



## RETAINER AGREEMENT

### ZEKE DAVID BENTLEY TRADING AS THE MIGRATION PLACE (the "Migration Agent")

AND

CLIENT  
("Client")

This agreement is prepared pursuant to Section 313 of the *Migration Act* 1958 which requires that the Migration Agent express in clear, plain language the work that the Migration Agent is to perform and the fees and costs payable by the Client for that work.

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

You are encouraged to seek independent advice about the agreement before entering into the Agreement. To protect your interests you should obtain this advice **BEFORE** signing the Standard Acknowledgment Agreement.

Whilst we are pleased to answer questions about this agreement we cannot advise you upon the contents and merits due to the conflict that would arise between your interests and ours.

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

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

The Office of the Migration Agents Registration Authority ("**MARA**") may be able to assist or to provide you with information to ensure that you understand the Migration Agent/Client relationship and this agreement fully.

**This Agreement is a living document.**

**Release date:** 28 May 2013

**Preamble**

- A. The Migration Agent is in the business of providing services as a migration agent;
- B. The Client requests that the Migration Agent supply such services to the Client for reward;
- C. Pursuant to the request(s) of the Client, the Migration Agent agrees to provide legal services to the Client for reward;
- D. The parties have agreed to be bound by the Agreement pursuant to the terms specified below.

**1. Terms of the Agreement**

## Definitions

- (a) **"Agreement"** refers to the Standard Acknowledgement Agreement ("SAA") and this Retainer Agreement ("RA"), which constitute the entire agreement between the Migration Agent and the Client;
- (b) **"Application"** refers to the type of visa application(s) the Client instructs the Migration Agent to lodge with DIAC as defined in **Item 2** of the SAA;
- (c) **"Authorised Representatives"** refers to Corina Chen, Zoe Thornborough, Lena Bentley, Jean Choules, Lisa Green, and other employees of the Migration Agent from time to time;
- (d) **"Client"** refers to person(s) or corporation(s) identified in **Item 1** of the SAA;
- (e) **"Deposit"** means 50% of the Fee Limit;
- (f) **"DIAC"** refers to the Department of Immigration and Citizenship;
- (g) **"Disbursements"** means additional outlays which are not included in the Fee Limit amount and are payable by the Client such as:
  - (i) All fees payable to DIAC (which will vary depending on the visa class);
  - (ii) All fees of any medical examination and/or X-ray;
  - (iii) All fees of Federal Police Checks in Australia and Police Clearance certificate from the Client's country of origin;
  - (iv) All fees associated with the translation of documents;
  - (v) All fees associated with any assessment of Client's qualifications;
  - (vi) All fees associated with English Language Proficiency Assessments i.e. IELTS test;
  - (vii) Any other outlays required as a result of the work we have to undertake on your behalf;
  - (viii) All fees associated with any appeals or reviews that are necessary; and

- (ix) The Goods and Services Tax (“GST”).
- (h) “**Fee Limit**” refers to the amount identified **Item 3** of the SAA which is inclusive of the professional fees charged by the Migration Agent for the Work,
- (i) “**GST**” or the Goods and Services Tax bears the meaning ascribed to it in the *A New Tax System (Goods and Services Act) 1999* (Commonwealth) as amended or replaced;
- (j) “**Migration Agent**” means Zeke David Bentley;
- (k) “**RA**” or “**Retainer Agreement**” refers to this document which is the Agreement between the Migration Agent and the Client;
- (l) “**Refund Policy**” means in the event that the Application is unsuccessful, the Migration Agent will refund a percentage (between 10% to 50%, determined in the Migration Agent’s sole discretion) of the Fee Limit to the Client, unless:
- (i) The Client failed to meet the health criteria; or
- (ii) The Client failed the character test (for example due to having a criminal record, a history of insolvency events; or
- (iii) The Client failed to provide requested documents or information in a timely fashion (or at all); or
- (iv) The Client provided false or misleading information; or
- (v) The Client failed to obtain certification of his/her qualifications with the relevant Australian authority, if such certification forms are part of the Client’s Application requirements; or
- (vi) The Client failed to meet the English requirements; or
- (vii) The Client withdrew their instructions before the Application had been processed; or
- (viii) The outcome is based on factors not known to the Migration Agent which were not known at the time the application was lodged, or if the law has changed after the application was lodged; or
- (ix) The Agreement was terminated; or
- (x) The Client refused to adopt the Migration Agent’s recommendation to appeal or review the decision of an unsuccessful Application; or
- (xi) The Client did not satisfy the Client’s Duties as set out herein; or
- (xii) The Client refused to follow advice of the Migration Agent and/or Authorised Representatives; or
- (xiii) The Client failed to pay Fees and Disbursements on time; or
- (xiv) The Client had been

