



Castle Keeper

Retainer Agreement

Thank you for your interest in Castle Keeper. I know that time is your most precious commodity – so my intention in offering this service is to make it efficient, easy & less expensive for you to access good governance and risk management mentoring, keep your legal documents up to date and shiny, and maintain vigilance around your intellectual property. The bigger your business gets, the more risk you are exposed to, and the less time you have to deal with it. Together we can identify the necessary action to keep you and your clients safe and increase your peace of mind. I'll also provide awesome accountability, so avoidance & resistance won't stop you doing what you need to do.

Engaging me to provide this service is subject to the following Terms. Please read them carefully. They are for our mutual benefit. If you have any questions at all, please contact me.

1. Responsible Solicitor

I am the solicitor solely responsible for your matter and I will assist you personally.

Michelle Whitehead trading as Carefree Counsel

BA (Hons 1) LLB (Hons 1) LLM (Hons)

NSW Solicitor #: 58004

ABN: 91 968 443 292

Postal Address: PO Box 438, South West Rocks, NSW 2570

Phone: 0436291346

Please only call or text in an emergency. I prefer contact by email: michelle@carefreecounsel.com.

This service is offered in compliance with Australian Consumer Law.



2. Identification of Client

Please check these details carefully and let me know if there are any errors (especially if you are a company / organization rather than a sole trader).

Name:

ABN:

Address:

Contact Details:

3. Scope & Duration of Work

The specific services that you have requested have been negotiated between us and are set out in Schedule 1. Variations to the scope of work may be agreed on by email between us.

There is a minimum commitment of 3 months at a time, unless I have agreed to an alternative arrangement. If this is the case, the alternative arrangement will be set out in Schedule 1.

4. Payment

I will charge you a monthly fee for this service, at the rate specified in Schedule 1. Fees are in Australian dollars and include GST.

You may choose to pay monthly, quarterly or yearly. Tax invoices will be sent out at your chosen intervals.

Making your payment

Payment is due within 14 days of receipt of my invoice. My preferred payment method is by direct deposit or EFT (electronic funds transfer) to the account nominated on the tax invoice. Please use your surname and invoice number as the reference when making a deposit.

Account Name	Branch Code (BSB)	Account Number
M M Whitehead	082-491	82 659 2006

IMPORTANT! My bank account details will not be changed from the details above. If you receive any correspondence suggesting that I have changed my bank account details and asking you to pay into

a different account, please call me on 0436291346 or send me a message through Facebook to confirm BEFORE PAYING, as this is a common cybercrime tactic.

PayPal is available on request if you prefer to pay by credit card. Please confirm the details of the payment with me and wait for me to issue a PayPal invoice before making a PayPal payment. I reserve the right to add a surcharge of 2.5% as a contribution towards PayPal's fees. (This is less than PayPal charges me).

Make sure you keep a copy of the invoice as this work should be claimable as a business expense for tax purposes, although you will need to confirm this with your accountant or financial adviser.

IMPORTANT NOTE - If you have any difficulty paying an invoice, CONTACT ME so we can make alternative arrangements. I promise to understand. There is nothing worse than being ghosted and having to beg for payment. If there is a problem, if you need more time or if you are not happy, reach out and tell me so I can be generous and offer a win/win solution. Don't make me feel mean and nasty by hiding from me! Let me know what is going on for you so we can find a way forward without ruining our relationship. Sound reasonable?

Late payment consequences (because no-one should have to beg to get paid)

If I have not received payment after 14 days from the date of the invoice, I will send you a reminder. If payment is not received within 7 days of that reminder, all services will be paused until payment is made.

