



## SET PRICING ENGAGEMENT AGREEMENT CHECKLIST

*First, memorialize the agreement in writing! No exceptions!*

- Define the Scope of the Engagement.** One of the most important sections in your engagement agreement is the part that defines the scope of your representation. The scope should include the specific work or tasks you will complete, any associated timelines, and when your representation will end. It's also important to include any tasks the client will be responsible for and tasks that are not included. Sometimes what's not included is even more important to identify so that there is no confusion. If you plan to outsource any work, be sure to disclose that.

If you are providing limited scope representation, the [CBF LSR Toolkit](#) has sample checklists, an engagement agreement, and other important information pertaining to unbundling.

When defining scope, be as specific as possible. The more information and detail the better. For example, if the scope includes you running a child support worksheet one time (as opposed to an unlimited number of times), the engagement agreement should include that detail either within the scope provision or in an addendum as outlined in [this article](#). Additional examples of detailed scope clauses can be found in the Appendix of the Pricing Toolkit.

- When a Fee is Earned.** Your engagement agreement should include a provision stating when exactly the fee is earned. Consult your local Rules of Professional Conduct to ensure you are in compliance with how your state handles earned fees.

If you live in a state where flat fees are earned upon receipt, be sure to clearly include that information. If you live in a state where flat fees are earned as work is completed, be sure to detail what those milestones are and what portion of the fee is considered earned for each. To learn more about Colorado's Rule 1.5(h) on earning flat fees and to see a sample flat fee agreement, click [here](#).

- Include Assumptions Upon Which the Agreement Is Based.** It is important to outline in an engagement agreement any assumptions upon which the agreed-upon scope is based. For example, in a divorce case, you may offer the client a certain fee based upon the assumption that the two parties have reached an agreement pertaining to their children. You'll want to include that assumption in your engagement agreement. That way, should things change, or you realize there are some things the parties have not agreed upon yet, you have already set the foundation to have a conversation with your client that additional costs may be incurred.

Spelling out the assumptions you are relying on will protect you from doing more work than you were anticipating because an assumption turned out to be incorrect. Remember, defining assumptions and setting expectations is on you. If you don't take the time to do it upfront and memorialize those understandings, you only have yourself to blame.

- **A Right to Renegotiate Clause.** While the goal is to factor as many potential outcomes and variables as possible into your pricing and expressly state the assumptions you have relied upon in offering a particular price, things will come up. Therefore, we recommend including a right to renegotiate clause in your engagement agreement. This clause springs into action when an unforeseeable variable arises, the facts of the case change, or additional work beyond the defined scope is necessary, allowing you to have a conversation with the client. Since you set the expectation from the beginning by including this clause in your engagement agreement, there shouldn't be much surprise. If after speaking with the client you agree on a new fee, be sure to memorialize it in a new engagement agreement that outlines any change in scope and the new price.
  
- **Set Boundaries and Expectations.** When offering a transparent and predictable price, it is essential to strike a balance that allows clients to contact you without being nickel and dimed. It's important for clients to feel they have an open line of communication with their lawyer. It also allows us to provide the best representation. This need for open communication needs to be balanced, however, against expectations and boundaries. While we want clients to call us with new information or a question, unless we've established that type of relationship in the beginning, we don't want to be on the phone 24/7.

Additionally, you may want to include how the client can access their case file or get updates about the case in real time. Usually this is done through a client portal. You'll want to outline how the client can gain access, what information will be included, and how often they can expect it to be updated.

You'll want to proactively discuss communication expectations during the initial consultation. Once these expectations have been established, include them in your engagement agreement. Be as detailed as possible about the preferred method of communication, days and times, response time, and an overall volume of communication. If the client is not comfortable with your communication guidelines, refer them to a lawyer who would be a better fit.

- Electronic Signature Authorization Clause.** If you want your client to be able to sign documents using an electronic signature, it's a best practice to include a provision stating this.
- Agreement Validity & Expiration.** It is a good practice to include a provision that states that the engagement agreement is not valid and will automatically expire by a certain date if it hasn't been signed by the client and returned and counter-signed by a managing attorney.