

## Terms and Conditions

### 1. Interpretation

- 1.1 These are the Terms and Conditions which apply to professional services supplied by Ellisons of Headgate Court, Head Street, Colchester, CO1 1NP; London House, 45 Kingsway, Dovercourt, Harwich, CO12 3JU; 143 Connaught Avenue, Frinton on Sea, CO13 9AB; 63-65 Station Road, Clacton On Sea, Essex, CO15 1SD, Wherstead Park, The Street, Wherstead, Ipswich, Suffolk, IP9 2BJ; & Saxon House, 27 Duke Street, Chelmsford, Essex, CM1 1HT.
- 1.2 They will apply in all cases for professional work done unless any additional or other terms are agreed with you in writing.
- 1.3 These terms of service apply in addition to the provisions of the Solicitors Act 1974 and regulations made by The Solicitors Regulation Authority ("SRA") under that Act from time to time.

### 2. Estimates of Fees

- 2.1 The SRA requires us to give the best information possible regarding the likely overall cost of a matter at the outset and at other appropriate times. You will be informed of the people responsible for your matter and their current hourly charge rates (excluding VAT) in your Work Schedule and/or Client Care Notice.
- 2.2 Where the work is likely to involve court proceedings or negotiations to settle a dispute we will tell you the hourly charge rate(s) used to calculate the final bill and provide an estimate of the range of likely overall cost. You may ask us to limit the number of hours spent unless and until we obtain your authority to exceed that limitation.
- 2.3 If the work done for you does not consist of work in court or in negotiations to settle a dispute, an estimate of the likely level of fees will be given at the outset. This will either be a global sum or on the basis of an hourly charge rate or as a percentage of a value or a combination of any of these methods.
- 2.4 In appropriate cases, account will also be taken of special considerations specified by the SRA in regulations or guidelines issued to the solicitors' profession from time to time to justify our charging a premium over the above-mentioned hourly charge rates.
- 2.5 Whenever there is likely to be any variation over the original estimate we will tell you, except where to do so would cause a delay which might prejudice you.
- 2.6 We reserve the right to increase the hourly charge rate applicable periodically and at least annually and shall notify you of such an increase.
- 2.7 All estimates are given excluding Value Added Tax and office disbursements such as copying. Value Added Tax will be charged at the rate at the time of the invoice. We will, if required, apportion the Value Added Tax if there has been a change during the time the work was carried out. We reserve the right to charge as a separate item in our bills any office disbursements to the extent that due account has not been taken of them in our charge rate.
- 2.8 There may be certain other expenses, including payments we make on your behalf, such as search fees, court fees, fees for medical reports and Barrister's fees, which you will have to pay. VAT is payable on certain expenses.

- 2.9 We will inform you if any unforeseen additional work becomes necessary (e.g. due to unexpected difficulties or if your requirements or the circumstances significantly change during the course of the matter). We will also inform you of the estimated cost in writing before any extra charges and expenses are incurred.
- 2.10 In some cases, it is impossible to predict at the outset the total costs which will be incurred. In those cases, we will tell you and you may authorise us to carry out work to a pre-set limit and then to seek your instructions to extend it if necessary.
- 2.11 In all cases estimates are subject to review if the work done exceeds the initial brief.
- 2.12 In cases where we have agreed a fixed fee in advance, your right to have the costs assessed by the Court is limited.
- 2.13 If, for any reason, this matter does not proceed to completion, we will charge you for work done and expenses incurred.
- 2.14 In certain categories of case, we may at our discretion, be prepared to act on your behalf under a Conditional/Contingency/ Damages Based Agreement. In these circumstances, full details of the Agreement will be provided to you.

### **3. Interim Billing**

- 3.1 We have a policy of requiring payment on account and/or rendering interim invoices for disbursements (that is payments made by us on your behalf and on which we make no profit) before they are incurred.
- 3.2 We have a policy of rendering regular interim invoices for fees for work done which helps you to judge the level of expenditure being incurred.
- 3.3 The conditions for payment of invoices for disbursements and interim invoices are the same as for payment of the final invoice.

