

## RETAINER AGREEMENT FOR LAW PAC DEBT COLLECTION PACKAGE

THIS AGREEMENT is made between MITHRIL LEGAL SERVICES PTY LTD ABN 96 658 014 227 of 288 Hay Street, East Perth ("the Lawyer") of the one part AND the person, persons or company whose name appears on the Acceptance Form hereto ("the Client").

1. In consideration of the Client paying to the Lawyer the fee as set out in the Acceptance Form ("the Retainer Fee") the Client HEREBY AGREES with the Lawyer to retain and instruct the Lawyer and the Lawyer agrees to act for the Client for a period of twelve (12) months from the date of this Agreement on the terms as set out under the heading "The Debt Collection Package Terms".
2. The parties hereby agree that the Lawyer shall be entitled to be paid fees for work done by the Lawyer fixed in accordance with the terms set out the heading "The Debt Collection Package Terms".
3. (a) The Client acknowledges that the Lawyer may require from time to time monies on account of costs to be held in trust by the Lawyer and agrees to make payment of such monies within seven (7) days of being so requested. Should the Lawyer not receive these funds, the Lawyer may not be able to carry out further work for the Client. The Lawyer is able to receive funds by electronic transfer. The Lawyer's bank account details are:  
  
Account Name: Mossensons Law Practice Trust Account  
Bank: National Australia Bank  
BSB No: 086 006  
Account No: 719 830 881  
  
(b) The Client agrees that the Lawyer shall be entitled to deliver interim accounts on any matter and the Client shall make payment within seven (7) days of the date of the interim account.  
  
(c) The Client agrees that all quoted prices are exclusive of GST and are subject to change.
4. The date of this Agreement shall be the date of receipt by the Lawyer the Retainer Fee as advised in writing by the Lawyer to the Client.
5. In the event of the matter becoming a defended action as defined by the Lawyer then the Lawyer's normal fees shall apply, which are different to the fees charged when the matter is not defended.

### DEBT COLLECTION PACKAGE TERMS

1. The term "Scale" refers to the scale of costs from time to time applicable to the Jurisdiction in which work being done by the Lawyer is carried out. In the event of there being no scale applicable to the work carried out by the Lawyer, then the Scale shall be the roles set out in Legal Profession (Solicitors Costs) Determination 2021, as amended.

2. The fees charged for the work, shall be the amount that has been specified for the item of work in the Schedule of Fees ("Schedule"), annexed hereto, and in the event of the item of work not being specified in the "Schedule", then in accordance with the Scale.
3. The "Schedule" shall be applicable only if:
  - (a) the Retainer Fee has been paid immediately upon execution of the retainer;
  - (b) all accounts are paid within 7 days of the date of the account.

The "Schedule" does not apply to:

- (a) any legal fees or costs or part thereof incurred by the Client which the Client may be entitled to reimbursement from a third party, whether by Order of the Court or by agreement between the Client and third party, or any legal fees to be paid by the Client to any third party pursuant to any Order of a Court or agreement between the Client and third party;
  - (b) Disbursements, GST or out of pocket expenses;
  - (c) Counsel fees or witness fees.
4. This Package:
  - (a) applies only to the party which has entered into the Retainer with the Lawyer;
  - (b) does not apply to Legal Aid matters;
  - (c) applies to Debt Collection matters only and not to individual and private matters. The Lawyer reserves the right to decide whether the instruction falls within the Debt Collection Package.
5. The Lawyer reserves the right to refuse to accept any new instruction, if in the opinion of the Lawyer it would be unlawful or otherwise unprofessional or improper for him to act in the matter.
6. The Lawyer may terminate the retainer and stop acting for the Client if:
  - (a) the Client does not comply with the terms of the retainer including the payment of any account by the due date;
  - (b) the Lawyer forms the opinion on reasonable grounds that the mutual confidence and trust does not exist between the Lawyer and the Client;
  - (c) the Lawyer considers on reasonable grounds that continuing to act for the Client may breach professional conduct rules;
  - (d) the Client does not provide the Lawyer with instructions within a reasonable period of time of being so requested.
7. It is agreed that the retainer is not transferable by the Client to any party without the written concurrence of the Lawyer.
8. The Client acknowledges that it is responsible for the Lawyer's fees, even though there may be an obligation by agreement, Court Order, or otherwise for some third party to meet the Lawyer's fees.
9. The Client acknowledges that the Lawyer shall be entitled to use servants, agents and subcontractors to carry out all or any part of any matter for the client.

