person has avoided, is avoiding, or is attempting to avoid making payments to the Agency from proceeds of proceedings. Lead Providers must ensure that money due to the Agency under any charge over proceeds of proceedings is paid through the Listed Provider's trust account or a solicitor's trust account.
- 4.19. If rostered to supply Legal Services under the legal aid, duty solicitor or police detention legal assistance schemes, the Listed Provider must advise the Agency as soon as possible if he/she is unable to attend any rostered session. This provision does not apply when police detention legal assistance availability is by list.
- 4.20. The Listed Provider must at all times during the term of this Contract maintain accurate and complete records of all Legal Services supplied under this Contract, including complete files of all work done, documentation relating to the grant of legal aid and invoices, as well as records of time spend in providing such Legal Services. All closed legal aid files are to be retained for a minimum of three (3) years, acknowledging that other statutory provisions may require retention for a longer period.

5. Lawyer Listed Providers

- 5.1. Subject to clause 5.2, where the Listed Provider is a Lawyer and, during the currency of the Contract, the Listed Provider fails to renew his/her practising certificate or his/her practising certificate is suspended for any reason whatsoever:
- 5.1.1. the Listed Provider shall cease to supply Legal Services on behalf of the Agency under this Contract; and
 - 5.1.2. the Agency shall be entitled to exercise its rights under clause 9.2.
- 5.2. Clause 5.1 shall not apply where the Listed Provider is not required to hold a practising certificate under the Law Practitioners Act 1982 in order to supply the Legal Services.

6. Non-Lawyer Listed Providers

- 6.1. Subject to clause 6.3, where a Listed Provider is a Non-Lawyer, the Listed Provider must be supervised by another Listed Provider who:
- 6.1.1. is a Lawyer;
 - 6.1.2. has at least two years practising experience;
 - 6.1.3. has an unconditional approval as a Lead Provider;
 - 6.1.4. is the Listed Provider's primary supervisor;

- 6.1.5. is responsible for the work of the Listed Provider; and
- 6.1.6. has signed the Declaration contained in the Non-Lawyer Listed Provider's application to become a Listed Provider.

6.2. If, during the currency of this Contract, and for any reason, the Listed Provider is no longer under the supervision of another Listed Provider in accordance with clause 6.1, the Listed Provider shall immediately cease to supply Legal Services on behalf of the Agency under this Contract.

6.3. Clauses 6.1 and 6.2 do not apply if the Listed Provider is a Non-Lawyer Employment or ACC advocate, Refugee or Waitangi Tribunal lay provider, or any other kind of advocate/lay provider, but such a Listed Provider must comply with the Listing Criteria for Non-Lawyers as specified by the Agency.

7. Agency Obligations

7.1. The Agency shall ensure that all decisions on grant applications, payments of claims, complaints and correspondence to the Agency are actioned in a timely manner. Payment shall be made in the manner determined by the Agency from time to time. As at the commencement of this Contract the Agency has determined that all payments to Listed Providers shall be by way of direct credit to the Listed Provider's nominated bank account.

7.2. The Agency shall, in line with its policy, provide to the Listed Provider, a copy of any Complaint made or received by it related to the Listed Provider's obligations under this Contract, together with any questions the Agency may ask in respect of the Complaint. Where possible, The Agency shall obtain the consent of the complainant prior to undertaking this obligation.

7.3. If the Agency amends, temporarily suspends or cancels any or all of the approvals contained in Schedule A pursuant to clause 9, it shall, if the Listed Provider requests a review of that decision, conduct the review in accordance with sections 72A and 73 of the Act. The Agency will ensure that the review is carried out by a person who did not make the original decision.

8. Examination and Audit

8.1. The Agency may appoint an Auditor to examine a claim or part of a claim by the Listed Provider in accordance with the Act.

8.2. The Agency may appoint an Auditor to audit the Listed Provider at any time in relation to the supply of Legal Services under this Contract or a previous Listed Provider Contract for Services with the Agency.

8.3. The Listed Provider acknowledges that if an Auditor considers that he/she is not complying, or has not adequately complied, with section 79(1) of the Act, and the Auditor notifies him/her and the Agency, the Agency may suspend payment in whole or in part of any claim by the Listed Provider currently lodged with it.

9. Compliance with Listing Criteria and Service Standards

9.1. At any time during the currency of this Contract the Agency may assess the Listed Provider's compliance with the Listing Criteria for the approvals contained in Schedule A and/or his/her performance against the applicable Service Standards. The Agency will consult with the Listed Provider in the process of this assessment. Where the Agency amends or introduces new Listing Criteria in an area of law in which the Listed Provider holds an approval

to act as a Lead Provider, the Agency will consider the experience and competence of the Listed Provider and will advise whether he/she will be required to comply with the amended or new Listing Criteria.

