



Irish Bentley
L A W Y E R S

RETAINER AGREEMENT

BETWEEN

ZEKE DAVID BENTLEY TRADING AS IRISH BENTLEY LAWYERS
(the "Migration Agent")

AND

CLIENT
("Client")

WARNING!

This agreement sets out the terms of the arrangement between you and the Migration Agent.

You should ensure that you understand the agreement before signing the Standard Acknowledgment agreement.

You are both entitled and encouraged to seek independent legal advice about the agreement before entering into the Agreement.

The Queensland Law Society may be able to assist or to provide you with information to ensure that you understand the Solicitor/Client relationship and this agreement fully.

This agreement is prepared pursuant to Section 48 of the *Queensland Law Society Act 1952* (Qld), which requires that the Migration Agent make a written agreement with the Client expressed in clear, plain language and specifying the work that the Migration Agent is to perform and the fees and costs payable by the Client for this work.

IMPORTANT INFORMATION

We are prohibited by law from acting for you until this agreement is signed and returned to us. Whilst we are pleased to answer questions about the agreement we cannot advise you upon the contents and merits due to the conflict that would arise between your interests and ours.

There are no previous versions of this document as this Agreement is a living document, meaning that this document is simply updated, as and when necessary. It is the Client's responsibility to regularly review the agreement and note whether it has been updated.

By signing the Standard Acknowledgment agreement, you acknowledge that you have read and understood this agreement.

You may also seek independent legal advice about the agreement. To protect your interests you should obtain this advice **BEFORE** signing the document.

This Agreement is a living document.

Release Date 08 March 2006

Previous Updates 08 March 2006

Preamble

- A. At all material times, the Migration Agent is in the business of providing legal services;
- B. The Client requests that the Migration Agent supply legal services to the Client for reward;
- C. Pursuant to the request(s) of the Client, the Migration Agent agree to provide legal services to the Client for reward;
- D. The parties have agreed to record and be bound by the Agreement between the Migration Agent and the Client.

Terms of the Agreement

- 1. Definitions
 - (a) "Migration Agent" means Zeke David Bentley trading as Irish Bentley Lawyers;
 - (b) "Authorised Representatives" refer to, Jin Poh, Scott Taylor, Tracey Price, Danielle Bentley, Lena Bentley, Carmen Kochanek, Jean Choules, Julie Nielson, Tiana Di Zane and other persons or corporations nominated by the Migration Agent from time to time;
 - (c) "Agreement" refers to the Standard Acknowledgement Agreement ("SAA") and this Retainer Agreement ("RA"), which constitute the entire agreement between the Migration Agent/Firm and the Client;
 - (d) "RA" or Retainer Agreement refers to this document which is the Agreement between the Migration Agent and the Client;
 - (e) "SAA" or Standard Acknowledgement Agreement forms part of the Agreement;
 - (f) "Client" refers to person(s), corporation(s), or business(es) referred to in **Item 1** of the SAA;
 - (g) "DIMIA" refers to the Department of Immigration, Multicultural, and indigenous Affairs;
 - (h) "Application" refers to the type of visa application(s) the Client instructs the Migration Agent to lodge with DIMIA as defined in **Item 2** of the SAA;
 - (i) "Work" refers to services provided or to be provided by the Migration Agent, and/or the Authorised Representatives at the Client's request of and incidental to the Application. Generally and subject to the information and instructions provided by the Client, the Migration Agent or his Authorised Representatives will perform the following work:
 - (i) All usual legal work associated with the Client's migration application including but not limited to:
 - (ii) Drawing, filing and/or lodging necessary migration documents for the Visa Application.
 - (iii) All correspondence and telephone attendances with necessary authorities.
 - (iv) All necessary conferences
 - (v) Lodgement of application with DIMIA or the nearest Australian Embassy.

These are the Client's instructions as understood by the Migration Agent. The Client should immediately contact the Migration Agent if these instructions have been misunderstood.