### **4. Payments on Account**

- 4.1 You may be asked either at the outset of your matter or during the course of it, to make a payment on account. This may be in addition to or in substitution for an interim invoice.
- 4.2 Any sums so paid will be held by us for your account and will be taken in payment or in part payment for any invoice under which payment is or becomes due.
- 4.3 In the event of non-payment after 7 days of a request for a payment on account, we reserve the right to cease work for you and to render an invoice for any un-invoiced work done to that time.

### **5. Cheque Clearance**

- 5.1 When we request monies on account from you in respect of disbursements and you intend to pay by cheque, please ensure that we receive your cheque in good time so that cleared funds are available at the time the monies are required. Your bank or building society can advise you if you are uncertain of the time it will take your cheque to clear.

## 6. Monies On Account

- 6.1 Where monies are held on account and interest becomes payable, this will be paid to you on a gross basis. It will be your responsibility to declare these monies to the HMRC for tax assessment purposes.

## 7. Interest

- 7.1 Any money received on your behalf will be held in our client account or in a designated deposit account.
- 7.2 We pay all interest earned on client money held on designated deposit account, subject to deduction of income tax at basic rate (currently 20%).
- 7.3 Subject to some limited exceptions (where money is held on account of disbursements and the person to whom the money is owed has requested a delay in payment; where the sum in lieu of interest does not exceed £20; or where we have agreed to exclude this policy), a sum equivalent to interest, without deduction of tax, is credited at a competitive instant access rate on all money held. We are able to offer this enhanced service because we have negotiated favourable terms with our bankers, in recognition of our management and administration of client funds.
- 7.4 Our rates of interest are prescribed by Barclays Bank PLC and are currently:  
Designated Deposit Account – up to £1m @ 0.05%  
General Client account - 0.05%  
These rates are reviewed according to changes to the base rate of Barclays Bank PLC from time to time.
- 7.5 Interest is credited for the period when funds are received (cleared into our account). If funds are sent electronically, clearance will be deemed to have occurred at the date on which funds are sent or, if sent by cheque, 8 days after the cheque is banked.

## 8. Settlement Terms

- 8.1 Invoices (whether interim or final) are due for payment within 28 days from their date of issue.
- 8.2 Payment of any bills must be made within 28 days of the date of our invoice. If all or part of the bill is not paid within this time, we reserve the right to charge interest on a daily basis thereafter at the rate of 8% per annum. If you have any query about the bill you should contact us immediately.
- 8.3 If a third party has agreed to pay our fees incurred on your instructions then if the third party fails to pay us you will still be liable to pay our fees. We will be under no obligation to sue that third party for recovery of our fees, and if you are registered for VAT then we will invoice you (not the third party) for the VAT on the fees and disbursements.
- 8.4 Where the work done for you involves court proceedings and the court orders your opponent to pay your legal costs we will account to you for that amount when received. However, the amount received may be less than the amount which we have agreed to charge you for the work done and we will not be bound to accept the amount recovered from your opponent in settlement of our fees.
- 8.5 Our fees are payable by you even if, when the court has awarded you costs, your opponent cannot or does not pay.
- 8.6 We reserve the right to take our costs and disbursements by deduction from balances we hold from time to time on client account on your behalf whether these balances represent payments on account made by

you, completion monies or any other sum we hold to your order. This right will only arise after we have delivered to you the relevant invoice and will not prejudice your rights under condition 15 hereof.

- 8.7 A final bill will cover our costs for work done during the period covered, however it may not include all our expense and disbursements for that period since third parties may not have sent their invoices or charges to us in time to be included in the bill. In that event, the relevant expenses and disbursements will be invoiced after we have received the third party invoice demand.
- 8.8 We will not accept any cash payments. All payments must be made by electronic bank transfer, card payment, cheque or banker's draft.

## 9. Investment Business

- 9.1 Please note that this firm is not authorised by the Financial Conduct Authority. If, during this matter, you need advice on investments, we may have to refer you to someone who is authorised by the Financial Conduct Authority.
- 9.2 However, we may provide certain limited investment advice services where these are closely linked to the legal work we are providing to you. This is because we are members of the Law Society of England and Wales, which is a designated professional body for the purposes of the Financial Services and Markets Act 2000.
- 9.3 Additionally, we are included on the register maintained by the Financial Conduct Authority as an Exempt Professional firm so that we can carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Solicitors Regulation Authority. This register can be accessed via the Financial Conduct Authority website at <http://www.fsa.gov.uk/register/home/do>
- 9.4 The Solicitors Regulation Authority is the independent regulatory body for solicitors. If you are unhappy with any investment or insurance advice that you receive from us, you should raise your concerns with them.