- 9.2. Upon completion of such assessment the Agency may:
 - 9.2.1. amend the approvals contained in Schedule A and any conditions attaching to those approvals; and/or
 - 9.2.2. temporarily suspend or cancel any or all of the approvals contained in Schedule A; and/or
 - 9.2.3. terminate this Contract in accordance with clause 10.2.
- 9.3. The Agency may also exercise its powers under clause 9.2 if it is satisfied that:
 - 9.3.1. the Listed Provider has been convicted of an offence under section 111 or 112 of the Act; or
 - 9.3.2. any 1 or more of the Listed Provider's approvals contained in Schedule A was given by mistake; or
 - 9.3.3. the person, in relation to 1 or more approvals, does not meet the listing criteria for that approval, whether those criteria were adopted before or after the approval was given; or
 - 9.3.4. the person is not providing, or has not provided, the service for which he or she is approved to a standard that is acceptable to the Agency; or
 - 9.3.5. the Listed Provider has filed for bankruptcy; or
 - 9.3.6. the Listed Provider has failed to comply with 1 or more of the conditions attached to his/her approvals contained in Schedule A; or
 - 9.3.7. the Listed Provider has failed to comply with or fulfil his/her obligations under section 66, 67, 68 or 79 of the Act; or
 - 9.3.8. the Listed Provider is convicted of an offence or is subject to an order made under section 106 or section 112 of the Law Practitioners Act 1982.
- 9.4 The Agency may temporarily suspend a Listed Provider's approvals if the Listed Provider is charged with an offence or is subject to disciplinary procedures under the Law Practitioners Act 1982, and the Agency considers that this will have an adverse effect on the interests of aided persons or the integrity of the legal aid schemes generally.
- 9.5 The Agency may exercise its powers under clause 9.2.1 and/or 9.2.2, or cancel any approval contained in Schedule A, (or any condition attaching to that approval) if a Scheme is amended with the consequence that any of the approvals contained in Schedule A, or any conditions attaching to those approvals, must be amended or cancelled.
- 9.6 If the Agency temporarily suspends or cancels any or all of the approvals contained in Schedule A the Listed Provider ceases to be approved to supply the relevant Legal Services, and the Agency is not obliged to pay for any such Legal Services supplied after the date on which the temporary suspension or cancellation takes effect.

10 Termination of Contract

- 10.1 The Listed Provider may terminate this Contract for any reason upon one (1) calendar month's notice in writing to the Agency. A Listed Provider has an obligation to complete cases where possible or facilitate the transfer of the file/s to another Listed Provider who has the necessary capacity.
- 10.2 The Agency may terminate this Contract upon one (1) calendar month's notice in writing to the Listed Provider:
- 10.2.1 where following new or amended listing criteria and completion of an assessment, all of the Listed Provider's approvals contained in Schedule A have been cancelled by the Agency under clause 9.2.2; or
- 10.2.2 in accordance with any legislation in force during the term of this Contract.

11 Consequences of Termination

- 11.1 Upon termination of this Contract, the Listed Provider shall cease to supply Legal Services to the Agency under this Contract.
- 11.2 Upon termination of this Contract by the Agency, the Listed Provider will have no claim against the Agency except for the payment of fees and/or disbursements in respect of Legal Services actually and already supplied by the Listed Provider in accordance with the provisions of this Contract.
- 11.3 Where this Contract is terminated, the Listed Provider will, subject to any other arrangement that he/she may arrive at with any client, make any files promptly available for collection by the new Listed Provider.

12 Contract for Services Relationship

- 12.1 The Agency and the Listed Provider intend that this Contract shall operate as a contract for services and not as a contract of service, whereby the Listed Provider is an independent contractor and neither the Listed Provider nor any of the Listed Provider's employees are employees of the Agency.
- 12.2 Both parties agree to act in good faith in the exercise of their rights and the performance of their obligations under this Contract.

13 Entire Agreement

- 13.1 Subject to clause 4.2, this Contract and any Letter of Grant, constitutes the full agreement between the parties concerning the Legal Services to be supplied by the Listed Provider.

14 Variations to Contract

- 14.1 Subject to the Agency's right under clause 9 to vary this Contract after consultation with the Listed Provider, the provisions of this Contract may be varied from time to time in writing by agreement between the Parties.

15 Assignment

- 15.1 Neither party shall assign, in whole or in part, its rights, obligations or benefits under the Contract to any other party.

16 Liability

16.1 The Agency shall not incur any liability to any other person as a result of anything done or omitted to be done by the Listed Provider in connection with the supply of Legal Services under this Contract.

