

SAJEN LEGAL CLIENT AGREEMENT TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Sajen Accord, unless the context or subject matter otherwise require:

Address means a street, postal or email address specified in the Retainer Schedule, Scope of Work or such other Address as notified by the Client as its Notice Address from time to time;

Application means the written application made to Sajen legal, by the client or clients named therein, for this Sajen Accord, and if no Application is made, then the Client named in the Schedule or covering letter.

Australian Dollars or **\$** means the lawful currency of Australia;

Associated Person means:

- (a) in relation to a corporation:
 - (i) any director or member of the corporation; or
 - (ii) any related body corporate or any director or member of any related body corporate, or
 - (iii) any subsidiary of the corporation,

as these terms are defined in section 9 of the *Corporations Act* (C'th), and if the corporation is a trustee any beneficiary of that corporation.

- (b) in relation to a natural person, any spouse, or blood or adoption relative of that person or that person's spouse;

Authorised Representative means:

- (a) in respect of a party which is a corporation:
 - (i) a company secretary or director or any officer of the corporation whose title or office includes the words manager or director; or
 - (ii) a person acting with the title or in the office of manager or director; and
- (b) in respect of each party, a solicitor of that party or a person nominated by Notice to the other party as an authorised representative;

Bank Guarantee means an irrevocable and unconditional undertaking in favour of Sajen legal in a form approved by Sajen legal, issued by a bank approved by Sajen legal and lawfully carrying on business under the *Banking Act 1974* (C'th) to pay the Bank Guarantee amount to Sajen legal upon demand;

Business Day means a day, not being a Saturday, Sunday or gazetted public holiday, on which banks are open for commercial business at the Business Day Place and in the place or places where performance of a relevant Obligation is or is required to take place

Business Days place means Brisbane

Claim means, in relation to a person, a claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding, Right of action, claim for compensation or reimbursement or liability incurred by or to be made or recovered by or against the person, however arising and whether ascertained or unascertained, or immediate, future or contingent;

Client means the person, or persons, described as such in the Application but does not include any Associated Person or any person/entity of which the Client is an Authorised Representative unless the Schedule reflects otherwise;

Excluded Services means the matters referred to in clause 9;

Fee means the Fee payable by the Client to Sajen legal under the terms of this client agreement, calculated and payable in the manner described in the Schedule or Scope of Work, as adjusted or reviewed in accordance with this client agreement;

Fee Period means each separate period of the Term, the first of which commences on the first day of the Term, with each subsequent Fee Period commencing on each annual anniversary, and the expression includes any broken period between the end of the last complete Fee Period and the last day of the Term;

Government Authority means a local, State or Federal government, or a Minister or government department of any of those governments, a corporation or authority constituted for a public purpose, a holder of an office for a public purpose, and an agent or employee of any of them;

GST means a tax imposed under the GST Law;

GST Amount means an amount calculated by multiplying the consideration for a Taxable Supply by the GST rate, but in any event not more than the GST required to be paid in respect of that Taxable Supply;

GST Invoice means an invoice for the GST Amount, which must include all particulars required by the GST Law and any other information a party may reasonably require to enable it to obtain an input tax credit under the GST Law for the GST Amount;

GST Law has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (C'th) or if that Act does not exist for any reason, means any Act imposing or relating to a GST and any regulation made pursuant to it and includes, where the context permits, any ATO ruling or determination;

Guarantee and Indemnity means any guarantee and indemnity provided in connection with this Sajen Accord in favour of Sajen legal;

Guarantor means each person (if any) named as a Guarantor in the Retainer Schedule and or who has provided a Guarantee and Indemnity;

Interest Rate means the rate which is 2% per annum above the rate charged by Sajen legal's bank from time to time on secured overdrafts of \$100,000 or more, conclusive evidence of which (in the absence of a manifest error) is a Notice signed by a manager of Sajen legal's bank;

Maximum Possible Term means the term which expires on the date specified as such in the Retainer Schedule, being the maximum possible term of the Sajen Accord if the Client exercises all options granted under this Sajen Accord for the Option Periods;

Minimum Increase means the rate of 5%;

Notice means a written notice, consent, approval, direction, order or other communication;

Notice Address means, in respect of a party:

- (a) the Address or facsimile number specified as such in the Retainer Schedule; or
- (b) where a party gives Notice to all other parties of another Address or facsimile number, the last Address or facsimile number so notified;

Obligation means any expressed or implied legal, equitable, contractual, statutory or other obligation,

agreement, covenant, commitment, duty, undertaking or liability;

Option Period means each option period or periods (if any) commencing and terminating on the respective dates specified as such in the Retainer Schedule in respect of which a this Sajen Accord may be extended by Sajen legal to the Client;

Outgoings means the total cost of all outgoings costs and expenses of Sajen legal now or later properly assessed, charged or chargeable paid or payable or otherwise incurred upon or in respect of the Services or in the conduct, or management thereof and in particular but, without limitation, includes:

- (a) search fees and enquiry fees;
- (b) lodgement fees and registration fees;
- (c) lodging agents' fees and settlement agents' fees;
- (d) all government revenue charges (including, without limitation, transfer duty);
- (e) transaction specific banking charges;
- (f) court and other filing fees;
- (g) process servers and investigators;
- (h) witnesses' fees and expenses;
- (i) couriers and messengers;
- (j) transcripts charges;
- (k) accounting or experts' reports and/or other external consultants' fees;
- (l) other legal practitioners' fees (including, without limitation, barristers' fees);
- (m) travel expenses and accommodation costs; and
- (n) file archive retrieval fees.

