



**SAUNDERS & CO**

## **Standard Terms of Engagement and Statutory Client Information**

These terms of engagement will apply to all legal or other professional services provided by Saunders & Co (“**us, we**”) to our client(s) (“**you**”). Any different or additional terms must be agreed in writing.

### **1. Scope**

- 1.1 When you instruct us to undertake work for you, we will send you our Engagement Letter, which will detail:
  - (a) the legal or other professional services we have been instructed to provide to you.
  - (b) the staff member(s) who will be providing the legal or other professional services, and the person who will be supervising the work where applicable.
  - (c) our estimated fees for the services (where requested or offered) or any other method used for the basis for calculation of our fees.
- 1.2 In carrying out legal or other professional services for you, it is our duty to:
  - (a) act with all reasonable care and skill and in a timely manner;
  - (b) keep you informed of all significant developments and advise you when work is completed;
  - (c) provide you with clear information and advice;
  - (d) comply with all legal and ethical obligations we have to you;
  - (e) act upon your instructions and promote your interests above all others subject only to any legal or ethical obligations we have;
  - (f) protect your privacy and assure you confidentiality at all times;
  - (g) strive to achieve your desired outcome within our agreed or expected timeframes and costs.
- 1.3 Unless otherwise discussed and agreed in writing with you, the scope of your instructions and our services specifically excludes taxation advice for both New Zealand and other jurisdictions, including but not limited to income tax, goods and services tax, PAYE and fringe benefits tax.

### **2. Fees**

- 2.1 Our professional fees will be calculated in accordance with the guidelines set by the New Zealand Law Society, including:
  - (a) the value or amount of any property, assets or money involved;
  - (b) the skill, specialised knowledge and responsibility required;
  - (c) the importance of the matter to you and the result achieved;
  - (d) the urgency and circumstances in which the business is transacted;

- (e) the complexity of the issue and the difficulty or novelty of the questions involved;
- (f) the time expended on the work charged at hourly rates reflecting the experience and specialisation of staff involved;
- (g) the number and importance of the documents being prepared or perused.

- 2.2 Where time expended is used as a determinant of our fees, the time spent will be recorded in 6 minute intervals, with time rounded up to the next unit of 6 minutes.
- 2.3 If the engagement letter specifies a fixed fee, we will charge this for the agreed scope of our services. Work which falls outside of that scope will be charged with reference to term 2.1. We will advise you as soon as reasonably practical if it becomes necessary for us to provide services outside the agreed scope, and, if requested, give you an estimate of the likely amount of further costs.
- 2.4 If the engagement letter specifies an estimate, this is a guide price only and is not a quotation. However, if our fees are expected to be in excess of the estimate given at any time during the engagement, we shall take reasonable steps to inform you and gain your approval to continue work. In certain circumstances, we may need to undertake additional work in order to complete your instructions, but have been unable to obtain your pre-approval. In these instances we shall explain the reasons for the increase in fees in our reporting letter.
- 2.5 We will charge you for any amounts billed to us by third parties (“disbursements”). These may include agent’s fees, travel expenses, legal forms, archival fees, conveyancing licence fees, court fees payable to the Ministry of Justice, courier fees, search or registration fees payable to LINZ or the Companies Office and Local Council fees. We may request payment of disbursements in advance.
- 2.6 Where you have instructed us to begin work prior to legal aid being granted and legal aid is subsequently declined, our fee policy above will apply.

### **3. Terms of Payment**

- 3.1 Our invoices are payable by the 20th of the month following the date of the invoice (“the due date”). We reserve the right to issue interim invoices on a regular interval basis based on work in progress. Otherwise our usual practice is to issue an invoice at the conclusion of a project.
- 3.2 By accepting our engagement you grant us permission to deduct fees from monies held on your behalf. An invoice shall be sent or handed to you on the day of deduction or immediately thereafter.

