

THIS AGREEMENT is made the day of

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B E T W E E N:

THE LAW AID TRUST of 205 William Street, Melbourne, Victoria (hereinafter called "Law Aid")

AND

[SOLICITOR FIRM] of [address] (hereinafter called "the solicitors")

AND

[NAME OF APPLICANT] of [address of applicant] (hereinafter called "the client").

WHEREAS:

1. Law Aid is a non-profit charitable trust established by the Law Institute of Victoria and the Victorian Bar for the purpose of providing funds to legal practitioners for payment of disbursements necessary for the conduct of litigation by those practitioners on behalf of assisted clients.
2. The client has retained the solicitors to act on behalf of the client in contemplated litigation (herein called "the litigation"), and the retainer provides inter alia that the solicitors shall not require payment of their professional fees (or those of counsel briefed by the solicitors on behalf of the client) unless or until there is a successful outcome to the litigation.
3. The client has instructed the solicitors to seek funds from Law Aid for the purpose of paying disbursements incurred by the solicitors in the conduct of the litigation.

4. The solicitors wish to act for the client in the litigation on a no win/no fee basis so that if a successful outcome can be achieved by verdict or settlement in favour of the client the solicitors will receive payment for their professional costs.

NOW IT IS AGREED between Law Aid, the solicitors and the client:

1. (a) Law Aid agrees to provide assistance by way of payments to the solicitors to be used solely for the purposes of paying the disbursements which are incurred in contemplation of, or in the conduct of, the litigation on an on-going basis as is necessary and as is authorised by Law Aid.

(b) The amount provided by Law Aid will be in its absolute discretion. Without prejudice to the generality of the foregoing, Law Aid may:
 - . fix a dollar limit on the amount to be provided
 - . agree to fund certain disbursements only; and
 - . terminate its assistance at any timewithout being obliged to provide any reason.

2. In consideration of Law Aid agreeing to provide assistance as set out in clause 1 hereof, the solicitors undertake to Law Aid:
 - (a) Notwithstanding any provision of Part 4 of the **Legal Practice Act 1996** or Part 3.4 of the **Legal Profession Act 2004**, they will not charge the client (or anyone else) any professional fees at all in respect of the litigation, except on the successful outcome of the litigation by verdict or settlement in favour of the client.
 - (b) They will not brief counsel to undertake any work on behalf of the client on any basis other than one in which counsel agrees to waive all professional fees, except upon successful outcome of the litigation by verdict or settlement.

- (c) They will promptly provide to Law Aid such information regarding the litigation or the client insofar as it relates to the litigation as Law Aid may from time to time require.
 - (d) They will provide a report as to progress in the litigation to Law Aid every three (3) months. The first report is to be made three (3) months after they have been advised in writing that assistance has been granted.
 - (e) They will ensure that any Terms of Settlement or Deed of Release entered into by or on behalf of the client contains a provision authorising disclosure of all relevant information to Law Aid.
 - (f) Notwithstanding anything contained in this clause, the total professional fees that may be charged by the solicitors and all counsel shall not exceed the amount actually recovered by the client in the litigation less any monies payable to Law Aid under this agreement.
3. In consideration of the agreement by Law Aid to provide the assistance referred to in clause 1 hereof, the client agrees to instruct the solicitors to provide any requested information to Law Aid concerning the client and the litigation, to provide such information to the solicitors as is necessary to enable the solicitors to comply with such requests, and hereby waives any and all privilege which may but for this waiver attach or apply to such information.
4. In further consideration of the agreement by Law Aid to provide the assistance referred to in clause 1 hereof:
- (a) the client agrees to instruct the solicitors to deduct five and a half (5½) percentum of the quantum of any judgment in or settlement of the litigation, which sum is to be paid forthwith by the solicitors on the client's behalf to Law Aid;

