



## RETAINER AGREEMENT

**BETWEEN:** ALADIN LEGAL PTY LTD ABN 34 093 392  
119 trading as DI ROSA LAWYERS of 123  
Wright Street Adelaide SA 5000 ("Us/We")

**AND:**

("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 for 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 for you

- 2.1. Mr Dino Di Rosa is the person to contact about these terms, our bills and any issues that you may have.

- 2.2. Mr Di Rosa will either do the work or delegate all or part of that work to his legal assistant Ms Mary Aslanidis as appropriate for your matter under Mr Di Rosa's supervision and attention at all times.

### 3. How you can help us to help you

- 3.1. It is an essential term of this agreement that you promptly reply to correspondence, return phone calls, provide us with instructions as they are requested, follow our advice, pay our costs and disbursements when they are due and pay monies into our trust account as requested.
- 3.2. There are a number of things you can do to assist us that will help manage your legal costs including:
  - 3.2.1. Provide us with all information we request in a timely manner. Any delay in providing relevant material may result in additional costs, as we will need to spend time making further requests for the material. This may prejudice your rights and your case;
  - 3.2.2. Read all your communications and documents we send to you. It is important that you let us know if there are things you do not understand;
  - 3.2.3. Be open and honest with us. If you are not, this can prejudice your case. Your communications with us are protected by client/legal privilege, subject to our obligations to the court and professional ethical obligations;
  - 3.2.4. Answer all questions we have asked of you, even if you think the answer may not assist your case;
  - 3.2.5. Give us instructions in a reasonable time frame when we request them. We will ask you for clarification or additional information, if required;
  - 3.2.6. It is important that we have the benefit of your detailed instructions. However, the frequency and content

of your communication with us will have a direct impact on your legal costs. For example, consider sending one email rather than several emails;

3.2.7. Consider sending us a list of questions or issues before you attend a conference with us, so we can try to ensure we have all the information available to answer them when we meet with you; and

3.2.8. It is important to listen to us when we explain what issues are most relevant to your case. What matters most at law may not correspond with what is most important to you personally. We will assist you to identify the issues of most importance and provide you with the information and advice you need to make an informed decision about how to proceed with your matter.

#### 4. Electronic communications

4.1. You give us authority to send and receive documents electronically including via the internet and telephone. Electronic communications may not be secure communications and may, among other things, be copied, recorded, read or interfered with by an unintended recipient. You release us from any claim you may have as a result of risks inherent in the use of electronic communication.

4.2. You agree that we will communicate with you and other parties electronically unless it is not possible to do so, or other arrangements are expressly agreed.

4.3. You give us authority to accept instructions from you electronically (including telephone and email) and rely on instructions from your known electronic account as being instructions from you personally and no other even if that known account is held in the name of another party, in such instances where you have given in person or oral authority to communicate using that electronic account.

#### 5. Costs

5.1. Your total costs for this matter may include (but may not be limited to) legal fees charged on a time costing basis, any fixed fees we may charge you for fixed fee services, disbursements,

administrative services and legal agent fees as outlined below.

5.2. We review our costs described above annually and may increase these costs. We will provide notice to you in writing of our costs increase if any. You are not required to accept our reviewed costs. However it is a condition of this agreement that if you do not accept our reviewed costs we may elect to cease acting for you.

5.3. Your costs are affected by various factors including the nature and quality of your instructions, the conduct of the other party or parties, and events that arise during the course of this matter. There are factors outside of our control that may have the effect of increasing your costs.

#### 6. Time costing

6.1. Our fees are subject to the Goods and Services Tax ("GST").

6.2. 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 \$500.00 plus GST ("our hourly rate").

"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.

6.3. 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.

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

6.5. For example, if we have taken 36 minutes to perform a task, each 6 minute unit is worth \$50.00 plus GST. Therefore, 36 minutes of time is 6 units and the charge will be 6 multiplied by \$50.00 which equals \$300.00 plus GST.