- (j) "Fee Limit" refers the amount identified **Item 3** of the SAA which is inclusive of the professional fees charged by the Migration Agent for the Work, couriers, postage, telephone and facsimile outlays;
- (k) "GST" or the Goods and Services Tax bears the meaning ascribed to it in the A New Tax System (Goods and Services Act) 1999 (Commonwealth) as amended or replaced;
- (l) "Deposit" means 50% of the Fee Limit;
- (m) "Disbursements" means additional outlays which are not included in the Fee Limit amount and are payable by the Client such as:
 - (i) All costs and fees payable to DIMIA (which will vary depending on the visa class);
 - (ii) All costs of the compulsory medical examination and x-ray;
 - (iii) All costs of Federal Police Checks in Australia and Police Clearance certificate from the Client's country of origin;
 - (iv) All costs associated with the translation of documents to English;
 - (v) All costs associated with assessment of Client's qualifications;
 - (vi) All costs associated with English Language Proficiency Assessments i.e. IELTS test;
 - (vii) All costs associated with any work which is carried out which is not specifically set out in the Agreement;
 - (viii) All costs associated with any appeals or reviews that are necessary;
 - (ix) The Goods and Services Tax ("GST"); and
 - (x) All costs not specified in the Agreement.
- (n) "Time Estimate" refers to the official processing time estimates provided by DIMIA for the processing of the type of the visa application by the Client;
- (o) "Refund Policy" means in the event that the Application is unsuccessful, the Migration Agent will refund a percentage (between 10% to 100%) of the Fee Limit to the Client, unless:
 - (i) The Client failed to meet the health criteria or obtain police clearance; or
 - (ii) The Client provides false or misleading information; or
 - (iii) The Client failed to obtain certification of his/her qualifications with the relevant Australian authority, in the event that such certification forms part of the Client's Application requirements; or
 - (iv) The Client failed to meet English requirements; or
 - (v) The Client withdraws his/her/its instructions after the processing of the Application has commenced; or
 - (vi) Where the outcome is based on factors not known at the outset of the Application arising, included but not limited to legislation changes; or
 - (vii) The Agreement is terminated; or
 - (viii) The Client refuses to appeal or review any decision of a unsuccessful Application where the Migration Agent recommends this; or

- (ix) The Client does not satisfy the Client's Duties as set out herein.

2. Interpretation

- (a) Unless a contrary intention appears, the following applies to the Agreement:
 - (i) The singular shall include the plural and vice versa;
 - (ii) Words of any gender or referring to any gender (including the neuter gender) shall include all other genders;
 - (iii) Any reference to a person includes an incorporated company and any other body corporate, partnership, association or other body of persons or body politic;
 - (iv) Headings are for ease of reference only and do not affect the interpretation of this deed;
 - (v) All prices contained in the Agreement refers to Australian currency unless otherwise stipulated;
 - (vi) 'including' and similar are not words of limitation;
 - (vii) a party that is a trustee is bound both personally and in its capacity as a trustee; and
 - (viii) if an obligation is imposed on two or more parties, each party is liable for the obligation individually and together with each other person.

3. About this Agreement

- (a) The Client is advised to seek independent professional legal, accounting or business advice prior to entering into the Agreement;
- (b) A hardcopy of this Retainer Agreement is always provided on request and is also available to the public for inspection on Irish Bentley Lawyer's website, www.ihblaw.com (the "Irish Bentley Website");
- (c) Nothing in this Agreement or any circumstances associated with it or its performance gives rise to any relationship of a legal partnership, employer and employee, principal, agent or exclusivity between the Client and the Migration Agent, and neither party may represent that any such relationship exists;
- (d) There are no previous versions of this Retainer Agreement as this Retainer Agreement is a living document. This document is simply updated, as and when necessary;
- (e) This Retainer Agreement is current as of the date shown on the top of this RA; and
- (f) In the event that paragraph 3 (d) herein is held to be unenforceable by the law of the State of Queensland, then the said paragraph shall be removed from the Agreement and replaced with the following clause:

"The Client agrees to be bound by the terms of the Retainer Agreement in the terms as they appear on the Irish Bentley Website current as at the date the Client signs the SAA."

