

**Form No. 1**  
**Sample Written Fee Agreement<sup>1</sup>**  
**Hourly Litigation**

**LAW FIRM**  
**ADDRESS**  
**CITY, STATE, ZIP**  
**PHONE NUMBER**

**(Date)**

**ATTORNEY-CLIENT FEE AGREEMENT**

[LAW FIRM OR ATTORNEY] (“Attorney”) and [CLIENT] (“Client”) hereby agree that Attorney will provide legal services to Client on the terms set forth below.

**1. CONDITIONS**

This Agreement will not take effect, and Attorney will have no obligation to provide legal services, until: (a) Client returns a signed copy of this Agreement; (b) Client pays the initial deposit called for under Paragraph 4; and (c) Attorney acknowledges acceptance of representation by counter-signing this Agreement and returning a fully executed copy to Client. Upon satisfaction of these conditions, this Agreement will be deemed to take effect as of [DATE].

**2. SCOPE OF SERVICES AND ATTORNEY’S DUTIES**

Client hires Attorney to provide legal services in the following matter: [PROVIDE DETAILED DESCRIPTION OF SERVICES TO BE PROVIDED]. Attorney will provide those legal services reasonably required to represent Client. Attorney will take reasonable steps to keep Client informed of progress and to respond to Client’s inquiries. If a court action is filed, Attorney will represent Client through trial and post-trial motions. This Agreement does not cover representation on appeal or in collection proceedings after judgment or proceedings regarding renewal of a judgment. A separate written agreement for these services or services in any other matter not described above will be required. Attorney is representing Client only in the matter described above.

**3. CLIENT’S DUTIES**

Client agrees to be truthful with Attorney and not withhold information. Further Client agrees to cooperate, to keep Attorney informed of any information or developments which may come to Client’s attention, to abide by this Agreement, to pay Attorney’s bills on time,

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<sup>1</sup> This sample written fee agreement form is intended to satisfy the basic requirements of Business & Professions Code section 6148 but may not address varying contractual obligations which may be present in a particular case. The State Bar makes no representation of any kind, express or implied, concerning the use of these forms.

and to keep Attorney advised of Client's address, telephone number and whereabouts. Client will assist Attorney by timely providing necessary information and documents. Client agrees to appear at all legal proceedings when Attorney deems it necessary, and generally to cooperate fully with Attorney in all matters related to the preparation and presentation of Client's claims.

#### 4. DEPOSIT

Client agrees to pay Attorney an initial deposit of \$\_\_\_\_\_ [PROVIDE DEPOSIT AMOUNT] by \_\_\_\_\_ [DATE] which will be deemed an advance deposit for fees and costs to be incurred in this matter. The hourly charges and costs will be charged against the Deposit. The initial Deposit, as well as any future deposits, will be held in Attorney's Client Trust Account. Client authorizes Attorney to use that deposit to pay the fees and other charges. Client acknowledges that the deposit is not an estimate of total fees and costs to be charged by Attorney, but merely an advance.

Client agrees that Attorney's right to recover fees and costs from the Deposit or any subsequent deposit held in Attorney's Client Trust Account becomes fixed \_\_\_\_ [PROVIDE NUMBER] days after the date a bill is sent to Client. Client authorizes Attorney to withdraw the funds from Attorney's Client Trust Account to pay Attorney's fees and costs \_\_\_\_ [PROVIDE NUMBER] calendar days after the date a bill is sent to Client. If Attorney receives a written objection from Client within \_\_\_\_ [PROVIDE NUMBER] days of sending the bill, Attorney's right to withdraw the amount that is identified in the objection shall be deemed to be disputed, and Attorney will not withdraw the disputed fees and/or costs from the Client Trust Account until the dispute is resolved. If Attorney receives an objection from Client more than \_\_\_\_ [PROVIDE NUMBER] days after the date the bill is sent and after the funds have been withdrawn, Attorney will not be required to redeposit the disputed fees and/or costs into the Client Trust Account during the pendency of the dispute.

Client agrees to pay all deposits after the initial deposit within \_\_\_\_ [PROVIDE NUMBER] days of Attorney's demand. In the event there is any money from any deposit remaining in Attorney's Client Trust Account after Attorney's final bill is satisfied, that money will be promptly refunded to Client.

Whenever the deposit is exhausted, Attorney reserves the right to demand further deposits, each up to a maximum of \$\_\_\_\_\_ [PROVIDE AMOUNT OF FURTHER DEPOSIT] at any time before a trial or arbitration date is set. Once a trial or arbitration date is set, Client will pay all sums then owing and deposit the Attorney's fees estimated to be incurred in preparing for and completing the trial or arbitration, as well as the jury fees or arbitration fees, expert witness fees and other costs likely to be assessed. Those sums may exceed the maximum deposit.

**5. LEGAL FEES AND BILLING PRACTICES**

Client agrees to pay by the hour at Attorney’s rates as set forth below for all time spent on Client’s matter by Attorney and Attorney’s legal personnel. Current hourly rates for legal personnel are as follows:

Senior partners	_____	/hour
Partners	_____	/hour
Associates	_____	/hour
Paralegals	_____	/hour
Law clerks	_____	/hour

The rates on this schedule are subject to change on 30 days written notice to Client. If Client declines to pay increased rates, Attorney will have the right to withdraw as attorney for Client if permitted under the Rules of Professional Conduct of the State Bar of California and/or applicable law.

The time charged will include, but is not limited to, the time Attorney spends on telephone calls, e-mails and other electronic communications relating to Client’s matter, including calls and e-mails with Client, witnesses, opposing counsel, court personnel or other persons. [OPTIONAL: The legal personnel assigned to Client’s matter may confer among themselves about the matter, as required and appropriate. When they do confer, each person will charge for the time expended, as long as the work done is reasonably necessary and not duplicative. Likewise, if more than one of the legal personnel attends a meeting, court hearing or other proceeding, each will charge for the time spent.] Time is billed in minimum increments one-tenth (.1) of an hour. Attorney will charge for waiting time in court and elsewhere and for travel time, both local and out of town.

**6. COSTS AND OTHER CHARGES**

(a) Attorney will incur various costs and expenses in performing legal services under this Agreement. Client agrees to pay for all costs, disbursements and expenses in addition to the hourly fees. The costs and expenses commonly include, service of process charges, filing fees, court and deposition reporters’ fees, translator/interpreter fees, jury fees, notary fees, deposition costs, long distance telephone charges, messenger and other delivery fees, postage, outside photocopying and other reproduction costs, travel costs including parking, mileage, transportation, meals and hotel costs, investigation expenses, consultants’ fees, expert witness, professional, mediator, arbitrator and/or special master fees and other similar items. The foregoing external costs and expenses will be charged at Attorney’s cost. Internal charges are billed at the following rates: (1) mileage – IRS Standard Mileage Rate; (2) in-house printing and photocopying – [ ] [PROVIDE RATE] cents per page; (3) facsimile charges – [ ] [PROVIDE RATE] cents per page; (4) postage at cost; and (5) computerized legal research at cost.

(b) Out-of-town travel. Client agrees to pay transportation, meals, lodging and all other costs of any necessary out-of-town travel by Attorney and Attorney’s personnel. Client

will also be charged \_\_\_\_% [PROVIDE RATE] of the hourly rates for the time legal personnel spend traveling.

(c) Experts, Consultants and Investigators. To aid in the preparation or presentation of Client's case, it may become necessary to hire expert witnesses, consultants or investigators. Client agrees to pay such fees and charges. Attorney will select any expert witnesses, consultants or investigators to be hired, and Client will be informed of persons chosen and their charges.

(d) Attorney will obtain Client's consent before incurring any costs in excess of \$\_\_\_\_\_ [PROVIDE AMOUNT].

## **7. OTHER FEES AND COSTS**

Client understands that if Client's case proceeds to court action or arbitration, the court may award attorney fees as well as some or all of the type of costs enumerated in Paragraph 6 above to the other party or parties. Payment of such attorney fees and costs shall be the sole responsibility of Client. Similarly, other parties may be required to pay some or all of the fees and costs incurred by the Client. Client acknowledges that any such determination does not in and of itself affect the amount of the fees and costs to be paid by Client to Attorney pursuant to this agreement.

## **8. BILLS**

Attorney will send Client periodic bills for fees and costs incurred. Each bill will be payable within \_\_\_\_ [PROVIDE NUMBER] days of its mailing date. Client may request a bill at intervals of no less than 30 days. If Client so requests, Attorney will provide one within 10 days. Bills for the fee portion of the bill will include the amount, rate, basis for calculation, or other method of determination of the Attorney's fees. Bills for the cost and expense portion of the bill will clearly identify the costs and expenses incurred and the amount of the costs and expenses. Client agrees to promptly review all bills rendered by Attorney and to promptly communicate any objections, questions, or concerns about their contents.