forewarned that there was a risk that the Application would not succeed; or

- (xv) An extension is required.
- (m) **“SAA” or “Standard Acknowledgement Agreement”** forms part of the Agreement;
- (n) **“Time Estimate”** refers to the official processing time estimates provided by DIAC for the processing of the type of the visa application by the Client;
- (o) **“Work”** refers to all usual legal work associated with the Client’s migration application including but not limited to:
  - (i) Seeking information and documentation required to assist the Client
  - (ii) Drawing, filing and/or lodging necessary migration documents.
  - (iii) All normal conferences, correspondence and telephone attendances with necessary authorities.
  - (iv) All necessary attendances upon the Client.

## **2. About this Agreement**

- (a) The Client is advised to seek independent professional legal, accounting or business advice prior to entering into the Agreement;
- (b) A hardcopy of this Agreement is always provided on request and is also available to the public for inspection on The Migration Place website,

[www.themigrationplace.com/retainer](http://www.themigrationplace.com/retainer) (“The Migration Place Website”);

- (c) Nothing in this Agreement or any circumstances associated with it or its performance gives rise to any relationship of a legal partnership, employer and employee, principal, agent or exclusivity between the Client and the Migration Agent, and neither party may represent that any such relationship exists;
- (d) There are no previous versions of this Agreement as this Agreement is a living document. This document is simply updated, as and when necessary;
- (e) This Agreement is current as of the date shown on the top of this Agreement; and
- (f) In the event that paragraph 2(d) herein is held to be unenforceable then the said paragraph shall be removed from the Agreement and replaced with the following clause:  
*“The Client agrees to be bound by the terms of the Agreement in the terms as they appear on The Migration Place Website current as at the date the Client signs the SAA.”*

## **3. The Firm’s/Migration Agent’s Obligations to the Client**

The Migration Agent and/or his Authorised Representatives will:

- (a) Perform the Work specified in accordance with the Client’s instructions and the information that the Client gives, to a proper and

professional standard.

- (b) Ensure that, in so far as is reasonable, the Migration Agent and/or his Authorised Representatives will keep the Client informed about the progress of the Client's matter, noting that each update costs the Client money, so the appropriate balance between providing information and progressing the matter will vary from situation to situation.
- (c) Endeavour to provide the most "*up to date*" Time Estimates, upon written request by the Client.

- (d) Strive to adhere at all times with the Migration Agents Registration Authority ("MARA") Code of Conduct. A copy of the Code of Conduct may be downloaded from [www.mara.gov.au](http://www.mara.gov.au).

The Migration Agent also encourages the Client to read the MARA Information on the Regulation of the Migration Advice Profession booklet available at [www.mara.gov.au](http://www.mara.gov.au) should the Client require any further information.

- (e) Keep the Client's information confidential, unless:
  - a. the disclosure of information is compelled by law; or
  - b. the Client consents to the disclosure; or
  - c. the disclosure is required to conduct the Work.

#### **4. The Client's Duties**

- (a) The Client will ensure that all instructions provided to the

Migration Agent and/or his Authorised Representatives are accurate, correct and true;

- (b) The Client will make reasonable efforts to be available to give the Migration Agent, or his Authorised Representatives, information and instructions to enable the Work to be carried out promptly and efficiently;
- (c) When the Client anticipates being absent from its residence or business during a time when instructions will need to be given, the Client will make arrangements to enable instructions to be given; and
- (d) The Client will pay all Fees and Disbursements as requested and on time.