10. The Lawyer may use any money received by the Lawyer on the Client's behalf, either by way of money on account, or received from a debtor or otherwise to pay any unpaid account sent to the Client, or to reimburse the Lawyer for any expenses incurred on the Client's behalf, even if the monies received on the Client's behalf have been deposited into the Lawyer's trust account.
11. Any disbursement shall be charged at the amount being the higher of the cost to the Lawyer or as permitted under the scale.
12. The Lawyer sets out below the basis upon which the Lawyer acts for you and your rights pursuant to the *Legal Profession Uniform Law Application Act 2022* ("The Act"):
  - a. Scope of Work
    - i. The Lawyer undertakes the recovery of monies on various matters as instructed by you in conformity of our Debt Collection Package.
    - ii. All work that the Lawyer thinks may be reasonably incidental and ancillary to the scope of work.
    - iii. All work that the Lawyer thinks may be reasonably needed to be done to ensure that your interests are maintained and protected in the matter and which are required of us pursuant to our professional obligations and/or ethics.
  - b. Basis of Calculation of Fees
    - i. The Lawyer charges for the time spent on a matter by each member of our staff, which includes principals, senior lawyers, articled clerks, law clerks and administrative staff.
    - ii. The Lawyer's fees will be charged to you at the rate set out in "Schedule". Each hour is divided into ten (10) 6-minute units. The Lawyer will charge you our time, calculated to the next whole unit. In the event of the matter being defended, then the lawyer will advise the Lawyer's usual fees for matters of this type.
    - iii. The minimum charge is one (1) unit even if the actual time spent is less.
    - iv. The Lawyer shall be entitled to alter our fees upon giving you notice in writing of the change in fees.
    - v. You acknowledge that the GST is payable in respect of each taxable supply made under this Agreement and that all charges, inclusive of disbursements as shown in this Agreement, are exclusive of GST.

### 13. Our Costs Estimate

- (a) Based on the scope of work as identified above, an estimate cannot be calculated with accuracy. A large number of factors including, but not limited to, the attitude of the debtor to your debt, the debtor's conduct, the debtor's availability and assets which may affect the costs to you, and what steps you wish to take.

Once a course of conduct has been determined, an estimate of costs can be given.

- (b) As your matter is a litigious one, we advise:
- i. the range of costs that you might be able to recover from the other side if you are successful. This cannot be calculated with accuracy but is in the range of between one-third to two-thirds of our estimate of total legal costs;
  - ii. the range of costs that you may have to pay to the other side if you are unsuccessful. This cannot be calculated with accuracy but is in the range of between one-third to two-thirds of our estimate of total legal costs.
- (c) Any estimate of fees that may be given are an estimate only, and not a fixed quote, and may vary due to the nature of the legal process, or as a result of the conduct of the other party during the course of the matter, or as a result of other issues becoming relevant, or other reasons. We will advise you should there be a variation in the estimate of costs if the variation is more than \$3,000.00, we will provide you with a full disclosure of costs in writing.
- (d) In this instance, it is not possible at this point to provide an estimate of our costs. Where this is the case, we shall provide an estimate as soon as we are able to do so.

#### 14. Offer

Pursuant to the Act, we are required to make it clear to you that the Lawyer is making an offer to you to enter into a Costs Agreement with us, for us to provide the legal services on the terms set out in this brochure.

You are able to accept this offer by:

- (a) signing a copy of the Retainer Acceptance Form and returning it to us by post, facsimile transmission or email transmission;
- (b) providing us with instructions in writing, whether by email, facsimile or post, giving us instructions or requesting us to proceed further with the matter;
- (c) paying the Retainer fee;
- (d) instructing us by way of telephone or meeting with us, requesting us to proceed further with the matter; or
- (e) in any way by your conduct, indicating that you accept this offer.

#### 15. Your Rights

Pursuant to Section 174 of the Act, the Lawyer is required to make you aware of your rights concerning legal costs. You are able to obtain additional information concerning your rights on the website at [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au). Pursuant to sections 174(1) and (2) of the Act, we are required to disclose the following to you:

- (a) Fees
  - i. Our fees will be charged to you in the manner and at the rate set out in "Schedule".

