

RETAINER AGREEMENT

BETWEEN: ALADIN LEGAL PTY LTD trading as
DI ROSA LAWYERS of 61 Carrington Street
Adelaide SA 5000 ("Us/We")

AND: Mr Joe Public

("You")

The following terms set out the basis upon which we agree to act for you.

You are entitled to seek independent legal advice about these terms.

If you agree with these terms, please print off, sign and date this document and return a completed copy to us by delivery, post, fax or email.

You may also accept these terms by your conduct in paying bills expressly calculated under these terms, or by your conduct in instructing us after you have received our engagement letter confirming your instructions to act for you.

These terms apply to all matters on which you instruct us, unless we and you agree in writing on different terms or we are allowed by the *Legal Practitioners Act 1981* ("the Act") to have a different arrangement.

1. Scope of the legal work

- 1.1. We will set out in a letter the relevant legal work that you have asked us to do and our fee estimate or doing that legal work ("**the engagement letter**").
- 1.2. The engagement letter and these terms form our agreement with you regarding the matter that you have instructed us on.

2. Doing the work

- 2.1. Mr Dino Di Rosa is the person to contact about these terms, our bills and any complaints.
- 2.2. Mr Di Rosa will either do the work or delegate all or part of that work to other lawyers and non-legal staff as appropriate for your matter.

3. Time costing

- 3.1. Our fees are subject to the Goods and Services Tax ("**GST**").
- 3.2. Our fees for the legal work that we carry out on your behalf are calculated on a time costing basis according to an hourly rate of \$400.00 plus GST ("**the hourly rate**").

3.3. "**Legal work**" means all attendances that is reasonably necessary for a solicitor to do to protect your interests and progress your matter to finalisation. It includes but is not necessarily limited to attendances in Courts, personal and telephone attendances on you or other people relevant to your matter including conferences with legal agents, drafting letters and other documents, communications via email and post, and legal research.

3.4. Each hour of legal work is divided in 10 units of 6 minutes duration. You are charged for a minimum amount of 6 minutes, even if the legal work does not take that long. This means that if a particular task takes only 2 minutes, you will be charged for 6 minutes.

3.5. Our fees are calculated by multiplying the number of units used in doing the legal work by 1/10th of the hourly rate.

3.6. For example, if we have taken 36 minutes to perform a task, each unit is worth \$40.00 plus GST. Therefore, 36 minutes of time is 6 units and the charge will be 6 multiplied by \$40.00 which equals \$240.00 plus GST.

3.7. You are not obliged to accept our hourly rate but if you do not accept our hourly rate we may stop acting for you. If you accept our hourly rate, either expressly or by continuing to instruct us or paying bills expressly calculated upon those rates, they are binding on you.

3.8. Our hourly rate is different to the rate set out in the scale of costs under the Supreme Court Rules and other scales of costs applicable in different courts and tribunals.

3.9. There may be other solicitors who are prepared to act for you and charge according to the relevant scale.

3.10. Our hourly rate is likely to result in a higher charge than if the scale were used. Other solicitors may be prepared to do the work for a lesser fee.

4. Fixed fees

4.1. We may be engaged by you to do work on a fixed fee basis, for example preparing your will or attending to the conveyancing of property pursuant to a Court order.

4.2. Our standard fixed fees are as set out on our website at www.dirosalawyers.com.au on the "Our Charges" page.

4.3. The standard fixed fees as set out on our website are a guide only, may be subject to change and are subject always to you agreeing to the fee estimate or quote that we give you

subject to your instructions and any variation in your instructions.

- 4.4. If you engage us to do work on a fixed fee basis you acknowledge that the work will not be charged at or referable at an hourly rate. The fixed fee agreed may be for all work we have been instructed to do or on separate portions of work.
- 4.5. The fixed fee is likely to be different from the rates set out in the scale of costs under the Supreme Court Rules and other scales of costs applicable in different courts and tribunals.
- 4.6. Although fixed fee charging is not uncommon for these types of services there may be other solicitors who would be prepared to act for you and charge according to the scale of costs under the Supreme Court Rules. You are entitled to seek independent legal advice regarding this or any term of this agreement.
- 4.7. We will not and are not required to send you an engagement letter where the anticipated fees, exclusive of disbursements, is likely to be less than \$1,500 plus GST or where we are not required to provide you with one under clause 13 of Schedule 3 of the Act.

5. Disbursements

- 5.1. In addition to our fees, we will charge you for expenses incurred or paid for you ("**disbursements**").
- 5.2. For example, disbursements include expert's fees, government fees and couriers.
- 5.3. We charge disbursements at what they cost us.
- 5.4. If we need to incur a disbursement which is out of the ordinary, we will provide you with advice and seek your specific instructions before doing so.
- 5.5. We incur disbursements as your agent.
- 5.6. You must pay us or reimburse us for all disbursements including any GST on the disbursements.
- 5.7. We charge a fee of 30 cents plus GST for printing, faxing, or photocopying each page. This may be more than allowed under the applicable court or tribunal scale.

