

# Terms of Business

## 1. INTRODUCTION

In these Terms “we” “our” “us” “the LLP” or “the firm” means Druces LLP, 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. Partners of Druces LLP are members of the LLP. These Terms, together with our engagement letter, set out the basis on which we will provide our services. In the event of any inconsistency between the letter and these Terms, the former shall prevail. These Terms will apply to all services rendered by us to you from time to time unless we have entered into a written agreement which expressly excludes or modifies them. 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, employee, or consultant of the LLP will have any personal liability for work undertaken for you. If such a person signs in his or her own name any letter or document in the course of carrying out that work it does not mean they are assuming 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 SRA Code of Conduct 2011, 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 full instructions as to the services you require and 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, but you agree that you will remain ultimately responsible for paying our bill (including VAT).
- (g) 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.
- (h) 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.
- (i) 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 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.
- (j) Your papers and documents may be reviewed by external auditors and, in order to defend ourselves in any actual or threatened legal or regulatory proceedings, we may also disclose relevant information in confidence to our insurers, insurance brokers, and other advisers, if and to the extent such disclosure may occur without waiving or losing any applicable legal professional privilege.
- (k) Part of our transcription may be outsourced to a third party based in the UK. Confidentiality and security of information is strictly adhered to.

### **3. TAX ADVICE**

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

### **4. COSTS, EXPENSES AND DISBURSEMENTS**

- (a) Except where we agree a fixed or scale fee, our charges are usually based on the time we spend dealing with your instructions and the factors in (b) below. 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 and others in the course of carrying out the work. 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. If you do not accept the new rates after review, we reserve the right not to continue acting for you. 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 2009 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 any expenses or disbursements that are likely to be incurred. 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.
- (d) Our costs take into account our incidental expenses 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, translation services, any exceptional telephone (including overseas and conference calls) and/or fax costs, travel and accommodation, hosting and transferring online data; and other services from time to time. These charges will appear in our bills inclusive of any relevant mark-up reflecting our additional time spent facilitating the services, or as a fixed charge where the precise cost cannot be readily determined due to the arrangements we have in place with such suppliers. We will add a handling charge to the cost of bank transfers to cover the time of Accounts staff.
- (e) Disbursements will be those expenses which are charged to you at cost and our bill will include the full amount of such payments (including any VAT). If appropriate we may render "Disbursements Only" bills. We may consider it to be in your interest to charge to you as disbursements: (i) co-counsel or correspondent lawyers; (b) expert advisers and witnesses; and (c) potentially a range of other third parties.
- (f) Our current hourly charging rates for those of our fee-earners who will primarily be dealing with your retainer are as set out in our engagement letter.
- (g) Unless otherwise agreed, our charges will be payable whether or not any particular matter proceeds to completion.

### **5. NOT USED**

### **6. PAYMENT**

- (a) Any account rendered by us is due for payment on delivery. 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.

- (d) If you have any query about your invoice, including the basis on which it has been calculated, you should contact the partner with day-to-day responsibility for your work as soon as possible.
- (e) You have a right under the Solicitors' Act 1974 to have our costs assessed by the Court. If you apply for an assessment more than a month after we have given you our final bill, the Court may order an assessment on terms or, where your request is made more than 12 months or until after you have paid our final bill or after we have obtained judgment against you for non-payment of your bill, the Court may decline your request. There are also circumstances in which we may exercise a lien over the papers connected with this matter in the event that our bills are not paid.

## **7. 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.

## **8. TERMINATION**

- (a) Our retainer will continue until it is terminated or this matter ends. You may end it at any time. In the event that you end it, you will be liable for our charges up to the date of termination and we shall send you a final bill. We are entitled to hold any papers, data, monies and other assets belonging to you pending payment of our bills.
- (b) If our retainer relates to contentious business (that is to say Court or arbitration proceedings) we may only suspend or end it before the completion of the matter to which it relates if it is reasonable for us to do so. In addition, we must give you reasonable prior notice of our decision. By way of example, it would be reasonable for us to suspend or end this retainer if you refuse to fulfil a reasonable request by us for monies on account or if we cannot obtain instructions from you or if you instruct us in such a way that we cannot fulfil our professional obligations or if we discover that we are subject to a conflict of interest.
- (c) We will on giving reasonable notice be free to refuse to act or continue acting in accordance with the SRA Code of Conduct 2011 (as amended from time to time) and in particular if:
  - (i) we are or may be in breach of the law or the principles of professional conduct by accepting or continuing to accept instructions;
  - (ii) 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;
  - (iii) any account rendered by us in respect of fees or disbursements has not been paid within 30 days of its date; or
  - (iv) 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;
  - (v) We may also discontinue acting on other reasonable grounds. 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.

