

# **TERMS OF BUSINESS**

## **Responsibilities**

Our responsibilities include advising you on the law, following your instructions, reviewing your matter regularly, and discussing with you whether the potential outcomes justify the expense and risks involved with your matter.

You need to provide us with clear and timely instructions, the information and documents required for us to do our work, and funds required.

## **Email**

Unless you tell us otherwise, you agree to us communicating with you, including sending bills and other confidential information, by normal, unencrypted email, using the email address(es) you have given us from time to time. You should be aware that there is a risk that emails (in particular when unencrypted) may be intercepted, delayed or corrupted or may fail to be delivered.

We make reasonable attempts to exclude from our emails any virus or other defect that might harm a computer or IT system. You undertake to act likewise with any electronic communications you send to us. Neither you nor we shall have any liability to each other in respect of any claim or loss arising in connection with such a virus or defect in an electronic communication other than where such claim or loss arises from bad faith or wilful default.

## **Sending You Information**

We may from time to time send you information which we think might be of interest to you (for example about legal developments or our other services). If you do not wish to receive that information please notify our office in writing.

## **Payment**

It is a condition of our retainer that all bills, interim and final, are paid within [one month]. If a bill is not paid in full within that period we may charge you interest on any amount outstanding from the due date until the date the bill is paid at the rate of interest prescribed for judgments from time to time. In the case of commercial debts we reserve the right to claim interest and recovery costs pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

Where an account is overdue we are entitled to retain any files and documents belonging to you which are in our possession until our account is settled. We also reserve the right to cease working on this and any other matters on which we are acting for you.

In some cases, and particularly when litigation is involved or when we may need to incur substantial expense on your behalf we may require you to provide a payment on account of the future likely costs and disbursements.

If instructions for a piece of work are given by more than one person or company, we may recover our fees, disbursements and Value Added Tax from any one or more of them. This includes situations where one person or company instructs us on behalf of another.

If arrangements are made for a third party to pay any of our fees or disbursements, or a court orders a third party to pay any part of our fees or disbursements, you remain liable to pay them to the extent that the third party does not pay them when due.

### **Costs**

Unless we have agreed otherwise, our charges will be based on the time spent on your matter, applying our hourly charging rates as applicable from time to time.

We reserve the right to charge separately for photocopying, printing, telephone calls, faxes, electronic funds transfers, catering and other support services, and travel, courier and other incidental expenses.

Where applicable, we will charge VAT on our charges and expenses.

### **Changes to Charge-Out Rates**

Our hourly charge-out rates are reviewed with effect from [date] each year. We will notify you of the rates if they change and you will then be bound by them. If you do not accept the new rates after review, we reserve the right not to continue acting for you.

### **Costs Estimates and Arrangements**

Any costs estimate we give at any time is a guide to assist you in budgeting. It is not intended to be fixed, unless that is specifically agreed in writing.

Any fixed fee, capped fee or other fee arrangement we agree with you, or any costs estimate we give you, is based on the scope of the work anticipated and our assumptions about the matter at the time it is agreed or given. If the scope of the work changes or the assumptions change it will no longer apply. In that case we will discuss a revised fee arrangement or estimate with you.

### **Billing**

Unless agreed to the contrary we will normally bill monthly for the work performed to date together with any disbursements we have incurred on your behalf.

### **Contentious Matters**

You will be responsible to us for our fees and disbursements regardless of any order obtained for payment of your costs by another party. Our costs are likely to exceed the sum which you could recover from any other party to the proceedings. You should also bear in mind that you may be ordered to pay the costs of the other party.

### **Cash**

We do not normally accept payment in cash. If clients circumvent this policy by depositing cash direct with our bank we reserve the right to charge for any additional checks we deem necessary regarding the source of the funds.

### **Ending Our Services**

You may end your instructions to us at any time by letting us know in writing.

