

## Agency - General Terms

### 1 About the Parties:

- (a) Te Ara Ture is a legal service referral program operated under Community Law Centres of Aotearoa Incorporated (“CLCA”) through a contract with the Ministry of Justice. Te Ara Ture is not a separate legal entity to CLCA. Te Ara Ture and CLCA are not community law centres (as defined by the Legal Services Act 2011) and are not regulated by the Lawyers and Conveyancers Act 2006 or its association regulation.
- (b) You are a community law centre (“CLC”) (as defined by the Legal Services Act 2011) and are regulated by the Lawyers and Conveyancers Act 2006 or its association regulations. CLC offers free legal services to clients within your region.
- (c) For the purposes of this Agency - General Terms, CLCs are considered Legal Assistance Organisations (as defined under Definitions)
- (d) By making an application for a client or seeking support from us about a legal matter, whether for a client or for the benefit of your CLC, you are deemed to have accepted these terms and conditions, including our Privacy Policy.

### 2 Term:

- (a) The term of this Agency - General Terms is from the date you first accept these terms until you or Te Ara Ture terminates the agreement by 28 days’ notice in writing.

### 3 Service Overview:

- (a) One of the primary goals of Te Ara Ture is to increase the capacity of the CLCs. As a result, Te Ara Ture will accept cases for referral which are meritorious cases for CLCs. Specifically, meritorious cases where:
  - (i) the CLCs do not have time to handle such cases; or
  - (ii) such cases are outside of the CLCs expertise and the matter could be progressed by an opinion, merits assessment or help from a specialist.
- (b) **There are cases which will not be suitable for referral to Te Ara Ture. There will be cases where referring the matter is not a reasonable use of pro bono resource. Examples include where:**
  - (i) the case has no legal merit;
  - (ii) the client does not like the advice given and seeks a second opinion;
  - (iii) the client is vexatious or persistent;
  - (iv) the claim is for a low monetary value; or
  - (v) the claim is based on a minor matter of principle.
- (c) Some CLC clients will have matters with special circumstances, such as language barriers or sensitive issues, that do not make them suitable for referral. If the CLC is unsure, the CLC can contact Te Ara Ture, in the first instance, to discuss the referral.
- (d) Te Ara Ture will develop and maintain a database of Pro Bono Providers (as defined under Definitions) and will accept applications for pro bono legal services (as defined in Appendix 1) from Legal Assistance Organisations, other community organisations, and members of the

public. Upon accepting an application, Te Ara Ture will attempt to match the matter with a Pro Bono Provider who is willing to work on the matter on a pro bono basis. In the event a Pro Bono Provider accepts the matter on this basis, Te Ara Ture will make a placement and introduce the client to the Pro Bono Provider.

- (e) Te Ara Ture will make referrals through the Portal (as defined under Definitions). Te Ara Ture will post pro bono Opportunities (as defined under Definitions) on the Portal which will be visible to Pro Bono Providers who are registered with Te Ara Ture to receive referrals of that kind. Te Ara Ture will attempt to match matters with Pro Bono Providers by inviting Expressions of Interest (as defined under Definitions).
- (f) Te Ara Ture will only accept applications from within specified practice areas. Te Ara Ture will maintain a list of practice areas it will accept applications from, and it will be comprised of the practice areas Pro Bono Providers have selected within the Portal as areas they wish to work in.
- (g) Te Ara Ture will only accept applications that meet an eligibility test. The test will comprise both financial and non-financial elements (such as legal merits).
- (h) Pro Bono Providers are under no obligation to submit Expressions of Interest or accept Opportunities. Te Ara Ture makes no guarantee to clients that matters will be accepted by Pro Bono Providers.
- (i) You are under no obligation to make referrals to Te Ara Ture. Te Ara Ture makes no guarantee to you that matters will be accepted by Pro Bono Providers.
- (j) Te Ara Ture is intended as a service of last resort. Te Ara Ture will retain in its absolute discretion the right to decline an application. Without limiting its discretion, Te Ara Ture may decline a referral where the client has means to pay for a lawyer, is eligible for legal aid, is vexatious, is pursuing a matter on the basis of principle, or where in Te Ara Ture's view the matter is not a reasonable use of pro bono resources.

