

# Macquarie Law

Accredited Specialist Business Law



## Standard costs disclosure

(Annexure to estimate of costs)

This document discloses information about the costs of my/our legal services, and your rights, as required by the *Legal Profession Uniform Law* (NSW) ("the Uniform Law").

### 1. GST

All rates, charges and disbursements in this document are GST inclusive unless otherwise stated.

### 2. Costs – how calculated

#### 2.1 Professional fees

I/We will charge you professional fees for the work I/we do as follows:-

2.1.1 an hourly rate of:	\$385.00 for a partner	\$275.00 for a senior solicitor
2.1.2 an hourly rate of:	\$165.00 for a para-legal	\$99.00 for a clerk

These rates will be proportionately charged for work involving shorter periods less than an hour. My/our charges are structured in 6 minutes units. For example, the time charged for an attendance of up to 6 minutes will be 1 unit and the time charged for an attendance between 6 and 12 minutes will be 2 units. Our professional fees may be reviewed each year and may be varied.

#### 2.2 Charges

I/We will charge you for services I/we use or supply. My/Our rates are:-

2.2.1 Copying/scanning (B&W):	\$0.55 per page	faxes:	\$1.10 per page
2.2.2 postage telephone SMS:	as incurred		

#### 2.3 Disbursements

I/We may incur disbursements (being money which I/we pay or are liable to pay) to others on your behalf. These may include search and enquiry fees. I/We will inform you of these expenses and disbursements, as well as any other payments required to be made, as soon as is reasonably practicable.

### 3. Estimate of costs

Attached to this document is estimate based on the information available to me/us to date. It is an estimate, not a quotation and is subject to change.

### 4. Billing arrangements

I/We will send you a bill of costs containing information of my/our professional fees and charges and disbursements either after completion of the work or monthly or at other times as agreed with you when the work is in progress.

### 5. Interest on unpaid costs

If my/our costs are not paid within 30 days of giving you my/our bill of costs, I/we may charge you interest on the unpaid amount, at or under the maximum rate prescribed in Rule 75 of the *Legal Profession Uniform General Rules* 2015 ("Uniform General Rules"), being the Cash Rate Target set by the Reserve Bank of Australia plus 2%. The rate varies so for details of the cash rates see the RBA's website at [www.rba.gov.au/statistics/cash-rate/](http://www.rba.gov.au/statistics/cash-rate/)

### 6. Dispute as to legal costs

In addition to the rights set out in the accompanying form you also have the right to have the costs mediated if the dispute is less than \$10,000. Referral for mediation must be made before an application for assessment is accepted by the Manager, Costs Assessment.

### 7. Persons responsible for your matter and legal costs

*Daniel Patrick O'Keefe* will be responsible for your matter and may be contacted regarding your matter and your legal costs. Other persons may assist the above named solicitor/s from time to time with the conduct of your matter. Please see my/our disclosed charge out rates.

### 8. Substantial changes to disclosure

You will be informed, as soon as is reasonably practicable, of any substantial changes to anything contained in this disclosure document.

### 9. Applicable law

The law of NSW applies to legal costs regarding this matter. However, see your rights in the accompanying form.

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## Costs agreement & general terms

(Annexure to costs disclosure)

This document together with my/our costs disclosure and general terms of business sets out the terms of my/our offer to provide legal services to you and constitutes my/our costs agreement and disclosure as required by the *Legal Profession Uniform Law (NSW)* (“the Uniform Law”).

### 1. Your work

The work you require me/us to do is as set out in the covering letter and estimate attached. The person responsible for your matter and legal costs is set out in the attached costs disclosure document. Other staff will also assist with your work. The agreement arising on the acceptance of this offer will apply to all work undertaken by me/us for you and will not be limited to any particular matter unless there is a further agreement between me/us.

The work I/we do for you will not include tax, financial or business advice. I/we will undertake legal due diligence but not financial or business due diligence for you. I/we will not advise you in relation to property zoning or the suitability of property for development. I/we will not exercise options for you unless specifically retained in writing to do that particular work for you.

### 2. Costs - how calculated and total estimates

The costs - how calculated, charges and disbursements are as set out in the attached costs disclosure document. I estimate that my charges for completing the work, will be as set out in the estimate attached. I will advise you of any additional work, charges and expenses beyond those listed.

Please note that this is an estimate only and not a fixed quote. The total costs may exceed the estimate. While the estimate is based on present information and instructions and my/our current understanding from you as to what services are required, my/our costs may exceed the estimate if further information becomes available or circumstances change which impact on these matters. In this event I/we will provide you with a revised estimate as soon as practicable.

