

# LAW OFFICE OF CHRISTOPHER J. NEARY

## **Standard Terms of Engagement for Legal Services**

This letter sets forth the standard terms of your engagement of Christopher J. Neary as your attorney. Unless modified in writing by mutual agreement, the terms set forth herein will be a part of our agreement. Please review this letter carefully and contact me if you have any questions.

### **Scope of Work to be Provided**

In the cover letter accompanying these Standard Terms of Engagement, I will set forth in detail the scope of legal services covered by this Agreement. This Agreement will be limited to the described services. In the event that you seek to engage me for other legal services beyond those that the scope described, such agreement will be set forth in a separate written agreement between us.

I will act at all times on your behalf to the best of my ability. Any expressions on my part concerning the potential outcome of this matter are expressions based upon my best professional judgment, but is not intended to convey a guarantee. As an opinion, it is necessarily limited by my knowledge of the facts and is based upon the state of the law at the time the opinion is expressed.

### **How Fees Will be Set**

If not otherwise specified in the cover letter attached hereto, in determining the fee to be charged for the legal services I provide to you, I will consider the following:

- The time and effort required, the novelty and complexity of the issues presented, and the skill required to perform the legal services promptly
- The fees customarily charged in the community for similar services and the value of the services to you.
- The amount of money or value of property involved and the results obtained.
- The time constraints imposed by the nature of the matter such as an emergency requiring the need for injunctive relief or a substantial disruption of my office business.
- The extent to which office procedures and systems have produced a high quality product efficiently with minimum time expenditure.

Among these factors, the time and effort required are weighed the most heavily. I maintain records of time devoted to client work, including conferences both in person

and over the telephone, negotiations, factual and legal research and analysis, document preparation and revision, travel on your behalf, and other related matters. These records are recorded in units of one-quarter hour, with a minimum of one-quarter hour for any activity.

### **Estimate of Fees**

I am often asked to estimate the amount of fees and costs to be incurred in connection with a particular matter. Whenever possible, I will furnish you with an estimate based upon my professional judgment with the clear understanding that it is not a maximum or fixed fee quotation. I take pride in my ability to correctly estimate the amount of fees and costs, but my estimates should be taken only as a good faith effort to provide you with an understanding of the potential cost to you. The amount of the estimate is often taken into account in establishing the final amount due, but is not governed by the estimate.

For certain well defined services, I may quote a flat fee. In such situation, I will identify the fee as a "flat fee" in the accompanying cover letter together with a precise definition of the scope of services to be provided.

### **Out-of-Pocket Expenses**

I typically incur, and pay on behalf of clients a variety of out-of-pocket costs arising in connection with legal services. Whenever such costs are incurred, they will be itemized and billed to you. Typical of such costs are long distance telephone charges, courier charges, express delivery charges, extraordinary postage, filing fees, deposition and transcript costs, witness fees, travel expenses, computerized research charges and similar costs. Such costs are incurred as an agent for you who agree that these costs will always be paid on a regular basis by you and that you will indemnify and hold me harmless from those costs.

When costs are paid from the Client-Trust Account, no additional charges shall accrue. However, when costs are advanced out-of-pocket by this office, the following additional charges shall accrue:

If the cost is reimbursed within five (5) calendar days:

<b>Fees Advanced</b>	<b>Check Charge</b>
Less than \$1,000	No Charge
\$1,001-\$1,500	\$187.50
\$1,500 +	12.50%

If the cost is NOT reimbursed within five (5) calendar days, the following additional charges shall accrue: ten percent (10%) of the amount advanced.

## **Retainer and Trust Agreements**

New clients are requested to deposit a retainer. The retainer deposit is charged for fees and costs as legal services are provided and incurred. If the retainer deposit proves insufficient to cover expenses and fees, it will be billed to you as an amount due on your bill. If, at the conclusion of the legal representation, or at such other time as the deposit becomes unnecessary, any remaining balance will be returned to you.

Deposits that are received to cover specific items will be disbursed as provided by you and you will be notified from time-to-time of the amounts applied or withdrawn. Any amount remaining after disbursement will be returned to you.