- 3.3 If an invoice is unpaid after the due date ("overdue"), we reserve the right to suspend our services until the invoice is paid in full, to require payment for future fees in advance, and to terminate the relationship.
- 3.4 Unless otherwise agreed with you, accounts overdue longer than one (1) month will incur interest at the rate of 18.00% per annum commencing from the due date and charged to your account on a monthly basis until payment is made in full. If we are required to take recovery action against you all collection costs will be payable by you.
- 3.5 We may ask you to pre-pay amounts to us, or to provide security for our fees and expenses. You authorise us:
- (a) to debit against amounts pre-paid by you;
  - (b) to deduct from any funds held on your behalf in our trust account;
- any fees, expenses, disbursement for which we have provided an invoice.
- 3.6 Where you expect to be reimbursed by a third party for our fees and expenses, although our invoices may at your request or with your approval be directed to a third party, you remain responsible for payment to us if the third party fails to pay us in full by the due date.

#### **4. Files and Documents**

- 4.1 We shall endeavour to store your file, including any documents belonging to you, for at least 6 years following completion of our engagement. This does not include original documents that we have agreed to keep in safe custody, such as wills.
- 4.2 You grant us permission to destroy your file and all documents belonging to you after 6 years, or earlier if we have converted those files and documents to an electronic format.
- 4.2 Saunders & Co owns copyright in all documents or works it creates in the course of the provision of legal or other professional services to you. You are granted a licence to use and copy the documents for your own personal or commercial use. However, you may not permit any third party to copy, adapt or use our documents without our written permission.
- 4.3 We reserve the right to exercise a general lien and retain all documents held on your behalf for as long as there are any fees or other monies outstanding to us. If there are no amounts outstanding, we will provide all documents held on your behalf to you upon request.
- 4.4 A collection and handling fee is payable upon uplift of your documents or part thereof. We may also intentionally provide you with copies or originals of our documents at our sole discretion.
- 4.5 You grant us permission to make a copy of any of your documents and hold them as our property for an indefinite time period for the sole purpose of our protection in the event of a legal claim. A photocopying fee is payable upon uplift of your documents or part thereof.
- 4.6 For the sake of clarity, drafts of a final document remain the property of Saunders & Co.

#### **5. Privacy/Confidentiality**

- 5.1 We will treat all information we hold about you and your personal or business affairs as private and confidential. That information will not be disclosed to any third party unless:
- (a) we are required to do so by law;
  - (b) it is necessary to do so in order to provide our services to you; or
  - (c) you have requested or consented to disclosure.
- 5.2 Notwithstanding term 5.1, you permit us to disclose your full name, date of birth, address, drivers licence number, passport number or any other identification document unique reference number or details provided to us by you directly or indirectly or by publicly available means:
- (a) to one or more credit agencies to perform a credit reference check at any time prior to either the commencement of the proposed services, or until the services are paid in full; and
  - (b) to one or more debt reporting agencies, such as but not limited to Veda, about any payment or credit default you incur, including the amount of the outstanding debt(s), all of which they are permitted to also share with their customers; and
  - (c) to one or more identity verification agencies, such as but not limited to Centrix or Infotrack, in order to perform identity and address verification for the purpose of compliance with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act).
- 5.3 Where our services are being provided to entities (non- individuals), 5.2 shall also apply to all individuals we are required to perform due diligence on in respect of their beneficial owner status, as defined by the AML/CFT Act.
- 5.4 Where we have used a verification agency to meet our AML/CFT Act obligations we will charge you for any amounts billed to us ("disbursements").

#### **6. Conflicts of Interest**

- 6.1 We may act for other clients who compete with, or are involved in your business or personal affairs. We will continue to act for those clients where no conflict of interest arises between your interests and the interests of the other client.
- 6.2 Where a conflict of interest arises, we will observe our legal and ethical requirements as set out in the Law Society's Code of Professional Conduct. We may terminate our relationship and refer you to another law firm where we believe a conflict of interest situation has arisen or the potential for a conflict of situation occurs.

#### **7. Duty of Care**

- 7.1 Our duty of care is to you and not to any other person. Before any other person may rely on our advice, we must expressly agree to this.

#### **8. Complaints**

- 8.1 If you have any concerns or complaints about our services or charges, please raise them as soon as possible with the staff member or partner responsible

for the matter. If you do not wish to refer your complaint to that person, you may contact our General Manager:

- (a) by post at P O Box 18, Christchurch
- (b) by email at [general.manager@saunders.co.nz](mailto:general.manager@saunders.co.nz)
- (c) by telephone at (03) 379 7690.