We may decide to stop acting for you only with good reason, for example, if you do not provide us with funds on account or there is a conflict of interest. We will give you

reasonable notice if we decide to stop acting for you. If we do have to stop acting for you we will explain your options for pursuing the matter, and will work with you to minimise disruption to your matter.

However if we stop acting for any reason you will be required to pay for the expenses we have incurred and for the work we have done, even if the original agreement or understanding had been that we would only bill you on completion of the matter.

### **Interest On Funds We Hold For You**

We will normally credit you with interest on any funds we hold in our client account on your behalf. Our policy on the payment of interest is as follows.

- Interest will accrue at the rate payable by our bank on instant access deposits. This may be less than the rate at which you could have invested the money yourself.
- We will credit you with interest if the amount of interest involved is more than £20.
- If we hold sums of money for you in relation to different matters we will normally treat the money relating to each of the different matters separately.
- We will not account for interest on money held for the payment of a professional disbursement, once the intended recipient has requested a delay in settlement. Nor will we account for interest on money held for the Legal Services Commission.

### **Joint Clients**

If we are instructed by joint clients then all clients are jointly and severally liable for our fees, notwithstanding any agreement between you as to how you will share the costs. This means that we will be able to look to one client only or to each of our clients to pay the whole of or any balance of any unpaid fees.

Instructions are understood to be for the purposes of all of those instructing us. We will act on instructions from any one of those clients unless you instruct us otherwise. Liability to pay our costs is joint (all the clients together) and several (each may be liable for the whole amount).

If instructions are given on behalf of a client, we are entitled to assume that the person giving the instructions has lawful authority to instruct us. If not, then that person will be liable to us as if they were our client.

### **Storage of documents**

After the end of the relevant matter please let us know if you would like us to send your file of papers to you. Otherwise we will keep our file of your papers in storage.

In accordance with the General Data Protection Regulation (GDPR) we will not hold your personal data any longer than is necessary, and generally 6 years is the time period for which files need to be stored, being the limitation period for claims. We will therefore destroy your file, whether it is stored physically or electronically or both, six years after the date of the final bill we send to you for the matter without further reference to you, and by agreeing to these terms you authorise us so to do.

We will not destroy documents you ask us to hold in safe custody, such as deeds, wills and other important original documents.

We will take care of your deeds, documents and other papers as long as they remain in our possession. However should any of them be lost or damaged as a result of events beyond our reasonable control we will not be liable for their replacement or for any resultant loss.

If we retrieve papers or documents from storage in relation to continuing or new instructions to act for you we will not normally charge for such retrieval. However we may charge you for time spent retrieving, reading, copying or working on such papers where that is to comply with your instructions in relation to the retrieved papers.

### **Storage of your personal information**

The only reason we will collect and store your personal information is for the purpose of the conducting your claims and acting upon your instructions. We will not store your personal information for any other purpose without your express permission, nor will we release your information to a third party without your express permission.

We will ensure that your personal information, whether it is stored physically, electronically, or both, is held securely and will be regularly monitored. We will inform you immediately in the unlikely event of a data breach.

Under the GDPR you have the right to access your information at any time. Mr Peter Beckerley is the firm's Data Protection Officer and who can be contacted on pabeckerley@rausamumford.co.uk.

### **Limitations on our Liability**

We limit our liability to you for claims for breach of contract, breach of duty, negligence and for claims otherwise arising out of or in connection with our engagement or the services we provide, in the ways described below.

Our liability to you shall be limited to £3 million or such higher amount as is set out in the letter accompanying these Terms of Business.

This liability cap will apply to our aggregate liability to you together with any associated party for whom you are acting as agent in relation to the relevant matter on any basis.

#### *Proportional liability*

In addition to the other limitations in this document, where we and/or third parties are responsible for any loss suffered by you, our liability for that loss will be limited to a fair proportion of your total loss calculated by reference to the extent of our responsibility. If you have engaged others to represent or advise you on a matter in which we are involved and you agree with any of them that their liability to you will be limited, in order that our position is not adversely affected by any such limitation of their liability, you agree that our liability to you will not exceed the amount which would have applied in the absence of that limitation.

