Contract for Services

PROVIDER CONTRACT FOR THE PROVISION OF LEGAL AID SERVICES AND SPECIFIED LEGAL SERVICES

The Parties to this Contract

The Secretary for Justice (**the Secretary**)

And

(the Provider)

The Secretary and the Provider are each a Party to the Contract and are together the Parties.

The Contract

Background

A. The Secretary is required to establish, maintain and purchase high-quality legal services in accordance with the Legal Services Act 2011.

B. The Act requires the Secretary to approve providers before they can provide Legal Aid Services or Specified Legal Services.

C. The Secretary has approved the Provider to provide, from time to time, the types of Legal Aid Services or Specified Legal Services set out in Schedule 1.

D. The Provider has agreed to undertake and provide those particular types of Legal Aid Services or Specified Legal Services set out in Schedule 1 on the terms set out in this Contract.

Contract documents

This Contract consists of:

1. These pages **Pages 1-2**
2. Contract Details and Description of Services **Schedule 1**
3. Terms and Conditions **Schedule 2**
4. Firm's Undertaking **Schedule 3**
5. Any other attachments described at Schedule 1.

How to read this Contract

This Contract sets out the Parties' rights and obligations. Together the above documents form the Contract. If there are any differences between the documents:

- references to clauses refer to clauses in the Schedule in which the reference occurs;
- references to clauses and Schedules refer to clauses of, and the Schedules to, this Contract;

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- references to the singular include the plural and vice versa;
- headings are inserted for convenience only and do not affect the interpretation of this Contract;
- "including" and similar words do not imply any limitation;
- a reference to any law or legislation or legislative provision includes the relevant replacement and/or equivalent provisions of any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
- a reference to any policy, procedure or similar document includes instructions, manuals, processes and guides published on the Ministry's website and refers to those documents as amended, supplemented or replaced from time to time; and
- 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.

Acceptance

The date of execution of this Contract is the later of the two dates below.

In signing this Contract each Party acknowledges that they have read it and agree to be bound by it.

For and on behalf of the **Secretary**:

Signature

Name: **Jacquelyn Shannon**

Position: **General Manager Legal Aid Services**
(Acting pursuant to a delegation under section 41 of the State Sector Act 1988)

Date:

For and on behalf of the **Provider**:

Signature

Name:

Position:

Date:

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Schedule 1

Contract and Approval Details

Start Date		Reference Schedule 2 clause 1
End Date	**30 November 2016**	Reference Schedule 2 clause 1

Provider to amend if incorrect

Contract Managers Reference Schedule 2 clauses 4 and 15		**Secretary's** Contract Manager	**Provider's** Contract Manager
	Name:	Penny Hoy-Mack	
	Title / position:	Team Leader Provider Services, Legal Aid Services	
	Address:	Level 6, Justice Centre 19 Aitken Street SX 10125 Wellington	
	Phone:	04 496 6164	
	Email:	legalaidprovider@justice.govt.nz	

Provider to amend if incorrect

Provider Details Reference Schedule 2 clauses 4 and 14		
	Provider Name	
	Name of firm/Practice he/she is • **Principal/Partner/ Sole practitioner in or** • **employed by**	
	Name of Employer (if different from above)	
	Status within the firm/practice in which the Provider is: • **employed by or** • **a principal, partner or sole practitioner**	
	GST No. (if applicable)	
	Bank A/C No. (into which payments are to be paid)	
	Nominated Alternate/s **(where one is nominated under clause 4.7)**	

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Approval Details
The Provider is approved by the Secretary for Justice to provide the following Legal Services:

Legal Aid Services	**Lead Provider**			
	Litigation Experience Level			
	Type:	**Approval/s:**	**Approval Period:**	
			Start Date	**End date**
Condition	The above named approvals are subject to the following conditions:			

Legal Aid Services	**Supervised Provider**			
	Type:	**Approval/s:**	**Approval Period:**	
			Start Date	**End date**
Condition	The above named approvals are subject to the following conditions: The above named approvals are subject to the following conditions: **Subject to your current supervision arrangements and service delivery systems.** If there are any changes to your supervision arrangements or service delivery systems, you must advise the Secretary for Justice of the change/s at least 10 working days prior to the change. Your advice will be considered as a new application for approval. **Supervisor:**			

Specified Legal Aid Services	**Type**	**Approvals**	**Approval Period:**	
			Start date	**End date**
	Condition:			
Condition	The above named approvals are subject to the following conditions:			

Provider Number	Your Provider identification number is . This number is used for correspondence purposes, the assignment of cases and may be required for Provider authentication in future as electronic business transactions are developed.

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Schedule 2

Terms and Conditions – Services

1. Consideration and Operation of Contract

1.1. In consideration for the Provider entering this Contract and being bound by its provisions, the Secretary will also be bound by the provisions of the Contract and may offer the Provider Legal Aid Services or Specified Legal Services in accordance with this Contract and the Act.

1.2. This Contract will commence on the date of execution by both parties. It will continue until **30 November 2016** ("expiry date") unless earlier terminated in accordance with this Contract.