- 8.2 We will endeavour to resolve the matter with you promptly and fairly. Should you not be satisfied with our response to your complaint you have the right to refer the matter to the Law Society.
- 8.3 The Law Society operates the Lawyers Complaints Service and you are able to make a complaint to that service. To do so, phone 0800 261 801 and you will be connected to the nearest Complaints Service Office, which can provide information and advice about making a complaint.

### **9. Termination of Services**

- 9.1 You may terminate our engagement at any time.
- 9.2 Our relationship involves continuing trust, confidence and cooperation. If the relationship has broken down we may terminate the engagement by notice in writing. Other circumstances for termination are set out in the Law Society's Rules of Conduct and Client Care of Lawyers.
- 9.3 If the engagement is terminated by either party you will be required to pay our professional fees for the work completed and disbursements incurred up until the date of termination.

### **10. Marketing**

- 10.1 As a client of Saunders & Co we hold private information and contact details for you. We undertake not to make those contact details available to any third party for the purposes of direct or indirect marketing or advertising purposes. Notwithstanding, Saunders & Co shall have the right to send to you electronically or by any other means marketing material regarding the services and promotions we offer.

### **11. Trust Account**

- 11.1 From time to time, as part of your instructions we may be required to hold funds in our trust account on your behalf. Where there is an expected benefit of at least \$100 gross interest we shall place these funds on interest bearing deposit at the applicable call account rate.
- 11.2 In certain circumstances you will be required to complete tax residency declaration forms (FATCA and CRS) before we are legally able to open an interest bearing deposit for you. Our time attendances in checking and maintaining these forms are chargeable to you.
- 11.3 All interest shall be derived by and owing to you, and is subject to our administration fee of 7.5% and applicable resident withholding tax (RWT) deductions. The current default rate of deduction is 33%, but you can select an alternate rate (10.5%, 17.5%, or 30%) by providing us with your IRD number at the commencement of the engagement. Please note RWT is not a final tax and any underpaid/overpaid RWT may be assessed by Inland Revenue in processing your annual income tax obligations.

### **12. Liability/Professional Indemnity Insurance**

- 12.1 Any limitations on the extent of our obligations to you or any limitation or exclusion of liability are set out in our letter of engagement.

- 12.2 We hold professional indemnity insurance that meets or exceeds the minimum standards specified by the New Zealand Law Society. We will provide you with particulars of the minimum standards upon request.

### **13. Lawyers Fidelity Fund**

- 13.1 The New Zealand Law Society maintains the Lawyers Fidelity Fund for the purposes of providing clients of lawyers with protection against financial loss arising from theft by lawyers. The maximum amount payable by the Fidelity Fund by way of compensation to an individual claimant is limited to \$100,000. Except in certain circumstances specified in the Lawyers & Conveyancers Act 2006 the Fidelity Fund does not cover a client for any loss relating to money that a lawyer is instructed to invest on behalf of the client.

### **14. Application**

- 14.1 These terms apply to any current engagement and also to any future engagement.
- 14.2 We are entitled to change these terms from time to time, in which case these changes will be posted to our website and available for viewing at any time. It is your responsibility to familiarise yourself with our terms upon the start of each engagement.
- 14.3 Both parties shall be bound by and entitled to rely on the terms in place at the commencement of an engagement. No changes to our standard terms shall apply to any engagement once it has been accepted.
- 14.4 Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.

### **15. Client Care and Service Information**

- 15.1 Notwithstanding any of the foregoing provisions, as required by the New Zealand Law Society, whatever legal services we agree to provide to you we shall at all times:
- (a) Act competently, in a timely way, and in accordance with any arrangements made.
  - (b) Protect and promote your interests and act for you free from compromising influences or loyalties.
  - (c) Discuss with you your objectives and how they should best be achieved.
  - (d) Provide you with information about the work to be done, who will do it and the way the services will be provided.
  - (e) Charge you a fee that is fair and reasonable and let you know when you will be billed.
  - (f) Give you clear information and advice
  - (g) Protect your privacy and ensure appropriate confidentiality.
  - (h) Treat you fairly, respectfully and without discrimination.
  - (i) Keep you informed about the work being done and advise you when it is completed.
  - (j) Let you know how to make a complaint and deal with any complaint promptly and fairly.
- 15.2 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](http://www.lawsociety.org.nz) or call 0800 261 801.