## 10. Tax Advice

- 10.1 We do not generally provide advice on the tax implications of a transaction that you instruct us to carry out or the likelihood of them arising. You should therefore seek the advice of your Accountant. If we are able to provide tax advice on particular matters, we will confirm this in writing to you. If you have any concerns, please raise them with us immediately.

## 11. Financial Services Compensation Scheme

- 11.1 When acting for you, we may hold money on your behalf. You should be aware that it is unlikely that we would be held liable for any loss resulting from the failure of the bank where we hold this money. We will hold any money in one of our accounts with Barclays Bank PLC, The Royal Bank Of Scotland PLC or Clydesdale Bank PLC.
- 11.2 In the event that a bank fails, under the current Financial Services Compensation Scheme, you would be entitled to 100% of the first £75,000 held in that bank. Please note that this compensation is limited to £75,000 per individual, not per account. If you already have money deposited with that bank in your own account, this will be included in the £75,000 maximum compensation.

- 11.3 Please also bear in mind that many banks and other deposit taking institutions have several brands; i.e. where that institution is trading under different names. You should check with your bank, the Financial Conduct Authority or a financial adviser for more information.
- 11.4 By instructing Ellisons, you consent to us disclosing your personal details to the Financial Services Compensation Scheme in the event of a bank failure.

## **12. Securities, storage of paper and documentation**

- 12.1. You may terminate your instructions to us at any time, but we will be entitled to keep all your papers and documents while there is money owed to us for our fees, disbursements, including interest and court costs where applicable and other charges. The law entitles us to retain any money, papers or other property belonging to you which properly comes into our possession pending payment of our costs, whether or not the property is acquired in connection with the matter for which the costs were incurred. This is known as a "general lien". We are not entitled to sell property held under a lien, but we are entitled to hold property, other than money, even if the value of it greatly exceeds the amount due to us in respect of costs.
- 12.2. If we are conducting litigation for you, we have additional rights. We may exercise our lien in relation to any property recovered or preserved for you whether it is in our possession or not and in respect of all costs incurred, whether billed or unbilled. We also have the right to ask the Court to make a charging order in our favour for any assessed costs.
- 12.3. We have a policy of storing our client's papers, files, deeds and other such securities without charge but reserve the right to make a charge for future storage on reasonable notice.
- 12.4. We accept no liability for the storage of any such papers, files, deeds and other securities on your behalf (other than for our negligence) and such documents are retained at your risk.
- 12.5. We reserve the right to charge for the production and/or copying of any deeds, documents, files, or papers retained on your behalf and for the delivery thereof.
- 12.6. Any documents, files, deeds or other securities will be delivered to you by post at your risk.
- 12.7. Files will be retained for six years from the conclusion of the matter. In addition we will keep your file of papers for you in storage for not less than 6 years. After that, storage is on the clear understanding that we have the right to destroy it after such period as we consider reasonable. We will not of course destroy any documents such as Wills, Deeds or other securities which you ask us to hold. We may make an administrative charge for any time spent reviewing or sorting the papers in order to comply with your instructions.

## **13. Court Record**

- 13.1 If the work done involves court proceedings we will appear as your legal representative on the court record. All correspondence and legal documents relating to your case will be sent to our office rather than to your address.
- 13.2 If, during the course of the proceedings an interim bill is not paid or a payment on account is not made within the due time, we reserve the right to remove our name from the court record and to advise the court of the reason for the removal. In that case we shall cease to represent you in that matter.

## **14. Court Cases**

- 14.1 If you lose your case you may be ordered to pay your opponent's costs as well as having to pay your own legal costs.

