

# Terms of Business

Brooklyn Solicitors aim is always to provide a quality service in a friendly manner applying the highest professional standards. This document explains the basis upon which the firm acts for clients in contentious matters. Your continuing instructions will amount to an acceptance of these terms and conditions of business.

## 1. Instructions

In order to comply with our legal obligations under the money laundering legislation it will be necessary for you to supply us with proof of identity and/or evidence of the source of any monies to be paid to us before we can accept your instructions or money at any time. It will also be necessary to supply us with proof of identity and/or evidence of the source of any monies to be paid by any third parties.

## 2. Advice

Any advice we give is for your benefit only. No one else may rely on it without our prior written agreement. Our advice will be based upon your instructions and be limited in its scope to the retainer agreed between us. We accept no responsibility for any failure to advise in relation to any matter that falls outside the scope of our retainer, or for any failure to follow our advice.

## 3. Calculation of our charges

3.1 Our charges are based upon the time we spend in dealing with your case. This will include, but is not limited to, meeting with you and others, considering and preparing documents, considering and researching the issues relevant to the matter, instructing and attending upon counsel, and any experts, attending at court, travelling, correspondence and telephone calls either received or made.

3.2 The time we spend on your case is charged in units of six minutes. Routine letters written and routine telephone calls made and received are charged at one unit. Longer letters written and received or telephone calls made and received are charged at the appropriate number of units on a time basis. Emails are treated in the same way as letters. Our files contain details of all work done on a particular matter.

## 4. Disbursements

4.1 There may be certain expenses (often called disbursements) which we will need to incur on your behalf, and which we will charge to you. These include, but are not limited to, counsels' fees, experts' fees, court fees, search fees, travelling costs, courier charges, bank charges and other such out of pocket expenses. We also reserve the right to recharge to you: (a) the cost of making any exceptionally long overseas telephone calls; (b) any bank or credit card charges we incur if you pay us by bank

transfer or credit card; and (c) any foreign currency conversion costs we incur if you pay us in a currency other than pounds sterling.

4.2 We reserve the right to charge for in-house photocopying at the rate of 20p per A4 page. Occasionally when speed is paramount or the volume of documents is unusually large we may send non-sensitive documents outside the office to be photocopied. The external photocopying facilities we use have entered into confidentiality agreements with us. External photocopying will be charged at cost to you.

#### 5. Regular billing

In order that costs do not rise to an unexpected level we will deliver interim bills to you at regular intervals for work already carried out during the conduct of the case. This enables you to budget for costs as the matter progresses. Most invoices of this kind will be final bills for the stated period. Sometimes however invoices for disbursements are not delivered to us in a timely manner in which case the disbursement will be included in a later bill. Sometimes an invoice will be headed 'on account of costs'. Such 'on account' invoices are not intended to be a detailed calculation of the costs in the period, which will be provided in a subsequent account, but a request for payment towards costs already incurred.

#### 6. Funds on account of costs

It is a specific and invariable requirement that clients let us have sums of money from time to time on account of the costs and expenses that are anticipated in the weeks or months ahead. We may terminate our retainer if funds are not provided when requested. Any delay in making payment could have an adverse effect on your case and affect our ability to undertake work on your behalf. As we are liable for any disbursements we incur on your behalf we have no obligation to incur such expenses unless you have first provided us with funds to discharge them. All monies received on account of costs are placed in the firm's client account until an invoice is rendered or a disbursement is incurred. Any surplus funds remaining after payment of our costs and expenses will be returned to you at the end of the case.

#### 7. Costs payable by a third party

If we agree to accept payment of your costs from a third party, you remain primarily liable for the payment of those costs, irrespective of the outcome of any proceedings. If the third-party defaults on its obligation to pay the costs and expenses we have incurred on your behalf, we will require you to pay those costs and expenses.

#### 8. Interest on late payment

Our invoices are payable in full and in pounds sterling immediately on delivery. No deductions may be made in respect of bank charges, or by way of set-off or counterclaim. If an account remains unpaid for more than one month the firm will

charge interest on the amount outstanding from the date of the invoice at the same rate as is then payable on judgment debts, currently 8%.

#### 9. Non-payment of costs

If you fail to pay our charges and it becomes necessary for us to take steps to recover them through court proceedings or otherwise, you agree to reimburse us and to pay to us on demand all reasonable legal and other fees and expenses that we incur in doing so and to indemnify us against all such costs and expenses on a full indemnity basis.