## **9. 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;
- (c) 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.
- (d) If we cease acting for you, we shall, where relevant, apply at your expense to remove ourselves from the court or tribunal record.

## **10. CONTINUING OBLIGATIONS AND CONFIDENTIALITY**

- (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 or provide you with reminders as to time limits which may relate to your matter following the end of our retainer.

- (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. However, you agree that we may also need to share relevant confidential information with our contractors from time to time, though this will always be subject to non-disclosure agreements (such contractors may include suppliers of IT services and support, dictation and word processing, alternative resourcing providers who will support our work, reprographics or translation services and similar.
- (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.

## **11. COMPLAINTS**

- (a) If you have a concern about any aspect of our service it should be raised immediately with the partner dealing with your matter or in writing to our Complaints Partner.
- (b) We have a written procedure in place which details how we handle formal complaints, which is available on request. If for any reason you are not satisfied with our handling of your complaint you can ask the Legal Ombudsman to consider the issue by writing to The Legal Ombudsman, P O Box 6806, Wolverhampton, WV1 9WJ; or by email to [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk); or by telephoning 0300 555 0333. The Legal Ombudsman may refer your complaint to the Solicitors Regulation Authority if it is not the correct body to conduct the investigation, for example, if you are a business or if your complaint falls outside the type of complaint dealt with by it. For more information, please visit <http://www.legalombudsman.org.uk/>. Please note that if you apply to the Court for an assessment of our costs under the Solicitors' Act 1974, you will not also be entitled to make a complaint to the Legal Ombudsman.
- (c) 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.

## **12. RETENTION AND STORAGE OF DOCUMENTS AND FILE DESTRUCTION**

After completing the work, we may keep all of your documents while there is money owing to us for our fees, expenses and disbursements. We will keep our 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. However, we reserve the right to destroy a Will and related documents once all reasonable attempts to contact you have been made without success and it is adjudged that you have attained the age of 135. Files, deeds and Wills may be stored in a secure location offsite or electronically. If we retrieve documents from storage for you in relation to continuing or new instructions, we shall not normally charge for such retrieval. However, we may make a charge based on time spent producing stored documents to you or another at your request.

## **13. 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 provide data to a third party 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.

## **14. MONEY LAUNDERING REGULATIONS 2007**

It will almost always be necessary for us to carry out due diligence on clients before we can act for them. We will speak to you with regard to due diligence before we start any work. We will not be able to receive any funds from, or pay any funds to, you or on your behalf unless this due diligence has been carried out. 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. We may use electronic identification and/or credit reference service providers in carrying out due diligence. You can find more information about this on our website at [www.druces.com](http://www.druces.com).

## **15. PROCEEDS OF CRIME ACT 2002 & TERRORISM ACT 2000**

We have a legal obligation to report to the National Crime Agency any person, including a client, suspected of involvement in activity covered by this legislation. 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. 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. You can find more information about this on our website at [www.druces.com](http://www.druces.com).

## **16. LIMITATION OF LIABILITY**

- (a) We believe that the limitations on our liability as set out in this agreement and our engagement letter 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 we 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) The total aggregate liability of Druces LLP, its partners 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 professional indemnity insurance 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 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 you had also brought proceedings or made a claim against them; or we had brought proceedings or made a claim against them under the Civil Liability (Contribution) Act 1978 or any similar enactment in any other relevant jurisdiction.
- (f) We shall not be liable for any loss arising out of our compliance with any obligation which we may have, or reasonably believe we may have, to report matters to the relevant authorities under the provisions of any 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 partners or employees. This clause shall not operate so as to exclude any liability which a partner, or employee is not permitted by law or rules of professional conduct to limit or exclude. This

clause is intended to benefit such partners 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.**

## **17. BANKING**

We hold all client monies in banking institutions regulated by the Prudent Regulation 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.