1.3. The Provider may have had a previous contract with the Legal Services Agency or the Ministry for the provision of:

1.3.1. Legal Aid Services or Specified Legal Services under the Act; and

1.3.2. legal aid services under previous legislation.

If such a contract existed immediately before entering into this Contract the parties agree that the previous contract ends from the date this Contract is signed by both parties.

1.4. In this Contract, "the Provider" who supplies Legal Aid Services or Specified Legal Services can mean either a Lead Provider or a Supervised Provider, depending on the context.

1.5. This Contract does not:

1.5.1. guarantee that the Provider will be Assigned any Legal Aid Matters or be offered a minimum number of Assignments; or

1.5.2. guarantee that the Provider's name will be placed on a roster.

1.6. This Contract does not give the Provider reason to expect that the Secretary will enter into another agreement with the Provider, or that another agreement (if any) will have similar terms to this Contract.

2. Provision of Legal Aid Services

2.1. The Provider agrees to provide only Legal Aid Services of the type specified in Schedule 1.

2.2. The Provider agrees to undertake any Accepted Assignment in accordance with the terms of the particular Assignment.

2.3. If there is any conflict between Schedule 1 and an Assignment, the terms of Schedule 1 will prevail.

3. Provision of Specified Legal Services

3.1. The Provider agrees to provide only Specified Legal Services of the type specified in Schedule 1 and that are Rostered to him or her by the Ministry.

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4. The Provider's General Obligations

Quality of Services and Professional Conduct

4.1. The Provider agrees to provide the Legal Aid Services or Specified Legal Services provided under this Contract in an effective and efficient manner.

4.2. The Provider agrees that he or she will :

4.2.1. promote and maintain proper standards of professionalism in his or her public dealings with the Secretary, the Commissioner and the Ministry; and

4.2.2. conduct dealings with the Secretary, the Commissioner and the Ministry with integrity, respect and courtesy.

4.3. In providing Legal Aid Services or Specified Legal Services under this Contract, the Provider agrees to comply with:

4.3.1. relevant professional obligations, unless any provision of the Act states otherwise;

4.3.2. the Act and any regulations made under the Act and all other applicable statutory obligations;

4.3.3. the Practice Standards;

4.3.4. policies, manuals and procedures relating to Legal Aid Services and Specified Legal Services issued by the Ministry; and

4.3.5. the obligations under this Contract.

4.4. The compliance obligations in subclauses 4.3.1 to 4.3.5 are listed in order of precedence. If there is any conflict between these obligations, the obligation which appears first takes precedence.

Delegation of Services and Nomination of Alternate Provider in the event of Unavailability

4.5. The Lead Provider will have overall responsibility for an Assignment, whether or not the Lead Provider completed the work associated with the Assignment. This clause:

4.5.1. includes responsibility for supervising other Providers;

4.5.2. does not limit the Provider's obligations under this Contract or the Act; and

4.5.3. does not apply for work undertaken after the Assignment has been Reassigned.

4.6. The Provider may delegate part of an Accepted Assignment to another provider to undertake. The Provider must ensure that the delegated provider has the appropriate Approval for such work and complies with any conditions of his or her Approval. This applies whether the delegated provider is to be paid or unpaid.

4.7. The Provider may make standing arrangements with another legal aid Provider ("Alternate") to undertake the relevant Legal Aid Services during periods when the Provider is unavailable to do so. The Alternate must be Approved to undertake the type of Legal Aid Services described in Schedule 1 under "Approval Details".

When the Provider Must Notify the Ministry

4.8. The Provider agrees to notify the Secretary's Contract Manager in writing within 5 Working Days if:

4.8.1. the Provider's GST status changes;

4.8.2. the Provider's Contact or other details under Schedule 1 change;

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4.8.3. a Lawyers' Standards Committee has upheld a complaint against the Provider. The notification must include the Committee's rationale and conclusions (subject to any restrictions imposed on publication);

4.8.4. a Supervised Provider is no longer being supervised by a Lead Provider while working on a Legal Aid Matter;

4.8.5. the Provider is charged or convicted of an offence punishable by a term of imprisonment during the term of this Contract; or

4.8.6. the Provider nominates, under clause 4.7, a different Alternate to the Alternate stated in Schedule 1.

4.9. The following process will apply if the Provider will be unavailable for 15 Working Days or more for any reason:

4.9.1. If an Approved Alternate is stated in Schedule 1, the Provider must provide advance written notice of the dates the Provider will be unavailable, and confirm that the Provider's Approved Alternate will manage their current Assignments.

4.9.2. If a Lead Provider other than the Approved Alternate in Schedule 1 will be managing their current Assignments, the Provider must provide advance written notice of the dates the Provider will be unavailable and give details of the Lead Provider who will manage the Provider's current Assignments in the Provider's absence.

4.9.3. If Schedule 1 does not state an Approved Alternate, the Provider must provide advance written notice of the dates the Provider will be unavailable and describe the arrangements the Provider proposes to put in place to deal with any Assignments. The Provider acknowledges that if the Commissioner is not satisfied with the proposed arrangements, the Commissioner may Reassign the Provider's Assignments to another Provider.