#### **5. When to Pay the Migration Agent**

- (a) The Migration Agent confirms that based upon initial instructions received from the Client, the Migration Agent will limit his professional fees (excluding Disbursements) to the amount of the Fee Limit.
- (b) The Client agrees to pay the Migration Agent a Deposit equal to 50% of the Fee Limit upon the receipt of the Client's instructions by the Migration Agent to proceed with the Client's application.
- (c) The Client agrees to pay the Migration Agent any Disbursements as may be requested by the Migration Agent and/or his Authorised Representatives from time to time within seven (7) days of said request.

- (d) The Client agrees to pay the remainder of the Fee Limit and any required Disbursements after the Work has been undertaken, but prior to the lodgement of the application;
- (e) Subject to the Refund Policy, if the Application is not successful, then the Migration Agent may refund part or all of the Fee Limit paid by the Client;
- (f) Please note that seeking an extension will not necessarily result in it being granted, and you acknowledge and agree that we are not liable in the event that the DIAC refuses the extension.
- (g) The Client agrees and understands that the Migration Agent may not start Work upon on the Client's Application, or monitor the Client's matter to warn of potential problems until all monies requested are paid;
- (h) The Client agrees that the Migration Agent and/or his Authorised Representatives are not responsible or liable for adverse changes in the Client's legal position that arise before the Client makes payments or other arrangements (such as signing the SAA) as required under this Agreement.
- (i) A 30% premium in addition to the Fee Limit is payable for any urgent matters which require action by the Migration Agent and/or his Authorised Representatives in under seven (7) days.

## **6. Change of Migration Agent**

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

## **7. Amendment to the Agreement**

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

## **8. Termination of this Agreement**

- (a) The Client may terminate this Agreement and withdraw its instructions at any time and for any reason;
- (b) The Migration Agent may terminate this Agreement and cease to act for the Client for lawful cause or if the Client:
  - (i) Breaches the terms of the Agreement; or
  - (ii) Requests that the Migration Agent or his Authorised Representatives act unlawfully or unethically; or
  - (iii) Fails to give the Migration

- Agent or his Authorised Representatives adequate instructions; or
- (iv) Indicates that the Client has lost confidence in the Migration Agent or his Authorised Representatives; or
  - (v) Fails to pay for any accounts as required herein or to provide money to be paid into trust as may be required; or
  - (vi) Refuses to Appeal or Review any decision where the Migration Agent recommends that the decision be reviewed or appealed; or
  - (vii) Loses legal capacity or becomes bankrupt or insolvent; or
  - (viii) Fails to fulfil the Client's Duties as set out in clause 4 herein.
- (c) The Migration Agent will give to the Client reasonable notice of its intention to terminate this Agreement;
- (d) If this Agreement is terminated by the Migration Agent or by the Client then any refund policy is voided and the Migration Agent is entitled to all outstanding fees and costs and will be entitled to retain possession of the Client's file until those fees and costs have been paid.
- (e) Furthermore, the Migration Agent may notify DIAC in the event that the Client refuses to pay fees or any

outlays owing to the Migration Agent.

## **9. Qualified Advice**

- (a) The advice given by the Migration Agent to the Client will be based on assumptions, qualifications and instructions provided by the Client. The Migration Agent will set out those assumptions or qualifications in the advice.
- (b) The Migration Agent's advice is conditional upon assumptions, qualifications and instructions provided by the Client.
- (c) Any changes to those circumstances, instructions or qualifications may mean that the Migration Agent's advice is incorrect.

## **10. Acknowledgement**

- (a) The Client has been informed they should seek independent advice in relation to this Agreement.
- (b) The Migration Agent is entitled to transfer all monies paid to his general account, as soon as they are deposited into his trust account, irrespective of whether the application has been lodged, processed or granted, and irrespective of whether work has commenced.

## **11. Jurisdiction**

- (a) This Agreement is to be governed by and construed in accordance with the law of the State of Queensland, Australia.
- (b) Each of the parties submits to the

exclusive jurisdiction of the courts of the State of Queensland, including all relevant courts of appeal.

- (c) To avoid any doubt, each of the parties submits to the jurisdiction of the Brisbane Registry of the courts of the State of Queensland.