#### *Third party liability*

If you start proceedings against us for loss or damage and there is another person (for example, another adviser) who is liable (or potentially liable) to you in respect of the same loss or damage, then you will (if we so request) join them into the proceedings. This is subject to any legal prohibition against your joining them in that way.

#### *No claim against individual employees/partners*

We have an interest in limiting the personal liability of employees, consultants and partners. Accordingly you agree that you will not bring any claim against any individual employee, consultant or partner in respect of losses which you suffer or incur, arising out of or in connection with our engagement or the services we provide. The provisions of this paragraph will not limit or exclude the firm's liability for the acts or omissions of our employees, consultants or partners.

The provisions of the above paragraph are intended for the benefit of our employees, consultants and partners but the terms of our engagement may be varied without the consent of all or any of those persons.

#### *Limitation on exclusions*

The above exclusions and limitations will not operate to exclude or limit any liability which cannot lawfully be limited or excluded. In particular they do not limit liability for fraud, nor for causing death or personal injury by negligence, nor for negligence in contentious business, insofar as the Solicitors Act 1974 s 60(5) precludes the exclusion of such liability.

#### **Any Concerns**

As explained in our accompanying engagement letter, if you are not happy with our service or the bill, we hope to be able to resolve the matter to your satisfaction. Details of our complaints procedure are available on request.

However if you are not satisfied with our handling of your complaint you may be able to ask the Legal Ombudsman (address: PO Box 6806, Wolverhampton WV1 9WJ, Website: [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk), Telephone: 0300 555 0333) to consider your complaint.

Normally, you will need to bring a complaint to the Legal Ombudsman within six months of receiving a final written response from us about your complaint and within twelve months of the act or omission complained of.

Note that the Legal Ombudsman service cannot be used by businesses or most other organisations, unless they are below certain size limits.

As well as your right to complain about any of our bills under our complaints procedure, you can also apply for the bill to be assessed by the court under Part III of the Solicitors Act 1974, in which case the Legal Ombudsman may not consider your complaint.

#### **Third Parties**

Our advice is for your benefit only. Save as expressly set out, our agreement with you is not intended to confer rights on any third parties whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

#### **Investment and Insurance Advice**

Rausa Mumford Ltd is not authorised by the Financial Services Authority ("FSA"). We are regulated by the Solicitors Regulation Authority ("SRA"), which is the independent regulatory arm of the Law Society of England and Wales. If you are unhappy with any investment advice or insurance advice you receive from us you should raise your concerns with the SRA.

*Financial Services and Markets Act ("FSMA")*

If while we are acting for you, you need advice on investments we may have to refer you to someone who is authorised to provide the necessary advice. However we may provide some limited investment advice services where these are closely linked to the legal work we are doing for you. This is because we are regulated by the SRA, which is a designated professional body for the purposes of the FSMA.

#### *Insurance mediation*

Although we are not authorised by the FSA we are included on the register of exempt professional firms maintained by the FSA so that we can carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts. The register can be accessed via the FSA website at [www.fsa.gov.uk/register](http://www.fsa.gov.uk/register).

#### **Distance Selling Regulations**

If we have not yet met you and you are an individual acting for purposes which are outside your business, the Consumer Protection (Distance Selling) Regulations 2000 apply to our agreement with you. That means that you have the right to cancel our engagement without charge at any time within seven working days of your acceptance of our engagement terms. If you wish to do so you must inform us of your decision to cancel in writing. Your right to cancel our engagement will not apply if you agree to us beginning work in relation to your instructions during the relevant cancellation period.

#### **Governing Law and Jurisdiction**

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by the law of England and Wales, and the Courts of England and Wales shall have exclusive jurisdiction over any such dispute or claim.

**Rausa Mumford Ltd**

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