Many of the services included in this retainer are provided quarterly, based on you making a 3 month commitment. If you have already received services that have not been paid for (such as Update Your Legals, Ongoing Vigilance Report, IP Strategy Session, Mentoring or a guaranteed 14 day turnaround on drafting work), and your payment is not received before the end of the relevant quarter, I reserve the right to cancel your retainer and charge you full price for that service at the following rates (which are what I would charge a client outside of Castle Keeper for performing them):

Update Your Legals - \$880

Ongoing Vigilance Report - \$880

IP Strategy Session - \$440

Mentoring - \$440 / hour

14 day urgency fee - 50% in addition to the price of the contract

You agree that this is entirely reasonable as I have performed those services at a discounted price in reliance on your promise of monthly payments. If you fail to keep your promise without making alternative arrangements with me, you will lose the benefits that come from this retainer relationship.

The *Legal Profession Uniform Law* (NSW) (“the Uniform Law”) provides that I cannot take action for recovery of legal costs until 30 days after a tax invoice which complies with the Uniform Law has been given to you. I am patient – I am willing to wait three times that long. However, if an invoice is more than 90 days overdue, you agree to pay all costs, including debt collection agency fees and solicitor’s costs (including my own), that I may incur in taking steps to recover any money that you owe to me, whether or not legal proceedings are issued in relation to the debt. This includes the full price invoices for services performed but not paid for.

5. What you can expect:

This is the general process that occurs for each of the normal service offerings included in the full package. There may be minor departures from this process depending on your specific needs. If at any time you are unsure of what to expect, or feel confused about the process, please contact me so we can ensure we are both on the same page.

Update Your Legals

Once a quarter, you can choose to either:

- send me one of your existing contracts for me to read through and update based on your emailed instructions, or
- book a 1:1 Update Your Legals session of up to 2 hours duration at a time that suits you.

If you are choosing to send me a contract to update, please allow a turnaround time of approximately 2 weeks to complete your revisions. If you are waiting for a document and have not heard from me, please reach out (gently) to see how I am going.

The document I send you will have “markup” turned on so that you can see my changes, & I can track any changes that you make. You are expected to read the revised document carefully, to make any further amendments or comments and ask any questions that you have. The document may contain highlighted areas and comments in the margin where I have requested further information from you. It is your responsibility to make sure you have software that can read these comments (Microsoft

word; Google docs). If you have any difficulty with opening or accessing the document, please notify me asap. When you have completed your review, please email it back to me to finalise. You can treat this process as an informal conversation between us – do not hesitate to ask questions or make highlighted comments in the document. If you don't like something, I need you to tell me!

If you have chosen the in-person option, please email the document to me before the session in Word or Google Doc format. I will share your document on my screen and revise it as you talk through any changes you require.

This is a significant upgrade on my normal group Update Your Legals sessions, where you do the updating and I am only available to answer questions.

I will send you reminders about this service at the start of any month in which you have an unused Update Your Legals entitlement.

Ongoing Vigilance Report

In Schedule 1 of this Agreement, I will ask you to nominate up to 3 trade marks. These may be registered or unregistered. Once a quarter, I will conduct ongoing vigilance searches of the Australian and global trade mark databases, Google search engine up to 5 pages in, and 2 social media platforms (usually Facebook and Instagram, unless you choose something else). I will send you a report outlining the results of my search.

I cannot guarantee that I will identify every possible potential for conflict in my searches (although I will try hard to do so). Potential problems that I identify may (or may not) ever come to pass. What I can guarantee is that I will run your trade marks through the specified searches, assess the results based on my professional knowledge and experience, and alert you to any potential problems that I believe should be brought to your attention. If there are no issues, I will report that also.

You are entitled to one x 1 hour IP Strategy Session each quarter to discuss any issues that arise in my searches, or if there are none, to answer any other intellectual property questions that you have. The reminder and link for this session will be contained in my Ongoing Vigilance report.

If an infringement of your trade mark is found, I will not charge you any additional fees for sending an initial cease and desist letter and engaging in minor correspondence with the infringer. I will keep you in the loop of all correspondence and seek your instructions before sending anything.