Personal Information means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion;

Retainer Schedule or Schedule or Scope of Work means the details and descriptions of legal and related services specified and of the nature contained in

the Sajen Accord Retainer Schedule (or Scope of Work as the case may be), described as such and provided to the Client during the term of this Agreement and which form part of this Agreement;

Review Date means each date (if any) specified as such in the Retainer Schedule;

Right includes a legal, equitable, contractual, statutory or other right, power, authority, benefit, privilege, remedy, discretion or cause of action;

Sajen Accord or Agreement means the agreement between the Client and Sajen legal on these Terms and Conditions and includes any Retainer Schedule and Scope of Work;

Sajen legal means the incorporated legal practice trading under that name, its successors and assigns;

Services means the legal and or business services from time to time provided to the Client by Sajen legal within the scope of services identified in the Schedule or Scope of Work. To avoid any doubt, 'Services' does not include any legal services not specified in the Retainer Schedule or Scope of Work and does not include the Excluded Services;

Taxable Supply means a supply made by a party as a consequence of a transaction contemplated by this Contract in respect of which a party is or becomes liable to pay GST;

Term means the term of this Sajen Accord which commences and expires on dates specified in the Retainer Schedule, on conclusion of the services provided in any Scope of Work, or if terminated earlier, on the earlier date of termination, and

Terms and Conditions means these terms and conditions as they may be varied from time to time.

1.2 Interpretation

In the interpretation of this Sajen Accord, unless the context or subject matter otherwise require:

- (a) singular includes plural and vice versa and any gender includes every gender;
- (b) references to people include corporations, trusts, associations, partnerships, a Government Authority, and other legal entities, and where necessary, include successor bodies;
- (c) references to writing include printing, typing, facsimile and other means of

representing or reproducing words, figures, drawings or symbols in a visible and tangible form, in English;

(d) references to months mean calendar months;

(e) references to statutes include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws and ordinances made under those statutes;

(f) references to sections of statutes or terms defined in statutes refer to corresponding sections or defined terms in amended, consolidated or replacement statutes;

(g) headings and the table of contents are used for convenience only and are to be disregarded in the interpretation of this Sajen Accord;

(h) where any word or phrase is given a defined meaning, another grammatical form of that word or phrase has a corresponding meaning;

(i) each paragraph or sub-paragraph in a list is to be read independently from the others in the list;

(j) a reference to an agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time; and

(k) a reference to a party includes that party's executors, administrators, substitutes, successors, and in the case of the Client and Guarantor, permitted assigns.

2. TERM

2.1 Sajen Accord

Sajen legal will, during the Term if there is a term specified in the Schedule or Scope of Work, provide the Services to the Client as reasonably required and within a reasonable period of being requested by the Client to do so in writing.

2.2 Services Post Term or Outside Scope

The Client may request Sajen legal to provide its services to the Client after expiry of the Term, without any Schedule and or outside the terms of any Schedule or Scope of Work and if so:

- (a) the Client will be deemed to have done so on these terms,
- (b) the Client will pay the same Fee (if the client was previously paying a periodic fixed fee) which the Client last paid before the end of the Term; and
- (c) if no Schedule or Scope of Work is agreed upon in respect of the work carried out by the Firm for the Client (or on its behalf or benefit), the Fee will be calculated by the amount of time spent by the Firm providing services to the Client at the Firm's hourly rates a published from time to time.
- (d) nothing in this Agreement will be construed as requiring Sajen legal to provide the Services during the period after the expiry of the Term or to provide any service outside the express terms of any Scope of Work or Schedule.

3. FEE

3.1 Payment of Fee

The Client must pay the Fee to Sajen legal in the manner calculated and expressed in the Schedule or Scope of Work or otherwise on delivery of invoice. Fee payments will usually be required in the Schedule to be made:

- (a) on the day of each month (or other period) specified in the Schedule during the Term;
- (b) on the carrying out of the items, or stages, of work specified in any Scope of Work (and such items or stages of work) may be invoiced in part if the Firm so decides); or
- (c) monthly at least without reference to any particular items or stages of work.

3.2 Client to pay Outgoings

The Client must pay to Sajen legal (in addition to all other amounts payable under this Sajen Accord) the Client's Outgoings as invoiced to the Client during the period.

4. BILLING, INTEREST CHARGES AND CONTACT PERSON

- (a) A tax invoice, for the Fee and GST, will be delivered to the Client on acceptance of the Application (if any), Retainer Schedule or Scope of Work and will be payable either as per the terms of the Schedule or Scope of Work as the case may be.

- (b) Tax invoices for Outgoings and any other charges will usually be sent to the Client at least once per month or as they are incurred.
- (c) Tax invoices are payable upon receipt. If a tax invoice remains unpaid after further demand for payment, interest may be payable under this Sajen Accord or alternatively in accordance with Civil Proceedings Act from the date of the demand.
- (d) in the event that the Client does not pay the sum owed to Sajen legal in respect of a tax invoice issued to the Client by Sajen legal, then in addition to its other rights, Sajen legal is entitled to retain all the Client's documents until the tax invoice is paid.
- (e) In addition to the matters in (a) to (d) of this clause, any costs of and incidental to recovery of payment, including legal costs and disbursements and debt collection fees, will be payable by the Client on an indemnity basis.
- (f) The Client will be deemed to have received a tax invoice from Sajen legal if it is:
 - (i) given to the Client or to the Client's agent personally – on the day it is given;
 - (ii) sent to the Client by post, at the last address provided by the Client, or to the Client's agent – within two days of the date of posting; or
 - (iii) sent by email to an email address provided by the Client – the day after the date of the email transmission.