- 14.2 Even if you win your case, your opponent may not be ordered to pay all our fees and your costs and/or may not be capable of paying our fees and your costs which he or she has been ordered to pay. You will be responsible for the cost of recovering any costs that the court orders the other party to pay.
- 14.3 If you are successful and the court orders the other party to pay some or all of your costs, interest may be claimed on them from the other party from the date of the court order. We will account to you for such interest to the extent that you have paid our fees.
- 14.4 If your opponent is publicly funded you will not normally be able to recover our fees and your costs from him even if you are successful in the case.
- 14.5 If we have instructed a barrister for you, every effort will be made to secure the help of that person throughout your case. If that barrister is not available a substitute will be instructed if possible.

## **15. Dispute over Fees**

- 15.1 If you dispute the amount of our fees (whether in respect of an interim or a final bill) you should refer the matter to us in writing setting out the reason for your complaint.
- 15.2 If we cannot agree what is the fair amount of costs then you have the following rights: (a) to complain to the Legal Ombudsman at PO Box 6806, Wolverhampton, WV1 9WJ. Any complaint to the Legal Ombudsman must normally be made within six months of receiving a final written response from us about your complaint or (b) to ask the court to assess the amount of our costs (if it has not already done so) and to do this you should apply to the appropriate court for an order for detailed assessment.

## **16. Disputes other than about Fees**

- 16.1 If you have any cause to complain about our services you should initially make your dissatisfaction known to the person who has been handling your matter.
- 16.2 If after a discussion with that person you are still not satisfied with the explanation you should ask the person handling your matter to refer the dispute to their Supervisor.
- 16.3 If after that referral you are still not satisfied you should write to our Client Care Partner setting out the reasons for your complaint (unless the complaint is about the Client Care Partner when you should write to another of the Partners whose names are displayed on our website and are available from the reception desk at any of our offices).
- 16.4 Upon receipt of your written complaint an investigation will be carried out by the Client Care Partner and you will be notified of the result in writing.
- 16.5 Where you are not satisfied with the result of the internal investigation we shall arrange for another partner who is unconnected with the matter at the firm or another local solicitor to review the decision.
- 16.6 If you are still not satisfied you may refer the matter to the Legal Ombudsman. The address to write to is PO Box 6806, Wolverhampton, WV1 9WJ.

## **17. Confidentiality and Personal Information**

### **17.1 Professional obligations**

17.1.1 Solicitors are under a professional and legal obligation to keep the affairs of clients confidential. This obligation, however, is subject to a number of statutory exceptions such as recent legislation on money laundering and terrorist financing, as well as bribery and the facilitation of tax evasion, which has placed solicitors under a legal duty in certain circumstances to disclose information to the National Crime Agency (NCA) or other relevant authorities. Where a solicitor knows or suspects that a transaction on behalf of a client involves money laundering, the solicitor may be required to make a money laundering disclosure.

17.1.2 If, while we are acting for you, it becomes necessary to make a money laundering disclosure, we may not be able to inform you that a disclosure has been made or of the reasons for it. Where the law permits us to do so, we will tell you about any potential money laundering problem and explain what action we may need to take.

## 17.2 Data Protection and online ID verification

17.2.1 All Personal Data relating to individual clients of Ellisons, individual directors and/or employees of corporate clients, and anyone else with whom we have professional dealings, will, where applicable, be kept confidential and processed in accordance with the EU General Data Protection Regulation (GDPR), other relevant UK and EU legislation and in accordance with the SRA Code of Conduct.

17.2.2 Ellisons is a data controller for the purposes of GDPR and other relevant data protection legislation. We use your Personal Data primarily to provide legal services to you, but also for related purposes as described in our Privacy Notice which can be found here:

[http://www.ellisonssolicitors.com/pages/misc/privacy\\_notice](http://www.ellisonssolicitors.com/pages/misc/privacy_notice).

Please read this Privacy Notice carefully as it contains important information on:

- What Personal Data we collect and how that data is collected
- How, why and on what grounds we use your Personal Data
- Who we share Personal Data with
- Where Personal Data is held and how long it will be kept
- How to make a complaint in relation to our use of your Personal Data
- How to contact us with any queries or concerns in relation to your Personal Data

17.2.3 We use online AML ID Checks as a primary way of verifying your identity. Any Personal Data obtained by us using those checks, or which you provide to us, is used primarily for the provision of legal services to you and for related purposes including:

- Identity verification in accordance with statutory and professional requirements
- Updating and enhancing client records
- Analysis to help us manage our practice
- Statutory returns
- Legal and regulatory compliance

7.2.4 Our use of your Personal Data is subject to your instructions, the GDPR and our professional duty of confidentiality. Please note that our work for you may require us to share Personal Data with third parties such as expert witnesses and other professional advisers. You have a right of access under the GDPR and other applicable data protection legislation to the Personal Data that we hold about you, as set out in more detail in our Privacy Notice.

