

EMPLOYMENT MATTERS LTD'S TERMS OF ENGAGEMENT

1. ACCEPTANCE

- 1.1. These terms of engagement apply to any current instruction, and to any future instruction, whether or not we send you another copy of them. You do not need to sign these terms of engagement in order to accept them as your acceptance will be assumed from you continuing to instruct us to work for you.

2. FEE BASIS

- 2.1. We will either take on your case on an **Hourly Rate** basis or a **Success Fee** basis. We will discuss this with you at your initial consultation and will depend on the nature of the matter.

- 2.2. **Hourly Rate:** Our charge out rate is \$220 per hour plus GST. This will apply if you do not wish us to take on your case on a success fee basis or we decline to do so (e.g., if it is a disciplinary matter and you would not be expected to receive a financial settlement).

Travelling time will be charged at the rate of \$75.00 per hour plus GST. If you engage us on an hourly rate the fee is payable regardless of any outcome unless agreed otherwise.

2.3. Success Fee:

- 2.3.1. Your case will incur a base fee of \$1,000.00 plus GST as soon as initial assessment, file collection, preliminary research and strategizing have occurred. We will retain all base fees regardless of the outcome of your case.

- 2.3.2. In addition to the base fee if we do work for you and at the end of the process you have **not** improved your position then you will not be charged for that work other than the base fee, however;

- 2.3.3. If we do any work for you and do achieve a successful result in that your position has improved then you will be charged a success fee for the services we have provided.

- 2.3.4. We reserve the right to decline to take on your case on a success fee basis after our assessment of it.

- 2.3.5. There will be a success fee where there is to be a financial settlement to you but that fee will not exceed 25% plus GST of the amount of the financial settlement.

2.4. DEFINITION of the term "financial settlement":

- 2.4.1. In relation to the above clauses - the term "financial settlement" refers to any payment made by the other party and received by you, including but not limited to:

- i. Payments of outstanding wages and holiday pay that are in dispute; and
- ii. Payments made "in lieu of notice" not currently on offer due to either your employment contract or at risk of forfeit due to potential dismissal; and
- iii. Payments made to compensate for loss of wages; and
- iv. Compensation payments; and

- v. Payments made to reimburse you for any expenses relating to or resulting from the employment dispute; and
- vi. Penalties awarded by the Employment Relations Authority that are payable to you.

2.4.2 In relation to the above clauses - the term “financial settlement” does not:

- i. Refer to any payment made by the other party of any wages or holiday that was not under dispute; and/or
- ii. Refer to any payment made as a result of an order made by the Employment Relations Authority relating to penalties awarded by the Employment Relations Authority that are payable to the Crown.

3. DISBURSEMENTS

3.1. We will charge for general office services and for disbursements incurred on your behalf.

3.1.1. General office services include photocopying, facsimiles, telephone communications, deliveries, routine online searches, and inquiries and similar are charged at a standard rate equal to 2.5% of our fees.

3.1.2. Disbursements may include the fee for the filing of your documents with the Employment Relations Authority and any out-of-pocket expenses such as travel and accommodation costs, registration and filing costs, court charges, fees of agents, experts, and other professionals and similar. These are charged on at the amount charged to us.

3.1.3. Road travel costs will be charged at the current IRD standard mileage rate for motor vehicles plus GST.

3.1.4. Disbursements are payable by you as they fall due.

4. FURTHER FEES AT EMPLOYMENT RELATIONS AUTHORITY:

4.1. If your case is not resolved during mediation we will discuss taking your case to the Employment Relations Authority. We will provide you with advice as to the likelihood of your case being successfully resolved at the Employment Relations Authority enabling you to make an informed decision on whether to proceed to the next stage.

4.2. For success fee cases that are resolved through an Employment Relations Authority Investigation - you will be charged a base fee of \$3,000.00 plus GST; plus a success fee that will not exceed 25% plus GST of any financial settlement that is achieved.

5. PENALTY FEES

5.1. We reserve the right to charge you penalty fees if you:

5.1.1. Provide any false or misleading information that affects the feasibility or likelihood of success relating to your case; and/or

- 5.1.2. Fail to provide any material facts, that affects the feasibility or likelihood of success relating to your case; and/or
- 5.1.3. Fail to keep us advised of any changes to your contact details to the degree that we have no alternative but to cancel your Mediation or Employment Relations Authority Investigation date/s; and/or
- 5.1.4. By-pass us by negotiating a settlement directly with the other party; and/or
- 5.1.5. Without reasonable cause and/or against our advice, terminate our engagement or withdraw from the case before it has reached conclusion.
- 5.1.6. Penalty fees could be charged at \$220.00 per hour plus GST and other incurred expenses such as travel expenses, parking costs, phone calls, office expenses etc - plus GST

6. **PAYMENT**

- 6.1. When the engagement is on a success fee basis you will be invoiced for \$1,000.00 plus GST after you have engaged us and had preliminary advice with the balance being invoiced at the conclusion of your matter.
- 6.2. When the engagement is on an hourly rate you will be invoiced monthly or at the conclusion of your matter if that is sooner.
- 6.3. All payments are to be paid within 7 days of invoice.
- 6.4. GST is payable by you on our fees and charges.

7. **INTEREST AND COSTS**

- 7.1. We do not offer credit facilities so interest at a rate of 3% per month will be added to any outstanding balance which is one month or more overdue for payment unless alternative arrangements have been made with us.
- 7.2. If you default in payment of any invoice when due, you shall be liable for any debt collection agency fees or commissions and / or legal fees on a solicitor and own client basis that we may incur in collecting the debt.
- 7.3. Without prejudice to any other remedies we may have, if at any time you are in breach of any obligation under these terms of engagement (including those relating to payment), we may suspend or terminate the engagement and provision of services to you. We will not be liable to you for any loss or damage you suffer because we exercise our rights under this clause.

8. **REPRESENTATION**

- 8.1. Employment Matters Ltd reserves the right to delegate your representation to any advocate. Your representative may or may not be a lawyer, but will be qualified, experienced, and supervised by Employment Matters Ltd. No client-lawyer relationship arises between you and your representative. Your legal relationship remains at all times with Employment Matters Ltd.

9. **CONFIDENTIALITY**

- 9.1. We will hold in confidence all information concerning you or your affairs that we acquire during the course of acting for you, and will not disclose any of this information to any other person without your authority.

10. **DOCUMENT RETENTION AND DESTRUCTION**

- 10.1. We will retain the files on each matter, and any documents you leave with us, for seven years after completion or termination of the matter. We may then destroy the files and documents.

If you wish to make other arrangements, please advise us of those arrangements.

- 10.2. Provided that you have paid all of our invoices on all matters, we will (on request) provide to you all the documents that we have obtained or created through working for you on the matter or matters in question. Before we provide those documents to you, we may take a complete copy of them.

11. **LIMITATION OF LIABILITY**

- 11.1. To the extent permitted by law our aggregate liability to you (whether in contract, equity, tort or otherwise) arising out of your engagement of us on a matter is limited to the fees we might charge you.

12. **ALTERATION TO TERMS**

- 12.1. As each case is different it may be necessary to alter the terms of engagement in relation to your particular case. If we agree on different terms we will send you a copy of those terms.

If you want the benefits of smaller, more budget-friendly, monthly payments rather than a large single lump sum talk to us about feeSmart.