Best Practice, Good Governance & Risk Management Mentoring

You are entitled to up to 1 hour of Private Mentoring hours per quarter (or 4 hours per year if you have paid for a year in advance). You can use this time to talk about anything you want – but it is especially useful for exploring issues of best practice, good governance and risk management. Here are some examples of potential topics:

- refine your refund, appointment & cancellation policies
- deal with difficult clients and improve your boundaries
- get advice on a contract or more intellectual property strategy time
- sort out sticky situations without spiralling into sabotage
- explore succession planning for your business
- communicate with clarity & compassion to avoid conflict
- design automated systems & process to make your life easier
- risk management, good governance & best practice support
- pick my brain and benefit from my win/win thinking

You will be sent an email around the start of each month with a reminder of how much time you have left available, the date by which your entitlement must be used, and the booking links for 15m, 30m, and 60m consultations, to use in whatever combination you desire.

Contract Drafting – Guaranteed 14 day turnaround

If you have chosen this option, you are entitled to a guaranteed 14 day turnaround on any contracts that you engage me to draft for you. You will still pay my normal contract drafting price, but you are guaranteed to receive your first draft within 14 days of our intake interview.

This avoids my normal turnaround time, which is normally 4–6 weeks, but has been known to stretch to 2–3 months in busy periods, without incurring my urgency fee. For a 14 day turnaround, the urgency fee is an additional 50% added to the cost of the contract.

Speaking Engagements

To be honest, this isn't calculated in the cost of the retainer because I am happy to do it for you anyway – but I want to make sure you are aware of my availability. You are welcome to invite me to provide a presentation or facilitate a legal or risk management workshop or intensive at your retreat, conference, summit, symposium, membership or course. If it is a live event, you will only pay for my travel and accommodation. If it is online, then there is no charge.

I am prepared to be very flexible and create exclusive content to complement the theme of your event or any specific requests you have (as distinguished from the ad hoc rambling interview format I generally offer for "pay what you feel").

6. Variables

On rare occasions, unexpected issues may arise which require that our retainer relationship be renegotiated. If this happens, I will contact you immediately to discuss the situation. Common variables which may arise include:

- excessive correspondence
- your prompt and efficient response to requests for information or instructions
- any variation to your instructions
- changes in the law, and
- the degree of complexity or uncertainty concerning legal issues affecting your circumstances.

7. Questions and Complaints

If you have any questions or complaints about my services or the retainer relationship, please do not hesitate to contact me. If anything is unclear, I will be happy to explain it and if there is a problem, I will work with you to resolve the matter to our mutual satisfaction. You also have the right to seek independent legal advice if you have any questions about these terms of service.

8. Personal Liability

If you are providing instructions to perform work on behalf of another person or entity (such as in your capacity as an authorized representative of a company) in doing so you agree to be personally jointly and severally liable for my fees. "Jointly and severally" means that if there is more than one person authorized to provide me with instructions for an entity, I can recover my costs from you together or individually as the case may require.

9. Disclaimer

The services I provide for you are based on my knowledge of contract law, intellectual property law, small business best practice, good governance and risk management in Australia and New Zealand,

as well as my long & varied experience in working with business owners, online and face to face. If an issue arises that I feel is beyond my skill level, I will refer you to a specialist legal practitioner.

As we work together, I will do my best to identify and alert you to potential problems or difficulties that I foresee with regard to your business, intellectual property assets, your contracts and your business relationships. I am human, and there is a possibility that I may miss something – particularly if the situation is complex. While we will both do our best to foresee potential problems, unfortunately it is not possible to identify every possible scenario where things could go wrong.

If you do notice something I have missed, or if you have any concerns, please bring it to my attention ASAP, and I will work with you to try to find a mutually acceptable solution.

10. International Use

My legal services are intended for Australian and New Zealand businesses only. In rare cases, I may agree to assist an international client, but this is not a legal service – it is merely mentoring and coaching – even if I agree to assist you with updating your legals or ongoing vigilance. Any document resulting from this mentoring **MUST** be checked thoroughly by an appropriately qualified legal practitioner in your jurisdiction to ensure it is compliant with the laws applicable to you. If you choose to work with me in this way, you agree that you fully understand these limitations, and you take sole responsibility for any consequences that arise, with no recourse of any kind against me.