4. The Firm's/Migration Agent's Obligations to the Client

The Migration Agent and/or his Authorised Representatives are obligated to:

- (a) Perform the Work specified in accordance with the Client's instructions and the information that the Client gives, to a proper and professional standard.
 - (b) Ensure that, in so far as is reasonable, the Migration Agent and/or his Authorised Representatives will keep the Client informed about the progress of the Client's matter noting that each update costs the Client money, so the appropriate balance between providing information and progressing the matter will vary from situation to situation.
 - (c) Endeavour to provide the most "up to date" Time Estimates, upon written request by the Client.
 - (d) Strive to adhere at all times with the Migration Agents Registration Authority ("MARA") Code of Conduct. A copy of the Code of Conduct may be downloaded from <http://www.themara.com.au/ArticleDocuments/Code%20of%20Conduct.pdf>. Subsequent to this policy, the Migration Agent would also encourage the Client to read the MARA Information on the Regulation of the Migration Advice Profession booklet (<http://www.themara.com.au/ArticleDocuments/migration%20advice%20profession%20booklet.pdf>) should the Client require any further information.
 - (e) Keep the Client's information confidential unless compelled by law or in the nature of the transaction to disclose it. The Migration Agent will not, ever, give your information to an outside marketing body. The Migration Agent may, however, send the Client information later that the Migration Agent thinks may be of interest to the Client. Please let the Migration Agent know if the Client does not want this to happen.
5. The Client's Duties to the Migration Agent and/or his Authorised Representatives
- (a) The Client will ensure that all instructions provided to the Migration Agent and/or his Authorised Representatives are accurate, correct and true;
 - (b) The Client will make reasonable efforts to be available to give the Migration Agent, or his Authorised Representatives instructions in relation to the Work to be carried out;
 - (c) When the Client anticipates being absent from its residence or business during a time when instructions will need to be given to the Migration Agent, or his Authorised Representatives, the Client will make arrangements to enable contact between them; and
 - (d) To pay all Fees and Disbursements as requested and on time.
6. When to Pay the Migration Agent
- (a) The Migration Agent confirms, that based upon initial instructions received from the Client, the Migration Agent will limit his professional fees (excluding Disbursements) to the amount of the Fee Limit;
 - (b) The Client agrees to pay the Migration Agent a Deposit equal to 50% of the Fee Limit upon the receipt of the Client's instructions by the Migration Agent to proceed with the Client's application;
 - (c) The Client agrees to pay the Migration Agent any Disbursements as may be requested by the Migration Agent and/or his Authorised Representatives from time to time within seven (7) days of the said request;
 - (d) The Client agrees to pay the remainder of Fee Limit and any required Disbursements prior to

lodgement of the visa application with DIMIA or the nearest Australian Embassy;

- (e) Subject to the Refund Policy, the Application is not successful, then Irish Bentley Lawyers may refund part or all of the Fee Limit paid by the Client;
- (f) The Client agrees and understands that the Migration Agent will not start Work upon on the Client's Application, or monitor the Client's matter to warn of potential problems until all monies requested are paid;
- (g) The Client agrees that the Migration Agent and/or his Authorised Representatives are not responsible or liable for adverse changes in the Client's legal position that arise before the Client makes payments or other arrangements (such as signing the SAA) as required under this Agreement.

7. Change of Migration Agent

- (a) The Client may change Migration Agent at any time;
- (b) The Client must give the Migration Agent notice of the change to a new migration agent;
- (c) The Migration Agent may charge the Client for fees and costs incurred up to the time when the notice of change is given by the Client;
- (d) The Migration Agent may retain the Client's file until all fees and costs (including but not limited to the Fee Limit and/or any Disbursements) are paid.