6. Administrative services

- 6.1. We charge a file administration fee of \$40.00 plus GST which includes the opening of each file and its archiving on completion.
- 6.2. In addition, we charge an hourly rate of \$100.00 plus GST for administrative services undertaken by a clerk or legal assistant.
- 6.3. These services include arranging appointments, taking initial instructions, collating briefs, binding larger folders of documents and incidental attendances not

undertaken by a solicitor requiring professional skill.

- 6.4. Charges for such administrative services are likely to be different from the rates set out in the scale of costs under the Supreme Court Rules and other scales of costs applicable in different courts and tribunals.

7. Legal agent fees

- 7.1. We may retain a legal agent such as a barrister, country agent, interstate agent or costs consultant to act for you in a particular matter.
- 7.2. When we do, we will let you know how that person intends to charge and an estimate of the fees which will be charged by that legal agent, and any major variables which will affect the calculation of those costs.
- 7.3. If your matter is a litigation matter, and the legal agent's fees are likely to exceed what may be recovered from the other side to the litigation, we will inform you of that. If you instruct us to engage the legal agent, you have agreed to pay a higher fee than you are likely to recover from the other side.

8. Cost estimates

- 8.1. In the engagement letter we must:
 - 8.1.1. estimate our fees and disbursements and set out our assumptions on the scope of the legal work in making that fee estimate; or
 - 8.1.2. inform you that it is not possible at that time to provide an accurate estimate of the fees and disbursements that we will charge you for that matter, but provide a range of likely fees. We will set out the basis for that estimate.
- 8.2. Clause 8.1 does not apply where due to the urgency of the advice or other factors exist which prevent us from giving a fee estimate before commencing the work.
- 8.3. The estimate of fees and disbursements is a preliminary estimate and not a quotation or a fixed maximum charge. We will charge you for work actually done and the expenses incurred calculated on the hourly rates and other terms set out in the engagement letter.

9. Updating of advice

You have the right to be notified of any substantial change to the matters to be disclosed to you under the Act, including any substantial change to the estimated costs of work.

10. Litigation matters

- 10.1. Our estimate only refers to the costs that we charge you. You may also have to pay some or all of the costs of the other parties in the litigation.

- 10.2. Our costs are payable by you whether or not you have a right to recover some or all of your costs from another party in the litigation.
- 10.3. The scale of fees in the court or tribunal applicable to your matter will usually determine what can be recovered from the other party if you are successful.
- 10.4. Even if you are successful in obtaining an order for costs to be payable by another party in the litigation, it is most unlikely that it will cover the whole of your legal costs. You will have to pay the total of our costs which includes the difference between our costs and the costs that you can recover from the other party in the litigation. Any order for costs which you obtain is likely to be for an amount substantially less than what is due to us under this agreement. In the engagement letter, if possible, we will give you an estimate of the range of costs which may be recovered if you are successful in the litigation. If we are unable to do this at the start of the matter, we will do so as soon as it is practical to do so.
- 10.5. If you lose, you may have to pay the costs of another party to the litigation as well as our costs. In the engagement letter, if possible, we will give you an estimate of the range of costs that you may have to pay if you are unsuccessful, and the basis for that estimate. If we are unable to do this at the start of the matter, we will do so as soon as it is practical to do so.
- 10.6. If we negotiate a settlement of a litigation matter for you, prior to settlement we will provide you with a reasonable estimate of the costs we will charge you and an estimate of the contribution to those costs likely to be received from another party to the litigation. This will enable you to work out the likely minimum net amount that you will receive from the litigation. At that point, we must also give you a reasonable estimate of the costs we will charge you and an estimate of what you may have to pay to the other party if you lose the litigation.

11. Trust money

- 11.1. During the course of the matter, we can ask you to pay money into our trust account to cover anticipated fees or anticipated disbursements or both.
- 11.2. We do not have to do any further work on that matter or incur any disbursement until we have received the money requested.
- 11.3. If it is a litigation matter, we may request that at least 28 days before the trial date the amount reasonably estimated by us to cover the full cost of the trial including barrister's fees, court fees and witness fees be paid into our trust account.
- 11.4. If you do not comply with any such request, we may suspend work or terminate this agreement

as it relates to that matter and stop acting for you. We may then take immediate steps to remove ourselves from the court file as acting for you.

12. Billing and interest

- 12.1. A bill for our costs and disbursements will be sent at appropriate times during the course of the matter. As a general rule, you should expect a bill every month from us, but at least 21 days from the last one.
- 12.2. However, we may agree with you in the engagement letter to only send a bill to you upon the conclusion of the matter. If we and you agree to do so, your requirement to pay us is not dependent upon a successful outcome for you.
- 12.3. Unless otherwise agreed, you must pay our bills within 14 days of receipt.
- 12.4. If not paid within 14 days we may suspend work on your matter or terminate this agreement in relation to that matter and stop acting for you.
- 12.5. If you do not pay a bill within 30 days of receipt we may charge interest on any amount outstanding at the rate of 2% plus the Reserve Bank Cash Rate (at the date of issue of the bill) per year.
- 12.6. The following avenues are available to you if you are not happy with a bill:
- 12.6.1. requesting an itemised bill;
 - 12.6.2. discussing your concerns with us;
 - 12.6.3. having our costs adjudicated;
 - 12.6.4. applying to set aside our costs agreement;
 - 12.6.5. making a complaint to the Legal Profession Conduct Commissioner (if you believe there has been over charging).