Some of the variables, which may impact upon the cost estimate provided above include the following:-

- 2.1 the number and duration of telephone calls or other communications;
- 2.2 your prompt and efficient response to requests for information or instructions;
- 2.3 whether your instructions are varied;
- 2.4 whether documents have to be revised in light of varied instructions;
- 2.5 the lawyer or other persons with whom I/we deal and the level of co-operation of the lawyer's clients and other persons involved;
- 2.6 changes in the law; and
- 2.7 the complexity or uncertainty concerning legal issues affecting your matter.

### 3. General terms of business

#### 3.1 Billing arrangements

My/Our usual policy is to issue a tax invoice on a monthly basis but I/we may issue tax invoices on a more frequent basis depending on the nature of the work. All tax invoices are due and payable 14 days from the date of the tax invoice. You consent to us sending tax invoices to you electronically at your usual email address or mobile phone number if specified by you. I/we may ask for you to pay some costs and disbursements in advance e.g. stamp duty, application or filing fees.

#### 3.2 Acceptance of offer

You may accept the costs disclosure and costs agreement by: (a) signing and returning this document to me/us or (b) continuing to instruct me/us or (c) oral acceptance. Upon acceptance you agree to pay for my/our services on these terms. If not accepted within 7 days of posting I/we may withdraw my/our offer to act on your behalf.

If this document is signed it may be signed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument. These terms are binding even though there are not signed by all parties and they will also bind those parties who have accepted this offer but not signed this document.

### **3.3 Interest charges**

Interest at the maximum rate prescribed in Rule 75 of the *Legal Profession Uniform General Rules* 2015 (“Uniform General Rules”) (being the Cash Rate Target set by the Reserve Bank of Australia plus 2%) will be charged on any amounts unpaid after the expiry of 30 days after a tax invoice is given to you. My/Our tax invoices will specify the interest rate to be charged.

### **3.4 Recovery of costs**

The *Legal Profession Uniform Law* (“the Uniform Law”) provides that I/we cannot take action for recovery of legal costs until 30 days after a tax invoice (which complies with the Uniform Law) has been delivered to you.

### **3.5 Your rights**

It is your right to:-

- 3.5.1 negotiate a costs agreement with me/us;
- 3.5.2 negotiate the method of billing (e.g. task based or time based);
- 3.5.3 request and receive an itemised bill within 30 days after a lump sum bill or partially itemised bill is payable;
- 3.5.4 seek the assistance of the designated local regulatory authority (the NSW Commissioner) in the event of a dispute about legal costs;
- 3.5.5 be notified as soon as is reasonably practicable of any substantial change to any matter affecting costs;
- 3.5.6 accept or reject any offer I/we make for an interstate costs law to apply to your matter; and
- 3.5.7 notify me/us that you require an interstate costs law to apply to your matter.

I/We are entitled to charge you a reasonable amount for the provision of a progress report on your matter but may not charge for the provision of a written report on the legal costs incurred by you.

If you request an itemised bill and the total amount of the legal costs specified in it exceeds the amount previously specified in the lump sum bill for the same matter, the additional costs may be recovered by me/us only if:-

- 3.5.8 when the lump sum bill is given, I/we inform you in writing that the total amount of the legal costs specified in any itemised bill may be higher than the amount specified in the lump sum bill, and
- 3.5.9 the costs are determined to be payable after a costs assessment or after a binding determination under section 292 of the Uniform Law.

Nothing in these terms and conditions affects your rights under the Australian Consumer Law.

### **3.6 Your rights in relation to a dispute concerning costs**

If you have a dispute in relation to any aspect of my/our legal costs you have the following avenues of redress:-

- 3.6.1 in the first instance I/we encourage you to discuss your concerns with me/us so that any issue can be identified and I/we can have the opportunity of resolving the matter promptly and without it adversely impacting on my/our business relationship;
- 3.6.2 you may apply to the Manager, Costs Assessment located at the Supreme Court of NSW for an assessment of my/our costs. This application must be made within 12 months after the bill was provided or request for payment made or after the costs were paid.

### **3.7 Payment methods**

It is my/our policy that when acting for new clients, that I/we do one or more of the following: approve credit; ask the client to pay monies into my/our trust account; or ask the client for credit card details. Payments by credit card are subject to the addition of the merchant fees payable by me/us.