4.10. If the Provider is unable to meet a Rostered commitment, the Provider must advise the Ministry in accordance with the relevant policies.

Record-keeping Obligations

4.11. Subject to clause 4.12 and in accordance with clause 11.1 of the Practice Standards, the Provider must endeavour to ensure that all relevant documents are kept on the file electronically or in hard copy. This includes:

4.11.1. all correspondence, including correspondence with the Ministry in relation to legal aid and with the client;

4.11.2. a copy of all court documents filed, served or issued;

4.11.3. file notes of all material telephone conversations and personal attendances;

4.11.4. records of all court attendances;

4.11.5. receipts and records of expenditure, including records of all time spent by the Provider/s and any non-lawyer/s; and

4.11.6. records of any disbursements.

4.12. Research, draft documents and disclosure documents do not need to be retained on the file. Where any of these documents are not retained the Provider must keep an index of the documents.

4.13. All closed legal aid files or an electronic or hard copy of those files must be retained for a minimum of seven (7) years from the date of closure.

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No Lien

4.14. The Provider agrees not to, in any way, claim a lien against the Ministry, Secretary or the Commissioner over a file for Legal Aid Services or Specified Legal Services.

When the Provider Must Stop Providing Services

4.15. The Provider agrees to immediately stop providing Legal Aid Services or Specified Legal Services if:

4.15.1. the Provider is no longer entitled to practise as a lawyer under the Lawyers and Conveyancers Act 2006; or

4.15.2. the Provider is a Supervised Provider but is no longer under the supervision of a Lead Provider as required by the terms of his or her Approval; or

4.15.3. the Secretary has suspended or cancelled the Approval or Approvals listed in Schedule 1.

5. Reassignment of Legal Aid Matters

When this Clause Applies

5.1. Clauses under this heading apply to the transfer of the management of an Accepted Assignment to another Lead Provider.

Process for Reassignment

5.2. The Provider or legally aided person must get the Commissioner's consent in writing to the proposed transfer of the management of an Accepted Assignment to another Provider.

5.3. The Provider acknowledges that if the Commissioner decides to reassign an Accepted Assignment to another Provider, the Commissioner will notify the Provider and legally aided person.

What the Provider Must Do when a Matter is Reassigned

5.4. If the Commissioner advises the Provider that an Accepted Assignment is to be Reassigned to another provider, the Provider agrees to co-operate with the Commissioner to transfer the file in a manner that ensures the interests of any affected legally aided persons are not prejudiced.

5.5. The Provider agrees to ensure the file to which the Accepted Assignment relates is:

5.5.1. neat and orderly and accords with the requirements of clause 11.1 of the Practice Standards; and

5.5.2. transferred promptly to the new Provider specified by the Commissioner.

5.6. The Provider agrees to comply with any directions from the Commissioner for the transfer of the relevant file.

6. Ministry's Obligations

6.1. The Ministry administers the provision of Legal Aid Services or Specified Legal Services, this includes managing:

6.1.1. Approvals and the purchase of services, and

6.1.2. the Rostering and the Assignment of Legal Aid Matters to Providers.

6.2. The Ministry will:

6.2.1. act promptly on decisions on Approvals and correspondence about this Contract once it has all the relevant information it has asked for;

6.2.2. deal with all Legal Aid Complaints fairly and promptly;

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6.2.3. promptly answer any question raised by the Provider about an action taken or decision made by the Ministry under this Contract;

6.2.4. give reasonable notice to the Provider of intended or impending changes to relevant policies and procedures; and

6.2.5. pay all claims in a timely manner, provided:

(a) the Commissioner does not defer or decline the payment under section 99(2) of the Act; or

(b) the Secretary has not placed a hold on payments under section 101(2) of the Act; or

(c) the claim is not disputed in good faith.

7. Legal Aid Complaints

7.1. Where the Secretary, Commissioner or the Ministry receives a Legal Aid Complaint, the Ministry will give the Provider a copy of the Legal Aid Complaint, unless the Secretary does not intend to proceed with the Legal Aid Complaint. The Ministry may ask the Provider to respond to any questions about the Legal Aid Complaint.

7.2. If the Provider receives a Legal Aid Complaint and is unable to resolve it within 10 Working Days, the Provider agrees to give details of the Legal Aid Complaint (including a copy) to the Ministry within 20 Working Days of having received the Legal Aid Complaint.

7.3. If asked by the Ministry to respond to questions about a Legal Aid Complaint, the Provider agrees to respond to the Ministry within the required timeframe. The Ministry will give the Provider at least 10 Working Days to respond.

8. Payments

Payments for Legal Aid Services

8.1. The Provider acknowledges that he or she is only entitled to payments under this Contract if acting as a Lead Provider in a Legal Aid Matter for an Accepted Assignment.

8.2. The fees payable by the Ministry for an Accepted Assignment may be:

8.2.1. set on an hourly rate basis for legal aid Providers as published on the Ministry's website;

8.2.2. on a fixed fee arrangement basis; or

8.2.3. as set out in an Accepted Assignment.

8.3. In accordance with section 106 of the Act, the Provider is responsible for paying all Disbursements related to a Legal Aid Matter (unless otherwise authorised by the Secretary) but may claim for reimbursement of those costs under section 97 of the Act, and in accordance with clause 8.6 below.

