

AJ Park Client Charter

2020

We are committed to providing outstanding advice and service to our clients. This Client Charter (Charter) sets out the terms and conditions of our relationship, and includes:

- who we are
- what you can expect when you deal with us
- ways you can help us give you the best service
- the New Zealand Law Society's client care and service information
- our compliance with the *Code of Conduct for Trans-Tasman Patent and Trade Marks Attorneys 2018* (Code of Conduct).

Who we are

Our legal structure and provision of services

AJ Park is the trading name for two separate companies, AJ Park IP Limited and AJ Park Law Limited, which provide separate services under the AJ Park brand in a collaborative manner.

AJ Park IP Limited is an incorporated patent attorney firm, wholly owned by IPH Limited a public company, and conducts the business of patent attorneys including the drafting and preparation of patent specifications and applying for and obtaining patents. AJ Park IP Limited is bound by the Code of Conduct.

AJ Park Law Limited is an incorporated law firm, wholly owned by lawyer shareholders, that specialises in intellectual property law and which operates and shares income with AJ Park IP Limited as part of the IPH Limited group.

AJ Park Law Limited is solely responsible for the provision of all 'legal services' (within the meaning of the *Lawyers and Conveyancers Act 2006 (NZ)* (the Act)) by AJ Park. All AJ Park legal professionals holding New Zealand practising certificates are employed by AJ Park Law Limited.

For details of the qualifications and employment of any professional staff member of AJ Park, please check that person's profile on www.ajpark.com or [contact us](#).

Operation as part of the IPH Limited Group and a member of an 'ownership group'

AJ Park operates as part of the IPH Limited group. IPH Limited is the holding company for a number of intellectual property professional services businesses operating under different brands and across a range of countries (each company or group of companies operating under a single brand is referred to in this Charter as a **Group Business**). AJ Park and each other Group Business in the IPH Limited group adheres to certain key principles to ensure independence in provision to clients of attorney professional services, appropriate disclosure of group relationships and management of actual or potential conflicts of interest. For more information on the IPH Limited group, please see www.iphltd.com.au. For more information on the key principles to which each IPH Group Business adheres with respect to group relationships, including independence and the management of actual or potential conflicts of interest, see our [Group Relationships Statement](#) on our website. (Note: AJ Park may, from time to time, engage other IPH Limited Group Businesses as a foreign agent or lawyer.)

For the purposes of the Code of Conduct, AJ Park IP Limited is also considered to be a member of an 'ownership group' within the meaning of the Code of Conduct. Members of the 'ownership group' are AJ Park IP Limited, AJ Park Law Limited, Spruson & Ferguson Pty Ltd, Spruson & Ferguson Lawyers Pty Ltd, Pizeys Patent and Trade Mark Attorneys Pty Ltd, GH PTM Pty Ltd, GH Law Pty Ltd (each GH entity operates under the Griffith Hack brand in Australia), Shelston IP Pty Ltd and Shelston IP Lawyers Pty Ltd. Spruson & Ferguson and Pizeys also comprise additional incorporated patent and trade mark attorney entities operating outside Australia and New Zealand, which form part of the IPH Limited group. For information on all legal entities forming part of the IPH Limited group, see www.iphltd.com.au/about-iph.

Each of the IPH professional services attorney Group Businesses of AJ Park, Spruson & Ferguson, Pizeys, Shelston IP and Griffith Hack operate independently from one another in the provision to clients of



attorney professional services. A Group Business may in some cases engage or be engaged by another Group Business as a foreign agent or lawyer.

'AJ Park', 'we' or 'us'

Except to the extent relating to the provision of legal services which must be provided solely by AJ Park Law Limited, when we say 'AJ Park', 'we' or 'us' in this Charter, we mean both AJ Park IP Limited and AJ Park Law Limited, and each right of AJ Park under this Charter may be exercised by either of them, and each obligation may be wholly satisfied by performance by either of them.

We will give you an estimate of the fee for your work if you want us to

We are happy to give you an estimate of the likely costs of your work. This will be based on the information you give us about what you need. Before we begin the work, we can also give you an estimate of other costs you will have to pay (such as official fees and travel costs).

