

Terms of Business



1. INTRODUCTION

For the purpose of these Terms “we” “our” “us” “the LLP” or “the firm” means Druces LLP, which is a limited liability partnership registered in England and Wales with Registered Number OC 332179, and whose registered office and principal place of business is at Salisbury House, London Wall, London EC2M 5PS. Persons referred to in these Terms as “principals” are members of that LLP. These Terms, together with our engagement letter, set out the basis on which we will provide our services, and they should be read together. In the event of any inconsistency between the letter and these Terms, the former shall prevail. The Terms including the limits on our liability in clause 14 will apply to all services rendered by us to you from time to time unless we have entered into a specific written agreement which expressly excludes or modifies them in whole or in part; and in the case of existing clients, all instructions received after 1st May 2008 will be treated as acceptance of the Terms.

Any business conducted with us is solely with the LLP and the LLP has sole legal liability for the work done for you and for any act or omission in the course of that work. No member, partner, principal, employee, associate or consultant of the LLP will have any personal liability for work undertaken for you. If a member, partner, principal, employee, associate or consultant signs in his or her own name any letter or other document in the course of carrying out that work it does not mean he or she is assuming any personal legal liability for that letter or document.

2. GENERAL BASIS FOR ACCEPTANCE OF INSTRUCTIONS

- (a) Instructions will be accepted or declined in accordance with the Solicitors' Code of Conduct 2007, as it may from time to time be amended.
- (b) We will be free to use such members of our staff or agents in connection with your case as we consider to be appropriate and in your best interests.
- (c) You will notify us in writing if communications are to be sent to you other than at the postal address, fax number or email address you have provided, and whether particular advice is to remain undisclosed to other persons associated with you. Unless you tell us not to do so we may communicate to you by email and do not accept responsibility for any breach of confidentiality which may occur, whether because of a fault or omission on your part or by any of your agents or the result of any action of a third party.
- (d) You will provide us with a full description of the services you require and a statement of your objectives.
- (e) You will provide us with sufficient information to enable us to carry out our work. This will include relevant documents, notes, agreements, emails, correspondence and personal statements.
- (f) Where our services are supplied to two or more persons then your liability for our costs is joint and several; you will each be liable for any amounts due to us. If a third party or other source is to be responsible, this must be agreed with us before work is undertaken.
- (g) It is our practice to check for conflicts of interest in appropriate cases. However, an actual or potential conflict between your interests and the interests of another advised party may arise during the course of a matter. If this situation arises during our dealings with you we will discuss it with you and determine the appropriate course of action. In order to protect your interests we may not be permitted to continue to act for you.
- (h) If we are instructed to act for a third party, in circumstances where we hold information which is confidential to you which would be material and adverse to that third party, we may accept that party's instructions provided that we put in place such information barrier as may be suitable under Rule 4 of the Solicitors' Code of Conduct 2007 (as the same may from time to time be amended) to prevent the passage of that information to the third party. Your consent to our proceeding in that manner is deemed to have been explicitly given by your agreeing to these Terms.
- (i) Your papers and documents may be reviewed by external auditors.

3. TAX ADVICE

Unless our retainer is specifically to advise you on tax matters, we will not advise on tax issues and we will assume that you are obtaining separate advice on them.