## **9. CLIENT APPROVAL NECESSARY FOR SETTLEMENT**

Attorney will not make any settlement or compromise of any nature of any of Client's claims without Client's prior approval. Client retains the absolute right to accept or reject any settlement.

## **10. DISCHARGE AND WITHDRAWAL**

Client may discharge Attorney at any time. Attorney may withdraw with Client's consent or for good cause or if permitted under the Rules of Professional Conduct of the State Bar of California and/or applicable law. Among the circumstances under which Attorney may withdraw are: (a) with the consent of Client; (b) Client's conduct renders it unreasonably difficult for the Attorney to carry out the employment effectively; and/or (c) Client fails to pay Attorney's fees or costs as required by this Agreement. Notwithstanding the discharge, Client will remain obligated to pay Attorney at the agreed rates for all services provided and to reimburse Attorney for all costs advanced.

## **11. CONCLUSION OF SERVICES**

When Attorney's services conclude, whether by completing the services covered by this Agreement, or by discharge or withdrawal, all unpaid charges for fees or costs will be due and payable immediately.

Client may have access to Client's case file at Attorney's office at any reasonable time. At the end of the engagement, Client may request the return of Client's case file. If Client has not requested the return of Client's file, and to the extent Attorney has not otherwise delivered it or disposed of it consistent with Client's directions, Attorney will retain the case file for a period of \_\_\_\_\_, [PROVIDE LENGTH OF TIME] after which Attorney is authorized by this agreement to have the case file destroyed. If Client would like Attorney to maintain Client's case file for more than \_\_\_\_\_ [PROVIDE LENGTH OF TIME] after the conclusion of Attorney's services for Client on a given matter, a separate written agreement must be made between Attorney and Client, which may provide for Client to bear the cost of maintaining the file. In the event Client requests that Attorney transfer possession of Client's case file to Client or a third party, Attorney is authorized to retain copies of the case file at Attorney's expense. The case file includes Client materials and property as defined in Rule 1.16(e)(1) of the California Rules of Professional Conduct.

## **12. DISCLAIMER OF GUARANTEE AND ESTIMATES**

Nothing in this Agreement and nothing in Attorney's statements to Client will be construed as a promise or guarantee about the outcome of the matter. Attorney makes no such promises or guarantees. Attorney's comments about the outcome of the matter are expressions of opinion only, are neither promises nor guarantees, and will not be construed as promises or guarantees. Any deposits made by Client, or estimate of fees given by Attorney, are not a representation of a flat fee and will not be a limitation on fees or a guarantee that fees and costs will not exceed the amount of the deposit or estimate. Actual fees may vary significantly from estimates given.

## **13. PROFESSIONAL LIABILITY INSURANCE DISCLOSURE**

Pursuant to California Rule of Professional Conduct 1.4.2(a), I am informing you in writing that I \_\_\_ have \_\_\_ do not have [CHECK APPROPRIATE ENTRY] professional liability insurance.

## **14. NO TAX ADVICE**

Attorney has not been retained to provide Client with any tax advice concerning any of the services described in paragraph 2. Any documents prepared by Attorney may have specific tax ramifications. To be sure Client understands and is certain of all the potential tax consequences, Client should consult with tax advisors regarding these matters.

## **15. ENTIRE AGREEMENT**

This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.

**16. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY**

If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

**17. MODIFICATION BY SUBSEQUENT AGREEMENT**

This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both of them.

**18. EFFECTIVE DATE**

This Agreement will govern all legal services performed by Attorney on behalf of Client commencing with the date Attorney first performed services. The date at the beginning of this Agreement is for reference only. Even if this Agreement does not take effect, Client will be obligated to pay Attorney the reasonable value of any services Attorney may have performed for Client.

**THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE ATTORNEY FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. CLIENT WILL RECEIVE A FULLY EXECUTED COPY OF THIS AGREEMENT.**

DATED: \_\_\_\_\_

\_\_\_\_\_  
CLIENT

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

DATED: \_\_\_\_\_

ATTORNEY OR LAW FIRM

By: \_\_\_\_\_

ATTORNEY

**Form No. 2**  
**Sample Written Fee Agreement<sup>2</sup>**  
**Hourly Non-Litigation**

**LAW FIRM**  
**ADDRESS**  
**PHONE NUMBER**

**(Date)**

**ATTORNEY-CLIENT FEE AGREEMENT**

[LAW FIRM OR ATTORNEY] (“Attorney”) and [CLIENT] (“Client”) hereby agree that Attorney will provide legal services to Client on the terms set forth below.

**1. CONDITIONS**

This Agreement will not take effect, and Attorney will have no obligation to provide legal services, until: (a) Client returns a signed copy of this Agreement; (b) Client pays the initial deposit called for under Paragraph 4; and (c) Attorney acknowledges acceptance of representation by counter-signing this Agreement and returning a fully executed copy to Client. Upon satisfaction of these conditions, this Agreement will be deemed to take effect retroactive to [DATE].

**2. SCOPE OF SERVICES AND ATTORNEY’S DUTIES**

Client hires Attorney to provide legal services in the following matter: [PROVIDE DETAILED DESCRIPTION OF SERVICES TO BE PROVIDED]. Attorney will provide those legal services reasonably required to represent Client. Attorney will take reasonable steps to keep Client informed of progress and to respond to Client’s inquiries. This Agreement does not cover litigation services of any kind, whether in court, arbitration, administrative hearings, or government agency hearings. A separate written agreement for these services or services in any other matter not described above will be required.

**3. CLIENT’S DUTIES**

Client agrees to be truthful with Attorney and not to withhold information, to cooperate, to keep Attorney informed of any information or developments which may come to Client’s attention, to abide by this Agreement, to pay Attorney’s bills on time, and to keep Attorney advised of Client’s address, telephone number and whereabouts. Client will assist Attorney by timely providing necessary information and documents.

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<sup>2</sup> This sample written fee agreement form is intended to satisfy the basic requirements of Business & Professions Code section 6148 but may not address varying contractual obligations, which may be present in a particular case. The State Bar makes no representation of any kind, express or implied, concerning the use of these forms.

**4. DEPOSIT**

Client agrees to pay Attorney an initial deposit of \$\_\_\_\_\_ [PROVIDE DEPOSIT AMOUNT] by \_\_\_\_\_ [DATE] which will be deemed an advance deposit for fees and costs to be incurred in this matter. The hourly charges and costs will be charged against the Deposit. The initial Deposit, as well as any future deposit, will be held in Attorney’s Client Trust Account. Client authorizes Attorney to use that deposit to pay the fees and other charges. Client acknowledges that the deposit is not an estimate of total fees and costs to be charged by Attorney, but merely an advance.

Client agrees that Attorney’s right to recover fees and costs from the Deposit or any subsequent deposit held in Attorney’s Client Trust Account becomes fixed \_\_\_\_ [PROVIDE NUMBER] days after the date a bill is sent to Client. Client authorizes Attorney to withdraw the funds from Attorney’s Client Trust Account to pay Attorneys’ fees and costs \_\_\_\_ [PROVIDE NUMBER] calendar days after the date a bill is sent to Client. If Attorney receives a written objection from Client within \_\_\_\_ [PROVIDE NUMBER] days of sending the bill, Attorney’s right to recover the amount that is identified in the objection will be deemed to be disputed, and Attorney will not withdraw the disputed fees and/or costs from the Client Trust Account until the dispute is resolved. If Attorney receives an objection from Client more than \_\_\_\_ [PROVIDE NUMBER] days after the date the bill is sent and after the funds have been withdrawn, Attorney shall not be required to redeposit the disputed fees and/or costs into the Client Trust Account during the pendency of the dispute.

Client agrees to pay all deposits after the initial deposit within \_\_\_\_ [PROVIDE NUMBER] days of Attorney’s demand. In the event there is any money from any deposit remaining in Attorney’s Client Trust Account after Attorney’s final bill is satisfied, that money will be promptly refunded to Client.

Whenever the deposit is exhausted, Attorney reserves the right to demand further deposits, each up to a maximum of \$\_\_\_\_\_ [PROVIDE AMOUNT OF FURTHER DEPOSIT] .

**5. LEGAL FEES AND BILLING PRACTICES**

Client agrees to pay by the hour at Attorney’s rates as set forth below for all time spent on Client’s matter by Attorney and Attorney’s legal personnel. Current hourly rates for legal personnel are as follows:

Senior partners	_____	/hour
Partners	_____	/hour
Associates	_____	/hour
Paralegals	_____	/hour
Law clerks	_____	/hour

The rates on this schedule are subject to change on 30 days written notice to Client. If Client declines to pay increased rates, Attorney will have the right to withdraw as attorney for

Client if permitted under the Rules of Professional Conduct of the State Bar of California and/or applicable law.