We will let you know promptly if it becomes apparent that the actual fees are likely to be more than the amount we have estimated.

How we set our fees

We charge fixed fees for carrying out specific actions, such as filing applications, and hourly rate fees for time spent on non-standard advice and services.

When setting our fees, we consider:

- our fixed fees for carrying out certain actions
- the time and work involved
- the skill, specialised knowledge, experience and reputation of the person advising you
- the project's importance, complexity, and the outcome
- how quickly you need us to carry out the work
- the possibility that acting for you may prevent us acting for other clients
- the estimate of fees we gave you, or our fee agreement
- the reasonable costs of running a practice
- the market fee for similar services.

We give work to staff at the right level to make sure that you get the best value.

Our fees may change

Periodically, our fixed fees or hourly rates may change. Hourly fees may increase as our people's expertise develops.

If we are working on a matter for you, we will tell you about any changes that affect you. You don't need to do anything to accept the change.

We will bill you regularly

We will usually send you invoices every month unless we have agreed to a different arrangement.

In circumstances where both AJ Park IP Limited and AJ Park Law Limited have provided services, we may send you a single invoice for such services. To the extent services detailed on such invoices comprise 'legal services' within the meaning of the Act, they are provided solely by AJ Park Law Limited and your rights with respect to such services are governed by the provisions of that Act.

If we are holding a deposit from you, you authorise us to make payment of the amounts that we invoice you for from that deposit.

Our invoice will include goods and services tax as and when required by law.

Our invoices are payable (free of set off or deduction) no later than the 20th of the month following the invoice date unless we have specifically agreed other arrangements.

If an invoice is not paid when due, we may elect:

- to deduct any amount outstanding from any money we are holding on your behalf
- not to do any further work, and to retain custody of your papers or files, until all accounts are paid in full
- to charge interest at up to 12% p.a. on any amount outstanding one month after the date of the account.

How we deal with other costs

While providing services to you, we may have to pay other costs such as official fees, foreign agents' charges, barristers' fees, courier costs and travel costs. These other costs are called 'disbursements', and we pass them on to you. Depending on your project, disbursements may be the largest part of our invoice. Our invoice will show which part of your invoice total is disbursements.

If we need to instruct a foreign agent to do your work in their country, we act on your behalf and will charge you separately for our work. We will convert the agent's fees to New Zealand dollars and add a foreign currency fee to cover exchange rate changes and bank and credit card fees (currently 5%). We may pass on bank charges if they are significant.

We charge a separate office expense recoveries fee to cover the costs for printing, photocopying, and

communication charges. We may pass on the actual costs to you if they are significant.

Duty of care

Our duty of care is to you as the client named in our engagement letter. We do not owe any duty of care or liability to any other person, and no other person may use the advice we give you unless we agree otherwise. If you instruct us, you are responsible for paying our fee.

Our advice is opinion only, based on the facts we know and on our professional judgement, and is subject to any changes in the law after the date on which the advice is given. We are not liable for errors in, or omissions from, any information provided by third parties.

Our advice is not to be referred to in connection with any prospectus, financial statement or public document without our written consent.

Our advice relates only to each particular matter in respect of which you engage us. Once that matter is at an end, we will not owe you any duty or liability in respect of any related or other matters unless you specifically engage us in respect of those related or other matters.

Unless otherwise agreed, we may communicate with you and with others by electronic means. We cannot guarantee that these communications will not be lost or affected for some reason beyond our reasonable control, and we will not be liable for any damage or loss caused thereby.

Your personal information

We may collect and hold personal information about you. The manner in which we collect, manage, use and disclose personal information is set out in our [Privacy Policy](#), which can be reviewed on our website.

Under the *Privacy Act 1993*, you have the right to see the information about you that we hold. To arrange to see this information, please speak to your AJ Park contact.

Use and sharing of information

To provide services to you we may need to disclose information provided by or created with respect to you to third parties such as government authorities, courts, foreign patent and trade mark agents or lawyers, renewals agents, counsel and experts. You consent to such disclosure for such purposes.