There may be other avenues available in your State or Territory (such as mediation).

For more information about your rights, please read the fact sheet titled *Your rights to challenge legal costs*. It is on our website at www.dirosalawyers.com.au under the "Our Charges" page or you can ask us for a copy, or obtain it from the Law Society of South Australia (or download it from their website at www.lawsocietyysa.asn.au).

13. Liability

- 13.1. If there is more than one of you, then you are jointly and severally liable for our costs and disbursements.
- 13.2. If you are a proprietary limited company, then we may ask the directors of that company to provide a director's guarantee. If you do not

provide the director's guarantee, we may decline to accept your retainer to act for you.

- 13.3. Unless we specifically agree with you, our retainer does not require us to give you advice with respect to any tax or duty.

14. Your agreement to work with us

- 14.1. We always need your appropriate involvement in a matter to ensure that we can properly represent you.

- 14.2. Accordingly, you agree to reply to correspondence and emails, return our phone calls, respond reasonably to requests for instructions and pay our bills and money into trust as required under this agreement.

- 14.3. If you do not work with us in these ways, then we may terminate this agreement and stop acting for you in relation to all matters.

15. Intellectual property rights

- 15.1. Unless we otherwise agree with you, we have intellectual property rights in all documents that we prepare for you.

- 15.2. You have the right to only use those documents for the purposes for which they are prepared by us for you.

16. Records and files

- 16.1. All documents created by us on any matter remain our property.

- 16.2. We keep our file in either hard copy storage or electronic storage for at least 7 years from the date that our file is closed. After that, we may destroy the file without notice to you.

- 16.3. If you want us to retrieve any documents or things from the file after conclusion of a matter, we charge you what our archive storage facility charges us plus \$50.00 plus GST to cover our expenses in doing so.

17. Legal costs - Your right to know

- 17.1. You have the right to:
- 17.1.1. negotiate a costs agreement with us;
 - 17.1.2. receive a bill of costs from us;
 - 17.1.3. request an itemised bill of costs after you receive a lump sum bill from us;
 - 17.1.4. request written reports about the progress of your matter and the costs incurred in your matter;
 - 17.1.5. apply for costs to be adjudicated within 6 months if you are unhappy with our costs;
 - 17.1.6. apply for the costs agreement to be set aside;

- 17.1.7. make a complaint to the Legal Profession Conduct Commissioner (if you believe there has been overcharging);

- 17.1.8. accept or reject any offer we make for an interstate costs law to apply to your matter; and

- 17.1.9. notify us that you require an interstate costs law to apply to your matter.

For more information about your rights, please read the fact sheet titled *Legal Costs – your rights to know*. It is on our website at www.dirosalawyers.com.au under the "Our Charges" page or you can ask us for a copy, or obtain it from the Law Society of South Australia (or download it from their website at www.lawsocietysa.asn.au).

18. Termination of this agreement

- 18.1. You have the right to terminate our services at any time, but we are entitled to retain all papers (in hard copy or electronic form) obtained from or prepared for you or otherwise obtained in relation to the matter until all of our bills have been paid.

- 18.2. We may stop acting for you if:

- 18.2.1. you do not pay our bills within the agreed time;

- 18.2.2. you do not comply with any of the other terms of this agreement;

- 18.2.3. you fail to provide us with adequate instructions within a reasonable time;

- 18.2.4. we consider that the necessary relationship of trust and confidence required for a workable solicitor and client relationship has ceased to exist; or

- 18.2.5. we consider that there are or may be ethical grounds (including a conflict of interest) which mean that we cannot continue to act for you.

19. Confidentiality and privacy

- 19.1. We maintain confidentiality in relation to any information given to us by you, unless you expressly authorise us to disclose that confidential information.

- 19.2. We collect personal information from you. We comply with the Australian Privacy Principles under the *Privacy Act*. Please refer to our Privacy Statement on our website about how we deal with your personal information.

20. Applicable law

- 20.1. This agreement is governed by South Australian Law.

20.2. We and you consent to the non-exclusive jurisdiction of the courts of South Australia with regard to any dispute arising from this agreement or our retainer or both.

21. **Severance**

If any clause in this agreement is unenforceable it can be severed from the agreement without affecting the validity of the balance of this agreement.

Acknowledgement of agreement

I/We,

Insert name(s) of signatories

have read, understand and agree with the above terms under which Di Rosa Lawyers will act for me/us

Date:

.....
Signature of client

.....
Print name of client

Date:

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Signature of client

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Print name of client