The time charged will include, but is not limited to, the time Attorney spends on telephone calls, e-mails and other electronic communications relating to Client's matter, including calls and e-mails with Client and other parties and attorneys. [OPTIONAL: The legal personnel assigned to Client's matter may confer among themselves about the matter, as required and appropriate. When they do confer, each person will charge for the time expended, as long as the work done is reasonably necessary and not duplicative. Likewise, if more than one of the legal personnel attends a meeting or other proceeding, each will charge for the time spent]. Time is billed in minimum increments of one-tenth (.1) of an hour. Attorney will charge for waiting time and for travel time, both local and out of town.

## 6. COSTS AND OTHER CHARGES

(a) Attorney will incur various costs and expenses in performing legal services under this Agreement. Client agrees to pay for all costs, disbursements and expenses in addition to the hourly fees. The costs and expenses commonly include notary fees, long distance telephone charges, messenger and other delivery fees, postage, outside photocopying and other reproduction costs, travel costs including parking, mileage, transportation, meals and hotel costs, investigation expenses, translator/interpreter fees, consultants' fees and/or special master fees and other similar items. The foregoing external costs and expenses will be charged at Attorney's cost. Internal charges are billed at the following rates: (1) mileage – IRS Standard Mileage Rate; (2) in-house printing and photocopying – [ ] [PROVIDE RATE] cents per page; (3) facsimile charges – [ ] [PROVIDE RATE] cents per page; (4) postage at costs; and (5) computerized legal research at cost.

(b) Out-of-town travel. Client agrees to pay transportation, meals, lodging and all other costs of any necessary out-of-town travel by Attorney and Attorney's personnel. Client will also be charged \_\_\_\_\_% [PROVIDE RATE] of the hourly rates for the time legal personnel spend traveling.

(c) Experts, Consultants and Investigators. To aid in the preparation or presentation of Client's case, it may become necessary to hire expert witnesses, consultants or investigators. Client agrees to pay such fees and charges. Attorney will select any expert witnesses, consultants or investigators to be hired, and Client will be informed of persons chosen and their charges.

(d) Attorney will obtain Client's consent before incurring any costs in excess of \$\_\_\_\_\_ [PROVIDE AMOUNT].

## 7. BILLS

Attorney will send Client periodic bills for fees and costs incurred. Each bill will be payable within \_\_\_\_\_ [PROVIDE NUMBER] days of its mailing date. Client may request a bill at intervals of no less than 30 days. If Client so requests, Attorney will provide one within 10 days. Bills

for the fee portion of the bill will include the amount, rate, basis for calculation, or other method of determination of the Attorney's fees. Bills for the cost and expense portion of the bill will clearly identify the costs and expenses incurred and the amount of the costs and expenses. Client agrees to promptly review all bills rendered by Attorney and to promptly communicate any objections, questions, or concerns about their contents.

#### **8. CLIENT APPROVAL NECESSARY FOR SETTLEMENT**

Attorney will not make any settlement or compromise of any nature of any of Client's claims without Client's prior approval. Client retains the absolute right to accept or reject any settlement.

#### **9. DISCHARGE AND WITHDRAWAL**

Client may discharge Attorney at any time. Attorney may withdraw with Client's consent or for good cause or if permitted under the Rules of Professional Conduct of the State Bar of California and/or applicable law. Among the circumstances under which Attorney may withdraw are: (a) with the consent of Client; (b) Client's conduct renders it unreasonably difficult for the Attorney to carry out the employment effectively; and/or (c) Client fails to pay Attorney's fees or costs as required by this Agreement. Notwithstanding the discharge, Client will remain obligated to pay Attorney at the agreed rates for all services provided and to reimburse Attorney for all costs advanced.

#### **10. CONCLUSION OF SERVICES**

When Attorney's services conclude, whether by completing the services covered by this Agreement, or by discharge or withdrawal, all unpaid charges for fees or costs will be due and payable immediately.

Client may have access to Client's case file at Attorney's office at any reasonable time. At the end of the engagement, Client may request the return of Client's case file. If Client has not requested the return of Client's file, and to the extent Attorney has not otherwise delivered it or disposed of it consistent with Client's directions, Attorney will retain the case file for a period of \_\_\_\_\_ [PROVIDE LENGTH OF TIME], after which Attorney is authorized by this agreement to have the case file destroyed. If Client would like Attorney to maintain Client's case file for more than \_\_\_\_\_ [PROVIDE LENGTH OF TIME] after the conclusion of Attorney's services for Client on a given matter, a separate written agreement must be made between Attorney and Client, which agreement may provide for Client to bear the cost of maintaining the file. In the event Client requests that Attorney transfer possession of Client's case file to Client or a third party, Attorney is authorized to retain copies of the case file. The case file includes Client materials and property as defined in Rule 1.16(e)(1) of the California Rules of Professional Conduct.

#### **11. DISCLAIMER OF GUARANTEE AND ESTIMATES**

Nothing in this Agreement and nothing in Attorney's statements to Client will be construed as a promise or guarantee about the outcome of the matter. Attorney makes no such promises or guarantees. Attorney's comments about the outcome of the matter are

expressions of opinion only, are neither promises nor guarantees, and will not be construed as promises or guarantees. Any deposits made by client or estimate of fees given by Attorney are not a representation of a flat fee and will not be a limitation on fees or a guarantee that fees and costs will not exceed the amount of the deposit or estimate. Actual fees may vary significantly from estimates given.

**12. PROFESSIONAL LIABILITY INSURANCE DISCLOSURE**

Pursuant to California Rule of Professional Conduct 1.4.2.(a), I am informing you in writing that I \_\_\_\_have \_\_\_\_ do not have [CHECK APPROPRIATE ENTRY] professional liability insurance.

**13. NO TAX ADVICE**

Attorney has not been retained to provide Client with any tax advice concerning any of the services described in paragraph 2. Any documents prepared by Attorney may have specific tax ramifications. To be sure Client understands and is certain of all the potential tax consequences, Client should consult with tax advisors regarding these matters.

**14. ENTIRE AGREEMENT**

This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.

**15. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY**

If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

**16. MODIFICATION BY SUBSEQUENT AGREEMENT**

This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both of them.

**17. EFFECTIVE DATE**

This Agreement will govern all legal services performed by Attorney on behalf of Client commencing with the date Attorney first performed services. The date at the beginning of this Agreement is for reference only. Even if this Agreement does not take effect, Client will be obligated to pay Attorney the reasonable value of any services Attorney may have performed for Client.

**THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE ATTORNEY FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. CLIENT WILL RECEIVE A FULLY EXECUTED COPY OF THIS AGREEMENT.**

DATED: \_\_\_\_\_

\_\_\_\_\_  
CLIENT

Address: \_\_\_\_\_

\_\_\_\_\_  
Telephone: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

DATED: \_\_\_\_\_

ATTORNEY OR LAW FIRM

By: \_\_\_\_\_  
ATTORNEY

**Form No. 3**  
**Sample Written Fee Agreement<sup>3</sup>**  
**Contingency Fee Agreement**

**LAW FIRM**  
**ADDRESS**  
**CITY, STATE, ZIP**  
**PHONE NUMBER**

**(Date)**

**ATTORNEY-CLIENT FEE AGREEMENT**

[LAW FIRM OR ATTORNEY] (“Attorney”) and [CLIENT] (“Client”) hereby agree that Attorney will provide legal services to Client on the terms set forth below.

**1. CONDITIONS**

This Agreement will not take effect, and Attorney will have no obligation to provide legal services, until: (a) Client returns a signed copy of this Agreement; (b) Client pays the initial deposit for costs, if any, called for under Paragraph 7; and (c) Attorney acknowledges acceptance of representation by counter-signing this Agreement and returning a fully executed copy to Client. Upon satisfaction of these conditions, this Agreement will be deemed to take effect as of [DATE].

**2. SCOPE OF SERVICES AND ATTORNEY’S DUTIES**

Client hires Attorney to provide legal services in the following matter: [PROVIDE DETAILED DESCRIPTION OF SERVICES TO BE PROVIDED]. Attorney will provide those legal services reasonably required to represent Client. Attorney will take reasonable steps to keep Client informed of progress and to respond to Client’s inquiries. If a court action is filed, Attorney will represent Client through trial and post-trial motions. This Agreement does not cover representation on appeal or in collection proceedings after judgment or proceedings regarding renewal of a judgment. A separate written agreement for these services or services in any other matter not described above will be required. Attorney is representing Client only in the matter described above.