#### 10. Reimbursement of charges and expenses

10.1 In the event of a successful outcome to your case you may be entitled (but not necessarily) to repayment of some of your legal costs by another party. However, it is unlikely that you will recover the full amount you are liable to pay to us, primarily because our full charging rates may not be recoverable from your opponent, or the court may form the view that the other party should not have to pay for some of the work that was carried out on your behalf. If you wish we will be happy to explain this aspect further. We must emphasise however that you remain liable to pay to us on presentation of an invoice the full amount of our charges and expenses, even though you may be entitled to reimbursement of some of those costs under the terms of a court order or insurance policy at a later date. Obtaining reimbursement of some of your costs from your opponent can be a lengthy process, particularly if the level of costs cannot be agreed; and you should also bear in mind the possibility that your opponent may not have the funds to meet any costs order in your favour in any event.

10.2 All work undertaken by the firm in collecting such reimbursement of costs on your behalf, including where appropriate the cost of engaging the services of an external costs' draftsman, is payable by you. As indicated above, the time of any fee earner involved will be charged on an hourly basis at their normal charging rate, and the work of any costs draftsman will be charged either as a percentage of the bill of costs as rendered to the other party for payment, or on an hourly basis, after agreement with you.

10.3 If you lose your case or an interim hearing, or discontinue or abandon your claim before trial, you may be ordered to pay your opponent's costs and expenses. The court may order you to pay those costs, or to make a payment on account of those costs, within a short period of time. The court will normally order the costs of an interim application to be paid within fourteen days. In that event any time spent by us in challenging such costs will be payable by you, again on an hourly basis; and the work undertaken by any costs draftsman will similarly be charged on a time basis at the rate agreed with you.

#### 11. Deduction of fees

Whenever the firm holds funds on behalf of a client in any matter (for example where funds are payable to a client at the conclusion of a case, where the firm holds monies on account of costs, or where the firm has recovered costs for a client from another party), the firm reserves the right to deduct amounts due to the firm on that or any other matter from such funds unless otherwise agreed in writing.

#### 12. Retention of papers

We have a legal right to retain any of your property in our possession or recovered or preserved by us on your behalf until our costs and expenses have been paid in full. It is our practice always to exercise our right to retain all your papers until all outstanding fees and expenses have been paid.

#### 13. Statutory rights in relation to costs

If you are not happy with the amount of our fees you may be entitled to have our charges reviewed by the court. This is called 'taxation' or 'assessment'. If you wish our charges to be reviewed you must apply to the court within one month of the delivery of the bill. If the bill has been paid, or if more than twelve months has elapsed since the bill was delivered or if a judgment has been obtained in respect of the costs covered by the bill, the court will not order the bill to be taxed unless special circumstances apply. If the court makes an order in such circumstances, it may attach conditions to the order in respect of the costs of the taxation. The procedure is set out in sections 70 to 72 of the Solicitors Act 1974.

#### 14. Preservation and disclosure of documents

In any court proceedings you will be required to search for and to disclose to the other parties all documents (including computer disks and audio and video tapes) in your possession or under your control which you intend to rely upon, or which adversely affect your case or that of another party, or which support the case of another party. The obligation of disclosure is a continuing one and covers all relevant documents including those which are confidential or which harm your case. It is therefore essential that no documents are destroyed and that immediate steps are taken to obtain and preserve all documents that are or might be relevant to any issue in the action. The court has the power to impose severe sanctions if a party fails to comply with his or her disclosure obligations.

#### 15. Confidentiality and legal professional privilege

Except as required by law, we will keep your affairs confidential and respect any legal or other privilege that may attach to our communications or any documents. Confidentiality and privilege can only be overridden in exceptional circumstances. Most of the exceptions are governed by statute, such as suspected money laundering and insolvency. By way of example only, we may be obliged to disclose to a trustee-in-bankruptcy or liquidator information or documents belonging to or concerning the

affairs of a client who subsequently becomes insolvent including, in certain circumstances, privileged documents.

16. Waiver of privilege

It is settled law that if a client sues his solicitor, the client is deemed to waive privilege, so that the solicitor can defend himself. By entering into this agreement you also agree to waive privilege in the event that the court or a professional or regulatory body seeks an explanation from us on any aspect of the conduct of your affairs, or if in our judgment an explanation ought to be given to the court or a professional or regulatory body, for example, in connection with any application by your opponent for a wasted costs order against this firm or any application to terminate our retainer or to remove this firm's name from the court record.

17. E-mail

Communication by email carries with its certain risks. Email may not be completely secure, may distort during transmission, may arrive late or not at all and may carry viruses. We take reasonable precautions to check for known viruses, and we expect you to do likewise. If you wish to communicate with us by email, we accept no responsibility for any inadvertent breach of confidence that results, or for any loss or damage that occurs, as a result of such communication. We also recommend that you confirm any advice received by email before acting upon it.