- (b) in the event that a judgment or settlement of the litigation includes a non-monetary component (for example, an order for the transfer of specific property), then for the purposes of this clause, the reasonable value of such non-monetary component shall be reasonably determined by the trustees of Law Aid and this component shall be considered part of the quantum of any judgment or settlement referred to in this clause for the purposes of determining the amount payable to Law Aid;
- (c) in the event that a settlement inclusive of costs is entered into, the client agrees to abide by a determination made by the solicitors and Law Aid jointly as to the division of the settlement monies as between damages and costs;
- (d) the client hereby agrees to instruct the solicitors to deduct from any judgment in or settlement obtained in the litigation and to repay to Law Aid all sums provided by Law Aid by way of assistance in the litigation pursuant to this agreement. For the purposes of this sub-clause, any such sums shall include any tax liability that may be incurred by Law Aid with respect to any monies repaid to it pursuant to this sub-clause;
- (e) in the event that any Act or Regulation prevents the deduction by the solicitors from any judgment or settlement of the litigation of any of the amounts referred to in sub-clauses (a) to (d) above, the client agrees to pay all such amounts to Law Aid within 42 days of the entry of judgment or the date of settlement of the litigation.

5. The amount of five and a half (5½) percentum of the quantum of judgment or settlement referred to in clause 4 above is “the fee” for the purposes of section 40C of the *Legal Aid Act* 1978.

6. In the event that the litigation consists of preliminary proceedings seeking leave to extend time to commence a proceeding or seeking leave to commence a proceeding, then the five and a half (5½) per cent fee referred to in clauses 4 and 5 above is payable from and/or in respect of the amount recovered by settlement or judgment in the ultimate proceeding for damages or other relief.

7. In consideration of Law Aid agreeing to provide assistance as set out in clause 1 hereof, the solicitors agree that upon the proceeds of judgment or settlement of the litigation coming into the hands of the solicitors, the solicitors shall (unless otherwise prohibited by any Act or Regulation):
 - (a) retain a sufficient amount of such settlement or judgment to enable the amounts required to be paid to Law Aid pursuant to this agreement to be so paid; and
 - (b) pay to Law Aid the amounts required by this agreement to be so paid.

8. Where the nature of the proceedings is such that court approval is necessary to effect a compromise the parties agree to abide by the orders of the court. The litigation guardian in such proceedings, as a party to this agreement, undertakes to consent, if required by the court, to the payment out of court to Law Aid the total sum payable under this agreement.

9. In the event that the client should seek to dispense with the services of the solicitors the client agrees that the solicitors shall retain the conduct of proceedings on his/her behalf until:
 - (a) new solicitors have been appointed and the client and the new solicitors enter into a new agreement but so that the assistance provided under this agreement was considered assistance provided under the new agreement;

- (b) notwithstanding subclause (a), if the client decides not to appoint new solicitors, the terms of this agreement shall continue to have effect but all obligations and requirements imposed on the solicitors shall be assumed by the client directly.

- 10. In the event that the solicitors advise the client that an offer of settlement should be accepted as being in the client's best interests but the client rejects such advice and the matter is not settled, then the solicitors shall immediately advise Law Aid. In addition to any other rights of Law Aid under this agreement, Law Aid shall thereupon be entitled to terminate this agreement and the client shall on demand by Law Aid forthwith reimburse to Law Aid any amounts actually expended or committed to be expended by Law Aid pursuant to this agreement. Notwithstanding Law Aid's termination of this agreement and demand for reimbursement, clause 4 of this agreement shall continue to apply or in the event that the solicitors' services have been dispensed with, the client shall be liable to pay to Law Aid an amount calculated in accordance with that clause.

- 11. For the purposes of this agreement the term "successful outcome" shall mean:
 - (a) in the event of a settlement, the achievement of a result which includes the obtaining of some or all of the relief that was sought from the defendant;
 - (b) in the event of verdict or judgment the achievement of a finding in favour of the client.

- 12. This agreement is entered into in the State of Victoria and shall be governed by and construed in accordance with the laws in Victoria. The parties submit to the jurisdiction of the courts of the State of Victoria.

SIGNED for and on behalf of)
the said Law Aid)
in the presence of:)

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SIGNED for and on behalf of)
the said solicitors)
in the presence of:)

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SIGNED for and on behalf of)
the said client)
in the presence of:)

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