5. WITHHOLDING TAX AND GROSS UP

All Sajen legal's tax invoices are issued on the basis that it will receive, and is entitled to be paid, the total amount billed. If the Client is obliged to pay withholding tax or any other tax in respect of any part of a tax invoice, that amount must not be deducted from it. If Sajen legal receives a refund in respect of any withholding tax or any other tax for which the Client has effectively reimbursed Sajen legal, Sajen legal will pay to the Client the amount of that refund less any costs incurred in obtaining it.

6. ASSIGNMENT

6.1 Restriction

The Client must not during the Term, transfer or assign its interest in this Saje n Accord, without Saje n legal's prior written consent, and unless:

- (a) the Client gives to Saje n legal not less than 14 days' Notice of the Client's desire to do so;
- (b) the Client is not then in default under this Saje n Accord; and
- (c) the Client complies with Saje n legal's reasonable requirements which will be notified immediately after the request for consent is made.

6.2 Change of control

If the Client is a company other than a company whose shares are listed on a board of any member of the Australian Associated Stock Exchanges the Client must not:

- (a) register, record or enter in its books any transfer of any share or shares in the capital of the Client;
- (b) issue any beneficial interest in any of the shares in its capital; or
- (c) take or attempt to take any action having or which will have the effect that the shareholders of the Client as at the commencement date of the Term, who together beneficially held or controlled the voting, income or capital participation Rights in the Client, would then be different or one or more of such Rights were different or they cease to have appointed or to have the Right to appoint, replace or remove a majority of the Client's directors from time to time,

without the prior consent in writing of Saje n legal which must not be withheld where:

- (a) the Client has proved to the reasonable satisfaction of Saje n legal that the proposed new shareholders and their directors are respectable, responsible and solvent persons capable of adequately carrying on the Client's Obligations under this Saje n Accord; and
- (b) the proposed new shareholders or directors have furnished Saje n legal with such

guarantee or guarantees of the performance of the Client's Obligations under this Saje n Accord as Saje n legal may reasonably require.

7. INSURANCE

7.1 Client to insure

The Client must maintain during the Term, with an insurer approved by Saje n legal:

- (a) public liability insurance for an amount of not less than \$20 million for each occurrence;
- (b) reasonably adequate professional indemnity insurance where applicable to the Client's business;
- (c) reasonably adequate product liability insurance where applicable to the Client's business;
- (d) workers' compensation insurance where applicable to the Client's business;
- (e) insurance against damage to or loss of the Client's property for its replacement value; and
- (f) other insurance for an amount and on terms which, in Saje n legal's reasonable opinion, a prudent Client would take out.

7.2 Certificates of currency

Whenever requested by Saje n legal, the Client must give to Saje n legal a certificate of currency for each policy required to be effected under this Saje n Accord.

8. EVENTS OF DEFAULT

The Client commits an event of default if:

- (a) it does not pay the Fee, Outgoings or any other money due and payable under this Saje n Accord within 14 days of delivery of the tax invoice stipulating the money owing;
- (b) it does not perform or observe an Obligation, whether positive or negative, under this Saje n Accord;
- (c) the Client breaches an essential term of this Agreement, as set out in clause 9.4;

- (d) an assignment of any property is made for the benefit of a creditor of the Client or a Guarantor;
- (e) where the Client is a corporation:
 - (i) any application or petition for the winding-up of the Client is made or presented or an order is made or a resolution is passed for the winding-up of the Client;
 - (ii) the Client goes into liquidation, enters into a scheme of arrangement or compromise with its creditors, is placed under official management or a receiver and/or manager, liquidator, provisional liquidator or administrator of any of its assets is appointed;
 - (iii) a person lawfully takes or attempts to take possession of any of the Client's assets; or
 - (iv) the Client is struck off or de-registered or otherwise ceases to exist or have legal capacity;
- (f) the Client or any Guarantor stops payment or is unable to pay its debts or is unable in the opinion of Sajen legal or one of its Authorised Representatives to pay its debts from its own money as they fall due; or
- (g) the Client fails to provide Sajen legal with adequate instructions within a reasonable time;
- (h) if the Client gives instructions that are false or misleading;
- (i) if the Client fails to accept an offer of settlement which Sajen legal views as reasonable;
- (j) if the Client fails to accept advice Sajen legal (or a barrister engaged by Sajen legal) gives to the Client;
- (k) if the Client engages another legal practitioner to provide or advise on any of the Services without Sajen legal's consent;
- (l) if Sajen legal, on reasonable grounds, believes that it may have a conflict of interest or duty;
- (m) if the Client asks Sajen legal to act unethically;
- (n) If the Client refuses to accept a reasonable offer of settlement or compromise against the written advice of Sajen legal;
- (o) if the Client acts in a manner, or gives such indicia or evidence of it having lost confidence in Sajen legal or its ability to provide the Services; or
- (p) any event which in Sajen legal's reasonable opinion has or may have a material adverse effect on the Client, its business or a Guarantor or which may materially affect the ability of the Client or a Guarantor to perform or observe an Obligation under this Sajen Accord.

1.1 Termination of Sajen Accord

If the Client commits any of the events of default referred to in clause 8.1, or breaches any of the essential terms of this Agreement, and fails to remedy the default (if it is capable of remedy) or where compensation in money is required and the Client fails to pay the compensation, Sajen legal may terminate this Sajen Accord by Notice to the Client terminating this Sajen Accord and it may exercise any other Rights it has in connection with that breach.