This Agreement also does not include defending Client against, or representing Client in, any claims that may be asserted against Client as a cross-claim or counter-claim in Client’s case. If any such matters arise later, Attorney and Client will either negotiate a separate agreement if Client and Attorney agree that the Attorney will perform such additional legal work or

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<sup>3</sup> This sample written fee agreement form is intended to satisfy the basic requirements of Business & Professions Code Section 6147 but may not address varying contractual obligations which may be present in a particular case. The State Bar makes no representation of any kind, express or implied, concerning the use of these forms.

Client will engage separate counsel with respect to the cross-claim or counter-claim or additional legal work.

### 3. CLIENT'S DUTIES

Client agrees to be truthful with Attorney and not to withhold information. Further, Client agrees to cooperate, to keep Attorney informed of any information or developments which may come to Client's attention, to abide by this Agreement, to pay Attorney's bills on time, and to keep Attorney advised of Client's address, telephone number and whereabouts. Client will assist Attorney by timely providing necessary information and documents. Client agrees to appear at all legal proceedings when Attorney deems it necessary, and generally to cooperate fully with Attorney in all matters related to the preparation and presentation of Client's claims.

### 4. LEGAL FEES

Attorney will only be compensated for legal services rendered if a recovery is obtained for Client. If no recovery is obtained, Client will be obligated to pay only for costs, disbursements and expenses, as described in Paragraph 6.

The fee to be paid to Attorney will be a percentage of the "net recovery," depending on the stage at which the settlement or judgment is reached. The term "net recovery" means: (1) the total of all amounts received by settlement, arbitration award or judgment, including any award of attorney's fees, (2) minus all costs and disbursements set forth in Paragraph 6. If another party is ordered by the court to pay Client's Attorney's fees and/or costs, that award will be part of Client's net recovery and the contingent fee will be based on the Client's total recovery, including the amount of the court ordered award of attorney's fees and/or costs. Net recovery will also include the reasonable value of any non-monetary proceeds.

Attorney's fee will be calculated as follows:

- (a) If the matter is resolved before filing a lawsuit or formal initiation of proceedings, then Attorney's fee will be \_\_\_\_\_ [PROVIDE RATE] percent (\_\_\_\_%) of the net recovery;
- (b) If the matter is resolved prior to \_\_\_\_ [PROVIDE NUMBER] days before the initial trial or arbitration date, then Attorney's fee will be \_\_\_\_\_ [PROVIDE RATE] percent (\_\_\_\_%) of the net recovery; and
- (c) If the matter is resolved after the times set forth in (i) and (ii), above, then Attorney's fee will be \_\_\_\_\_ [PROVIDE RATE] percent (\_\_\_\_%) of the net recovery.

In the event of Attorney's discharge, or withdrawal with justifiable cause, as provided in Paragraph 13, Client agrees that, upon payment of the settlement, arbitration award or judgment in Client's favor in this matter, Attorney will be entitled to be paid by Client a

reasonable fee for the legal services provided. Such fee will be determined by considering the following factors:

- (1) Whether the Attorney engaged in fraud or overreaching in negotiating or setting the fee;
- (2) Whether the Attorney failed to disclose material facts
- (3) The amount of the fee in proportion to the value of the services performed
- (4) The relative sophistication of the Attorney and the Client;
- (5) The novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly;
- (6) The likelihood, if apparent to the Client, that the acceptance of the particular employment will preclude other employment by the Attorney;
- (7) The amount involved and the results obtained;
- (8) The time limitations imposed by the Client or by the circumstances;
- (9) The nature and length of the professional relationship with the Client;
- (10) The experience, reputation, and ability of the Attorney;
- (11) Whether the fee is fixed or contingent;
- (12) The time and labor required;
- (13) The informed consent of the Client to the fee.

#### **5. NEGOTIABILITY OF LEGAL FEES**

Client understands that the rates set forth above are not set by law, but are negotiable between Attorney and Client.

#### **6. COSTS AND LITIGATION EXPENSES/OTHER ATTORNEY'S FEES**

Attorney will incur various costs and expenses in performing legal services under this Agreement. Client agrees to pay for all costs, disbursements and expenses paid or owed by Client in connection with this matter, or which have been advanced by Attorney on Client's behalf and which have not been previously paid or reimbursed to Attorney.

Costs, disbursements and litigation expenses commonly include court fees, jury fees, service of process charges, court and deposition reporters' fees, interpreter/translator fees, outside photocopying and reproduction costs, notary fees, long distance telephone charges, messenger and other delivery fees, postage, deposition costs, travel costs including parking,

mileage, transportation, meals and hotel costs, investigation expenses, consultant, expert witness, professional mediator, arbitrator and/or special master fees and other similar items. Internal charges are billed at the following rates: (1) mileage – IRS Standard Mileage Rate; (2) in-house printing and photocopying – [ ] [PROVIDE RATE] cents per page; (3) facsimile charges – [ ] [PROVIDE RATE] cents per page; (4) messenger services – at cost; (5) postage at cost; and (6) computerized legal research at cost.

Client understands that, as set forth in Paragraph 7 below, a deposit for costs may be required before the expenditure is made by Attorney.

To aid in the preparation or presentation of Client’s case, it may become necessary to hire expert witnesses, consultants or investigators. Attorney will select any expert witnesses, consultants or investigators to be hired, and Client will be informed of persons chosen and their charges.

Client authorizes Attorney to incur all reasonable costs and to hire any investigators, consultants or expert witnesses reasonably necessary in Attorney’s judgment.

Attorney will obtain Client’s consent before incurring any costs in excess of \$ \_\_\_\_\_ [PROVIDE AMOUNT].

A. Client’s Responsibility for Prevailing Party or Court Ordered Fees and Costs to Other Party

Client understands that if Client’s case proceeds to court action or arbitration and Client loses or is not the prevailing party, the court may award Attorney fees as well as some or all of the type of costs enumerated in this Paragraph 6 to the winning or prevailing party or parties. Payment of such attorney fees and costs will be the sole responsibility of Client.

If an award of fees and/or costs to be paid by another party is sought on Client’s behalf in this action, Client understands that the amount which the court may order as fees and/or costs is the amount the court believes the party is entitled to recover, and does not determine what fees and/or costs Attorney is entitled to charge Client or that only the fees and/or costs which were allowed were reasonable.

B. Allocation of Court Award for Statutory or Contract Fees and Costs

Client agrees that any award of fees and costs that may be awarded pursuant to contract or statute will belong exclusively to Attorney. Client further agrees that, whether or not attorney’s fees or costs are awarded by the court in Client’s case, if there is a recovery other than an award of fees and costs pursuant to contract or statute Client will remain responsible for the payment, in full, of the attorney’s fees and costs in accordance with this Agreement. However, any payment of court-awarded fees and/or costs by a third party will be credited against the amount of fees and/or costs owed by Client under this Agreement. Therefore, Client agrees that the attorney’s fees and costs payable to Attorney pursuant to

this Agreement shall be the greater of: (i) the amount otherwise owed to Attorney under this Agreement if the award of attorney's fees and costs were disregarded; or (ii) the amount of the court ordered award of attorney's fees and costs.

### C. Responsibility For and Allocation Of Sanctions

Client agrees that any award of fees and costs that may be awarded as discovery or other sanctions shall not be considered part of the Client's recovery and shall belong exclusively to Attorney as additional compensation for extraordinary time and effort.

The court may assess monetary sanctions, (including attorney fees and costs) against Client for bad faith conduct, including of discovery proceedings prior to trial, or inappropriate conduct during or even after trial. Any such award will be entirely the responsibility of Client.

## 7. DEPOSIT

Client agrees to pay Attorney an initial deposit for costs of \$\_\_\_\_\_ [PROVIDE AMOUNT], to be returned with this signed Agreement. Attorney will hold this initial deposit in a trust account. Client hereby authorizes Attorney to use that deposit to pay the costs, disbursements and other expenses incurred under this Agreement.

Client agrees that Attorney's right to recover costs and expenses from the Deposit or any subsequent deposit held in Attorney's Client Trust Account becomes fixed \_\_\_\_ [PROVIDE NUMBER] days after the date a bill is sent to Client. Client therefore authorizes Attorney to withdraw the funds from Attorney's Client Trust Account to pay Attorney's costs and expenses \_\_\_\_ [PROVIDE NUMBER] calendar days after the date a bill is sent to Client. If Attorney receives a written objection from Client within \_\_\_\_ [PROVIDE NUMBER] days of sending the bill, Attorney's right to recover the amount that is identified in the objection will be deemed to be disputed, and Attorney will not withdraw the disputed costs and/or expenses from the Client Trust Account until the dispute is resolved. If Attorney receives an objection from Client more than \_\_\_\_ [PROVIDE NUMBER] days after the date the bill is sent and after the funds have been withdrawn, Attorney will not be required to redeposit the disputed costs and/or expenses into the Client Trust Account during the pendency of the dispute.