4. COSTS AND DISBURSEMENTS

- (a) Except where we agree a fixed or scale fee, our charges are usually (but please see paragraph 4(b) below) based on the time we spend dealing with your instructions. Chargeable time will include meetings with you and others; any time spent travelling; considering, preparing and working on papers; correspondence including faxes and emails; and making and receiving telephone calls including calls to and from you. All letters and telephone calls will be charged on a time basis. We record time in minimum units of six minutes. In addition, VAT will be added to our charges at the current rate from time to time. On 1 May annually we review the hourly rates and will notify you in writing of any increase. Expenses such as Counsel's fees and/or Expert's fees which are incurred will also attract VAT.
- (b) In addition to the time charges referred to in paragraph (a) our costs will also be assessed by reference to the other factors set out in the Solicitors' (Non-Contentious Business) Remuneration Order 1994 including:–
 - (i) the complexity of the matter;
 - (ii) the skill, labour, specialised knowledge and responsibility involved;
 - (iii) the number and importance of documents prepared or considered;
 - (iv) the amount or value of any money or property involved; and
 - (v) the importance of the matter to you.
- (c) Wherever possible we will, upon accepting instructions, give you an estimate of the likely costs involved and will revise that estimate from time to time if it becomes necessary. Likewise we will give you an estimate of disbursements that are likely to be incurred. If we have provided you with a written estimate, it is given only as a guide to assist you in budgeting and should not be regarded as a fixed quotation.
- (d) Our costs take into account our incidental disbursements such as normal postage and normal telephone charges. We will charge you for any other expenses we incur in connection with your business including printing, exceptional photocopying and typing requirements, couriers and any exceptional telephone (including overseas and conference calls) and/or fax costs. We will add a handling charge to the cost of bank transfers to cover the time of Accounts staff.

- (e) Our current hourly charging rates for fee-earners are as set out in the schedule accompanying our engagement letter.
- (f) Unless otherwise agreed, our charges will be payable whether or not any particular matter proceeds to completion.

5. PAYMENT

- (a) Any account rendered by us is due for payment on delivery and interest will be charged at four per cent above the base rate applied from time to time by Barclays Bank plc on any balance outstanding after 30 days. If any element of a bill is queried that part of the bill which has not been queried is to be paid in any event.
- (b) We may from time to time deduct sums due to us from monies in hand on your account.
- (c) We may from time to time invoice you on account of the final bill for costs and disbursements. Such invoices may be sent periodically in accordance with our engagement letter or at any natural break in the instructions.
- (d) If you have any query about your invoice, including the basis on which it has been calculated, you should contact the principal with day-to-day responsibility for your work as soon as possible and in any event within 30 days, after which we will treat the amount shown in the invoice as recoverable by any means.
- (e) You are entitled to require us within one month of the delivery of any invoice to obtain a certificate from the Solicitors Regulation Authority stating that in their opinion the costs charged are fair and reasonable or, as the case may be, what lesser sum would be fair and reasonable. You are also entitled to have a bill checked by an officer of the High Court by a procedure known as assessment of costs.

6. TERMINATION

We will on giving reasonable notice be free to refuse to act or continue acting in accordance with the Solicitors' Code of Conduct 2007 (as it may from time to time be amended) and in particular if:-

- (a) we are or may be in breach of the law or the principles of professional conduct by accepting or continuing to accept instructions;
- (b) we consider there is or may be a conflict or risk of conflict between your interests and those of any other client of ours or the LLP;
- (c) any account rendered by us in respect of fees or disbursements has not been paid within 30 days of its date; or
- (d) any request for money on account of costs or disbursements incurred or to be incurred has not been complied with within one week of it being made.
- (e) We may also discontinue acting on other reasonable grounds.

You may terminate our retainer in writing at any time. In some circumstances, you may consider we ought to stop acting for you, if, for example, you cannot give clear or proper instructions on how we are to proceed, or if it is clear that you have lost confidence in how we are carrying out your work. If you or we decide that we can no longer act for you, you are liable for our charges down to the date of termination.

7. CONSEQUENCES OF TERMINATION

If our instructions are terminated for any reason then we may in addition to any other remedy available to us:-

- (a) retain any deeds, securities or other documents under our control;
 - (b) retain any monies for the time being standing to any account you may have with us;
- until payment has been made of all outstanding costs and disbursements (including, in both cases, any not yet billed) together with VAT and costs and disbursements incurred in connection with the termination.
- (c) If we cease acting for you, we shall, where relevant, apply at your expense to remove ourselves from the court or employment tribunal record.