1.2 Effect of termination

If Sajen legal terminates this Sajen Accord under clause 8.2 the Client will have no further Rights against Sajen legal under the Sajen Accord or as a result of the termination.

1.3 Essential terms

The essential terms of this Sajen Accord are the Client's Obligations to:

- (a) pay the Fee, Outgoings and other money;
- (b) not to assign or transfer its interest in this Sajen Accord without Sajen legal's prior consent; and
- (c) take out and maintain insurance policies under clause 7.1;
- (d) provide Sajen legal with timely, accurate and proper instructions, including all documents and other records relevant to the Services provided;
- (e) act reasonably and take reasonable care to protect the Client's own interests with

respect to the matters that are the subject of the Sajen Accord;

- (f) satisfy itself as to the commercial viability of transactions (if any); and
- (g) where relevant, investigate the bona fides of the other parties to any transaction, checking all financial matters and assessing the commercial soundness of the transactions;

in the manner required by this Sajen Accord.

1.4 Damages for breach

If this Sajen Accord is terminated by the Client, or by Sajen legal as a result of a breach of an essential term of this Sajen Accord, Sajen legal, in addition to other Rights, may Claim from the Client liquidated damages, payable on demand, for the loss of the benefit of the Sajen Accord equal to the amount of money that is the total Fee and Outgoings the Client would have been obliged to pay for the balance of the Term had the Sajen Accord not been terminated but to the extent that the Claim for liquidated damages is an acceleration of payments under the Sajen Accord, the Client is entitled to deduct from the amount otherwise payable, an amount equal to 8% per annum as at the date of any demand for payment.

2. EXCLUDED SERVICES

Unless Sajen legal otherwise agrees in the Schedule or Scope of Work, the Services provided by Sajen legal to the Client do not include, and Sajen legal has no Obligation to the Client in respect of:

- (a) any Claim made in connection with dishonesty, fraud, or wilful violation of laws or statutes by the Client;
- (b) any Claim made by the Client against an Associated Person or a Related Party;
- (c) any instructions by the Client in respect of a Claim brought (1) by anyone directly or indirectly affiliated with the Client, (2) by a shareholder unless the shareholder is acting independently and without input from the Client, or (3) at the behest of the Client;
- (d) any claim arising out of the Client's wrongful acts prior to the date of this Sajen Accord that have not been disclosed to Sajen by the Client prior to the parties' entry into this Agreement;

- (e) any (1) Claim pending prior to the date of this Sajen Accord, or another agreed upon date, and (2) any subsequent Claim based on the same facts or circumstances that have not been disclosed to Sajen by the Client prior to the parties' entry into this Agreement;
- (f) any Claim in respect of which the Client enjoys the benefit of, or is entitled to, an indemnity and or insurance by a third party; and
- (g) unless otherwise agreed by Sajen any Claim which involves multiple parties claiming or defending on the basis of the same or similar facts, including without limitation, class actions.

3. GOODS & SERVICES TAX

All Fees, expenses, Outgoings rates and charges etc. in this document are GST exclusive unless otherwise stated to be inclusive of GST. Accordingly, the Client will need to pay Sajen legal an additional amount on account of any GST which Sajen legal is liable to pay as a result of any supply Sajen legal makes to the Client. Subject to the GST law, Sajen legal reserves the right to determine the manner in which any GST inclusive charges are set out in its tax invoices, on an aggregate or itemised basis.

4. ENGAGEMENT OF SPECIALIST ADVOCATES (E.G. BARRISTER)

In the event that Sajen legal engages an advocate on the Client's behalf to provide specialist advice or services, at the Client's cost, the Client will be advised. However the Client authorises Sajen legal to instruct any counsel or advocate as and when Sajen legal in its discretion deems it necessary or appropriate. If Sajen legal becomes liable to pay interest on any advocate's fees as a consequence of delay on the Client's part Sajen legal will pass that charge on to the Client.

5. EXPERT CONTRACTORS

To carry out the Client's instructions Sajen legal may need to engage expert contractors, such as forensic experts, accountants, surveyors or town planners. The Client authorises Sajen legal as the Client's agent to engage such persons. Sajen legal takes no responsibility for their work or how they carry out their instructions. In suggesting or selecting of such an expert Sajen legal will rely on information Sajen legal is given

as to the qualifications of the person but takes no responsibility for that selection. Sajen legal gives no warranty as to the contractor's ability to carry out the task or as to the quality of the contractor's work. The fact that Sajen legal may assume liability to the contractor for payment of its fees does not detract from the relationship of agency and the Client remains responsible for repayment to Sajen legal of any fees of the contractor Sajen legal may choose to pay on the Client's behalf. If Sajen legal becomes liable to pay interest on any contractor's fees as a consequence of delay on the Client's part Sajen legal will pass that charge on to the Client. The Client accepts that many experts, including advocates, undertake work only on the basis that their liability for damages is limited.

6. APPORTIONMENT OF LIABILITY

The Client agrees that if the Client should claim compensation, damage or contribution from Sajen legal for loss or damage claimed to have been suffered by the Client arising from acts or defaults (including negligence) on the part of Sajen legal and such loss or damage is in part or wholly due to or contributed to by:

- (a) the Client's own acts or defaults or by the acts or defaults of other persons for whom the Client is responsible; or
- (b) the actionable conduct of one or more other persons not being partners, employees or agents for whom Sajen legal bears responsibility,

then Sajen legal will be liable only for that proportion of the loss or damage suffered which its acts or defaults bear, relative to the totality of the actionable conduct of all persons causing or contributing to the loss or damage.