When Client's deposit is exhausted, Attorney reserves the right to demand further deposits, each up to a maximum of \$\_\_\_\_\_ [PROVIDE AMOUNT].

Once a trial or arbitration date is set, Attorney will require Client to pay all sums then owing, and to deposit the costs Attorney estimates will be incurred in preparing for and completing the trial or arbitration, as well as the jury fees or arbitration fees likely to be assessed. Those sums may exceed the maximum deposit.

Client agrees to pay all deposits required under this Agreement within \_\_\_\_ [PROVIDE NUMBER] days of Attorney's demand. Any deposit that is unused at the conclusion of Attorney's services will be promptly refunded to Client.

**8. BILLS FOR COSTS AND EXPENSES**

Attorney will send Client periodic bills for costs and expenses incurred. Except as provided in Paragraph 7 ("Deposit"), each bill is to be paid in full within \_\_\_\_ [PROVIDE NUMBER] days of its mailing date. Client may request a bill at intervals of no less than 30 days. If Client so requests, Attorney will provide one within 10 days. Bills for the cost and expense portion of the bill will clearly identify the costs and expenses incurred and the amount of the costs and expenses. Client agrees to promptly review all bills rendered by Attorney and to promptly communicate any objections, questions, or concerns about their contents.

**9. CLIENT APPROVAL NECESSARY FOR SETTLEMENT**

Attorney will not make any settlement or compromise of any nature of any of Client's claims without Client's prior approval. Client retains the absolute right to accept or reject any settlement.

**10. LIEN**

Attorney has a lien on any and all claims that are the subject of Attorney's representation under this Agreement. Attorney's lien will be for any sums owing to Attorney for any unpaid costs, or attorney's fees, at the conclusion of Attorney's services. The lien will attach to any recovery Client may obtain, whether by arbitration award, judgment, settlement or otherwise. An effect of such a lien is that Attorney may be able to compel payment of fees and costs from any such funds recovered on behalf of Client even if Attorney has been discharged before the end of the case. In the event Attorney withdraws from representing Client without cause, Attorney will not be entitled to any lien for fees. The lien will exist and attach to any recovery only for costs already advanced by Attorney pursuant to Paragraph 6. Because a lien may affect Client's property rights, Client may seek the advice of an independent lawyer of Client's own choice before agreeing to such a lien. By initialing this paragraph, Client represents and agrees that Client has had a reasonable opportunity to consult such an independent lawyer and—whether or not Client has chosen to consult such an independent lawyer—Client agrees that Attorney will have a lien as specified above.

\_\_\_\_\_(Client initials here) \_\_\_\_\_(Attorney initials here)

**11. PROFESSIONAL LIABILITY INSURANCE DISCLOSURE**

Pursuant to California Rule of Professional Conduct 1.4.2.(a), Attorney is informing Client in writing that Attorney \_\_\_\_has \_\_\_\_ does not have [SELECT APPROPRIATE RESPONSE] professional liability insurance.

**12. NO TAX ADVICE**

Attorney has not been retained to provide Client with any tax advice concerning any of the services described in paragraph 2. Any documents prepared by Attorney may have specific

tax ramifications. To be sure Client understands and is certain of all the potential tax consequences, Client should consult with tax advisors regarding these matters.

### **13. DISCHARGE AND WITHDRAWAL**

Client may discharge Attorney at any time. Attorney may withdraw with Client's consent or for good cause or if permitted under the Rules of Professional Conduct of the State Bar of California and/or applicable law. Among the circumstances under which Attorney may withdraw are: (a) with the consent of Client; (b) Client's conduct renders it unreasonably difficult for the Attorney to carry out the employment effectively; and/or (c) Client fails to pay Attorney's costs and expenses as required by this Agreement. Notwithstanding the discharge and provided there is a recovery, Client will remain obligated to pay Attorney at a reasonable rate for all services provided and to reimburse Attorney for all costs advanced.

Notwithstanding Client's notice of discharge, and without regard to the reasons for the withdrawal or discharge, Client will remain obligated to pay Attorney for all costs and expenses incurred prior to the termination and, in the event that there is any net recovery obtained by Client after conclusion of Attorney's services, Client remains obligated to pay Attorney for the reasonable value of all services rendered from the effective date of this Agreement to the date of discharge. In the event Attorney voluntarily withdraws from representing Client without cause, Attorney waives, and will not be entitled to be paid, any fees by Client but will be entitled to be reimbursed for any costs and expenses already advanced by Attorney.

### **14. CONCLUSION OF SERVICES**

When Attorney's services conclude, whether by completing the services covered by this Agreement, or by discharge or withdrawal, all unpaid charges for costs and expenses will be due and payable immediately. Client may have access to Client's case file at Attorney's office at any reasonable time. At the end of the engagement, Client may request the return of Client's case file. If Client has not requested the return of Client's file, and to the extent Attorney has not otherwise delivered it or disposed of it consistent with Client's directions, Attorney will retain the case file for a period of \_\_\_\_\_ [PROVIDE LENGTH OF TIME], after which Attorney is authorized by this agreement to have the case file destroyed. If Client would like Attorney to maintain Client's case file for more than \_\_\_\_\_ [PROVIDE LENGTH OF TIME] after the conclusion of Attorney's services for Client on a given matter have concluded, a separate written agreement must be made between Attorney and Client, which may provide for Client to bear the cost of maintaining the file. In the event Client requests that Attorney transfers possession of Client's case file to Client or a third party, Attorney is authorized to retain copies of the case file at Attorney's expense. The case file includes Client materials and property as defined in Rule 1.16(e)(1) of the California Rules of Professional Conduct.

**15. RECEIPT OF PROCEEDS**

All proceeds of Client’s case will be deposited into Attorney’s trust account for disbursement in accordance with the provisions of this Agreement.

**16. DISCLAIMER OF GUARANTEE**

Nothing in this Agreement and nothing in Attorney’s statements to Client will be construed as a promise or guarantee about the outcome of this matter. Attorney makes no such promises or guarantees. Attorney’s comments about the outcome of this matter are expressions of opinion only, are neither promises nor guarantees, and will not be construed as promises or guarantees. Any deposits made by client or estimate of costs and expenses given by Attorney will not be a limitation on costs and expenses or a guarantee that costs and expenses will not exceed the amount of the deposit or estimate. Actual costs and expenses may vary significantly from estimates given.

**17. ENTIRE AGREEMENT**

This Agreement contains the entire agreement of the parties. No other agreement, statement or promise made on or before the effective date of this Agreement will be binding on the parties.

**18. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY**

If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

**19. MODIFICATION BY SUBSEQUENT AGREEMENT**

This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both parties.

**20. EFFECTIVE DATE**

This Agreement will govern all legal services performed by Attorney on behalf of Client commencing with the date Attorney first performed services. The date at the beginning of the Agreement is for reference only. Even if this Agreement does not take effect, Client will be obligated to pay Attorney the reasonable value of any services Attorney may have performed for Client.

**THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM, AS OF THE DATE ATTORNEY FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE JOINTLY AND SEVERALLY FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. THE CLIENT WILL RECEIVE A FULLY EXECUTED COPY OF THIS AGREEMENT.**

DATED: \_\_\_\_\_

\_\_\_\_\_  
CLIENT

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

DATED: \_\_\_\_\_

LAW FIRM NAME

By: \_\_\_\_\_

ATTORNEY

## Optional Clauses and Disclosure Forms

### 1. ARBITRATION

#### A. ARBITRATION OF ALL DISPUTES INCLUDING CLAIMS OF MALPRACTICE

Any dispute between the parties [Attorney and Client] regarding the construction, application or performance of any services under this Agreement, and any claim arising out of or relating to this Agreement or its breach, including, without limitation, claims for breach of contract, professional negligence, breach of fiduciary duty, misrepresentation, fraud and disputes regarding attorney fees and/or costs charged under this Agreement (except as provided in Paragraph B below) shall be submitted to binding arbitration upon the written request of one party after the service of that request on the other party. The parties shall appoint one person [Option: or agree upon a 3-person panel] to hear and determine the dispute.

Option: The arbitration provider shall be \_\_\_\_\_ [fill in the name of the arbitration provider] whose rules shall govern the arbitration.

Option: If the parties cannot agree on the selection of an arbitrator, a party may petition the Superior Court of \_\_\_\_\_ [fill in name of county] County and the procedures set forth in Code of Civil Procedure Section 1281.6 for Appointment of Arbitrators shall apply. The court will choose an impartial arbitrator and the court's decision shall be final and conclusive on all parties.

Option: Attorney and Client shall each have the right of discovery in connection with any arbitration proceeding in accordance with Code of Civil Procedure Section 1283.05.