Payments for Specified Legal Services

8.4. The Ministry is liable to pay the Provider for Specified Legal Services only where the Provider has been Rostered to provide such services.

8.5. The Ministry will pay fees and Disbursements for Specified Legal Services at the rates set by the Secretary. These rates may be varied from time to time.

Claims and Method of Payment

8.6. The Provider agrees to make a claim for payment to the Secretary for Legal Aid Services or Specified Legal Services provided under this Contract in accordance with:

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8.6.1. sections 97 and 98 of the Act;

8.6.2. the applicable regulations; and

8.6.3. the manner prescribed by the Secretary.

8.7. The Provider agrees that the Secretary is not liable to pay for the Office Overheads of the Provider.

8.8. All claims for Disbursements submitted by the Provider must be accurate, directly attributable to the conduct of the Legal Aid Matter, actual and reasonable.

8.9. The Secretary will pay the Provider by direct credit on receipt of an approved claim for payment for services provided according to the requirements of this Contract, subject to a completed Schedule 3 undertaking (where applicable).

Responsibility for Taxes, Levies and Other Charges

8.10. The Provider is solely liable and responsible for all taxes, levies, premiums and any other charges imposed on the Provider in respect of the Cost of Services under this Contract or other fees and Disbursements incurred by the Provider. The Provider agrees to file all necessary returns for such taxes, levies and other charges with the appropriate authority.

8.11. The Secretary will pay to the Provider the GST (if any) claimed in respect of the Legal Aid Services or Specified Legal Services supplied by the Provider, subject to a completed Schedule 3 undertaking (where applicable).

If the Provider Moves to a new Firm

8.12. If the Provider moves to a new firm, the Provider will ensure that the authorised signatory for that new firm's bank account signs the undertaking contained in Schedule 3 of this Contract. The signed undertaking must be returned to the Ministry before the Provider supplies any Legal Aid Services or Specified Legal Services while employed or engaged by that firm. The Provider acknowledges that the Secretary is not liable to make any payments owing to the Provider until such an undertaking has been duly signed and received by the Secretary.

Overpayments and Underpayments

8.13. If the Secretary overpays the Provider for Legal Aid Services or Specified Legal Services, the Ministry must notify the Provider of the overpayment and may:

8.13.1. require repayment of the amount of the overpayment from the Provider; or

8.13.2. deduct the amount of the overpayment from a later payment due to the Provider under this Contract.

8.14. If the Secretary notifies the Provider under clause 8.13.1 and requires repayment of the amount of the overpayment, the Provider agrees to pay the Secretary the amount of the overpayment within 20 Working Days after receipt of the notice.

8.15. If the Secretary underpays the Provider, the Secretary will pay the Provider the shortfall within 20 Working Days of becoming aware of the mistake.

Reconsiderations and Reviews

8.19 The Provider acknowledges that the Commissioner is responsible for approving claims for payment made by the Provider and that the Commissioner may decline some or all of a claim in accordance with the Act. The Provider acknowledges that Reconsiderations or Reviews of decisions made by the Commissioner in respect of payments for legal aid and specified legal services will comply with sections 51 and 52 of the Act.

8.20 The Provider further acknowledges that the Secretary may, under section 101(2) of the Act, place a hold on payments and, if that occurs, the Provider has a right to apply for a review of that decision by the Review Authority established under the Act.

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The Provider agrees that clause 13 (Disputes) of this Contract does not apply to any such decision made by the Secretary.

9. Audit or Quality Assurance Check

9.1. The Provider must, in accordance with section 92 of the Act, provide all documentation and other information requested by the Ministry to enable the Secretary to carry out an Audit or quality assurance check at any time.

9.2. In addition to any powers the Secretary may exercise under the Act, the Secretary may take appropriate action in accordance with clause 10 below if an Audit or quality assurance check shows any of the following results:

9.2.1. non-compliance with —

(a) the Provider's obligations under the Act or Regulations;

(b) the Practice Standards;

(c) any conditions imposed on the Provider's Approval;

(d) the terms and conditions of this Contract; or

(e) guidelines and policies issued or made by the Secretary or Commissioner;

9.2.2. any substantiated or unresolved Legal Aid Complaint;

9.2.3. where the Provider is providing Legal Aid Services as the Lead Provider, a failure to manage or supervise the relevant Supervised Providers or anyone else used by the Provider to work on a Legal Aid Matter;

9.2.4. any other matter which indicates the Legal Aid Services or Specified Legal Services are not being provided in an effective and efficient manner.

9.3. The results of a completed Audit or quality assurance check will be reviewed by the Secretary. The Secretary will release the findings to the Provider.

10. Breach of Contract

Notice of Breach

10.1. A Provider is in breach of this Contract if, in the Secretary's reasonable opinion, the Provider has not taken all reasonable steps to comply with one or more of the obligations in clause 4.3.

10.2. If, in the Secretary's reasonable opinion, the breach is capable of being remedied, and the Secretary requires the breach to be remedied, the Secretary must promptly give the Provider a default notice.