In this clause **actionable conduct** means conduct (including a failure to act) in breach of any obligation, standard or duty imposed by law, statute or contract.

Where any law relating to proportionate liability applies to a claim against Sajen legal, this clause does not seek to exclude the operation of that law but will continue to operate to the extent that such operation is not inconsistent with that law.

7. PAYMENT/MONEY ON ACCOUNT

- (a) Other than as provided for in respect of the Fee payable to Sajen in respect of its retention (referred to in clause 3(a), Sajen may require payments in advance in

respect of Outgoings expected to be incurred. It may deliver invoices in respect in advance of any specific legal services being carried out in whole or in part. Such invoices will be payable in accordance with clause 3 hereof.

- (b) An additional 1.5% surcharge is applied to all payments made by MasterCard or Visa (which is equivalent to the bank fee charged to Sajen legal).
- (c) The Client acknowledges that consideration exists for any payments made to Sajen in connection with this Sajen Accord in that, inter alia, the Client derives a commercial benefit from the retention of Sajen legal from being able to obtain, during the Term and any Option, legal advice and that the Client is a client of Sajen legal and by reason that Sajen legal will not act against the Client by reason of that retainer.
- (d) The Client agrees to reimburse the Firm for any additional expenses and outlays incurred in connection with Services provided to the Client.

8. MULTI PARTY OR JOINT INSTRUCTIONS

In matters where the Client instructs Sajen legal jointly with another party, both the Client and that other party will be jointly and severally liable to pay our tax invoices.

9. REIMBURSEMENT FOR LEGAL COSTS

In the event the Client is, or becomes, entitled to receive payment from a third party in the nature of reimbursement or indemnity for legal costs and or Outgoings:

- (a) the Client hereby assigns to Sajen legal any such rights the Client has or may have in respect of those legal costs and disbursements;
- (b) the Fee payable to Sajen legal under this Sajen Accord is reduced by such amount of costs as is paid to Sajen legal by a third party but is only reduced when that payment is received by Sajen legal; and
- (c) If the Fee is reduced by reason of the preceding clause to an extent that lowers the Fee payable below that portion which has already been paid, Sajen legal will refund to the Client such amount of the Fee

that has been paid prior to the payment of the costs assigned by sub-paragraph (a)

- (d) Sajen legal will refund to the Client such monies as are received by it in respect of Outgoings which may be received from a third party in the circumstances referred to above.

10. THE CLIENT'S RIGHTS UNDER THE LEGAL PRACTITIONERS ACT (LPA)

- (a) The Client is entitled to receive a bill of costs from Sajen legal which complies with the requirements of the LPA. Sajen legal refers to its bills of costs as tax invoices. If Sajen legal provides the Client with a lump sum tax invoice, the Client may request an itemised tax invoice. The LPA also provides that Sajen legal cannot take action to recover its fees and other costs until 30 days after Sajen legal has given the Client a tax invoice.
- (b) The Client has a right to have costs assessed where the Client has entered into a Costs Agreement with Sajen legal which complies with the provisions of the LPA and the Client may make such application within 12 months after the Client receives a tax invoice or a request for payment of costs is made by Sajen legal or full payment is made to Sajen legal if no tax invoice was given or request was made. The Client has a right under section 328 of the LPA to apply to the Supreme Court to set aside a Costs Agreement or a provision of it (on the basis that the Costs Agreement is not fair or reasonable) within 6 years or such other time as the law may permit.

11. DISCLOSURE UNDER THE LPA

Before providing legal services and entry into any costs agreement the Firm is required to provide the Client with disclosure information under the *Legal Profession Act 2007* (QLD). This document constitutes a Disclosure Notice and by signing this document or otherwise accepting the offer:

- (a) The Client acknowledges its has been provided with the Disclosure Notice; and
- (b) The Client acknowledge that it has read the Disclosure Notice.

12. YOUR RIGHTS

You have the right to:

- (a) negotiate a costs agreement with us;
- (b) receive a bill of costs from us;
- (c) request an itemised bill of costs after you receive a lump sum bill from us;
- (d) request written reports about the progress of your matter and the costs incurred in your matter;
- (e) apply for costs to be assessed within twelve (12) months of receiving a bill, if you are unhappy with our costs;
- (f) apply for the costs agreement to be set aside;
- (g) accept or reject any offer we make for an interstate costs law to apply to your matter;
- (h) notify us that you require an interstate costs law to apply to your matter;
- (i) be notified of any substantial change in the matters disclosed in this Agreement; and
- (j) seek independent legal advice before entering into this Agreement.

For more information about the Client's rights, please read the fact sheet titled "Legal Costs – your right to know".

The firm can provide a copy, it can be obtained from the Queensland Law Society, or downloaded from their website www.qls.com.au.

The Law of Queensland will apply to this costs agreement. If the matter has a substantial connection to another state or territory, or the legal services will be mostly provided in another state or territory, the Client has the right to require the law of another jurisdiction to apply to this costs agreement. The Client must notify the Firm in writing and comply with any with time limits of the corresponding law.