- ii. You have the right to:
- negotiate a costs agreement;
  - negotiate the method of billing (e.g. task based or time based);
  - receive a bill of costs from us;
  - request and receive an itemised bill within 30 days after a lump sum bill or partially itemised bill is payable (sections 187(1) and (2) of the Act);
  - request written reports about the progress of your matter and the costs incurred in your matter (at no cost to you);
  - apply for costs to be assessed within 12 months if you are unhappy with our costs;
  - apply for our Agreement for costs with you to be set aside;
  - seek the assistance of the designated local regulatory authority in the event of a dispute about legal costs;
  - be notified as soon as is reasonably practicable of any significant change to any matter affecting costs;
  - accept or reject any offer we make for any interstate costs law to apply to your matter;
  - notify us that you require interstate costs law, to apply to your matter; and
  - apply to the Supreme Court to have a costs agreement declared void. The Court will declare the costs to be void if the Court is satisfied that the costs agreement contravenes or is entered into in contravention of any provision of Division 4 Part 4.3 or the disclosure obligations in Part 4.3 of the Legal Profession Uniform Law.

(b) Legal Costs - Your Right to Know

For more information about your rights, please read the facts sheet titled "Legal Costs – Your Right to Know". You can ask us for a copy, or obtain it from the Legal Practice Board (or download it from the website of the Legal Practice Board or Law Society of Western Australia).

(c) Change in Matters - Section 174(7)

We advise that we will disclose to you any substantial change to anything included in the disclosure already made to you under this Agreement, as soon as it is reasonably practicable after we become aware of that change.

(d) Estimate of Legal Costs - Section 174(1)

- i. Non Defended Matters - All work conducted on non-defended matters will be charged under the "Schedule". At each stage of the matter,

General Procedures Claim, Entry of Judgement and Enforcement, you will be advised of the anticipated cost of each.

- ii. Defended Matters - If a matter becomes defended, you will be advised of an estimate of fees relating to the matter, and of the appropriate lawyers hourly rate which will apply.

(e) Discussion of Costs

If you wish to discuss the legal costs at any stage during the course of your matter, you should do so by contacting your Recoveries Officer, who has the day to day conduct of your matter, by telephone or in writing. Should you wish to discuss any invoice that you may have received from us or have an invoice query, you can discuss this by contacting Mrs Genny Conduit on 08 9378 9691, or by contacting your Recoveries Officer, who has the day to day conduct of the matter, by telephone or in writing. Our postal address is 288 Hay Street, East Perth WA 6004. Our email address is [reception@mossensons.com.au](mailto:reception@mossensons.com.au)

(f) Billing Period

We will issue a tax invoice to you on a fortnightly basis, or upon completion of the matter. All tax invoices are due and payable 7 days from the date of the tax invoice. You consent to us sending our tax invoices to you electronically at your usual email address as specified by you.

(g) Rate of Interest – Rule 75 of the Legal Profession Uniform General Rules 2015

The rate of interest that will be charged on any unpaid legal costs after the expiry of 7 days after a tax invoice is given to you, shall be the rate that is equal to the cash rate target (the percentage specified by the Reserve Bank of Australia as the cash rate target at the date that the bill was issued by us) plus an amount of 2 percentage points.

(h) Recovery of Costs

- i. We advise that if you succeed in your matter and receive an order from a Court for the payment of costs in your favour, the recovered costs may not necessarily cover the whole of your legal costs.
- ii. We also point out that disbursements may be payable by you even if you enter into a conditional agreement for costs with us.
- iii. Section 194 of the Act provides that we cannot take action for recovery of legal costs until 30 days after a tax invoice (which complies with the Uniform Law) has been given to you.

(i) Jurisdiction

- i. The law of Western Australia applies to all legal costs in relation to the matter.
- ii. The parties agree to submit to the exclusive jurisdiction of any competent Court in Western Australia.

## SCHEDULE OF FEES

Letters of Demand	\$50.00
Letters to Court, Bailiff, Debtor or Third Party	\$20.00 per page
Telephone calls with Client, Court, Bailiff, Debtor or Third Party	\$12.00 per 6 minute or part thereof
Client Correspondence	
• Half Page	\$12.50
• Full Page	\$25.00
Perusal of Documents	\$10.00 per page
Titles Searches	\$40.00 + disbursements
Company Searches	\$40.00 + disbursements
Business Searches	\$40.00 + disbursements
Credit Reports	\$60.00 + disbursements
Court Documents	as per The Scale
Other Matters Not Mentioned	as per The Scale
All fees and charges are exclusive of GST.	
Contact Mossensons' office, or view our website, for a current copy of The Scale.	

No commissions or fees based on percentage of recovered amounts will be charged.

Where applicable, fees are recovered from the defendants and are calculated at the recoverable rates permissible under the Scale.

In the General Division of the Magistrates Court, if a debt is less than \$10,000, you are normally not able to recover your Lawyer's costs.

If a debt is over \$10,000, you may be able to recover such of your Lawyer's costs as permitted by the Scale.