11. Testimonials & Results

Any testimonials and promised results that may have influenced you in choosing to work with me are based on my experience and those of my previous clients. They are not guaranteeing that anyone else will achieve the same results. Testimonials on my website may be edited for spelling, grammar and conciseness but have not otherwise been changed from the original.

After we have been working together for a while, I may send you a request for a testimonial. You give me unconditional permission to display your testimonial on my website and social media profiles, including any photograph of you that you provide, and a link to your business website.

If you wish your testimonial to be taken down or not used for any reason, please let me know.

12. *Intellectual Property*

Trade marks

My logo, the name Carefree Counsel™ and Contracts that Care™ are common law trade marks. They may not be used under any circumstances without my express written permission.

Copyright

I retain ownership of the copyright in any document that I draft for you. This means that you may only use it within the context of your business. You must not allow anyone else to copy your document or use it in any way that is substantially different than the purpose contemplated at the time of drafting. Please ask me if you have any questions about this.

Your IP

Any intellectual property you share with me in the process of providing these services remains yours and will only be used for the purposes for which it has been provided.

13. *Confidentiality*

Trade secrets & my duty of care

During our retainer relationship, I understand that you will be sharing highly confidential information with me relating to your business and future plans, including trade secrets – and that this information may not be in the public domain. As a lawyer, I have a strict duty of confidentiality. Any information that you share with me may only be used for your benefit. It cannot be shared or disclosed to any third party without your express permission. The relationship between a lawyer and their client is a fiduciary one – this means that it is a relationship of extreme trust and confidence. I take my ethical duties extremely seriously, and I will not knowingly engage in any conduct that may compromise my integrity or professional standing.

Zoom recordings

I record any consultations we may have via Zoom. Recorded consultations are solely for my own records and will never be shared with anyone or used for any purpose, unless they are required by my insurer or professional standards board, which is extremely unlikely.

File storage & CRM

All files and notes are stored on a password protected computer. I use Streak and a paid version of Google Workspace as my customer records management database and for all communication. You can read more about their security provisions here:

Gsuite - https://workspace.google.com/intl/en_au/security/

Streak - <https://www.streak.com/security>

My privacy policy

I manage and protect your personal information in accordance with my privacy policy: <https://www.carefreecounsel.com/privacy-policy/>. My privacy policy contains information about how you can access and correct the personal information I hold about you and how you can raise any concerns about my personal information handling practices. For more information, please contact me in writing.

Archives

On completion of our retainer relationship, I will retain electronic copies of your documents for 7 years (subject to potential technical failure, which could result in files being inadvertently destroyed earlier). Your agreement to these terms constitutes your authority for me to destroy the file after those 7 years.

14. Sending Material Electronically

During the course of your matter we will send and receive documents to each other electronically. I commonly use Gmail, Google Drive, Acuity and Dropbox. My accounts with these programs are password protected, and I have investigated and have every confidence in the strength of their security provisions. I also maintain top quality internet security software on all my devices. I endeavor to use best-practice cyber-security principles at all times.

However, it is a fact of modern life that such transmissions may not be secure, and documents may be copied, recorded, read or interfered with by third parties while in transit. By accepting these terms, you release me from any claim you may have as a result of any unauthorised copying, recording, reading or interference with that document, for any delay or non-delivery of any document and for any damage caused to your system or any files.

15. *Returns Policy*

The services included in our retainer relationship require a considerable investment of my time.

You agree to give me a fair opportunity to deal with any concerns that you have. If you feel that any aspect of my services has not met your needs, please let me know immediately, or as soon as possible after the situation comes to your attention. If you do not notify me that there is a problem before paying your next invoice, then I am entitled to assume that there is no problem, and the invoice becomes a debt that you must pay.