AJ Park IP Limited provides to AJ Park Law Limited certain management and support services (including storage of information), and its personnel may support the provision of the legal services provided by

AJ Park Law Limited. AJ Park Law Limited personnel may also assist AJ Park IP Limited in the provision of its services. You consent to the sharing of your information between AJ Park IP Limited and AJ Park Law Limited.

In order to provide our services we rely upon back-office, non-professional services provided by non-attorney entities within the IPH Limited group including IT, insurance, finance and accounting services. Where reasonably necessary to satisfy corporate governance, management and reporting responsibilities, such as financial and regulatory reporting, compliance, corporate accountability and oversight and risk management responsibilities, we may also be required to share certain information with IPH Limited. You agree that we may disclose your information to such group entities for these purposes. Any information shared for such purposes is disclosed only to the extent reasonably required, is used only for the purposes provided and remains subject to confidentiality.

Non-public client information is not shared with any other professional services Group Business (unless engaged as a foreign agent or lawyer).

Our communications and advice to you are generally protected in New Zealand by legal privilege. The sharing of information, materials and communications between AJ Park IP Limited and AJ Park Law Limited or the utilisation of any back office services provided the IPH Limited group, including the sharing of communications to and from our client, does not constitute a waiver of any applicable legal privilege that might otherwise attach to that information, material or communication.

Conflicts of interest

We are obliged to protect and promote your interests to the exclusion of the interests of third parties and ourselves, as set out in the *Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008* (the Rules), and in accordance with the Code of Conduct. This may result in a situation arising where we have a conflict of interest.

We have procedures in place to identify and respond to conflicts of interest or potential 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 Rules and the Code of Conduct (as applicable). This may mean we cannot act for you further in a particular matter and we may terminate our engagement.

Compliance with the requirements of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the AML Act)

We must comply with the requirements of the *Anti-Money Laundering and Countering Financing of Terrorism Act 2009* (the AML Act). To help us, you agree to complete customer due diligence in accordance with the requirements of the AML Act, including allowing us to verify your identity and address (for example, by providing passport or driver licence details as part of this process), and depending on the circumstances, verify the source of wealth or source of your funds. We may also need to ask you about the identification of any beneficial owners or any person on whose behalf you are acting. We will also be required to report suspicious activities to the Department of Internal Affairs.

If you have any questions about the AML Act or would like more information, please talk to your usual AJ Park contact or feel free to get in touch with our Head of Operations.

Foreign Account Tax Compliance Act (FATCA)

To comply with USA FATCA requirements, our bankers may ask us to report information about our clients that are USA nationals or residents holding interest bearing deposits in our trust bank account. If our bankers ask for this report, and you are affected, we will need to ask for and you agree to provide to us information about names of entities or persons that are USA nationals or residents, their addresses and birth dates, and the reason for deposit being held to pass on to the bank.

Termination of engagement

We may terminate our engagement at any time for good cause by giving a reasonable period of notice. You may terminate our engagement at any time by giving notice. You will pay our fees for work done and for other charges incurred up to the time of termination.

The enforceability of this agreement is not affected by termination.

Retention of your files

We retain files in accordance with our file retention policy (which may vary from time to time). We may destroy files after any ongoing work is completed and a file is closed, in line with our file retention policy. We may then maintain only electronic files in lieu of physical files. If you would like a copy of our file retention policy, please let us know.

Subject to these terms, if you want us to return documents from our file to you after a file is closed, please let us know immediately, otherwise we will

assume that you agree to the destruction of the file as set out in our file retention policy at the time. If you believe that any of the documents may be relevant to any future litigation, please contact us immediately.

We are happy to retain documents on our file, if asked, beyond the time period set out in our policy, however we reserve the right to charge storage fees for those documents. Physical samples or specimens will only be retained until a file is closed and, unless you instruct us to the contrary, will then be destroyed.

Governing law

We do business under the laws of New Zealand, and our relationship with you is governed by New Zealand law. Legal disputes will be dealt with by the New Zealand courts. However, we may decide to take legal action anywhere in the world if we need to.

If you have a complaint about us, we want to know

If we have failed to meet your expectations, please tell us.

We take clients' complaints seriously and want to do what we can to put the problem right. If you are unhappy, we encourage you to talk to the person you are dealing with to see whether the problem is simply a misunderstanding. If this does not resolve the problem, contact the supervising principal or Managing Director.