8. CONTINUING OBLIGATIONS

- (a) Unless specifically otherwise agreed we shall not be under any continuing obligation to advise you of changes in the law which may affect advice previously given.
- (b) All communications generated between us during the currency of our retainer shall remain confidential and shall not be disclosed to any third party without consent.
- (c) As part of our commitment to provide a good quality service to you we may, from time to time, invite suitably qualified external assessors periodically to review our files on a sample basis for compliance. Files are not made available to assessors if the subject matter is of a sensitive nature or where you specifically request that they should not be made available.

9. COMPLAINTS

- (a) If you have a concern about any aspect of our service it should be raised immediately with the principal dealing with your matter or, if substantial, in writing to our Chairman .
- (b) Any complaint will be investigated further if necessary and remedied promptly, if possible. You have the right to take independent advice from another solicitor in any case where you have, or may have, a complaint against us.
- (c) You should note that complaints raised more than 30 days after submission of an invoice will not ordinarily be entertained.

10. STORAGE OF PAPERS AND DOCUMENTS

After completing the work, we are entitled to keep all your papers and documents while there is money owing to us for our charges and expenses. Except for any of your papers which you ask to be returned to you, we will keep the file on the understanding that we have your authority to destroy it 6 years after the date of the final bill we send to you. We shall not destroy documents you ask us to deposit in safe custody. If we retrieve papers or documents from storage in relation to continuing or new instructions to act in connection with your affairs, we shall not normally charge for such retrieval. However, we may make a charge based on time spent producing stored papers or documents to you or another at your request. We may also charge for reading, correspondence or other work necessary to comply with new instructions given by you or on your behalf.

11. DATA PROTECTION ACT 1998

As a data controller we are bound by the requirements of the Data Protection Act 1998. You agree that we may obtain, use, process and disclose personal data to enable us to discharge the services agreed under this engagement, and for other related purposes including updating and enhancing client records, analysis for management purposes and statutory returns, crime prevention and legal and regulatory compliance. It is possible that we may outsource data where we need to do so for the above purposes. If we do we shall ensure that the party to whom we outsource agrees to keep your data secure, and is bound either by law or by agreement to suitable standards of data protection

12. MONEY LAUNDERING REGULATIONS 2007

- (a) In order to enable us to satisfy our obligations under these Regulations and related legislation, it will almost always be necessary for you to supply appropriate proof of identity before we are able to act or continue to act for you or for any principal whom you may represent. We will also not be able to receive any funds from, or pay any funds to, you or on your behalf unless all necessary identification and other procedures have been satisfied for the purposes of the Regulations.

- (b) In the light of the Regulations and for insurance reasons we do not normally accept cash payments from or on behalf of clients and then only in special circumstances and for limited amounts.
- (c) We may use electronic identification service providers to confirm your identity, and that of any beneficial owners.
- (d) For individuals and unincorporated partnerships, proof of identity will usually be a current valid passport, driving licence, recognised identity card or equivalent showing your name, date of birth and photograph, together with a current utility bill or equivalent confirming your address.
- (e) For companies and limited liability partnerships we will usually require a copy certificate of incorporation and copy audited statutory accounts together with personal identification as above in respect of some or all of the body's officers. In the case of a company incorporated overseas, there should also be a certificate from lawyers qualified in the relevant jurisdiction to the effect that the company is properly incorporated, together with evidence of the company's directors and of the authority and identity of the persons instructing us.
- (f) For other clients, e.g. trusts, estates, charities and unincorporated associations, we will advise you of the documents needed for proof of identity.
- (g) We will need to check whether you may be a "politically exposed person" as defined in the Regulations, or a family member or close associate of such a person.
- (h) For all clients other than individuals, we will also need to establish the identity of the beneficial owner(s) of the client. This is likely to mean that we have to ask for additional documentation such as the documents which evidence ownership and control of the client. We will discuss this with you.
- (i) We understand that the operation of these Regulations may be a cause for concern, but we ask for your understanding and cooperation in assisting us to comply with our legal obligations.