10.2.1. A default notice under clause 10.2 must specify:

(a) the nature of the breach;

(b) directions to remedy the breach; and

(c) the Specified Period within which the breach must be remedied, giving a reasonable period of time taking into account the nature of the breach.

Failure to Remedy Breach within Specified Period

10.3. If the Provider fails to remedy the breach within the Specified Period, the Secretary may (acting reasonably) do one or more of the following:

10.3.1. give the Provider directions, with which he or she must promptly comply, for suspending the Provider's provision of the Legal Aid Services or

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Specified Legal Services or part of them under this Contract until further notice;

10.3.2. give the Provider further directions to remedy the breach, with which he or she must promptly comply;

10.3.3. remedy the breach and recover the reasonable costs of doing so from the Provider;

10.3.4. take action under section 101 of the Act;

10.3.5. notify the Commissioner of the need to Reassign any Accepted Assignment to another Provider, in which case the Secretary may reduce the payments to the Provider by the amount of the cost the Secretary incurs in having all or any of the Legal Aid Services or Specified Legal Services provided by that other Provider;

10.3.6. notify the Commissioner of the need to remove the Provider's name from a Roster; or

10.3.7. terminate this Contract.

10.4. The Secretary may take one or more of the actions set out in clause 10.3 without further notice and without prejudice to any other rights the Secretary may have under this Contract or under the Act or otherwise at law.

Material Breach Leading to Suspension or Termination

10.5. If the Provider has not remedied a material breach of this Contract within the Specified Period, or the breach is, in the opinion of the Secretary, incapable of remedy, the Secretary may suspend or terminate this Contract, in whole or in part, immediately on giving written notice to the Provider.

10.6. The term "material breach" includes, but is not limited to, the following situations:

10.6.1. The Provider, without reasonable excuse or reasonable prior notice to the Ministry, ceases, suspends or fails to provide all or any material part of the Legal Aid Services or Specified Legal Services pursuant to an Accepted Assignment or that have been Rostered to him or her. This includes:

(a) a transfer of the management of a Legal Aid Matter without the consent of the Commissioner under clause 5.2;

(b) a failure to notify the Ministry and to make suitable arrangements for alternative counsel to appear if the Provider is unavailable for Rostered duties.

10.6.2. The Provider consistently fails to comply with the Practice Standards or fails to comply with the Practice Standards in a manner which has a significant or potentially significant impact on a legally aided person.

10.6.3. The Provider misappropriates or mismanages any payments made to him or her.

10.6.4. The Provider engages in action which would have a serious effect on the Provider's ability to perform the Legal Aid Services or Specified Legal Services, or is likely to bring the Secretary, the Commissioner, the Ministry or other providers into disrepute.

10.6.5. The Provider knowingly:

(a) conceals information from (subject to the Provider's professional obligations relating to privilege or breach of confidentiality, provided the Provider is not required to provide such information under sections 108, 109 or 110 of the Act);

(b) makes false statements to; or

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(c) provides a false document to,

the Secretary, the Commissioner or the Ministry.

Ministry's Failure to Pay

10.7. If the Ministry fails to pay any claim made by the Provider and:

10.7.1. the claim is due and properly payable; and

10.7.2. the Commissioner has not deferred or declined the payment under section 99(2) of the Act; and

10.7.3. the Secretary has not placed a hold on payments under section 101(2)(a) of the Act; and

10.7.4. the payment is overdue by two (2) months following the month in which the Ministry received a correctly rendered invoice from the Provider; and

10.7.5. the claim is not the subject of a good faith dispute between the parties;

then the Provider will notify the Ministry of the default and the Ministry will remedy the default within 10 days of such notice.

10.8. If the Ministry fails to remedy the default within 10 days, the Provider may terminate this Contract immediately on giving notice to the Ministry.

11. Cancellation or Amendment of Provider's Approval and Termination or Suspension of Contract

Cancellation or Amendment of Approval

11.1. If the Secretary cancels the Provider's Approval under section 103 of the Act, the Approval expires, or the Provider advises the Secretary that the Provider will no longer be providing Legal Aid Services, this Contract terminates on the date which the Secretary specifies that the termination takes effect in the written notice given to the Provider.

11.2. If the Secretary has modified the Provider's Approval under section 102 of the Act (including requiring the Provider to be supervised by another Provider), the Legal Aid Services or Specified Legal Services provided by the Provider must comply with the modified Approval, whether or not a variation has been made to this Contract.

Termination or Suspension of Contract

11.3. The Secretary may terminate this Contract in whole or in part for any reason by giving the Provider three (3) months' notice in writing.

11.4. The Secretary may terminate this Contract immediately if the termination is due to a change in government policy or a change in appropriation. If this occurs, the Secretary will give as much notice as is reasonably practicable in the circumstances.

11.5. The Secretary may suspend or terminate this Contract under clause 10.

11.6. The Provider may terminate this Contract in whole or, in relation to the type of Legal Aid Services or Specified Legal Services provided, in part. This can happen at any time by giving one month's notice in writing to the Secretary.

11.7. If a party partially terminates this Contract under this clause, clause 12 will apply to the terminated Legal Aid Services or Specified Legal Services.