- 6.6. Our Time Costing Scale setting out the typical legal work that we perform and what we charge for such work based on our hourly rate is as set out on our website at [www.dirosalawyers.com.au](http://www.dirosalawyers.com.au) on the “Our Charges” page under the heading Non-Fixed Fee Matters.
- 6.7. 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.
- 6.8. 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.
- 6.9. There may be other solicitors who are prepared to act for you and charge according to the relevant scale. Our hourly rate is likely to result in a higher charge than if the Supreme Court scale were used. Other solicitors may be prepared to do the work for a lesser fee.
7. **Fixed fees**
- 7.1. 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.
- 7.2. Our standard fixed fees are as set out in Schedule of Fees on our website at [www.dirosalawyers.com.au](http://www.dirosalawyers.com.au) on the “Our Charges” page under the heading “Fixed Fee Matters”.
- 7.3. 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.
- 7.4. 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.
- 7.5. 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.
- 7.6. 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.
8. **Disbursements**
- 8.1. In addition to our fees, we will charge you for expenses incurred or paid for you (“disbursements”).
- 8.2. For example, disbursements include title searches, company searches, registration fees government fees and couriers.
- 8.3. We charge disbursements at what they cost us.
- 8.4. 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.
- 8.5. We incur disbursements as your agent.
- 8.6. You must pay us or reimburse us for all disbursements including any GST on the disbursements.
- 8.7. We charge a fee of 50 cents plus GST for printing, faxing, or photocopying each page. This may be more than allowed under the applicable court or tribunal scale.
9. **Administrative services**
- 9.1. We charge an hourly rate of \$150.00 plus GST for administrative services undertaken by a legal assistant.
- 9.2. These services include arranging appointments, taking initial instructions, collating briefs, telephone calls and emails, photocopying and printing, binding larger folders of documents and incidental attendances not undertaken by a solicitor requiring professional skill.
- 9.3. 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.

## 10. Legal agent fees

- 10.1. We may retain a legal agent such as a barrister, town or country agent, interstate agent, process server, private bailiff, independent valuation or other expert or costs consultant to act for you in a particular matter.
- 10.2. 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.
- 10.3. 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.

## 11. Cost estimates

- 11.1. In the engagement letter we must:
  - 11.1.1. estimate our fees and disbursements and set out our assumptions on the scope of the legal work in making that fee estimate; or
  - 11.1.2. 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.
- 11.2. Clause 11.1 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.
- 11.3. 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.

## 12. 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.

## 13. Litigation matters

- 13.1. 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.
- 13.2. 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.
- 13.3. 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.
- 13.4. 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.
- 13.5. 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.
- 13.6. 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.

## 14. Trust money

14.1. Our trust account bank details are:

**Di Rosa Lawyers Trust Account**  
**Westpac Bank, Torrensville Plaza**  
BSB: 035 212  
Acc No: 271136

14.2. 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.

14.3. We do not have to do any further work on that matter or incur any disbursement until we have received the money requested.

14.4. 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.

14.5. 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.

## 15. Billing and interest

15.1. 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.

15.2. Unless otherwise agreed, you must pay our bills within 14 days of receipt.

15.3. 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.

15.4. 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 ("the interest rate").

15.5. In some matters, for example family law proceedings in which you may not be able to pay our legal fees until settlement of the matter, we may agree to defer payment of same until settlement. In such cases, you agree that we are entitled to charge interest on any amount outstanding at settlement in accordance with the interest rate.

15.6. The following avenues are available to you if you are not happy with a bill:

15.6.1. requesting an itemised bill;

15.6.2. discussing your concerns with us;

15.6.3. having our costs adjudicated;

15.6.4. applying to set aside our costs agreement; and

15.6.5. 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](http://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.lawsociety.sa.asn.au](http://www.lawsociety.sa.asn.au)).

## 16. Limitation of our liability

16.1. You agree that our liability is limited should you make a claim against us for any loss or damage suffered by you arising out of our performance of services on your behalf including but not limited to liability for any negligent act, omission, or misrepresentation.

16.2. By signing this agreement, you acknowledge that we have advised you and you have accepted that the amount to which you are entitled to be indemnified (or would be entitled to be indemnified but for this clause) in respect of our liability is that given under the terms of the compulsory professional indemnity insurance required to be held by us under the Act and any additional professional insurance (if any) held by us from time to time.

16.3. The term "**liability**" in clause 16.1 and 16.2 of this agreement includes but does not limit any liability arising in tort, contract, by virtue of any statute, or otherwise.

16.4. The term "**loss or damage**" in clause 16.1 and 16.2 of this agreement includes but does not limit loss or damage incurred directly, indirectly, or consequentially, but excludes any loss or

damage arising from any fraudulent or unlawful conduct by us.

16.5. You agree to release us from all claims arising from and in connection to the provision of services under this Agreement to the extent that our liability exceeds the limit referred to in paragraph 16.2.

16.6. By signing this agreement you acknowledge that this agreement is the only communication governing our relationship. No statements or representations concerning the formation of this agreement that are not recorded as terms in this agreement form part of this agreement or otherwise our relationship with you, as our client.

16.7. If any representations or matters are of importance to you, you acknowledge that you have ensured that they are expressly set out in this agreement before you signed it.

16.8. Any representations to exercise reasonable care or render our services with due care and skill, which may otherwise be implied by statute, common law, or custom, are expressly excluded from this agreement.

## 17. Your liability

17.1. If there is more than one of you, then you are jointly and severally liable for our costs and disbursements.

17.2. If you are a proprietary limited company, then you as the director(s) of the company that signs this agreement agree to be personally liable for our costs and disbursements (“**guarantee**”).