13. PROCEEDS OF CRIME ACT 2002 & TERRORISM ACT 2000

- (a) We are prohibited by this legislation from acting for or advising a client in relation to terrorist financing, or the acquisition, retention, use or control of the proceeds of any crime or any attempt to conceal, disguise, convert or transfer any criminal property or to remove it from the jurisdiction, or from being involved in arrangements relating to such activities. The proceeds of crime and criminal property are widely defined for these purposes to include any activity (including tax evasion) carried on anywhere which would be illegal if carried on in the UK.
- (b) We have a legal obligation to report to the Serious Organised Crime Agency any person, including a client, suspected of involvement in activity covered by this legislation. As a result we reserve the right to make all disclosures to relevant authorities as required by law, without notice to you, and if appropriate to cease acting for you without giving any specific reason.
- (c) These obligations override our normal duty of confidentiality to you. We will not accept any liability for any loss or damage that you or any third party may suffer or incur on any account for any action taken, or not taken, by us in good faith with a view to complying with this or any related legislation.
- (d) We may also require confirmation from you of the source of any funds, in particular any remitted from overseas, and whether all necessary tax has been paid and all necessary returns made in relation to any overseas funds. We reserve the right to require further information and supporting documentation as appropriate.
- (e) In order to minimise the risk of disruption to the completion of any transaction which we are to complete on your behalf, which involves the provision to us of funds by you, we ask that you let us have cleared funds no later than seven working days before the date set for completion. If this is not possible in any case please discuss the position with us as soon as possible.

14. LIMITATION OF LIABILITY

- (a) We believe that the limitations on our liability as set out in this agreement are reasonable having regard to the availability and cost of professional indemnity insurance and possible changes in its availability and costs. We are, however, happy to discuss this limit with you if you consider it insufficient for your purposes and will investigate options for providing further cover which may be at extra cost.
- (b) We will not be liable to the extent caused by the provision of false, misleading or incomplete information or documentation or due to the acts or omissions of any person other than us, except where, on the basis of the enquiries normally undertaken by solicitors within the scope of this agreement, it would have been reasonable for the solicitor to discover such defects.
- (c) Subject to clause 14(b) the total aggregate liability of Druces LLP, its principals and employees to you (and where we are instructed jointly by more than one party, all of you collectively and in total and also including anyone claiming through you) for any claims, demands and costs (including claimants costs) in respect of any act, omission or negligence arising from or in connection with this agreement (including any addition or variation to the same) shall not exceed £3 million or such larger sum as is referred to in our engagement letter or as may from time to time be the minimum level of cover prescribed for us by the Solicitors Regulation Authority.
- (d) Proceedings in respect of any claims against us must be commenced within 3 years after you first had (or ought reasonably to have had) both the knowledge for bringing an action for damages and the knowledge that you had a right to bring such an action and in any event no later than 6 years after any alleged breach of contract, negligence or other cause of action. This provision expressly overrides any statutory provision which would otherwise apply; it will not increase the time within which proceedings may be commenced and may reduce it.
- (e) If we are liable to you either jointly or jointly and severally with any other party:
 - (i) We shall only be liable to pay you the proportion which, due to our fault, is found to be fair and reasonable. We shall not be liable to pay you the portion which is due to the fault of another party (irrespective of any limitation provision which may apply to the liability of such other party); and
 - (ii) any sum due from us to you shall be reduced by the proportion for which another party would have been found liable if either:
 - (1) you had also brought proceedings or made a claim against them; or
 - (2) we had brought proceedings or made a claim against them under the Civil Liability (Contribution) Act 1978 or any similar enactment under any other relevant jurisdiction.
- (f) We shall not be liable for any loss arising from or connected with our compliance with any statutory obligation which we may have, or reasonably believe we may have, to report matters to the relevant authorities under the provisions of any anti-money laundering or other legislation which may apply from time to time.
- (g) This paragraph shall apply to any claim against us by you and, if any duties are held to be owed to them, any individuals or bodies who are related or associated to you, and any officers, employees or consultants of any of these entities.

