

# SAMPLE LETTER OF ENGAGEMENT

BY ABLE & CAINE LLP

ABLE & CAINE LLP

Dear \_\_\_\_\_, President

Software Security Corp. (referred to in this letter as "the Company") has asked this law firm, Able & Caine LLP, to represent it in possible litigation against Firewall Corporation for breach of contract, copyright infringement, and other wrongful conduct. We have checked our files and records for conflicts of interest and, in a separate letter dated February 27, 2002, have made full disclosures about two minor conflicts of interest and their implications. The Company has given its informed consent for the firm to represent it despite those conflicts and the limitations they may place on our representation. The firm therefore accepts this representation. This letter of engagement will set forth (a) the scope of the services Able & Caine LLP will render, (b) our fees, expenses, and billing practices, and (c) the Company's right to arbitration in the event of any fee dispute.

## *Scope of representation*

Able & Caine LLP will advise and represent the Company in its dispute with Firewall Corporation. We will represent the Company as a corporate entity, and will not represent you personally or any of the Company's other officers, directors, shareholders, or other constituents. Able & Caine LLP will counsel the Company regarding its options in the dispute; develop and draft settlement proposals; conduct settlement negotiations; or participate in alternative dispute resolution proceedings (such as mediation, arbitration, early neutral evaluation, or a summary jury trial). If we cannot resolve the dispute before commencing litigation, we will file all appropriate pleadings on the Company's behalf and otherwise prosecute the litigation through trial, including any post-trial proceedings before the trial court.

At this time, however, we are not committing to represent the Company on appeal or to represent the Company in monitoring or enforcing any settlement that may be reached. If and when a settlement is reached, or proceedings in the trial court terminate in any manner, our legal services and our attorney-client relationship will terminate unless we enter into a new and separate agreement to provide additional services.

## *Fees, expenses, and billing practices*

We will charge for our legal services based on a combination of discounted hourly rates and contingent fees. A list stating our current hourly billing rates for all partners, associates, "of counsel" lawyers, and paralegals at the firm is enclosed. We will maintain contemporaneous time records for all legal work that we do in connection with this matter, and will bill the Company at 60% (sixty percent) of our current billing rates. We will bill the Company for our legal services at least every sixty (60) days, and the Company agrees to pay our bills no later than thirty (30) days after it receives them, regardless of the status or results of the litigation.

In addition to paying the bills for our hourly services, in the event that the Company obtains a monetary recovery, the Company agrees to pay Able & Caine LLP 20% (twenty percent) of the net amount recovered after deducting all costs and expenses.

We will also charge the Company at cost for all out-of-pocket costs and expenses that we incur in connection with this matter, including long distance telephone charges, express delivery charges, filing fees, court reporter and transcript fees, reasonable travel expenses, computer-assisted research, and all other costs and expenses of any litigation or alternative dispute resolution proceedings. We will advance these expenses during the litigation, and will deduct them from any monetary recovery that the Company obtains, whether via settlement or judgment, before we calculate our 20% contingent fee.

However, as required by the New York Code of Professional Responsibility, the Company must remain ultimately liable for all expenses even if it abandons the litigation or fails to obtain a monetary recovery.

*The Company's right to arbitrate fee disputes*

Able & Caine LLP makes every effort to bill fairly and clearly for fees and expenses, and to represent client interests zealously and diligently. Occasionally, however, lawyers and clients disagree about the amount of a bill for legal services or for related costs and expenses. If a fee dispute arises in this matter, the Company may have the right to elect to resolve the dispute through arbitration pursuant to Part 137 of the Rules of the Chief Administrator. A copy of Part 137 is enclosed.

If the company has any questions about this letter of engagement, we will be pleased to address them.

Sincerely Yours,