#### 4 Regulated Relationships:

- (a) The referral of a matter through the service comprises a chain involving several entities. In some cases, a client will move from one lawyer/client relationship to another. The parties acknowledge it is important the relationship between clients and all entities involved in the referral process is defined at each point of the chain.
- (b) The parties agree to work together in good faith to develop and use referral processes and documents which provide clarity in any given instance. Those referral processes and documents will provide for the following:
  - (i) Te Ara Ture is not, as defined Lawyers and Conveyancers Act 2006, a provider of regulated services, a lawyer, a law firm (whether incorporated or unincorporated) or a community law centre. As such, no client/lawyer relationship can be formed with Te Ara Ture. No lawyer/client relationship is formed between Te Ara Ture and a client whose application is accepted by Te Ara Ture or who receives a placement from Te Ara Ture.
  - (ii) The Pro Bono Providers are providers of regulated legal services. A client/lawyer relationship will form between the Pro Bono Provider and client only once the Pro Bono Provider has completed its own onboarding processes with the client, including the acceptance by the client of the Pro Bono Provider's terms of engagement (and satisfaction of any conditions imposed by the Pro Bono Provider).
  - (iii) CLCs are providers of regulated services and may have a lawyer/client relationship with clients it refers to Te Ara Ture. The terms of that relationship will be governed by the Lawyers and Conveyancers Act 2006, the regulations, and any terms of engagement that exists between the CLC and the client.

- (iv) Any client/lawyer relationship between a regulated Legal Assistance Organisation, such as a community law centre, terminates once the client has completed the application form and it has been submitted to Te Ara Ture.
- (c) Te Ara Ture will only accept an application or post a matter as an Opportunity if the applicant has accepted our Client – General Terms terms.

## 5 **Scope and Nature of Services:**

- (a) For each Opportunity, Te Ara Ture will define the scope of work requested in terms of:
  - (i) area of law (opportunity preference); and
  - (ii) help requested (opportunity type).
- (b) In most cases the scope of work will not include litigation (i.e. doing court or tribunal work). The scope of work will usually be:
  - (i) advice
  - (ii) merits assessments
  - (iii) attempts to settle your issue outside of court (ie. alternative dispute resolution and negotiations)
  - (iv) the preparation of documents; or
  - (v) completing a transaction
- (c) Where the matter does involve litigation or litigation is likely to commence, the scope of work will clearly define whether the pro bono lawyer:
  - (i) has agreed to do any court or tribunal work, and
  - (ii) Which parts of the proceedings they are prepared to do pro bono
- (d) In all cases clients are expected to act reasonably towards their pro bono provider. They are working for free because of their generosity. Clients must not take advantage of this generosity by expecting them to do more work than they are willing to do. In particular, in the case of disputes, clients should accept their advice to settle a matter where the alternative means prolonging a dispute an objective observer would settle.

## 6 **Pro Bono Provider and Court Costs:**

- (a) Before referring a matter to Te Ara Ture, CLCs must explain to the client the terms on which they may be liable for internal disbursements, external disbursements, and Court ordered costs.

## 7 **Portal:**

- (a) Te Ara Ture makes referrals via a software program that manages the placement of pro bono Opportunities with Pro Bono Providers.
- (b) The Portal can be used by registered users to:
  - (i) post and send Opportunities in the Portal;

- (ii) manage Expressions of Interest;
  - (iii) manage workflows around the placement and management of Opportunities;
  - (iv) communicate with Pro Bono Providers about Opportunities;
  - (v) transfer documents and information to Pro Bono Providers; and
  - (vi) view and report on activity in the Portal.
- (c) Te Ara Ture may allow other parties, such as CLCs, to become registered users of the Portal and post Opportunities directly into the Portal. In the event this happens, CLCs agree to be bound by the Te Ara Ture's Terms of Service for use of the Portal.