- (h) All claims arising from the same act or omission, or from a series of related acts or omissions, shall be regarded as one claim, whoever they are made by.
- (i) You agree that you will not bring any claims or proceedings against our individual principals or employees. This clause shall not operate so as to exclude any liability which a principal, or employee is not permitted by law or rules of professional conduct to limit or exclude. This clause is intended to benefit such principals or employees who may enforce this clause pursuant to the Contracts (Rights of Third Parties) Act 1999 ("the Act"). Notwithstanding any benefits or rights conferred by this agreement on any third party by virtue of the Act, the parties to this agreement may agree to vary or rescind this agreement without any third party's consent. Other than as expressly provided in this agreement, the provisions of the Act are excluded.
- (j) No liability will in any event apply in respect of any incidental, indirect, special or consequential damages, including but not limited to loss of revenue.
- (k) Note however that these exclusions shall not apply to any claim in respect of the death of or injury to any person. **Subject to that, please note that by entering into an agreement upon these terms and conditions, you are agreeing to limit your potential ability to claim in accordance with the above.**

15. THE CONSUMER PROTECTION (DISTANCE SELLING) REGULATIONS 2000

Under the above regulations, for some non-business instructions, you may have the right to withdraw if our contract to provide you with legal services is concluded prior to meeting you. This right to cancel without charge will subsist for seven days after the contract was concluded. However, if we start work with your consent within that period, you lose your right to withdraw. Notice of cancellation should be sent by e-mail or fax to the person named in our engagement letter as being the person responsible for the matter. Unless we advise you specifically otherwise, our retainer is likely to last more than 30 days.

16. BANKING

We hold all client monies in banking institutions regulated by the Financial Services Authority. In the event of any such banking institution being unable to repay depositors in full, we shall not be liable to you for any losses suffered as a result of the institution's failure.

17. COPYRIGHT

- (a) Unless we agree otherwise, all copyright subsisting in the documents and other materials that we create whilst carrying out work for you will remain the property of Druces LLP. You will have the right to use such documents and materials for the purposes for which they are created.
- (b) You agree not to make our work, documents or materials available to third parties without our prior written permission and we accept no responsibility to third parties for any aspect of our professional services or work that is made available to them.

18. ABL LAW GROUP

Druces LLP is a member of the Alliance of Business Lawyers, an independent European Economic Interest Grouping of independent law firms. We are not responsible for the services provided by any other member of the Group, who will agree their own terms with you where necessary, but we may have a professional liability to pay their fees. You will indemnify us against our liability if it arises.

19. GENERAL

- (a) These Terms of Business shall not affect any provision of the general law or professional standards applicable to the relationship between us and you as solicitor and client.
- (b) We will not be liable to you or any third party if we are unable to perform our services as a result of any cause beyond our reasonable control. If any such event should arise, we will notify you as soon as reasonably practicable.
- (c) We are regulated by the Solicitors Regulation Authority. We are not separately regulated or authorised by the Financial Services Authority. However, we are included on the register maintained by the Financial Services Authority so that we can carry on insurance mediation activity. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Solicitors Regulation Authority. The register can be accessed via the Financial Services Authority website at www.fsa.gov.uk/register".
- (d) Sometimes our work involves investments. As stated, we are not authorised by the Financial Services Authority and so may refer you to someone who is authorised to provide any necessary advice. However we can provide certain limited services in relation to investments, provided they are closely linked with the legal services we are providing to you, as we are regulated by the Solicitors Regulation Authority.
- (e) Any notice to be given to us may be sent to us at our registered office and, any notice to be given by us, may be given to you at your last address known to us.