All trust deposits we receive from you, including retainers, will be placed in a pooled client-trust account for your benefit. I am prohibited from earning interest on the account and all interest from the account is paid to a charitable foundation administered by the State Bar. However, if the deposit is sufficiently large to justify a separate account, I can make arrangements to establish a separate account with the interest accruing to you.

## **Termination of Representation**

You may terminate our relationship at any time, with or without cause, by notifying me. If such termination occurs, your papers and property will be returned to you promptly. My own file pertaining to the case will be retained. Termination of services does not affect your responsibility for paying for legal services rendered before termination and out-of-pocket costs incurred before termination and in connection with an orderly transition of the matter.

I am subject to the Rules of Professional Responsibility listing several types of conduct or circumstances requiring me or allowing me to withdraw from representation of a client, including nonpayment of fees or costs, misrepresentation or failure to disclose material facts, action contrary to my advice, and conflict of interest with another client. I try to identify in advance and discuss with you any situation that could lead to a withdrawal and if a withdrawal ever becomes necessary, I immediately give you notice of that intention. As a practical matter, such withdrawal by me is very rare.

## **Billing Arrangements and Terms of Payment**

I will bill you on a monthly basis for fees and disbursements. The bills are dispatched on the fifth of each month. You agree to make payment by the end of the month in which you receive a bill. Unpaid fees and disbursements accrue interest at the rate of 0.833% per month (10% per annum, without compounding) from the beginning of the month in which fees become overdue.

I will give you prompt notice if your account becomes delinquent. You agree to bring the account or the retainer deposit current, or make special arrangements for doing so. If the delinquency continues or you do not make satisfactory payment terms, I would be left with no alternative but to withdraw from the representation and pursue collection of your account. In such event, you agree to pay the costs of collecting the debt, including court costs, filing fees and reasonable attorney's fees to be approved by the court.

### **Arbitration of Disputes**

If a dispute arises between us regarding my performance under this Agreement regarding whether the services rendered were properly and competently rendered, the dispute will be submitted for binding arbitration and we will be bound by the result. By agreeing to this, each of us waives the right to submit the dispute to court and also waive the right to a jury trial or court trial.

### **Other Services Available**

Both myself and my secretary have valid Notary Public Commissions. Notarial services, whether or not related to our representation are complimentary.

I strongly urge clients to consider their estate plans on a regular basis, along with durable powers of attorney for business affairs or health matters. If your estate planning is not up to date, please fee free to discuss the matter with me. Preparation of estate documents for a husband and wife typically cost approximately \$250.

### **Appointment Policy**

As for appointments, please feel free to call my secretary at any time to set up an appointment. Appointments are typically scheduled for the afternoon. Weekend appointments and out-of-the-office appointments are also possible.

### **File Handling and Retention**

The central principle regarding files is that files maintained by me in your representation belong to you. After my services have concluded I will, upon your written request, deliver your files to you along with any funds or property belonging to you in my possession. If you do not request the file in writing, I will retain it for a period of at least three years after the matter is closed. If you do not request delivery of the file for a specific matter before the end of the three year period, I will have no further obligation to retain the file and may, at my discretion, destroy it upon endeavoring to provide you with written notice. After termination of my representation, you should keep me posted as to your current address for this purpose. At any point during the three year retention period following the close of an individual matter, you may request delivery of the subject file.

### **Adverse Interests**

The Rules of Professional Conduct of the State Bar of California prohibit me from commencing or continuing your representation if I have a relationship with another party interested in the subject matter of the representation unless I inform you in writing of the relevant circumstances and of the actual and reasonable foreseeable adverse consequences to you. Before I can represent you, if there is such an adverse interest, I must obtain your informed written consent.

Unless such an adverse interest is set forth in the cover letter, I am not aware of any relationship with any other party interested in the subject matter encompassed by the scope of work or any separate matter in which you have an interest adverse to any other client of mine.

### **Effective Date**

The effective date of this Agreement will be the date when you execute the attached cover letter and return it to me along with any retainer provided for in the cover letter.