Unless otherwise agreed with you, I/we may determine not to incur fees or expenses in excess of the amount that I/we hold in trust on your behalf or for which credit is approved.

### **3.8 Authorisation to transfer money from trust account and statements of account**

You authorise me/us to receive directly into my/our trust account any judgment or settlement amount, or money received from any source in furtherance of your work, and to pay my/our professional fees, internal expenses and disbursements in accordance with the provisions of Rule 42 of the Uniform General Rules.

Unless you tell me/us otherwise, I will assume that you do not require me/us to send to you a trust statement upon the completion of the matter or periodic statements of the amount of money held in trust for you on 30 June each year as provided by the Uniform General Rules.

### **3.9 Retention and copying of your documents**

On completion of your work, or following termination (by either party) of my/our services, I/we will retain your documents for 7 years. Your (express or implied) agreement to these terms constitutes your authority for me/us to destroy the file 7 years after the date of my/our final tax invoice. The authority does not relate to any documents, which are deposited in safe custody, which will, subject to agreement, be retained on your behalf indefinitely. I/We are entitled to retain your documents while there is money owing to me/us for my/our costs.

On completion of your work or following termination (by either party) of my/our services you will be liable for the cost of retrieving documents in storage and also any photocopying charges I/we incur and my/our professional fees in connection with the provision of your file/s or parts of your file/s to you or as directed by you. You will be charged for photocopying should you require documents from me/us that I/we need to retain copies of for evidentiary purposes. If you would like our entire file, for instance, the time involved and photocopying required for my/our record keeping is likely to be extensive and you must pay these charges before the file is released to you.

The storage of your documents is for your convenience only and does not impose any further obligation on me/us. I/we are not obliged to remind you of any key date being a date, which you must do or stop doing something to protect your legal interests or rights.

A storage fee of up to \$150.00 plus GST may be charged following the completion of a matter.

Occasionally, during the provision of my/our services to you or after the work has been completed, audits, complaints, enquiries, investigations, litigation or proceedings may require further work to be done or services provided by me/us to comply with legal obligations to provide documents and information. You will be liable for the cost of providing the documents, information, disbursements and photocopying charges I/we incur and my/our professional fees in connection with the provision of these things.

### **3.10 Termination by me/us**

I/We may cease to act for you or refuse to perform further work, including:-

- 3.10.1 while any of my/our tax invoices remain unpaid;
- 3.10.2 if you do not within 7 days comply with any request to pay an amount in respect of disbursements or future costs;
- 3.10.3 if you fail to provide me/us with clear or timely instructions to enable me/us to advance your matter, for example, compromising my/our ability to comply with Court directions, orders or practice notes;
- 3.10.4 if you refuse to accept my/our advice;
- 3.10.5 if you indicate to me/us or I/we form the view that you have lost confidence in me/us;
- 3.10.6 if there are any ethical grounds, which I/we consider require me/us to cease acting for you, for example a conflict of interest;
- 3.10.7 for any other reason outside my/our control which has the effect of compromising my/our ability to perform the work required within the required timeframe;
- 3.10.8 if in my/our sole discretion I/we consider it is no longer appropriate to act for you; or
- 3.10.9 for just cause.

I/We will give you reasonable written notice of termination of my/our services. You will be required to pay my/our costs incurred up to the date of termination. After termination I/we will not be obliged to do anything further for you but if I/we do it will not affect the notice of termination.

### **3.11 Termination by you**

You may terminate my/our services by written notice at any time. However, if you do so you will be required to pay my/our costs incurred up to the date of termination (including if the matter is

litigious, any cancellation fees or other fees such as hearing allocation fees for which I/we remain responsible).

### **3.12 Lien**

Without affecting any lien to which I/we are otherwise entitled at law over funds, papers and other property of yours:-

3.12.1 I/we shall be entitled to retain by way of lien any funds, property or papers of yours, which are from time to time in my/our possession or control, until all costs, disbursements, interest and other moneys due to the firm have been paid; and

3.12.2 my/our lien will continue notwithstanding that I/we cease to act for you.

If your work relates to any interest in land you charge that interest with the payment of any money owing to me/us and this charge will give rise to a caveatable interest in land.

### **3.13 Privacy**

I/We are required and committed to protecting your personal information. I/We will collect personal information from you in the course of providing my/our legal services. I/We may also obtain personal information from third party searches, other investigations and sometimes from adverse parties.