8. Amendment to the Agreement

- (a) Any amendments to this Agreement must be made in writing and authorised and signed by both the Migration Agent (or his Authorised Representatives) and the Client.

9. Termination of this Agreement

- (a) The Client may terminate this Agreement and withdraw its instructions at any time and for any reason;
- (b) The Migration Agent may terminate this Agreement and cease to act for the Client for lawful cause or if the Client:
 - (i) Breaches the terms of the Agreement; or
 - (ii) Requires the Migration Agent or his Authorised Representatives to act unlawfully or unethically; or
 - (iii) Fails to give the Migration Agent or his Authorised Representatives adequate instructions; or
 - (iv) Indicates that the Client has lost confidence in the Migration Agent or his Authorised Representatives; or
 - (v) Fails to pay for any accounts as required herein or to provide money to be paid into trust as may be required; or
 - (vi) Refuses to Appeal or Review any decision where the Migration Agent recommends this; or
 - (vii) Loses legal capacity or becomes bankrupt or insolvent; or
 - (viii) Fails to fulfil the Client's Duties as set out in clause 4 herein.

- (c) The Migration Agent will give to the Client reasonable notice of its intention to terminate this Agreement;
- (d) If this Agreement is terminated by the Migration Agent or by the Client then any refund policy is voided and the Migration Agent is entitled to all outstanding fees and costs and will be entitled to retain possession of the Client's file until those fees and costs have been paid.
- (e) Furthermore, the Migration Agent may notify DIMIA in the event that the Client refuses to pay fees or any outlays owing to the Migration Agent.

10. Qualified Advice

- (a) From time to time the advice given by the Migration Agent to the Client will be based on assumptions or qualifications or both and those assumptions or qualifications will be set out in the advice.
- (b) The Migration Agent's advice is conditional upon any of those assumptions in circumstances where further information or events make any part of the Migration Agent's advice incorrect or where the advice is based on information provided by or through the Client which is not correct.

11. Acknowledgement

- (a) The Client has been informed that he/she/it should seek independent advice in relation to this Agreement.
- (b) The Client has read, understands and agrees to be bound by the terms of the Agreement. The Client agrees that the Migration Agent is entitled to payment of its fees upon the Client paying same.

12. Jurisdiction of Proper Law

- (a) This Agreement shall be governed by and construed in accordance with the law of the State of Queensland, Australia;
- (b) Each of the parties submits to the exclusive jurisdiction of the courts of the State of Queensland, including all relevant courts of appeal.

13. Time of the Essence

- (a) Time is of the essence with this Agreement.

SCHEDULE A

IMPORTANT NOTICE TO CLIENT

To: CLIENT

Pursuant to **Section 48(4)** *Queensland Law Society Act 1952*

1. Who to contact if there are problems

(a) You may contact the Queensland Law Society if you have a complaint about the fees and costs charged or the work performed by your solicitor or firm.

(b) Here are the phone number and postal address of the Queensland Law Society:

Phone:

(07) 3842 5888

Postal Address:

GPO Box 1785 BRISBANE QLD 4001

2. Client able to negotiate agreement and get legal advice

(a) You have the right to negotiate this client agreement with your solicitor and firm before you sign it.

(b) You may obtain independent legal advice before signing this client agreement.

3. Client able to change solicitor or firm

(a) You may change solicitor or firm at any time even if this client agreement says otherwise.

(b) If you change solicitor or firm, it is important for you to give your original solicitor or firm notice of the change as your original solicitor or firm may charge and recover fees and costs from you for work done before notice is given.

(c) Your original solicitor or firm may keep your file until you pay all fees and costs or reach an agreement about paying them.

4. Agreement about who will do legal work

(a) This client agreement must state the names and status (for example, partner/associate/employed solicitor/articled clerk/paralegal/consultant) of the people who will do the legal work for you.

5. Agreement about fees and costs payable for work

(a) This client agreement is the basis for determining how much you pay for the work done by your solicitor or firm.