## 17.3 Review of files

17.3.1 Our practice is subject to audit or quality checks by external regulatory organisations. These external organisations are required to maintain confidentiality in relation to your files.

#### **17.4 Documentation**

17.4.1 You will be entitled to use and copy all documentation created by us for you in the scope of our work. All copyright and other intellectual property rights in the documentation created by us and relating to or connected with the scope of our work remains our property. We will be free to use any of the documentation and to use the intellectual property of any advice to other clients provided that we do not breach our duty of confidentiality.

#### **17.5 Electronic communications**

17.5.1 We will aim to communicate with you by such a method as you may request. We may need to virus check disks or e-mail. Unless you withdraw consent, we will communicate with others when appropriate by e-mail or fax but we cannot be responsible for the security of correspondence and documents sent by e-mail or fax.

17.5.2 In addition, if you are a client and we have made a contract with you by electronic means you may be entitled to use an EU online dispute resolution service to assist with any contractual dispute you may have with us. This service can be found at <http://ec.europa.eu/odr>. Our email address is [clientcare@ellisonssolicitors.com](mailto:clientcare@ellisonssolicitors.com).

### **18. Professional Indemnity Insurance**

18.1 Our insurance provider is Starr International (Europe) Ltd, 4th Floor, 30 Fenchurch Ave, London EC3M 5AD. The territorial coverage of our insurance is worldwide.

### **19. Limitation of Liability**

19.1 Our liability to you for breach of your instructions or negligence shall be limited to £2,000,000 (two million), unless we expressly state a higher amount in our Work Schedule. We will not be liable for any consequential, special, indirect or exemplary damages, costs or losses or any damages, costs or losses attributable to lost profits or opportunities.

19.2 We can only limit our liability to the extent the law allows. In particular, we cannot limit our liability for death, or personal injury caused by our negligence.

19.3 Please ask if you would like us to explain any of the terms above.

### **20. Equality and Diversity**

20.1 Ellisons is committed to promoting equality and diversity in all of its dealings with clients, third parties and employees. Please contact us if you would like a copy of our equality and diversity policy.

### **21. Termination**

21.1 You may terminate your instructions to us in writing at any time but we will be entitled to keep all your papers and documents whilst there is money owing to us for our charges and expenses.

- 21.2 We may decide to stop acting for you only with good reason, for example, if you do not pay an interim bill or comply with our request for a payment on account. We must give you reasonable notice that we will stop acting for you.
- 21.3 If you or we decide that we will no longer act for you, you will pay our charges on an hourly basis and expenses as set out earlier.

## **22. Miscellaneous**

- 22.1 **Hours of Business**  
Our normal hours of business are Monday – Friday 9.00am – 5.30pm. Appointments outside of these hours may be available by arrangement.
- 22.2 We reserve the right to amend these Terms and Conditions in light of changing compliance and business needs. You will be informed of any substantive changes by reasonable written notice.
- 22.3 These Terms and Conditions shall be deemed to apply to any matter with effect from the time when we shall have first commenced performing professional services for you.
- 22.4 In the event that you shall instruct us jointly with, or as agent for, another person, you and that other person shall be deemed to be jointly and severally responsible for our costs and disbursements in the matter except to the extent that we agree with either of you in writing to the contrary.
- 22.5 These Terms and Conditions do not apply to services performed by us or our agents in relation to court proceedings outside the English jurisdiction.
- 22.6 Your continued instructions in this matter will amount to your acceptance of these Terms and Conditions of business.
- 22.7 These Terms and Conditions are to be read in conjunction with our Work Schedule, our Client Care Notice, and all other Additional Documents we have provided to you.
- 22.8 In the event of conflict between the Work Schedule and Client Care Notice and these Terms and Conditions, the Work Schedule and our Client Care Notice shall prevail.