I/We are required to collect the full name and address of my/our clients by Rule 93 of the Uniform General Rules. Accurate name and address information must also be collected in order to comply with the trust account record keeping requirements of Rule 47 of the Uniform General Rules and to comply with our duty to the courts.

Your personal information will only be used for the purposes for which it is collected or in accordance with the *Privacy Act 1988 (Cth)*, National Privacy Principles and the *Privacy Amendment (Private Sector) Act 2000 (Cth)*. For example, I/we may use your personal information to provide advice and recommendations that take into account your personal circumstances.

If you do not provide me/us with the full name and address information required by law I/we cannot act for you. If you do not provide me/us with the other personal information that I/we request my/our advice may be wrong for you or misleading.

Depending on the nature of your matter the types of bodies to whom I/we may disclose your personal information includes courts, the other party or parties to litigation, experts and barristers, the Office of State Revenue, PEXA Limited, the Land and Property Information Division of the Department of Lands, the Registrar General and third parties involved in the completion or processing of a transaction. Disclosure of such information may be compelled by law (e.g. under the *Social Security Act 1991 (Cth)*).

I/We do not disclose your information overseas unless your instructions involve dealing with parties located overseas. If your matter involves parties overseas I/we may disclose select personal information to overseas recipients associated with the matter in order to carry out your instructions.

I/We manage and protect your personal information in accordance with my/our privacy policy (which can be found on my/our firm website or a copy of which I/we shall provide at your request).

My/our privacy policy contains information about how you can access and correct the personal information I/we hold about you and how you can raise any concerns about my/our personal information handling practices. For more information, please contact me/us in writing.

### **3.14 Confidentiality**

At all times I/we will seek to maintain the confidentiality of your information. However, I/we may be permitted or required by law to disclose confidential information. I/We may also, on a confidential basis, provide your information to third parties where I/we consider it is appropriate for the proper conduct of your matter.

### **3.15 Sending material electronically**

I/We are able to send and receive documents electronically. However, as such transmission is not secure it may be copied, recorded, read or interfered with by third parties while in transit. If you ask me/us to transmit any document electronically, you release me/us from any claim you may have as a result of any unauthorised copying, recording, reading or interference with that document after transmission, for any delay or non-delivery of any document and for any damage caused to your system or any files by a transfer.

If you choose to send me/us email I/we do not accept liability as a consequence of me/us not receiving the email, not receiving it promptly, not viewing or acting on it promptly, I/we were not able to open or understand any of its content or attachments. If you send me/us email you must confirm with me/us that I/we have received it. In the text of the email you must identify any attachments to the email. I/we will not accept any communications by text message or SMS.

**3.16 Fraud warning**

There is a significant risk posed by cyber fraud, specifically relating to email and bank account details. My/our bank account details will never change during the course of a transaction and I/we will never change our bank details via email. Please check account details with me/us in person. This is whether you send me/us your bank account details or you receive an email from me/us with bank account details. I/we will not accept responsibility for the transfer money into an incorrect account.

**3.17 Goods and services tax (“GST”)**

Where applicable, GST is payable on my/our professional fees and expenses and will be clearly shown on my/our tax invoices. By accepting these terms you agree to pay me/us an amount equivalent to the GST imposed on these charges.

**3.18 Security for costs**

Before I/we commence work on your matter, we may require you to provide me/us with security for my/our legal costs and the payment of interest on unpaid legal costs. If you fail to provide security, I/we may refuse or cease to act for you.

**3.19 Work not included**

I/We am/are not qualified to give advice in relation to things such as: building, electrical or plumbing work, pests, contamination, town planning, valuations, commercial viability, investment or financial advice. For advice about these things you need to seek independent professional advice elsewhere.

**3.20 Severability**

If any of these terms is held to be invalid, illegal or unenforceable that term must, so far as is possible, be read down so as to give it a valid operation. If any term cannot be read down it will be deemed to be severable and the remaining terms will not be affected.

**3.21 Joint and several**

If you, as the client, consist of more than one party, such as, but not only, spouses, each of you has the authority of the other to give me/us instructions, which will then be binding on all of you. These terms will bind each of you individually and will bind each of your successors, permitted assigns and legal representatives.

**3.22 Notices**

Any notice to be given must be in writing and served by post, facsimile or hand delivery to the last known address of the party. You must notify me/us of any change of your address.

**3.23 Governing law**

The law of New South Wales governs these terms and legal costs in relation to any matter in which I/we are instructed to act.

Date:

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Client/s