12. Consequences of Termination or Suspension

12.1. If this Contract is terminated or suspended, either in whole or in part, the Provider will immediately stop providing the terminated or suspended Legal Aid Services or Specified Legal Services under this Contract.

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12.2. If this Contract expires, or is terminated or suspended, the Secretary is liable to pay the Provider only the fees and/or Disbursements for Legal Aid Services or Specified Legal Services supplied by the Provider before the date of expiry, termination or suspension of this Contract. The Provider must have had the Secretary's approval to provide such Legal Aid Services or Specified Legal Services or the Secretary's authorisation to incur such Disbursements before the Secretary will make any such payment.

12.3. The Provider acknowledges that upon expiry or termination of this Contract, the Commissioner will Reassign the Provider's uncompleted Legal Aid Matters to other Providers. Clause 5 will apply to each Reassignment.

13. Disputes

Application of this Clause

13.1. The Provider acknowledges and agrees that clause 13 does not apply:

13.1.1. where a right to apply for a review or appeal of a decision made by the Secretary or the Commissioner under the Act exists (including a legally aided person's right to apply for a review or appeal under Part 2, Subpart 7 of the Act); or

13.1.2. to the resolution of a Legal Aid Complaint

13.1.3. to any Audit or quality assurance check

unless otherwise agreed by the Parties.

13.2. Subject to clause 13.1, the Parties will take all reasonable steps to resolve promptly and in good faith any dispute that may arise in connection with this Contract.

Process for Dealing with Disputes

13.3. The following process applies to disputes:

13.3.1. The Party claiming a dispute will give written notice detailing the nature of the dispute. Both Parties will then try their best to settle the dispute by negotiation.

13.3.2. If the dispute is about a granting or invoicing matter, negotiation must follow the Legal Aid's Granting and Invoicing Disputes Resolution Process.

13.3.3. For disputes other than disputes about Legal Aid's granting and invoicing, if the Parties have not resolved the dispute within 10 Working Days of the notice, the parties may participate in mediation with a mutually accepted mediator. If they cannot agree on a mediator within 28 days of the notice, the Chairperson of LEADR New Zealand Incorporated will appoint the mediator.

13.4. Each Party agrees to pay its own costs of mediation under clause 13.3.3.

13.5. Before any dispute is resolved, the Parties agree to continue to perform their respective obligations under this Contract. This does not apply if the dispute relates to purported termination by the Ministry.

14. Provider's Details

14.1. The Provider's Details are recorded in Schedule 1 as they are at the date of signing this Contract.

14.2. The Provider must notify the Secretary's Contract Manager of any change to the Provider's Details in accordance with clause 4.8.

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15. The Ministry's Contact Details

15.1. All notices to be given by the Provider to the Commissioner under this Contract relating to the Assignment and Reassignment of a Legal Aid Matter must be given to the legal aid case manager named in the Accepted Assignment, or as advised by the Ministry in subsequent correspondence about that Legal Aid Matter.

15.2. All notices to be given by the Provider in respect of a Rostering matter must be given to the:

15.2.1. Legal Aid Office;

15.2.2. Initial Criminal Legal Services Unit; or

15.2.3. other office or person indicated in the applicable manual or instruction published by the Ministry,

as the context requires.

15.3. Notices under clause 4.9 must be sent to the Provider's local Legal Aid Office.

15.4. The Provider must give all other notices required to be given under this Contract to the Secretary's Contract Manager recorded in Schedule 1. This includes notices under clauses 4.8, and 11 and 14.2.

15.5. The Secretary's Contract Manager's details may be updated from time to time by publication on the Ministry's website. The format and delivery requirements of clause 16 do not apply to this clause 15.4.

16. Format and Delivery of Notices and Communications

16.1. The Parties agree to communicate with each other and provide any notices in relation to this Contract or the Act electronically, in accordance with the Electronic Transactions Act 2002. Specifically (but without limitation), the Ministry and the Provider:

16.1.1. agree to send and consent to receive all notices and communications with the other that are required by this Contract and the Act by email;

16.1.2. agree that any document required by this Contract or the Act to be signed by one or both parties, will be signed using an "electronic signature" as defined by the Electronic Transactions Act 2002;

16.1.3. may choose the particular form of electronic signature for their own use, which may, without limitation, be a typed name or scanned manuscript signature.

16.2. The Provider agrees to use the Provider's email address nominated in Schedule 1 to send and receive email.

17. The Relationship between the Parties

17.1. Nothing in this Contract constitutes a legal relationship between the parties of partnership, joint venture, agency, or employment. The Provider is responsible for his or her own salary, wages, holiday or redundancy payments, and for such payments to his or her personnel. This includes any GST, corporate, personal and withholding taxes, ACC premiums or other levies attributable to the provision of the Legal Aid Services under an Accepted Assignment or Specified Legal Services Rostered to the Provider.

17.2. The Provider is responsible for payment of any fees, expenses and Disbursements claimed by any Supervised Providers who have provided Legal Aid Services or Specified Legal Services on behalf of the Provider under an Accepted Assignment or from any other subcontractors engaged by the Provider.