Option: Each party shall bear its own costs, expenses, attorney's fees and an equal share of the arbitrators' and administrative fees.

The venue for the arbitration and any post-award proceeding to confirm, correct or vacate the award shall be \_\_\_\_\_ [fill in name of county] County, California.

Client and Attorney confirm that they have read and understand subparagraphs A above, and voluntarily agree to binding arbitration. In doing so, Client and Attorney voluntarily give up important constitutional rights to trial by judge or jury, as well as rights to appeal. Client may consult with an independent lawyer of Client's choice to review these arbitration provisions, and this entire agreement, prior to signing this Agreement.

#### B. MANDATORY FEE ARBITRATION

Notwithstanding subparagraph A above, the parties acknowledge that in any dispute **over attorney's fees, costs or both subject to the jurisdiction of the State of California over attorney's fees, charges, costs or expenses**, Client has the right to elect arbitration pursuant to

procedures as set forth in California Business and Professions Code Sections 6200-6206 (the Mandatory Fee Arbitration Act). If, after receiving a Notice of Client's Right to Fee Arbitration, Client does not elect to proceed under the Mandatory Fee Arbitration Act procedures by failing to file a request for fee arbitration within 30 days, any dispute over fees, charges, costs or expenses, will be resolved by binding arbitration as provided in the previous paragraph A. Arbitration pursuant to the Mandatory Fee Arbitration Act is non-binding unless the parties agree in writing, after the dispute has arisen, to be bound by the arbitration award. The Mandatory Fee Arbitration Act procedures permit a court trial after non-binding arbitration, or a subsequent binding contractual arbitration if the parties have agreed to binding arbitration, if either party rejects the award within 30 days after the award is mailed to the parties.

## **2. MEDIATION**

Attorney and Client agree to try to settle all disputes between them through private mediation before initiating any arbitration, litigation or other dispute resolution procedure. The disputes which are subject to mediation include without limitation the following: claims regarding the construction, application or performance of services, claims for breach of contract, professional negligence, breach of fiduciary duty, misrepresentation, fraud and attorney's fees and costs. Any party to the agreement may initiate mediation through service of a written demand in person or by mail or, if agreed to by the parties in advance, by e-mail to the opposing party. The mediation session will occur at a time mutually agreed upon by the parties in consultation with a mutually selected mediator, though no later than \_\_\_ days after the date of services of the initial notice, unless otherwise agreed by the parties and mediator. Each party shall bear its own fees and costs for the mediation. Under Evidence Code section 1129(a), Attorney is required to provide notice and have Client acknowledge certain confidentiality restrictions prior to participating in mediation. Attorney will provide Client with the Notice and Acknowledgement form.

## **3. INTEREST CHARGES**

If a bill is not paid when due, interest will be charged on the principal balance (consisting of any unpaid fees, costs, and/or expenses) shown on the bill. Interest will be calculated by multiplying the unpaid balance by the periodic rate of .833% per month (TEN PERCENT [10%] PER ANNUM). The unpaid balance will bear interest until paid.

## **4. REPLENISHING DEPOSIT**

To commence the representation, Client has provided [must provide] Attorney with a \$ \_\_\_\_\_ deposit. Attorney will hold the deposit in Attorney/Client Trust Account and apply it to each bill when rendered by Attorney. Client will pay any additional balance in an amount necessary to return the deposited amount to \$ \_\_\_\_\_. At the conclusion of the matter, the deposit will be applied to the final bill, in which event Client will be responsible for any remaining amount due over and above the deposit. If no amount remains due after the

deposited funds have been applied to the final invoice, and should any deposited funds remain, Client is entitled to and will have those funds returned in a timely manner.

## **5. ATTORNEY'S FEES**

The prevailing party in any action or proceeding arising out of or to enforce any provision of this Agreement, with the exception of a fee arbitration or mediation under Business and Professions Code Sections 6200-6206, will be awarded reasonable attorney's fees and costs incurred in that action or proceeding, or in the enforcement of any judgment or award rendered.

## **6. OTHER PAYOR- INSURANCE**

Client has informed Attorney that Client may have insurance coverage which may pay for some or all of Attorney's fees and costs that may become due under this Agreement. Attorney will make a claim on Client's behalf with the insurer requesting that the insurer pay for the Attorney's services and costs incurred. It is understood, however, that if the insurer refuses or fails to pay Attorney for any reason, Client will remain responsible for all Attorney's bills as they are rendered upon the billing and payment terms set forth in this Agreement. Should the insurer pay only a portion of the fees and costs, Client will be responsible for the balance.

## **7. FLAT FEE**

### OPTION 1: FLAT FEE PAID UPON COMPLETION OF SERVICES; OR, PAID IN ADVANCE AND HELD IN CLIENT TRUST ACCOUNT

Client agrees to pay a flat fee of \$\_\_\_\_\_ for Attorney's services under this Agreement. This fee is fixed and constitutes complete payment for the performance of services under this Agreement and does not depend on the amount of work performed. Client acknowledges that this fee is negotiated and is not set by law. The fee shall be paid by Client [Alternative 1: when the work is completed]; [Alternative 2: in advance of the services to be rendered on (*insert date*) and will be withdrawn after the work is completed]; [Alternative 3: in equal installments of \$\_\_\_\_ due on \_\_\_\_\_].

### OPTION 2: WHERE FLAT FEE PAID IN ADVANCE EXCEEDS \$1,000 AND ATTORNEY SEEKS CLIENT AGREEMENT TO DEPOSIT IN AN OPERATING ACCOUNT

Client agrees to pay a flat fee of \$\_\_\_\_\_ for Attorney's services under this Agreement. This fee is fixed and constitutes complete payment for the performance of services under this Agreement and does not depend on the amount of work performed. Client acknowledges that this fee is negotiated and is not set by law. The fee shall be paid by Client in advance of the services to be rendered on [*insert date*].

Client has the right to (1) require that the flat fee be deposited into Attorney's Client Trust Account until the fee is earned; and (2) a refund of any amount of the fee that has not been earned in the event the representation is terminated or the services for which the flat fee has been paid are not completed. Having been informed of these rights, Client hereby agrees to the flat fee being deposited into Attorney's operating account.

\_\_\_\_\_ (Client signature here); or: Client does not agree to the flat fee being deposited into Attorney's operating account and instead requires that the fee be deposited into Attorney's Client Trust Account. \_\_\_\_\_ (Client signature here).

OPTION 3: WHERE FLAT FEE PAID IN ADVANCE IS \$1,000 OR LESS AND ATTORNEY SEEKS TO DEPOSIT IN AN OPERATING ACCOUNT

Client agrees to pay a flat fee of \$\_\_\_\_\_ for Attorney's services under this Agreement. This fee is fixed and constitutes complete payment for the performance of services under this Agreement and does not depend on the amount of work performed. Client acknowledges that this fee is negotiated and is not set by law. The fee shall be paid by Client in advance of the services to be rendered on [insert date]. The fee will be deposited into the Attorney's operating account.

Attorney hereby discloses to Client that Client has the right to (1) require that the flat fee be deposited into Attorney's Client Trust Account until the fee is earned; and (2) a refund of any amount of the fee that has not been earned in the event the representation is terminated or the services for which the flat fee has been paid are not completed.

**8. DIVISION OF CONTINGENCY FEES**

Client agrees that Attorney may associate other attorneys to assist in the representation. Client's legal fees under this agreement will not increase by reason of this association. The associated attorneys will receive \_\_\_\_\_ (fill in fraction or other method) of the fee and this firm will receive \_\_\_\_\_ (fill in fraction or other method).

By signing this agreement, Client has read and understands the above and confirms his/her/its consent to the terms of the association of counsel and division of fees.

**9. "OTHER ATTORNEY"—HOURLY**

OPTION 1 BILLED AS A COST

It is agreed that Attorney will associate with another attorney, [name], who will assist Attorney regarding the representation. [Name] will be compensated by Attorney on an hourly basis at a rate of \$\_\_\_\_\_ per hour. These charges will be billed by Attorney to Client as a cost as defined in this Agreement.

OPTION 2 DIRECT BILLED

It is agreed that Attorney will associate with another attorney, [name], who will assist Attorney regarding the representation. [Name] will be compensated on an hourly basis at a rate of \$\_\_\_\_\_ per hour. These charges will be billed directly to Client by attorney [name].

[NOTE: This language was not created for use in contingency cases.]

**10. PAYMENT OF REFERRAL FEE**

Client acknowledges that attorney \_\_\_\_\_(fill in name) who referred the case to this Attorney/firm will receive a referral fee of \_\_\_\_\_(fill in percentage) of all sums paid in this matter. Client’s legal fees will not be increased by reason of the referral fee.