(b) A client agreement may set a lump sum amount for fees and costs.

(c) Otherwise, the client agreement must state the basis on which fees and costs will be calculated (whether or not including a lump sum) and give either –

(i) an estimate of the total amount of fees and costs likely to be payable for the work; or

(ii) if it is not reasonably practicable to estimate the total amount of fees and costs likely to be payable for the work – a range of estimates of the total amount of fees and costs likely to be

payable for the work and an explanation of the significant variables that will affect the calculation of the amount.

- (d) However, your solicitor or firm is not bound by the estimate or range of estimates given in this client agreement.
- (e) Extraordinary items of work not normally done for similar work must be expressly approved by you even if this client agreement says otherwise.
- (f) Clause 13 has no application if this client agreement sets a lump sum amount only for fees and costs.

6. Agreement about type and frequency of accounts

- (a) An account from your solicitor or firm must be in a form agreed to in this client agreement or must clearly set out all items of work done for you and the amount charged for each item.
- (b) If a form of account is agreed to, it must be a form resulting in the inclusion in each account of sufficient details of the work done to allow you to decide whether the fees and costs in the account are reasonable.
- (c) This client agreement should state the intervals for giving you accounts.

7. Advice if work includes litigation

- (a) If the work involves or is likely to involve litigation, this client agreement must include an explanation and estimate of the range of costs you may recover from another party if you are successful or you may be required to pay the other party if you are not successful.
- (b) Also, if your solicitor agrees to do the work on a speculative basis, this client agreement must include the terms and conditions on which fees and costs become payable by you.

8. Agreement may be amended

- (a) This agreement may be amended if you and your solicitor or firm agree to the changes in writing.
- (b) You may formally challenge the amount of an account by applying to the Solicitors Complaints Tribunal for the appointment of a costs assessor to assess the amount.
- (c) If you do this, you can not subsequently challenge the validity or enforceability of this client agreement.
- (d) This means that before applying for the appointment of a costs assessor, you should consider, and, if necessary obtain advice about, whether there are grounds for challenging the validity or enforceability of this agreement.

9. When client may be sued for outstanding fees or costs

- (a) Generally, before your solicitor or firm may sue you for outstanding fees or costs, more than one month must have passed from the time you were given the account.
- (b) However, your solicitor or firm may ask the court for permission to sue before that time.

10. Can a client be sued for outstanding fees or costs if the client has applied to the Solicitors Complaint Tribunal for an assessment?

- (a) Generally, your solicitor or firm may not sue you for an outstanding account if you have applied to the Solicitors Complaints Tribunal for the appointment of a costs assessor to assess the account and the assessment has not concluded.
- (b) However, your solicitor or firm may ask the court for permission to sue.

11. **Other remedies**

- (a) You may have other remedies against your solicitor or firm concerning this agreement or the work done under it.
- (b) You may obtain independent legal advice about the remedies available.



Irish Bentley
LAWYERS

PRINCIPAL: ZEKE D. BENTLEY
 ASSOCIATE: SCOTT D. TAYLOR
 SOLICITORS: TRACEY PRICE
 CHRISTOPHER B. WILSON
 LOUISA CHUNG
 SIAN JIN POH (JIN)
 CONSULTANTS: ALAN C. IRISH

SCHEDULE C

Tax Invoice
 ABN 94 424 073 123

March 6, 2008

Invoice No: 01.2000
 Our Ref:
 Your Ref:

XXXXX
 XXXXXXXXXXXXXXXX
 XXXXXXXXXXXXXXXX

RE: XXXXXXXX

To our professional fees of attending to the conduct of this matter

Professional fees	
Our fee	\$100.00
+ GST (10%)	\$10.00
Outlays	
Filing fees	\$50.00
Sundries, postages and incidentals	\$10.00
Total Outlays	\$60.00
+ GST (10%)	\$6.00
Total fees and outlays	\$176.00
Less anticipated transfer from Trust	\$ 150.00
Total outstanding	\$26.99

With Compliments
Irish Bentley Lawyers

THIS IS A SAMPLE ONLY. NO PAYMENT IS REQUESTED

Trading Terms: Strictly 7 days.