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17.3. Both Parties agree to act in good faith in the exercise of their rights and the performance of their obligations under this Contract.

17.4. Neither Party has authority to bind or represent the other party in any way or for any purpose.

17.5. The Secretary, the Ministry and the Provider agree that they will at all times conduct dealings with integrity, respect and courtesy.

18. Entire Agreement

18.1. This Contract (which includes all Assignments accepted by the Provider) and any variations to it (and to any Accepted Assignments) constitute the full agreement between the parties about the Legal Aid Services or Specified Legal Services to be provided by the Provider under this Contract.

19. Variations to Contract

19.1. The Secretary has the right to unilaterally vary this contract under clauses 19.2 and 19.3. Otherwise, the provisions of this Contract may be varied by mutual agreement, in writing, and signed by the authorised representatives of the Parties.

Variations to the Contract by the Secretary

19.2. The Secretary may unilaterally amend or delete any provisions of this Contract in accordance with clause 19.5 to achieve consistency with a relevant change in the Act, Regulations, government policy or a change in appropriation. Any such amendment or deletion must be consistent with the Act.

19.3. The Secretary may unilaterally vary Schedule 1 from time to time to by:

19.3.1. amending the Legal Aid Services or Specified Legal Services the Provider may provide if the Provider's Approval changes; or

19.3.2. amending any conditions attaching to the Provider's Approval.

19.4. Where the Secretary varies the Contract under clauses 19.3.1 and 19.3.2, the Ministry will issue the Provider with a revised Schedule 1. The revised Schedule will replace the existing Schedule 1 of this Contract from the date of issue by the Secretary and will form part of this Contract from that date.

19.5. Where the Secretary intends to vary the Contract under clause 19.2, the Ministry will notify the Provider in writing of the intended variation. The Provider must either sign and return the variation to the Ministry or terminate the Contract upon written notice to the Secretary within one month of the date of the notice. If the Provider fails to respond, the Ministry will deem the Contract to have been varied from the date that is one month after the date the notice of intended variation is given to the Provider.

20. Transfer of rights under this Contract

20.1. Neither Party has the right to assign or transfer, in whole or in part, its rights, obligations or benefits under this Contract to any other Party.

21. Liability

21.1. The Ministry will not be liable to any third party as direct or indirect result of anything done or omitted to be done by the Provider in connection with providing Legal Aid Services or Specified Legal Services under this Contract.

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22. Authorisation for Collection and Disclosure of Personal Information

22.1. The Provider authorises the Secretary to collect personal information about the Provider from the New Zealand Law Society or any other organisation responsible for regulating the Provider if this is necessary for the Secretary to meet their obligations under the Act or any other legislation. The Provider also authorises the Secretary to disclose such personal information to these organisations, if necessary.

22.2. In collecting and disclosing the Provider's personal information under clause 22.1, the Secretary will comply with the Privacy Act 1993.

22.3. The Provider acknowledges that the Secretary is subject to the Official Information Act 1982.

23. Force Majeure

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

23.2. The Parties will seek to reach agreement on the extent of any such damage or loss and any remedial action to be taken.

24. Privity of Contract

24.1. No third party may enforce any of the provisions of this Contract. The provisions of section 4 of the Contracts (Privity) Act 1982 do not apply to this Contract.

25. Governing Law

25.1. This Contract is governed by New Zealand law.

26. Severance

26.1. If any part or provision of this Contract is invalid, unenforceable or in conflict with the law, the invalid or unenforceable part or provision will be replaced with a provision which, as far as possible, accomplishes the original purpose of the part or provision. The remainder of the Contract will be binding on the parties.

27. Continuing Provisions

27.1. The clauses in this Contract which are capable of surviving the expiry or termination of this Contract will continue beyond the termination or expiry of this Contract.

28. Definitions

28.1. When used in this Contract, the following words in bold have the meaning beside them, unless the text clearly states that a different meaning is intended:

Accepted Assignment	means a matter Assigned to the Provider as a Lead Provider in respect of which the Provider has not notified the Commissioner that he or she declines the Assignment.
Act	means the Legal Services Act 2011.
Approval	means the instrument signed by the Secretary which specifies the particular Legal Aid Services or Specified Legal Services the Secretary has approved the Provider to provide, as may be amended by the Secretary from time to