## **18. COPYRIGHT**

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. 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.

## **19. ALLIANCE OF BUSINESS LAWYERS ("ABL") LAW GROUP**

Druces LLP is a member of the Alliance of Business Lawyers, an alliance of independent law firms. We are not responsible for the services provided by any other member of ABL, who will agree its own terms with you where necessary. If we are or become responsible for their fees, you will indemnify us against that.

## **20. 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. The parties hereto agree irrevocably that any proceedings relating to any such dispute or claim shall be brought in the Courts of England & Wales and that the Courts of England & Wales shall have exclusive jurisdiction over such dispute or claim.

## **21. 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.
- (e) We are regulated by the Solicitors Regulation Authority. Their rules are available at [www.sra.org.uk/rules](http://www.sra.org.uk/rules). We are not separately regulated or authorised by the Financial Conduct Authority.
- (f) Sometimes our work involves investments. As we are not authorised by the Financial Conduct Authority we 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.
- (g) 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.

## IF YOU ARE CONTRACTING WITH US AS A CONSUMER

### 22. THE CONSUMER CONTRACTS REGULATIONS 2013

- (a) If you are an individual and you instruct us *for purposes which are wholly or mainly outside your trade, business, craft, or profession*, the Regulations define you as a consumer.
- (b) If you are a consumer under the Regulations, we are obliged to provide you with the information contained in Schedule 1 to the Regulations before we enter into a contract with you, including:
  - (i) the main characteristics of our services to be provided to you;
  - (ii) our identity, our address and telephone number;
  - (iii) the total price of our services inclusive of taxes, or where the that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated;
  - (iv) our complaint handling policy;
  - (v) the conditions for terminating the contract;The information referred to in sub-paragraphs (i) to (v) above is contained in our engagement letter and our terms of business.
- (c) In some cases, you may also have a right to cancel the contract. Your cancellation rights are as follows:
  - (i) you have the right to cancel the contract during the cancellation period without giving any reason;
  - (ii) the cancellation period is 14 days from the date we entered into a contract with you, or, if we did not provide you with information about the right to cancel before we entered into the contract with you, 14 days after the date we subsequently gave you the information;
  - (iii) to exercise the right to cancel, send us the model cancellation form enclosed or make a clear statement to us of your decision to cancel;
  - (iv) to meet the cancellation deadline, it is sufficient for you to write to us concerning your exercise of the right to cancel before the cancellation period has expired;
  - (v) if you cancel this contract, we will reimburse you all and any payments made by you to us in respect of the contract (subject to (d) below) without undue delay and in any event within 14 days of the date you informed us of your decision;.
  - (vi) cancellation of this contract will lead to the cancellation of any ancillary contracts. An ancillary contract is a contract for other services related to this contract where those other services are provided by us or by a third party on the basis of an arrangement between us and that third party;
- (d) We will not provide our services to you under the contract during the cancellation period unless you give us an express written request to do so. A form of request is enclosed. If you cancel the contract in the cancellation period having asked us to carry out work beforehand:
  - (i) you will become liable to pay us a proportionate amount of our charges, and our disbursements and expenses incurred during the cancellation period, in accordance with our engagement letter and terms of business;
  - (ii) if we then complete our work in accordance with your instructions before you have exercised your right to cancel the contract within the cancellation period, you will not thereafter be entitled to cancel the contract.

## MODEL CANCELLATION FORM

To Druces LLP of Salisbury House, London Wall, London EC2M 5PS, Fax: 020 7638 7525;

or by e-mail to the email address of the solicitor named in the engagement letter  
*[in the form initial.name@druces.com, for example r.campbell@druces.com].*

I/We\* hereby give notice that I/we\* cancel my/our\* contract for your professional legal services

Name of client (s):

Address of client (s):

Signature of consumers(s) (only if this form is notified on paper),

Date:

\* Delete as appropriate

## **REQUEST FOR IMMEDIATE PROVISION OF OUR SERVICES**

I hereby request immediate performance of the contract with you referred to in your letter of engagement and I acknowledge that I will lose my right of withdrawal from the contract once the service is fully performed

.....  
Print name

.....  
Signature