Notice

If you wish to query this account, please do not hesitate to contact the Solicitor acting.

You also have the right to demand an account in itemized form fully specifying each attendance undertaken. You may also refer the matter to the Solicitors Complaints Tribunal. Should you choose to do either of these things we reserve the right to withdraw this account and render a replacement detailing all items of work undertaken which may be a higher sum. We will also charge for the time incurred in preparing this later account. We reserve the right to charge further GST assessed upon this transaction not outlined in this account.

This invoice is issued pursuant to the terms and conditions agreed upon outlined in our retainer agreement.

SCHEDULE D

CHARGES FOR OUTLAYS AND SERVICES

1. CHARGES FOR COSTS AND OUTLAYS – GENERAL

- We will charge you for services provided by us or incurred by us in pursuing your matter.
- Unless indicated below we do not charge a “loading” (eg, if we pay \$20 for a taxi fare or parking we will not add a percentage to this unless otherwise permitted by this agreement).
- The professional, administrative or secretarial time spent making arrangements to access services is charged in the usual way.
- We will include hereto a percentage for Goods and Services Tax (GST) to all outlays as required from time to time.
- You will **USUALLY** be advised in advance of “extra ordinary” costs and outlays that we propose to incur.

“Extra ordinary” outlays are expenses which;

1. Are not factored into our estimate of outlays; or
 2. Which would not ordinarily be incurred in this kind of transaction;
- AND
3. are anticipated to be in excess of \$300.00.

An exception is where an emergency arises or we are unable to contact you. In such a case we will take such steps as we deem necessary to protect your interests in the circumstances.

2. COSTS THAT WE DO ADD A LOADING TO

Searches of external databases	at cost plus \$2.50/page. The cost varies according to the database used
Photocopying (internal)	\$1.40 per page.
Faxes: (to send)	
• Local faxes	\$3.00 per page
• S.T.D. Within Australia	\$4.00 per page
• Overseas	\$6.00 per page
E-mail transmissions	\$7.20
Couriers and Deliveries:	\$5.00/item
Brisbane CBD	Cost + \$2.00 per item handling charge
Gold and Sunshine Coasts	Cost + \$3.00 per item handling charge
3kg satchels	Cost + \$5.00 per item handling charge
5kg satchels	Cost + \$5.00 per item handling charge

Consignments over 5kg	Cost + \$10.00 per item handling charge
STD, ISD, Mobile and other non-local calls	Cost to us.
Service, delivery, lodgement or settlement agents	Cost to us + 50%

SCHEDULE E

PROFESSIONAL, PARALEGAL AND SECRETARIAL FEES

Partner	\$360 Per Hour + GST
Associate	\$280 Per Hour + GST
Consultant	\$250 Per Hour + GST
Intermediate Solicitor	\$250 Per Hour + GST
Junior Solicitor	\$220 Per Hour + GST
Trainee Solicitor	\$180 Per Hour + GST
Paralegal	\$135 Per Hour + GST
Secretarial	\$120 Per Hour + GST

An additional charge for "care and consideration" may be made as a percentage of professional fees not exceeding 30% at our discretion.

This additional charge will usually be assessed by us at the higher end of the permitted rate where the transaction has been unusually difficult or complicated, or you ask for urgent attendance.

We reserve the right to increase our basic charging rates:

- (a) At least once per year;
- (b) By an amount not exceeding 10% at any time;

Fee increases are not effective until you are notified of them, and do not apply to work performed before notice is sent.

If we terminate this agreement we may agree to re-enter into a new agreement with you at a higher rate to compensate for additional risk. If this is the case, this is not an increase under the agreement but a replacement agreement. Naturally, you are free to refuse to enter into such further agreement.