By signing this agreement, Client confirms his/her/its consent to the terms of the payment of the referral fee.

**11. LIEN—HOURLY FEE AGREEMENT**

Client hereby grants Attorney a lien on any and all claims that are the subject of Attorney’s representation under this Agreement. Attorney’s lien will be for any sums owing to Attorney for any unpaid costs, or attorney’s fees, at the conclusion of Attorney’s services. The lien will attach to any recovery Client may obtain, whether by arbitration award, judgment, settlement or otherwise. An effect of such a lien is that Attorney may be able to compel payment of fees and costs from any such funds recovered on behalf of Client even if Attorney has been discharged before the end of the case. The lien shall exist and attach to any recovery only for costs already advanced by Attorney pursuant to Paragraph \_\_ [insert paragraph number pertaining to Costs]. Because a lien may affect Client’s property rights, Client may seek the advice of an independent lawyer of Client’s own choice before agreeing to such a lien. By initialing this paragraph, Client represents and agrees that Client has had a reasonable opportunity to consult such an independent lawyer and—whether or not Client has chosen to consult such an independent lawyer—Client agrees that Attorney will have a lien as specified above.

\_\_\_\_\_(Client initials here) \_\_\_\_\_(Attorney initials here)

**12. EXCLUDED SERVICES**

Attorney’s representation does not include independent or related matters that may arise, including, among other things, claims for property damage, workers’ compensation, disputes with a health care provider about the amount owed for their services, or claims for reimbursement (subrogation) by any insurance company for benefits paid under an insurance policy. [Expand as necessary.]

**13. OPTIONAL CONTINGENCY LANGUAGE**

**A. NO RECOVERY LANGUAGE**

If no recovery is obtained, Client will be obligated to pay only for costs, disbursements and expenses, as described in Paragraph \_\_ [insert paragraph number pertaining to Costs]. These may include Client’s obligation to pay attorney fees and costs of the type enumerated in Paragraph \_\_ [insert paragraph number pertaining to Costs] to any prevailing party, either pursuant to statute or court order.

**B. ATTORNEY ADVANCING COSTS LANGUAGE**

Client will not be obligated to pay Attorney for costs, disbursements or expenses advanced by Attorney. However, if Client is not the prevailing party the court may award attorney fees and costs of the type enumerated in Paragraph \_\_ [insert paragraph number pertaining to Costs] to any prevailing party and payment of such attorney fees and costs will be the sole responsibility of Client.

**C. NET RECOVERY OPTIONS**

OPTION 1A

STRAIGHT PERCENTAGE OF NET RECOVERY

The fee to be paid to Attorney will be \_\_\_\_\_ percent (\_\_\_%) of the “net recovery”. The term “net recovery” means (1) the total of all amounts received by settlement, arbitration award or judgment, (2) minus all costs and disbursements set forth in Paragraph \_\_ [insert paragraph number pertaining to Costs].

OPTION 1B

NET RECOVERY INCLUDING COURT ORDERED FEES

The term “net recovery” means (1) the total of all amounts received by settlement, arbitration award or judgment, (2) minus all costs and disbursements set forth in Paragraph \_\_ [insert paragraph number pertaining to Costs]. If another party is ordered by the court to pay Client’s Attorney’s fees and/or costs, that award shall be part of Client’s net recovery and the contingent fee shall be based on the Client’s total recovery, including the amount of the court ordered award of attorney’s fees and/or costs.

OPTION 1C

NET RECOVERY GREATER OF NET OR COURT ORDERED FEES:

The term “net recovery” means (1) the total of all amounts received by settlement, arbitration award or judgment, (2) minus all costs and disbursements set forth in Paragraph \_\_ [insert

paragraph number pertaining to Costs]. If another party is ordered by the court to pay Client's Attorney's fees and/or costs, Client agrees that the attorney's fees and costs payable to Attorney pursuant to this Agreement shall be the greater of: (i) the amount otherwise owed to Attorney under this Agreement if the award of attorney's fees and costs were disregarded; or (ii) the amount of the court ordered award of attorney's fees and costs.]

#### **D. GROSS RECOVERY OPTIONS**

##### OPTION 2A

###### STRAIGHT PERCENTAGE OF GROSS RECOVERY

The fee to be paid to Attorney will be \_\_\_\_\_ percent (\_\_\_%) of the "gross recovery." The term, "gross recovery" means a percentage of the total of all amounts received by settlement, arbitration award or judgment before deducting any litigation costs and expenses set forth in Paragraph \_\_ [insert paragraph number pertaining to Costs] which have been either advanced or incurred by Attorney on behalf of Client.

##### OPTION 2B

###### SCALED PERCENTAGE OF GROSS RECOVERY

The fee to be paid to Attorney will be a percentage of the "gross recovery", depending on the stage at which the settlement or judgment is reached. The term, "gross recovery" means a percentage of the total of all amounts received by settlement, arbitration award or judgment before deducting any litigation costs and expenses all costs and disbursements set forth in Paragraph 6 which have been either advanced or incurred by Attorney on behalf of Client.

Attorney's fee shall be calculated as follows:

- (a) If the matter is resolved before filing a lawsuit or formal initiation of proceedings, then Attorney's fee will be \_\_\_\_\_ percent (\_\_\_%) of the gross recovery;
- (b) If the matter is resolved prior to \_\_\_\_ days before the date initially set for the trial or arbitration of the matter then Attorney's fee will be \_\_\_\_\_ percent (\_\_\_%) of the gross recovery; and
- (c) If the matter is resolved after the times set forth in (i) and (ii), above, then Attorney's fee will be \_\_\_\_\_ percent (\_\_\_%) of the gross recovery.

#### **14. CONSENT TO USE OF E-MAIL AND CLOUD SERVICES**

In order to provide Client with efficient and convenient legal services, Attorney will frequently communicate and transmit documents using e-mail. Because e-mail continues to evolve, there

may be risks communicating in this manner, including risks related to confidentiality and security. By entering into this Agreement, Client is consenting to such e-mail transmissions with Client and Client's representatives and agents.

In addition, Attorney uses a cloud computing service with servers located in a facility other than Attorney's office. Most of Attorney's electronic data, including emails and documents, are stored in this manner. By entering into this Agreement, Client understands and consents to having communications, documents and information pertinent to the Client's matter stored through such a cloud-based service.

## **Disclosure and Consent-Third Party Payor Payment of Attorney's Fees and Costs**

Under California Rules of Professional Conduct 1.8.6 an attorney may not accept compensation from one who is not the client without: (1) assuring the arrangement does not interfere with the attorney's independence or professional judgment on behalf of the client or with the attorney-client relationship, (2) providing for protection of client confidential information and secrets under Business & Professions Code Section 6068(e), (3) providing the client with a written disclosure of the relevant circumstances and the actual and foreseeable adverse consequences arising from the arrangement and (4) obtaining the client's informed written consent.

The potential adverse consequences of having a Third Party Payor responsible for payment of attorney's fees and costs is that the Third Party Payor may: (1) attempt to interfere with the attorney-client relationship between the attorney and client, (2) attempt to interfere with the attorney's exercise of independent professional judgment on behalf of the client, or (3) seek access to client confidential information or secrets contrary to the wishes of the client.

By signing this Agreement, Third Party Payor [insert name or entity] agrees to pay for all legal services which attorney provides to client and costs incurred in the representation of client. Client will remain responsible for and will pay attorney's bills in the event that third party payor fails for any reason to pay attorney's bills as they become due. If a refund is due at the conclusion of the representation, the refund will be paid to the person or entity who paid the fees and costs.

Third Party Payor [insert name or entity] acknowledges this agreement to pay for attorney's fees and costs does not make Third Party Payor a client of Attorney and that an attorney-client relationship will exist only between Attorney and Client. Third Party Payor further agrees that they will not interfere with the attorney-client relationship and will not interfere with the Attorney's exercise of independent professional judgment on behalf of the client. In furtherance of the independent nature of the attorney-client relationship, Third Party Payor acknowledges that it has no right to direct Attorney's handling of Client's matter.

### **SELECT ONE:**

\_\_\_ It is also understood and acknowledged that Third Party Payor [insert name or entity] will have no right to information regarding the representation and Attorney will not disclose any confidential or privileged information to Third Party Payor, unless client gives written permission to discuss some or all of the Client's matter with Third Party Payor.

### **OR**

\_\_\_ Client has asked Third Party Payor to participate in consultations with Attorney and may continue to do so with the understanding that Third Party Payor's involvement in any communications with Attorney is solely to further the interests of Client. Communications involving Third Party Payor [insert name],] are therefore intended to remain confidential and privileged as against persons or entities other than Attorney, Client and Third Party Payor. It is further understood and agreed that Attorney may share confidential information with Third Party Payor except when Client directs Attorney to keep information confidential. To the extent Client desires communications and information to remain confidential, Third Party Payor agrees

that payment and receipt of Client confidential information or secrets shall not in any way limit Client's confidentiality rights or waive any privilege.