16. *Minor Problems*

A minor problem will have occurred if I become ill or am otherwise unable to deliver my services in a timely manner. I admit that at times, I get an unexpected influx of urgent work, or my family's needs intervene, and works in progress may slip down the queue. If for any reason you feel that I am taking longer than is reasonable to complete any aspect of my services, I ask that you reach out (gently please) by email, and remind me that you are waiting. I will then prioritise your work to the best of my ability, or negotiate a time frame for completion with you.

17. *Major Problem*

I consider it to be a major problem if you feel that the service I provide for you is not suitable for your needs or not performed with due care and skill. I ask that you notify me of any issues immediately, and I will try to work with you to resolve any issues to our mutual satisfaction.

I take my obligations under Australian Consumer Law seriously and will do my best to address any issues that arise. However, even if there is a major problem, my liability is strictly limited to:

- providing the services again, or
- if I am unable to do so within a reasonable time, paying the cost of having the relevant goods or services supplied to you again.

18. *Limitation of Liability*

Subject to my obligations under Australian Consumer Law, I am not liable to you for any costs, loss, injury or damage that you or your business may suffer that is not directly attributable to my negligence or the negligence of my subcontractors.

You expressly agree that if this limitation of liability is unenforceable for any reason, my total cumulative liability for all causes of action of any kind shall not exceed the amount that you have paid to me under this Agreement.

19. Severability & Inclusion

If any part of this agreement is held to be void, illegal or unenforceable, it can be removed without affecting the validity, legality or enforceability of any other part of this agreement.

Where the words “including” or “includes” appear in this agreement, they mean “including (or includes) without limitation”.

20. Jurisdiction & Dispute Resolution

My main place of business is in New South Wales, Australia. This agreement is subject to the governing law of New South Wales.

Negotiation

If you have any issue or complaint arising out of our retainer relationship, you and I agree to make a genuine effort to find a win/win solution and resolve the dispute through negotiation and discussion.

Mediation

If we are unable to resolve a dispute by negotiation and discussion within 21 days, we agree to proceed to mediation with the assistance of an independent accredited mediator, seeking online dispute resolution or mediation by telephone if either of us would need to travel for more than an hour to attend the mediation.

The mediator is to be appointed by agreement between us or, failing agreement within 21 days of the negotiation period ending, the person initiating the dispute will seek the appointment of a dispute resolution professional by the President of the Law Society of New South Wales or similar neutral authority.

We agree to share all the costs of mediation equally between us.

We agree that neither of us will commence legal action until, in the opinion of the independent mediator, the potential for negotiation and mediation have been exhausted.

Professional standards complaint

If we are unable to resolve a dispute by negotiation and mediation, you may access the complaints procedure offered by the Law Society of New South Wales here: <https://www.lawsociety.com.au/for-the-public/making-a-complaint>.

Respectful communication

We both agree that should we become involved in a dispute we will not engage in any public discussion about the issues, we will behave politely towards each other, and we will each act in good faith to refrain from any conduct or communication which might reasonably be expected to interfere with each other's business or personal interests.

21. Acceptance of these Terms

By signing this Agreement, you agree that you have read and agree to be contractually bound by these terms and conditions. Please contact me immediately if you have any concerns. I have done my best to create a contract that cares for us both – so if you feel that anything here is unfair, I warmly invite you to propose a reasonable alternative.

If you are signing on behalf of a company or other legal entity, you promise that you are authorised to do so, and that your signature is legally binding on that entity.

Schedule 1

Duration & Rate:

Payment frequency:

MONTHLY ☐

QUARTERLY ☐

YEARLY ☐

Scope of Services to be provided:

☐ UPDATE YOUR LEGALS

☐ ONGOING VIGILANCE REPORT

☐ BEST PRACTICE MENTORING

☐ GUARANTEED 14 DAY TURNAROUND ON CONTRACT DRAFTING

Any variations that we have agreed on (or details of bespoke package):

Your nominated trade marks for ongoing vigilance (email me if you don't know):