17 Additional Requirements

17.1 Where the Listed Provider is a member of a legal firm, or moves to a new legal firm, the legal firm must sign the undertaking contained in Schedule B of this Contract and return it to the Agency before the Listed Provider commences to supply any of the approved Legal Services contained in Schedule A.

18 Authorisation and Acknowledgement

18.1 The Listed Provider hereby authorises the Agency to collect or disclose personal information about himself or herself from the New Zealand Law Society, District Law Society or any other organisation responsible for regulating the Listed Provider, for any purpose relating to the Agency's obligations under sections 69 to 73 of the Act.

18.2 In collecting and disclosing the Listed Provider's personal information under clause 18.1 the Agency will comply with the Privacy Act 1993.

18.3 The Listed Provider acknowledges that the Agency is subject to the Official Information Act 1982.

19 Force Majeure

19.1 Neither party will be liable for any act, omission, or failure to fulfil its obligations under this Contract if such act, omission or failure arises from any cause reasonably beyond its control. The party unable to fulfil its obligations will immediately notify the other in writing of the reasons for its failure to fulfil its obligations; any damage or loss caused (or likely to be caused); and any proposed remedial action.

19.2 The Parties will seek to reach agreement on the extent of any such damage or loss and any remedial action and will, if necessary, vary this Contract under clause 14.

20 Notices

20.1 Any notice or communication to be given or made under this Contract will be given or made in writing and will be made by facsimile, email, personal delivery or by post to the addressee at the facsimile number, email address, or address, and marked for the attention of the person designated for the purpose. The facsimile number, email address, address and designated person for the Agency at the time of executing this Contract is set out in Schedule A. The facsimile number, email address, address and designated person for the Listed Provider shall be those as last advised by the Listed Provider in writing to the Agency.

21 Disputes

21.1 The Parties will take all reasonable steps to resolve in good faith any dispute that may arise in connection with this Contract.

21.2 Any dispute that cannot be resolved by negotiation between the Parties may be referred to mediation. The mediator will have been agreed to by both parties.

21.3 Before any dispute is resolved the Parties will continue to perform their respective obligations under this Contract.

21.4 The costs of any mediation will be met equally by the Parties.

22 Governing Law

22.1 This Contract is governed by New Zealand law.

23 Severance

23.1 If any provision of this Contract is held invalid, this Contract shall remain in full force apart from that provision.

24 Continuing Provisions

24.1 The clauses in this Contract which are capable of surviving the expiry or termination of this Contract shall survive the termination or expiry of this Contract.

SIGNED for and on behalf of the
LEGAL SERVICES AGENCY
by its authorised agent

Tony Hill
Senior Advisor Service Contracts

Date

SIGNED by the **LISTED PROVIDER**

Date

SCHEDULE A: LEGAL SERVICES

Listed Provider Name:

Name of Firm:

The Listed Provider is approved by the Agency to provide the following Legal Services:

LEAD PROVIDER –

LITIGATION EXPERIENCE LEVEL

SECONDARY PROVIDER -

The above named approvals are subject to the following conditions:

Listed Provider number: Your Listed Provider identification number is . This number may be required for Listed Provider authentication in future as electronic business transactions are developed.

Listing Enquiries to:

Provider List Administration
Legal Services Agency Head Office
PO Box 5333, Wellington
Phone (04) 495-5910 Fax (04) 495-5911
Email: provider@lsa.govt.nz

SCHEDULE B: FIRM UNDERTAKING

_____, being the firm that comprises or employs the Listed Provider, undertakes:

- 1 to receive all payments from the Agency into the firm's account by direct credit only, and that, accordingly, the firm will not make any claim for any other form of payment (eg payment by cheque) and will make such funds available promptly so that the Lead Provider's obligations under clause 4.9 of this Contract are met.
- 2 to maintain and/or retain any and all information supporting the applications for legal aid, as made to the Listed Provider, except where files are transferred under clause 4.15 of this Contract, for a minimum period of three years and provided the Listed Provider has not taken the file to a new firm.
- 3 at the request of the Agency, on reassignment of a legally aided matter to a new Listed Provider outside the firm, will use their best endeavours to obtain permission from the legally aided person and make available such file for immediate transfer;
- 4 at the written request of the Agency, to make available for assessment or audit the records of legal aid work undertaken by the Listed Provider for a minimum period of three years except where the files are transferred under clause 4.15 of this Contract, and provided the Listed Provider has not taken the file to a new firm.
- 5 at the written request of the Agency, to provide any other information to which the Agency is entitled under section 79 of the Act, thereby enabling Listed Provider assessment or audit.

SIGNED by

Name

Position

for and on behalf of

Name of Firm

with full authority to bind the firm under this undertaking.