## 8 Information Sharing, Privacy and Reporting:

- (a) For the service to operate effectively, information needs to be collected and shared amongst various parties and used for various purposes.
- (b) Our Privacy Policy applies to your clients, your staff and you.
- (c) Making referrals
  - (i) Referring matters to pro bono providers through Te Ara Ture requires the sharing of information about the clients you refer to us. Information must be shared by you with Te Ara Ture so it can assess eligibility, determine what assistance is required, and match matters with Pro Bono Providers. We must also share information with Pro Bono Providers so they can make informed choices about whether to offer help.
  - (ii) As part of the process of referring matters to Te Ara Ture, you must obtain informed consent and the appropriate authorisations from the client. We will supply you with the necessary referral forms (whether digital or hardcopy). An application cannot be processed until we receive correctly completed forms.
  - (iii) The referral forms will include an Information Sharing Disclosure Statement, links to Te Ara Ture's Privacy Policy, and client acknowledgements and authorisations. The acknowledgments and authorisations confirm the client is providing informed consent to the information sharing required under the service.
  - (iv) For purposes of this Agency - General Terms, informed consent means consent given by the client after the authorisations and acknowledgments in the Information Sharing Disclosure Statement have been explained to the client, along with the material risks of and alternatives to the proposed course of action, and that the lawyer believes, on reasonable grounds, the client understands the issues involved. For example, you explain to the client her/his right to have his/her information kept confidential in a lawyer/client relationship and how a referral to Te Ara Ture impacts this right and the risks of disclosure of the client's information.
- (d) Planning and Reporting
  - (i) Te Ara Ture is required to report to the Ministry of Justice information about the activities of Te Ara Ture and the services provided by Pro Bono Providers. Te Ara Ture is also required to report to Justice Connect (the developer of the Portal) deidentified and aggregated data about the use of the Portal. To ensure services are effective and adequately resourced, Te Ara Ture also needs to collect and use information for auditing, research, planning, marketing and reporting purposes.
  - (ii) Te Ara Ture will collect and generate aggregated and deidentified data about you and matters you refer to us, your clients, hours, practice areas, scope of practice and any other field appearing on the Portal.

- (iii) From time to time we may request additional information from you about you or your service or your community. We will explain the purpose of requesting that information. Upon request, you agree to make reasonable efforts to provide Te Ara Ture with this additional information.
- (iv) We may use information referred to under paragraphs (ii)-(iii) for the purposes described in paragraph (i) or in the request made under paragraph (iii), and may disclose such information in a deidentified, aggregated manner. Collection and use of information described in this paragraph is governed by Te Ara Ture's Privacy Policy.
- (v) We will not release any data that identifies your CLC and its activities without your express consent. In the event Te Ara Ture wishes to report narrative information about you or your clients or in a manner that identifies you or your clients we will seek the express consent of you and/or your client (as the case may be).

## 9 Other Terms:

- (a) Te Ara Ture will:
  - (i) Only accept applications from you where the client has:
    - (1) Passed the eligibility test (or Te Ara Ture has obtained agreement with the Pro Bono Provider to exempt the client from the test);
    - (2) Terminated any prior lawyer/client relationships between the client and the Legal Assistance Organisation;
    - (3) Acknowledged and agreed that no lawyer/client relationship exists nor ever existed between them and Te Ara Ture;
    - (4) Provided the authorisation and acknowledgments described in the Information Sharing Disclosure Statement including an authorisation and acknowledgment on Te Ara Ture's Privacy Policy and the risks of disclosure; and
    - (5) Accepted the Terms and Conditions, including matters relating to Pro Bono Provider costs and court costs.
  - (ii) Develop and maintain a network of Pro Bono Providers on the Portal who agree to provide pro bono legal services to matters they accept through the Portal.
  - (iii) Prepare operational process and tools for the CLC to use which include, but may not be limited to, the Te Ara Ture application form (including instructions and authorisations), an Information Sharing Disclosure Statement, Information Sharing Authorisation and Terms and Conditions of the referral.
  - (iv) Maintain and make available to CLCs a list of practice areas Te Ara Ture will accept referrals from;
  - (v) Use reasonable efforts to make referrals to the Pro Bono Providers via the Portal;
  - (vi) Accept the Pro Bono Provider's Expressions of Interest for referrals if appropriate; and
  - (vii) Inform the client, within reasonable time period (not to exceed 10 days from the date of acceptance) that the Pro Bono Provider has accepted the referral (only if Te Ara Ture has all of the required information to make its financial and legal merits assessment).
- (b) Te Ara Ture may:
  - (i) decline applications in its absolute discretion;
  - (ii) withdraw Opportunities if they have not been accepted within what Te Ara Ture considers, in its absolute discretion, to be a reasonable time frame;
  - (iii) following consultation with CLCs, amend the eligibility criteria in its absolute discretion;
  - (iv) following consultation with CLCs, amend the policies and procedures in its absolute discretion, provided 60 days' notice of such amendments are provided to you;