By signing this Agreement, Client and Third Party Payor [insert name or entity] acknowledge they have: (1) read and fully understand this disclosure and consent form, (2) agreed that Attorney may accept compensation from [insert name or entity] to provide legal services to Client under the terms and conditions of this Agreement and (3) that [insert name or entity] has been represented and advised by counsel in entering into this Agreement or has waived their right to such representation and advice.

[Name of Client] \_\_\_\_\_ [Date signed] \_\_\_\_\_

[Name of Client] \_\_\_\_\_ [Date signed] \_\_\_\_\_

[Name of Attorney] \_\_\_\_\_ [Date signed] \_\_\_\_\_

## Joint/Multiple Client Disclosure and Consent Form

Clients [NAME] and [NAME(s)] (“Joint Clients”) have asked Attorney to jointly represent them in [DESCRIBE MATTER]. While joint representation may result in economic or tactical advantages, it also involves risks and potential conflicts of interest. The California Rules of Professional Conduct require that before an attorney may concurrently represent two or more clients in a matter, the attorney must: (1) inform each client in writing of the relevant circumstances and of the actual and reasonably foreseeable adverse consequences to the each client arising from the proposed joint representation, and (2) obtain the informed written consent of each client.

The purpose of this disclosure is to set forth potential conflicts of interest relating to the proposed joint representation, and what Attorney perceives to be the relevant circumstances and the actual and/or reasonably foreseeable adverse consequences. Assuming that both [OR ALL IF MORE THAN TWO CLIENTS] Clients provide their informed written consent, Attorney agrees to represent Joint Clients in [DESCRIBE MATTER]. Attorney understands that this arrangement is desired by Joint Clients as a means of securing the economic and tactical advantage of joint representation.

California law and Rule 1.7 of the Rules of Professional Conduct require Attorneys to provide written disclosure of any actual and reasonably foreseeable adverse consequences arising from the proposed joint representation, and to obtain all clients’ informed written consent to the joint representation. While Attorneys do not perceive any actual or reasonably foreseeable adverse consequences at this time, Clients should consider the following potential adverse consequences prior to consenting to the proposed joint representation:

- (1) When an attorney represents only one client, there is no concern regarding shared or divided loyalties; rather all of the attorney’s efforts are focused on representing the interests of that one client. When an attorney represents two or more clients in the same matter, the attorney acts to protect the interests of each client, which may result in divided, or at least shared, attorney-client loyalties. Issues may arise as to which Attorney’s representation of any one client may be limited by Attorney’s representation of any other joint client. While neither Attorney nor Clients are aware of any such issues at this time, divided loyalty is always a risk in the event of joint representation.
- (2) Attorneys owe clients a duty to preserve secrets and confidential communications, unless that duty is excused by the State Bar Act, the Rules of Professional Conduct or other law. When an attorney represents more than one client in a matter, pursuant to Evidence Code §962 and California case, law there is no attorney-client privilege with respect to communications that take place between any of the Joint Clients and the attorney should any of the Joint Clients ever have a dispute in which those communications are relevant. Attorney has a duty to keep all of the Joint Clients reasonably informed of significant developments. Any information either of the Joint Clients discloses to Attorney during the course of the joint representation may be disclosed to the jointly represented clients during the course of the joint representation.
- (3) Conflicts may arise in particular with regard to: (a) litigation strategies that can impact different clients differently; and (b) settlement issues, inasmuch as Joint Clients may each have different ideas regarding the propriety of settlement. At this point, Attorney does not have sufficient information to evaluate whether a potential settlement presents a conflict between the Joint Clients’ interests. If Attorney perceives there is a

conflict with respect to a settlement demand or litigation strategy, there may be a need for Joint Clients to consult independent counsel.

(4) Joint representation may also create an issue regarding custody, or control, of the original file when an attorney-client relationship ends. By signing this agreement, each of you agree that if Attorney stops representing one of you, but continues to represent the other(s), the client(s) represented by Attorney is entitled to maintain custody or control of the original file. The other party or parties is/are entitled to a copy of Client materials and property as defined in Rule 1.16(e)(1) of the Rules of Professional Conduct.

(5) In the event of a dispute or conflict between any of the Joint Clients, there is a risk that Attorney may be disqualified from representing one or more of the Joint Clients or that it may otherwise be inappropriate for Attorney to continue with the joint representation absent written consent from each of the Joint Clients.

**SELECT ONE**

(6) [FOR USE WHEN REPRESENTING MULTIPLE PLAINTIFFS]

If there is insufficient insurance or assets to cover the damages of each client, there may be disputes regarding how to allocate the insurance proceeds or assets between the Joint Clients.

**OR**

(6) [FOR USE WHEN REPRESENTING MULTIPLE DEFENDANTS]

If there is a judgment against any of the Joint Clients which is not covered by insurance, that client may have rights of indemnity against one or more of the other parties. If any disputes should arise between the Joint Clients, Attorney will not advise or represent any of the clients in connection with any claim for contribution or indemnity that it may have against any of the other clients.

[OPTION RE PUNITIVE DAMAGES]

The complaint includes a claim for punitive damages, which presents the potential for a conflict inasmuch as an award of punitive damages is not insurable. Attorney will endeavor to keep each of the Joint Clients advised as to their potential risks and exposure with respect to the punitive damage claim, or with respect to any over policy limits claims should one ever be made.

Because there is currently no conflict of interest, Attorney may jointly represent Joint Clients in connection with the [DESCRIBE MATTER] provided that Joint Clients both/all give your informed consent in writing. Each Joint Client should feel free to consult with independent counsel before finalizing your decision to proceed with the joint representation, including whether or not to sign this conflict disclosure and waiver. Attorney emphasizes that each Joint Client remains free to seek independent counsel at any time even if they decide to sign this consent.

Notwithstanding the foregoing, it is Attorney's current understanding that each of the Joint Clients desires to have Attorney jointly represent them in the [DESCRIBE MATTER]. By signing this Disclosure and Consent, each client expressly acknowledges that he/she or it (acting through its authorized representative): (1) has

carefully read and fully understands the disclosures set forth above; (2) has carefully considered all of the circumstances and potential conflicts described above; (3) has had the opportunity to consult with independent counsel regarding the disclosures and consent in this agreement; and (4) agrees to the joint representation by Attorney of Clients in **[DESCRIBE MATTER]**.

[Name of Client] \_\_\_\_\_ [Date signed] \_\_\_\_\_

[Name of Client] \_\_\_\_\_ [Date signed] \_\_\_\_\_

[Name of Attorney] \_\_\_\_\_ [Date signed] \_\_\_\_\_

## Mediation Disclosure Notification and Acknowledgement

To promote communication in mediation, California law generally makes mediation a confidential process. California's mediation confidentiality laws are laid out in Sections 703.5 and 1115 to 1129, inclusive, of the Evidence Code. Those laws establish the confidentiality of mediation and limit the disclosure, admissibility, and a court's consideration of communications, writings, and conduct in connection with a mediation. In general, those laws mean the following:

- All communications, negotiations, or settlement offers in the course of a mediation must remain confidential.
- Statements made and writings prepared in connection with a mediation are not admissible or subject to discovery or compelled disclosure in noncriminal proceedings.
- A mediator's report, opinion, recommendation, or finding about what occurred in a mediation may not be submitted to or considered by a court or another adjudicative body.
- A mediator cannot testify in any subsequent civil proceeding about any communication or conduct occurring at, or in connection with, a mediation.

This means that all communications between you and your attorney made in preparation for a mediation, or during a mediation, are confidential and cannot be disclosed or used (except in extremely limited circumstances), even if you later decide to sue your attorney for malpractice because of something that happens during the mediation.

I, \_\_\_\_\_ [Name of Client], understand that, unless all participants agree otherwise, no oral or written communication made during a mediation, or in preparation for a mediation, including communications between me and my attorney, can be used as evidence in any subsequent noncriminal legal action including an action against my attorney for malpractice or an ethical violation.

NOTE: This disclosure and signed acknowledgement does not limit your attorney's potential liability to you for professional malpractice, or prevent you from (1) reporting any professional misconduct by your attorney to the State Bar of California or (2) cooperating with any disciplinary investigation or criminal prosecution of your attorney.

[Name of Client] \_\_\_\_\_ [Date signed] \_\_\_\_\_

[Name of Client] \_\_\_\_\_ [Date signed] \_\_\_\_\_

[Name of Attorney] \_\_\_\_\_ [Date signed] \_\_\_\_\_