13. OWNERSHIP AND POSSESSION OF DOCUMENTS

Subject to any relevant provision of the LPA:

- (a) the Client acknowledges that Sajen legal has and retain ownership of all the documents that Sajen legal has brought into existence or Sajen legal receives in the course of its engagement other than documents prepared by external contractors or specialist advocates;
- (b) Sajen legal has a right to retain all documents, funds and records in any form

whatsoever in its possession until payment in full of all its tax invoices for all matters in respect of which Sajen legal have been retained by the Client; and

- (c) Sajen legal is entitled to make, and to retain for its records, copies of all documents which are handed to the Client by Sajen legal, whether owned by Sajen legal or not and to deal with them in accordance with the provisions for Confidentiality (refer to clause 25).

14. USE OF WORK PRODUCT

Advice that Sajen legal gives the Client and documents which Sajen legal prepares in respect of the Services are specifically given or prepared in relation to that matter or transaction only, and must not be relied upon by:

- (a) the Client in relation to any other matter or transaction; or
- (b) any other person or entity,

without our prior written consent.

15. CHANGES TO OUR WORK PRODUCT

If Sajen legal provides a document to the Client or to another party and changes are made to that document by someone other than Sajen legal, Sajen legal is not responsible for any loss caused by the changes unless Sajen legal has specifically approved them.

16. EMAIL COMMUNICATION

During the course of the Work, Sajen legal will communicate with the Client and third parties by email unless otherwise agreed. This communication may consist of information, advice, opinions and copies of documents.

Sajen legal does not guarantee or warrant the security of any emails sent or received using the internet and will not be liable for any copying, recording, reading or interference by others during, or after, a transmission, for any delay or non-delivery, or for any damage caused in connection with the transmission.

17. COPYRIGHT

Copyright subsists in advice and other documents prepared by Sajen legal and will remain its property, subject, of course, to the Client's right to use that advice and those documents in relation to the matter or transaction for which they were

provided. The advice and documents must not, without prior written consent, be:

- (a) reproduced or used by the Client in relation to any other transaction or matter; or
- (b) provided to any other person or entity.

18. CONFIDENTIALITY

As a matter of general policy Sajen legal will not disclose to the Client any confidential information which, although not known to the personnel working on the Client's matter, may be known to other Sajen legal personnel and may otherwise be information to which the Client is entitled. If Sajen legal becomes aware of such a situation, Sajen legal will inform the Client and will implement appropriate internal procedures to safeguard the confidentiality of information of all parties involved. Only the partners and staff actually working on the Client's matters will have an obligation to give advice and disclose information to the Client.

The Client understands and accepts that Sajen legal's obligation with respect to giving the Client information is restricted by these provisions. Sajen legal will treat other clients' instructions to the firm and their confidential information on the same basis.

19. RETENTION, STORAGE AND RETRIEVAL OF THE CLIENT'S DOCUMENTS

- (a) On completion of the Term (but subject to Sajen's lien), the Client has the choice of:
 - (i) retrieving from Sajen legal any original documents the Client has provided to Sajen or leaving them deposited in safe custody with Sajen legal; and
 - (ii) obtaining from Sajen legal the items held on its files to which the Client is entitled.
- (b) If the Client wishes to retrieve or obtain from Sajen legal the Client's documents or contents of the Client's file, the Client will need to make those arrangements, at the Client's expense. If the Client wishes to leave any documents or other property in safe custody, Sajen legal reserves the right to impose a charge for doing so. Sajen legal will notify the Client if Sajen legal exercises that right.

- (c) If the Client does not retrieve the Client's file from Sajen legal, Sajen legal has the Client's authority to:
 - (iii) make an electronic copy of the Client's file, and to destroy the original physical file as soon as Sajen legal has done so;
 - (iv) retain the electronic copy of the Client's file for no more than three (3) years after the date of the final tax invoice rendered by Sajen legal in this matter and then destroy it.
- (d) Sajen legal will, on completion of the Term, retain any papers to which the Client is entitled but leave in its possession (except documents deposited in safe custody) for no more than seven (7) years and on the strict understanding that Sajen legal has the Client's authority to destroy the balance of the file three (3) years after the expiry of the final Term.
- (e) If the Client does not retrieve the Client's file from Sajen legal, the Client's file (or an electronic copy of it) may be stored in separate premises. When this happens:
 - (v) there is a fee for file storage;
 - (vi) the Client may retrieve the Client's file at any time in accordance with our then current policy for retrieval. The Client will pay Sajen legal's reasonable fee for each retrieval and a higher fee for urgent retrieval.

and to other organisations including other parties in the matter and government agencies responsible for processing transactions, but only to the extent necessary to give effect to the Client's instructions and in accordance with our professional obligations (including our obligations as explained in this Costs Agreement), or as required by law. If Sajen legal does not collect such Personal Information Sajen legal may not be able to carry out the Client's instructions. In most cases individuals, whose Personal Information Sajen legal hold, are able to gain access to that information upon request.