- (v) accept referrals from agencies, other than CLCs; and
  - (vi) develop other pro bono services or facilitate other pro bono activities in addition to referral services. For example, Te Ara Ture may facilitate pro bono secondments to CLCs and secondary consults for CLCs clients, broker the partnering of a CLC and Pro Bono Provider on a matter, obtain legal opinions, on behalf of CLCs and in the public interest, where there is not a CLC client or broker the outsourcing of discrete tasks of a legal matter the CLC continues to act on. These services and activities will be governed by separate terms and conditions agreed to between the parties, or where not agreed, these terms and conditions shall apply to the extent relevant.
- (c) You will:
- (i) make referrals to Te Ara Ture by using the Te Ara Ture referral processes we develop and provide you with, including any online forms or processes we develop;
  - (ii) undertake an eligibility assessment, in a manner agreed to by Te Ara Ture, prior to making a referral to us;
  - (iii) be responsible for the proper execution of the Te Ara Ture application forms, which govern the off boarding of the client from you to Te Ara Ture and the appropriate authorisations from the client. This clause relates to the “Client General Terms” or any successor documents.
  - (iv) only refer clients to Te Ara Ture who have:
    - (1) passed the eligibility test (or Te Ara Ture has obtained agreement with the Pro Bono Provider to exempt the client from the test); and
    - (2) completed the client application form.
  - (v) accept Te Ara Ture’s Privacy Policy;
  - (vi) nominate a dedicated contact person to administer your referrals and act as a point of contact with Te Ara Ture; and
  - (vii) ensure that Te Ara Ture’s policies and procedures are communicated to your staff.

## 10 **Dispute Resolution:**

- (a) The Parties will cooperate with each other and use all reasonable efforts to resolve any disputes or differences arising under this Agency - General Terms.
- (b) If a dispute is unable to be resolved within 14 days of the date it is notified to the other party, it must be referred to mediation by a New Zealand Law Society approved mediator agreed to by the parties before any legal or other action in relation to the dispute is taken.

## 11 **Variation:**

- (a) Te Ara Ture may vary these Agency - General Terms, Privacy Policy and Portal Terms of Service, provided that 60 days' notice of such amendments are provided to you.

## 12 **Legally Binding:**

- (a) By making an application for a client or seeking support from us about a legal matter, whether for a client or for the benefit of your CLC, you are deemed to have accepted these terms and conditions, including our Privacy Policy
- (b) This Agency - General Terms is governed under the laws of New Zealand and is legally binding.

## 13 **Definitions**

- (a) In this document, unless the context requires otherwise:
- (i) **Legal Assistance Organisation** means a legal services organisation that refers matters to Te Ara Ture or posts matters directly on the Portal, including community law centres and other organisations that provide free legal services.
  - (ii) **Opportunity** means a request for legal assistance posted on the Portal by a Legal Assistance Organisation or by Te Ara Ture. For clarity, this includes, without limitation, requests to provide legal assistance to a client by providing advice or representation, and non-client-based requests such as requests for assistance regarding law reform advocacy and legal resource review.
  - (iii) **Pro Bono** means - as set out in Appendix 1.
  - (iv) **Portal** means the software program operated by Te Ara Ture that manages the placement of pro bono opportunities with Pro Bono Providers (and includes any subsequent releases, updates or patches to the Portal).
  - (v) **Privacy Policy** means Te Ara Ture’s privacy policy available at []
  - (vi) **Pro Bono Provider** means person or law firm offering pro bono services that is a registered user of the Portal.
  - (vii) **Te Ara Ture** means the referral service program operated under Community Law Centres o Aotearoa Incorporated through a contract with the Ministry of Justice. Te Ara Ture is not a separate legal entity to Community Law Centres o Aotearoa Incorporated.

## APPENDIX 1

### 14 DEFINITION OF PRO BONO LEGAL SERVICES

“Pro bono legal services” means for the purposes of the Te Ara Ture referrals:

- a) Giving legal assistance for free or at a substantially reduced fee to:
  - (i) individuals who can demonstrate a need for legal assistance but cannot obtain Legal Aid or otherwise access the legal system without incurring significant financial hardship; or
  - (ii) individuals or organisations whose matter raises an issue of public interest which would not otherwise be pursued; or
  - (iii) charities, other not-for-profit organisations or social enterprises, in each case where their sole or primary purpose is to work in the interests of low income or disadvantaged members of the community, or for the public good.
- b) Conducting law reform and policy work on issues affecting low income or disadvantaged members of the community, or on issues of public interest.
- c) Participating in the provision of free community legal education on issues affecting low income or disadvantaged members of the community or on issues of public interest.
- d) Providing a lawyer on secondment at a community organisation (including a community law centre) or at a referral service provider such as Te Ara Ture.
- e) The following is NOT regarded as “pro bono legal services”:
  - i. giving legal assistance to any person for free or at a reduced fee without reference to whether that person can afford to pay for that legal assistance or whether that person’s case raises an issue of public interest.
  - ii. free first consultations with clients who are otherwise billed at normal rates.

- iii. legal assistance provided under a grant of legal assistance from Legal Aid.
- iv. contingency fee arrangements or other speculative work which is undertaken with a commercial expectation of a fee.