17.3. Further you as the director(s) agree(s) in your personal capacity as guarantor and not merely as a surety to pay our costs and disbursements incurred by the company that signs this agreement jointly and/or severally.

17.4. To the extent that this guarantee is not signed by any director(s), this guarantee will bind the other director(s) of the company that signs this agreement in his/her/their personal capacity(ies).

17.5. If the company that signs this agreement fails, for any reason, to pay or in our absolute discretion we consider the company unlikely or incapable of paying our costs and disbursements in accordance with the terms set out in this

agreement, then the director(s) agree(s) to be personally liable.

17.6. This guarantee is a continuing guarantee and survives the company that signs this agreement and or the death of any of the director(s).

17.7. Notwithstanding our right of recovery against the company that signs this agreement, we may take legal action against the director(s) in their personal capacity(ies) without first taking legal action against the company that signs this agreement.

17.8. The company that signs this agreement’s liability under this agreement is not affected or discharged by insolvency or by us releasing the company that signs this agreement; nor is it affected or discharged by any inaction by you on your rights against us.

17.9. Our retainer does not require us to give you advice with respect to any tax or duty.

## 18. Security

18.1. In support of this agreement you hereby charge in our favour any interest you have, now or in the future, in any real property.

18.2. You acknowledge and agree that we may, in our absolute discretion but subject to clause 18.3 below, register a caveat over any interest you have in any real property that is the subject of this charge.

18.3. We will only register a caveat under clause 18.2 if:

18.3.1. we have sent you a tax invoice, but you have not paid that tax invoice on the terms set out in this agreement; or

18.3.2. we have accepted delayed or deferred payment of any of our tax invoices; or

18.3.3. you are irrevocably or contingently liable to us for work performed by us, or disbursements incurred to your account which are not billable until the conclusion of this matter.

18.4. You acknowledge and agree that you understand that when we register a caveat over your real property, you cannot sell, mortgage, lease, or otherwise deal with that real property unless and until we remove the caveat. You warrant and accept that we will only remove the

caveat when our costs and disbursements are paid or as otherwise agreed between us or ordered by the court.

18.5. You acknowledge and agree that if we register a caveat over your property, you will pay us all of the costs of preparing, registering, defending and removing the caveat.

18.6. You acknowledge and agree that you have read and understood that by engaging us to undertake legal work for you we acquire, subject to the law or an order of a court, a lien over:-

18.6.1. any funds in our trust account held for this or any other matter on which you instruct us; and

18.6.2. your documents, experts reports and any other item with which we are entrusted during the conduct of your matter; and

18.6.3. any funds due or awarded to you by reason, in whole or in part, of the work we have done for you in securing same through litigation.

## 19. Intellectual property rights

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

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

## 20. Records and files

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

20.2. If you have instructed us to prepare your will or other estate planning documents, we will retain and store your will file indefinitely.

20.3. Otherwise we keep our files 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.

20.4. 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.

## 21. Legal costs - Your right to know

21.1. You have the right to:

21.1.1. negotiate a costs agreement with us;

21.1.2. receive a bill of costs from us;

21.1.3. request an itemised bill of costs after you receive a lump sum bill from us;

21.1.4. request written reports about the progress of your matter and the costs incurred in your matter;

21.1.5. apply for costs to be adjudicated within 6 months if you are unhappy with our costs;

21.1.6. apply for the costs agreement to be set aside;

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

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

21.1.9. 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](http://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](http://www.lawsocietysa.asn.au)).

## 22. Termination of this agreement

22.1. 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.

22.2. We may stop acting for you if:

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

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

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

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

22.2.5. 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.

**23. Confidentiality and privacy**

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

23.2. 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.

**24. Applicable law**

24.1. This agreement is governed by South Australian Law.

24.2. 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.

**25. 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.

**26. Your agreement**

26.1. You acknowledge that we have invited you to contact us should you require clarification of any term of this Agreement.

26.2. You acknowledge that you have sought independent legal advice on the terms of this Agreement or that, are aware of your right to seek independent legal advice on the terms of this Agreement and free from any undue pressure or influence, you decided of your own volition not to seek independent legal advice.

26.3. If you accept the terms of this agreement, please sign and date the copy of this agreement or the signing page of this agreement and return it to us by hand, post or email.

26.4. Your signature on this agreement is evidence of your acceptance of its terms.

26.5. Your acceptance of these terms, other than in writing, can be communicated by you to us by conduct. Examples of conduct that may constitute acceptance include paying a tax invoice under this agreement or providing instructions after this agreement has been delivered to you.

26.6. We reserve the right not to commence acting for you until we have received a signed and dated copy of this agreement from you.

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**Acknowledgement of agreement**

I/We [Print Full Names]

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

.....  
.....  
[Client/s signature/s]

Date:        /        /20.....

I/We [Print Full Names]

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

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[Client/s signature/s]

Date:        /        /20.....