- (c) Contact details and other information (such as information about areas of interest) Sajen legal hold about individuals may also be used by Sajen legal (and disclosed to our service entities) to keep those individuals informed about developments in relevant areas of law or other legal services or seminars Sajen legal may offer (including by email and other electronic communications). However, if at any time an individual tells Sajen legal that they do not wish their Personal Information to be used for this purpose Sajen legal will act in accordance with their request to the extent Sajen legal is able.
- (d) You and your Guarantor agree that Personal Information provided may be used and retained by Sajen legal for the following purposes and for other purposes as may be agreed between you and Sajen legal or required by law from time to time:
 - (i) Provision of the Work or any other legal services;
 - (ii) marketing of services by Sajen legal, its agents or distributors in relation to the services;
 - (iii) analysing, verifying and/or checking your credit, payment and/or status in relation to provision of the Work or any other legal services;
 - (iv) processing of any payment instructions, direct debit facilities and/or credit facilities requested by you; and
 - (v) to enable the daily operation of your account and/or the collection of

20. PRIVACY

- (a) The Privacy Act 1988 (C'th) and other privacy and health records legislation applies when Sajen legal collect, use and disclose Personal Information.
- (b) The Client agrees that Sajen legal may collect Personal Information through the Client's instructions and while acting for the Client. This includes Personal Information about individuals who are employees, directors or principals of corporate clients. The Client agrees to ensure that these individuals are aware and agree that our acting for the Client may involve collection of Personal Information about them. Sajen legal will use such Personal Information in the course of acting for the Client and Sajen legal may disclose Personal Information to our service entities or agents

amounts outstanding on your account in relation to the Work.

- (e) You and your Guarantor agree that Sajen legal may obtain from a credit-reporting agency a credit report containing personal credit information about you and your Guarantor. You and your Guarantor agree that Sajen legal may exchange information about you and your Guarantor with those credit providers named in a consumer credit report issued by a reporting agency:
- (i) to assess an application by you or your Guarantor;
 - (ii) to notify other credit providers of a default by you or your Guarantor;
 - (iii) to exchange information with credit providers as to the status of any credit account, where you or your Guarantor are in default with other credit providers; and
 - (iv) to assess your credit worthiness along with that of your Guarantor.
- (f) You or your Guarantor consent to Sajen legal being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
- (g) Sajen legal may give information about you and your Guarantor to a credit reporting agency:
- (i) to obtain a consumer credit report about you or your Guarantor; and/or
 - (ii) to allow the credit reporting agency to create or maintain a credit information file containing information about you and/or your Guarantor.

21. OFFICIAL INQUIRIES

It is possible that because we have been appointed in a matter or because we have received documents or information in the course of, or in connection with, a matter, we may be required in the future to participate in an inquiry, commission or proceedings arising out of, or in connection with, the matter. This may for example involve us producing documents, seeking to claim or defend your privilege to resist inspection or disclosure of certain documents or information, or giving evidence at an inquiry. We will seek your instructions if these circumstances arise, but you agree to reimburse us for out of pocket expenses

and for the time we spend in that regard at our then current hourly rates.

22. NOTICES

22.1 Form of Notices

Notices given under this Sajen Accord will be:

- (a) in writing;
- (b) signed by the party giving the Notice or its Authorised Representative (or in the case of email correspondence, delivered from a party's email address); and
- (c) addressed to the Notice Address of the person to whom it is to be given or in the case of the Client, the Premises or the Client's registered office if a company, or the Client's last known place of residence if an individual.

22.2 Method and address for giving Notices

Notices must be:

- (a) delivered by hand;
- (b) posted by pre-paid security or certified mail; or
- (c) transmitted by facsimile or electronic mail,

to the Notice Address of the person receiving the Notice, or in the case of the Client, to the Premises or the Client's registered office if a company, or the Client's last known place of residence if an individual.

22.3 Time of receipt

A Notice given to a person in accordance with this Sajen Accord is deemed to have been given and received if:

- (a) delivered, on the day of delivery if delivered before 5:00pm on a Business Day, otherwise on the next Business Day;
- (b) posted by pre-paid security mail or certified mail, on the second day after the day on which the Notice was accepted by the post office from the party sending the Notice; or
- (c) transmitted by facsimile or electronic mail and:
 - (i) the transmission report states that it was sent in full and without error (or

the electronic mail has not received a delivery failure notice); and

- (ii) no objection is received from the recipient,

on the day of transmission if that report states that the transmission was completed before 5:00pm on a Business Day, otherwise on the next Business Day.

22.4 Objection to facsimile or electronic mail

A party receiving a facsimile transmission or electronic mail may object to the facsimile transmission or electronic mail as not being fully intelligible or readable. If a valid objection is made to a facsimile transmission or electronic mail and that party requests re-transmission before 5:00pm on the next Business Day after completion of the transmission, the party sending the facsimile transmission or electronic mail must re-transmit it, but any re-transmission is deemed to have been made at the time of completion of the original facsimile transmission or electronic mail. If a time restriction is placed, by reference to the date of receipt of the facsimile transmission, on the performance of an Obligation or the exercise of a Right by the party who makes the valid objection to a facsimile transmission, the time restriction for performance of the Obligation or the exercise of the Right is deemed extended by a corresponding time period to the time between the original transmission and re-transmission of the facsimile.

23. PROPER LAW, JURISDICTION

23.1 Choice of law

This Sajen Accord is governed by and will be construed in accordance with the laws of Queensland.

23.2 Jurisdiction

Actions, suits or proceedings relating in any way to this Sajen Accord or documents or dealings contemplated by it, may be instituted, heard and determined in a court of competent jurisdiction in Queensland.

23.3 Submission to jurisdiction

Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland for the purpose of any action, suit or proceeding.

23.4 Service of process

A party may by Notice appoint another person at a specified address in Queensland to receive service of process in connection with any action, suit or proceedings and process served on that person is deemed to have been served on the party making the appointment.

24. GENERAL PROVISIONS

24.1 Variations

No variation of this Sajen Accord nor waiver by a party of any provision of it, will be effective unless it is in writing, signed by the parties or (in the case of a waiver) by the party giving it. Any variation or waiver will be effective only to the extent to or for which it is made or given.