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	time.
Assignment	means a letter outlining a decision made by the Commissioner to allocate a Legal Aid Matter to a Provider as a Lead Provider and which specifies: • the name and contact details of the legally aided person; • the details of the grant of legal aid to that person (including the maximum amount of the grant); • the basis for payment of the Provider's fees; and • the conditions attaching to the grant of legal aid to the legally aided person which, unless the Provider notifies the Commissioner that he or she declines the Assignment, is deemed to have been accepted by the Provider upon receipt of the Assignment by the Provider.
Audit	means an audit of the Provider undertaken on behalf of the Secretary under section 91 of the Act.
Commissioner	means the Legal Services Commissioner appointed under section 70 of the Act and includes any person duly delegated by the Commissioner to undertake his or her functions.
Conditions of Approval	means the conditions (if any) imposed by the Secretary under section 77(2) of the Act on the Approval given to the Provider.
Contract	means this Contract including all the attached Schedules, all Accepted Assignments, and any documents referred to in this Contract (whether attached or published on a website), and includes all variations to it and any such documents.
Cost of Services	has the same meaning as in section 4 of the Act.
Disbursements	are defined in the Grants Manual issued by the Ministry and updated from time to time (which can be found on its website).
Examination	means an examination carried out by or on behalf of the Commissioner under section 90 of the Act.
Legal Aid Complaint	means a complaint made to the Provider or the Secretary, Commissioner or the Ministry about the Provider (whether made by staff of the Ministry or a person outside of the Ministry). The complaint must relate to the Legal Aid Services or Specified Legal Services provided or which should have been provided to an aided person, but excludes a Request for Examination.
Legal Aid Matter	means a matter requiring legal representation in respect of which a grant of legal aid has been made under the Act or any previous legislation.
Legal Aid Services	has the same meaning as in section 4 of the Act.
Lead Provider	has the same meaning as in section 4 of the Act.
Ministry	means the Ministry of Justice and its successors.
Office Overheads	are as defined in the Disbursements section of the Grants Manual issued by the Ministry and updated from time to time (which can be found on its website). They are expenses which cannot be claimed by the Provider.
Parties	means the Secretary and the Provider.
Practice Standards	has the same meaning as in section 4 of the Act and are as documented and published on the Ministry's website (as amended from time to time).
Provider's Details	means the Provider's details set out in Schedule 1 or as otherwise notified

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	by the Provider under clause 14.2.
Reassignment	means the process by which the Commissioner transfers the management of a Legal Aid Matter Assigned to one Lead Provider to another Lead Provider.
Request for Examination	means a request by an aided person for the Commissioner to examine the Cost of Services under a grant of legal aid to the person if he or she considers that a Lead Provider — (a) has claimed for more time than was actually spent providing services under the grant; or (b) has claimed for Disbursements that were not in fact used in providing these services.
Review Authority	means the Review Authority appointed under section 84 of the Act.
Roster	means a list maintained by the Ministry of Providers who have been approved by the Secretary to provide Specified Legal Services and whose applications to have their names placed on such a list have been approved by the Ministry for the purpose of scheduling and allocating the Specified Legal Services.
Secretary	means the Secretary for Justice and includes any person duly delegated by the Secretary to undertake his or her functions.
Secretary's Contract Manager	means the persons named in Schedule 1, as applicable, and as updated in accordance with clause 15.4 from time to time.
Specified Legal Services	has the same meaning as in section 4 of the Act.
Specified Period	means the period of time specified by the Ministry for the Provider to remedy any breach of this Contract. This is normally 10 Working Days unless the severity of the consequences of the breach continuing warrants, in the Ministry's reasonable opinion, a lesser period.
Supervised Provider	means a Provider who is required to be supervised by a Lead Provider in accordance with the Act, the Legal Services (Quality Assurance) Regulations 2011, the Approval, the Practice Standards and the Ministry's applicable policies and procedures.
Working Day	means any day other than a Saturday, Sunday or statutory public holiday.

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Schedule 3 - Firm's Undertaking

Provider to Complete – required where providers are employees, partners or directors of law firms or incorporated law firms

Provider		Reference Schedule 1 c
Firm name (nominated)		Reference Schedule 1
Firm's No.		Reference Schedule 1
Authorised signatory of Firm's account		Reference Schedule 1

The Provider has nominated the **Firm's account** to be the account into which payments for Legal Aid Services or Specified Legal Services supplied by the Provider are to be paid by the Secretary for Justice ("the Secretary").

The authorised signatory of the **Firm's account** undertakes, on behalf of the **Firm,** the following:

1. The Firm will receive all payments from the Secretary for Legal Aid Services or Specified Legal Services supplied by the Provider by direct credit only. On receipt, the Firm will promptly pay all approved providers and disbursements incurred in the course of supplying Legal Services. The Firm will not make any other claim for payments to be made in any other manner (for example, by cheque).
2. The Firm will maintain and retain all information supporting the applications for legal aid submitted by the Provider for a minimum of seven years, except where files are transferred and Reassigned under clause 5 of this Contract, or the Provider has taken the relevant file to another firm.
3. If a Legal Aid Matter is Reassigned to another legal aid provider outside the Firm, the Firm will make such file available for immediate transfer to the provider to whom the Legal Aid Matter has been Reassigned.
4. At the written request of the Secretary, the Firm will make available for assessment, Examination or Audit the records of the Legal Aid Services or Specified Legal Services supplied by the Provider, except where files are transferred and Reassigned under clause 5 of this Contract, or the Provider has taken the relevant file to another firm. The Firm will ensure it can meet such requests for a minimum of seven years.
5. At the written request of the Secretary, the Firm will provide any other information the Secretary is entitled to assess, Examine or Audit under the Legal Services Act 2011.

Acceptance

In signing this Schedule, the authorised signatory acknowledges that they have read it and agree to be bound by it.

For and on behalf of the **Firm**: _____ Signature With full authority to bind the Firm with this Undertaking	Name: Position: Date:

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