If you are still not satisfied with the way we have responded to your complaint, you can make a formal complaint to the New Zealand Law Society (through its complaints service) or the Trans-Tasman IP Attorneys Board.

The Law Society complaints service can be contacted on 0800 261 801 (within New Zealand) or complaints@lawsociety.org.nz for guidance, to lodge a concern or make a formal complaint.

Professional indemnity insurance and limitation of liability

We have professional indemnity insurance. This insurance covers claims brought against us because of professional negligence. Our insurance meets or goes beyond the minimum standards set out by the New Zealand Law Society. Please ask us if you would like details of the minimum standards.

To the extent allowed by law, our aggregate liability to you (whether in contract, tort (including negligence), equity or otherwise) in connection with our services is limited to the greater of:

- the amount payable to us under the professional indemnity insurance held by us, and

- NZ\$2,000,000 or (if greater) the amount of five times our applicable fee (excluding our service charge, disbursements and GST).

The New Zealand Law Society's Fidelity Fund

The New Zealand Law Society's Solicitors' Fidelity Guarantee Fund (the Fidelity Fund) gives clients of lawyers protection against theft by a lawyer, or a lawyer's employee or agent, of any money or property entrusted to lawyers or incorporated law firms. Money entrusted to us for other purposes (for example patent services that are not legal services) will not be covered by the Fidelity Fund. For more information about what the Fidelity Fund covers, go to www.lawsociety.org.nz.

Ways you can help us give you the best service

Return your 'new client form' to us quickly

If you are a new client, we will usually ask you to sign and return a 'new client form' as soon as you instruct us.

Pay your deposit so we can begin work

Sometimes we may also ask you to pay a deposit based on our estimate of the fees and disbursements. We may choose not to begin work until we receive your deposit, even if deadlines for filing patent, design or trade mark applications or other deadlines are due.

Deposits are paid into the trust account of AJ Park Law Limited and will not be taken out until we have invoiced you for work undertaken.

Give us all relevant information before we start work

So we can give you effective advice, please tell us all relevant information about your matter at the start of our discussions. Instruct us well before deadlines to avoid loss of rights and to save money—you will avoid paying expensive urgency costs.

Your instructions to us

We usually don't start working for you until we receive your instructions. However, if your rights or interests are at risk, we may need to act without waiting for your instructions. We will invoice for our services and disbursements if this happens.

Let us know when your contact details change

Some intellectual property processes span many years, and it's important that we know how to contact you over that period. All communication will be sent to the last known address we have on our records, so make sure you tell us when your contact details change.

Make sure you pay our invoices on time

Please make sure you pay our invoices on time. Our invoices are due to be paid on the due date shown on the invoice. Please discuss any questions you have about an invoice with us before your payment is due.

In rare circumstances (for example, if you have not paid our invoices), we may be forced to stop acting for you, even if important deadlines are due. We are entitled to keep your files or documents until you have paid the invoices.

We may charge you interest of 2% each month, worked out daily, on invoices you have not paid by the due date. We may also charge you for the costs of collection and legal fees.

General

This Charter applies to any current instruction, and to any future instruction, whether or not we send you another copy of it. There is no need for you to sign this Charter in order to accept it; you will accept this Charter by continuing to instruct us to work for you.

We can change the terms in this Charter, in which case we will notify you of the amended Charter.

Where you are a company or other corporate or unincorporated entity, we act only for you. We do not act for your shareholders, directors or members unless we expressly agree otherwise.

New Zealand Law Society's client care and service information

Here are the Law Society's client care requirements.

'Whatever legal services your lawyer provides, they 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

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- 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.lawsociety.org.nz or call 0800 261 801.

Responsible persons and technical competency

We will inform you of the responsible attorney who will undertake your work. Pursuant to the Code of Conduct, the attorneys engaged in your work will have appropriate competency to perform your work, including by drawing on relevant technical expertise where appropriate. Information about the competencies and qualifications of the registered attorneys or legal practitioners providing services to you are on our website. Where required under the Code of Conduct and we have not previously done so, we will also inform you as to the procedures, costs and timing of undertaking the work. If such matters become materially different, we will inform you.