## **12. Interpretation**

- (a) Time is of the essence of this agreement.
- (b) Unless a contrary intention appears, the following applies to the Agreement:
- (i) The singular shall include the plural and vice versa;
  - (ii) Words of any gender or referring to any gender (including the neuter gender) shall include all other genders;
  - (iii) Any reference to a person includes an incorporated company and any other body corporate, partnership, association or other body of persons or body politics;
  - (iv) Headings are for ease of reference only and do not affect the interpretation of this Agreement;
  - (v) All prices contained in the

Agreement refer to Australian currency unless otherwise stipulated;

- (vi) the word 'including' and similar words are not words of limitation;
- (vii) a party that is a trustee is bound both personally and in its capacity as a trustee; and
- (viii) if an obligation is imposed on two or more parties, each party is liable for the obligation individually and together with each other person.

## **13. Result of Visa Application**

- (a) The Client acknowledges and agrees that the client should not assume the success of any visa application until the visa has in fact been granted. Until that time, the Migration Agent advises the Client not to buy any assets in Australia and not to make any changes to life overseas.
- (b) We are not obliged to advise you of any changes which occur after the Visa Application has been lodged, unless you instruct us to do so.



### MINIMUM FIXED FEES – EXTRAORDINARY MIGRATION WORK

Pursuant to Clause 5.1 of the *Migration Agents Code of Conduct (2006)* the following table outlines a range of **estimated fixed fees\*** for extraordinary migration work.

Please note these are **estimates** only and may be subject to change depending on the circumstances of each case.

*\*GST will not be charged on the fixed fees listed below unless required.*

No.	DESCRIPTION	COST ESTIMATE (MINIMUM)
1	Application for a Bridging Visa	\$880.00
2.	Attendance at the DIAC where personal attendance is required (or requested)	\$450.00 or hourly rate
3.	Applying for an extension with the DIAC	\$880.00
4.	Arranging for police checks	\$250.00 per check
5.	Arranging for medicals	\$250.00* per medical  *Please note there will be a consultation fee which will be payable by the Client prior to the medical appointment.
6.	Apply for your visa conditions to be altered (e.g. to increase or seek for the right to work, or to seek for study rights etc.	\$880.00
7.	Preparing submissions on addressing any issues regarding your police clearance.	\$800.00 per clearance
8.	Drafting submissions on addressing queries or issues to meet the health criterion	\$1,800.00
9.	Drafting submissions to address the genuineness of your relationship with your partner, including issues arising if you have not been residing with your partner for the entire 12 months prior to the lodgement of your visa application.	\$1,500.00
10.	Prepare submissions on the English competency of the main applicant, or any dependant applicant.	\$880.00
11.	Prepare submissions regarding your skills, or relevant work experience.	\$880.00
12.	Making submissions regarding the dependency of any member of your family unit.	\$880.00

13.	Making submissions on the Market Salary Rate evidence (when apply for a Subclass 457 Visa) or the training programs utilised by the Sponsor.	\$1,000.00
14.	Dealing with any custody issues with children when joined to your visa application.	\$880.00
15.	Arrange accounting evidence and reports.	\$1,800.00
16.	Advising on citizenship eligibility, and the rules relating to renewing your permanent residency.	\$300.00
17.	Explaining the outcome of your visa application.	\$300.00
18.	Advising on Appeal prospects in the event of an adverse decision.	\$880.00
19.	Ancillary advice on any alternative visa options that could be looked at whilst the visa application is processed.	\$300.00
20.	Arranging for additional Health Checks, where requested by the DIAC or if your existing medical reports have expired.	\$250.00
21.	Including any dependents on your existing visa.	\$880.00 per dependent
22.	Arranging for translation of documents.	\$300.00 per bundle of documents

**Please note the above fixed fee estimates are minimums and the Migration Agent is entitled to charge on a time basis where:-**

- (a) The Client does not respond to the Migration Agent's advice and/or requests for information in a timely manner.
- (b) The issues are sufficiently complex so as to justify a time-based fee being charged, with the above fixed fee estimates simply being a minimum.
- (c) You do not follow our advice, or if you require us to re-send or repeat the same advice.
- (d) Our fees are not paid within our Terms of Trade.
- (e) You do not provide us with requested information and/or documentation in a timely manner.

**Our fixed fee does not cover advising upon, or considering any:-**

- (a) Changes to Australian migration law.
- (b) Changes to Australian migration case law.
- (c) Changes to eligibility criteria, or the tests applied for skills, health test, IELTS, etc.