24.2 Waiver

The non-exercise of or delay in exercising a Right of a party must not operate as a waiver of that Right, nor does a single exercise of a Right preclude another exercise of it or the exercise of other Rights. A Right may only be waived by Notice, signed by the party (or its Authorised Representative) to be bound by the waiver.

24.3 Further assurances

Each party to this Sajen Accord must do all things and sign, execute and deliver all deeds and other documents as may be legally necessary or reasonably required of it by Notice from another party to carry out and give effect to the terms and intentions of this Sajen Accord and to perfect, protect and preserve the Rights of the other parties to this Sajen Accord.

24.4 Liability of parties

If a party consists of more than one person:

- (a) an Obligation of those parties is a joint obligation of all of them and a several Obligation of each of them;
- (b) a Right given to those parties is a Right given jointly to all of them and severally to each of them, and if exercised by one of them, is deemed to be exercised jointly; and
- (c) a representation, warranty or undertaking made by those parties is made by each of them.

24.5 Warranty of authority

Each person signing or entering into this Sajen Accord:

- (a) as attorney warrants to the other parties that, as at the date of signing, the signatory has not received any notice or information of the revocation of the power of attorney appointing that person; and
- (b) as an Authorised Representative, agent or trustee of a party, warrants to the other parties that, as at the date of signing, the signatory has full authority to execute this Sajen Accord on behalf of that party.

24.6 Severability

This Sajen Accord must, so far as possible, be interpreted and construed so as not to be invalid, illegal or unenforceable in any respect but if a provision, on its true interpretation or construction is held to be illegal, invalid or unenforceable:

- (a) that provision must, as far as possible, be read down to the extent that it may be necessary to ensure that it is not illegal, invalid or unenforceable and as may be reasonable in all the circumstances so as to give it a valid operation; or
- (b) if the provision or part of it cannot effectively be read down, that provision or part of it will be deemed to be void and severable and the remaining provisions of this Sajen Accord will not in any way be affected or impaired and will continue notwithstanding that illegality, invalidity or unenforceability.

24.7 Parties bound

This Sajen Accord binds each of the parties to the full extent provided in this Sajen Accord even though:

- (a) one or more person named in this Sajen Accord has not or does not sign or execute this Sajen Accord; or
- (b) the signature or execution of this Sajen Accord by any of the parties (other than the party sought to be made liable) is or may become void or voidable.

24.8 Entire agreement

The Client acknowledges that:

- (a) The Client has, prior to entering this Sajen Accord, had the opportunity to obtain

independent legal advice in respect of this Sajen Accord; the covenants in this Sajen Accord comprise the whole of the agreement between the parties; and

- (b) no further or other covenants are implied or arise between the parties by way of collateral or other agreement or by reason of any alleged promise, representation, warranty or undertaking given or made by either party to the other on or before the execution of this Sajen Accord and the existence of any implied, collateral or other agreement is negated.

24.9 Payment of moneys

All money payable by the Client to Sajen legal will be paid without any deduction, credit or set-off to Sajen legal or to the credit of Sajen legal in the way Sajen legal directs from time to time by Notice.

24.10 Guarantee

If you are a corporation, your obligations to Sajen legal under the Costs Agreement must be guaranteed by your shareholders and directors (**Guarantors**), who also agree to indemnify Sajen legal against all costs and expenses which it may incur arising out of acting for you. You will ensure that your Guarantor also reads this Disclosure Notice.

24.11 Partnership, agency and joint venture negated

The relationship created by this Sajen Accord between the parties will not be construed as giving rise to a relationship of principal and agent or of giving rise to any partnership or joint venture between the parties.

25. GUARANTEE

- (a) In consideration of Sajen legal entering into this Costs Agreement, the Guarantor unconditionally and irrevocably guarantees to Sajen legal, the Client's due and punctual performance of the Client's Obligations under this Costs Agreement.
- (b) The Guarantor indemnifies Sajen legal against costs and expenses incurred by or arising against Sajen legal as a result of:
 - (i) the Client's breach of this Costs Agreement;

- (ii) the Client's obligations under this Costs Agreement being unenforceable;
 - (iii) money payable or repayable to Sajen legal under this Costs Agreement being irrecoverable; and
 - (iv) the guarantee given by the Guarantor contained in this Costs Agreement.
- (c) Every obligation of the Guarantor under this Costs Agreement:
- (i) is a principal obligation and not ancillary or collateral to any other obligation;
 - (ii) may be enforced by Sajen legal against the Guarantor even if Sajen legal does not enforce a right against the Client; and
 - (iii) is a separate and independent obligation.
- (d) The Guarantor's obligations under this Costs Agreement are not released by:
- (i) the termination of this Costs Agreement;
 - (ii) the grant to any party of any time, waiver, covenant not to sue, concession or other indulgence;
 - (iii) the release of any party from any of its obligations or a claim under this Costs Agreement;
 - (iv) the transfer or assignment of the Client's interest under this Costs Agreement;
 - (v) a variation of the terms of this Costs Agreement;
 - (vi) any other dealing, transaction or arrangement between Sajen legal and any party to this Costs Agreement; or
 - (vii) any other circumstance which might otherwise constitute a legal or equitable discharge of or defence to surety.
- (e) The Guarantor must pay any money payable to Sajen legal under this Costs Agreement on demand.
- (f) Where one or more persons comprise the Guarantor, each Guarantor will be liable under this Costs Agreement even though another person named in this Costs Agreement or intended to be a Guarantor under this Costs Agreement fails to sign this or any other guarantee and/or indemnity.