18. Termination of instructions

18.1 You may terminate your instructions to us at any time. In that event we will retain your papers and documents until all costs and expenses have been paid in full.

18.2 We may terminate our instructions only for good reason, which could include, by way of example only, the failure to give full, truthful or timely instructions to us, placing or attempting to place us in a position which conflicts with our professional duties including our duty to the court, the failure to have confidence in the work that we are doing for you and the failure to discharge accounts or provide money on account of costs in a timely manner.

18.3 In either case it must be appreciated that it is not always possible for us to prepare an account of our final charges immediately, particularly in large cases, because of matters outside our control. It may take a few days between termination of instructions, preparation and payment of the bill and the handover of papers. The firm does not accept responsibility for any detriment that might be occasioned to you or your case in this period.

19. Inquiries about quality of service or fees

All clients are invited to discuss these terms of business, the calculation of our charges and the way in which work on a particular matter will be conducted, with the fee

earner primarily concerned. If at any time you are unsure about any aspect of the matter, or wish to discuss the matter with someone other than the primary fee earner, you are invited to contact Mr Julian Hardy as appropriate. Any continuing concern about the quality of service provided by the firm in dealing with any aspect of your affairs should be directed to Mr Hardy who will investigate the matter and respond promptly.

#### 20. Investment advice

If you need advice on any investments, we may have to refer you to someone who is authorised by the Financial Conduct Authority, as we are not.

**The Law Society is a designated professional body for the purposes of the Financial Services and Markets Act 2000 but responsibility for regulation and complaints handling has been separated from the Law Society's representative functions. The Solicitors Regulation Authority is the independent regulatory body of the Law Society and the Legal Ombudsman is the independent complaints handling body.**

#### 21. Data protection

We will hold the following information about you as our client:

- Name, date of birth, and contact information.
- Passport or Driving Licence for ID purposes
- National insurance number
- Information relating to your legal matter
- Financial details
- Demographic information such as postcode
- Information and documents relating to the service we are providing, including communications with you.
- Billing and payment information.

If we represent you in a criminal case, we will collect information about the alleged offences and any related criminal history. Where we process sensitive personal information in the course of these and other similar cases, we do so to assist you and/or your organisation to establish, exercise or defend legal claims.

We store your information in our practice management system on our secure servers based in our Harrow office. We also hold paper copies of your information in the client matter files, stored in our office.

In order to provide legal services to you, we may need to share information about your matter, including personal information, with third parties. This may include prosecuting authorities/Counsel/Barristers/External experts.

Once your matter is closed, we will store your client matter file in an offsite secure storage location (in the UK) for a minimum period of 7 years after the close of the matter. We will

keep financial records for a period of 6 years, following the end of the current financial year.

As a client, we may send you marketing information from time to time (such as a newsletter containing information which may be of use to you). We do this on the basis of legitimate interests, but if you would prefer not to receive such communications, please let us know by alerting your main point of contact or emailing [info@brooklynsolicitors.com](mailto:info@brooklynsolicitors.com).

You have certain rights over the data we hold, including the right to access a copy of the information. For further details, please read our privacy policy, available on our website or ask us for a copy.

## 22. Storage of documents

At the conclusion of your case we will return to you any important original documents received from you and any other documents requested by you. At the end of that period the papers will be destroyed without reference to you.

## 23. Law and jurisdiction

Any dispute between us will be governed by English law and will be subject to the exclusive jurisdiction of the English courts. Any judgment or order of the English courts will be conclusive and binding and may be enforced in the courts of any other jurisdiction.

## 24. Invalidity

If any provision of this agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

- a. the legality, validity or enforceability in that jurisdiction of any other provision of this agreement; or
- b. the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this agreement.

## 25. Entire Agreement

The letter to which this is an appendix and this (and any other) appendix constitute the entire agreement and shall supersede any previous agreement between us. It may only be amended, modified, varied or supplemented in writing signed by both parties. Neither party may rely on any other arrangement, understanding or agreement.

## 26. Notification of your statutory right to cancel this agreement if not made "on-site"

You have the right to cancel any contract completed offsite (i.e. not within our offices or on by way of a telephone call) within 14 days without giving any reason.

This statutory cancellation period will expire after 14 days from the date of the commencement of the contract.

To exercise the right to cancel, you must inform us Brooklyn Solicitors 1 to 9 St Anns Road Harrow London HA1 1LQ of your decision to cancel this contract by a clear statement (e.g. a letter sent by post, fax or e-mail). To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

Sign: \_\_\_\_\_

Dated: \_\_\_\_\_