

# Terms and Conditions of Business

For the avoidance of doubt the parties confirm that they are both competent and have the capacity to enter into this agreement. These Terms and Conditions only apply between you and us. They do not give any benefit or rights to any third party, individual or organisation. Our Terms and Conditions of Business relating to legal work are set out below. These will be updated from time to time. All work carried out by TMC shall be subject to these Terms and Conditions. Please note that we are qualified only to provide services in relation to legal costs.

If there is the slightest doubt in your own mind as to what it is we are supposed to do would you please contact us to clarify any ambiguity. Unless otherwise agreed these terms of business apply to any future instructions you may give to this firm and we will consider these terms applicable to our ongoing course of dealings unless or until you advise us that you no longer wish to be bound by them. In that event would you please ensure that you write to us and receive an acknowledgment of your communication indicating your wish to be no longer bound.

Our aim is to complete the work which you have asked us to do speedily and efficiently. We need to work together to do this and from time to time we will need your help in providing us with documents and information. You agree to provide us with documents and information when we ask for them and let us know if there is any change in your circumstances which we may need to take into account, promptly.

We aim to offer our clients a friendly and efficient service, and we understand that you will want to know the basis upon which this firm will act for you. We therefore set out within the body of this agreement the main terms that apply as an integral part of our retainer. We hope that this will help you and we would be grateful if you would ensure that you sign the bottom of this letter acknowledging receipt of the same in the confidence that both you and we understand the basis upon which we will act for you.

We will ensure that you know the name of the costs lawyer/draftsman responsible for your case and the name and status of all other persons who you are likely to be dealing with. We will ensure that you are fully informed as to the issues raised in, and the progress of, the work we are undertaking for you at all times. In limited circumstances we may need to instruct agents or counsel to undertake work that we might have otherwise undertaken. In that event you will be advised of this and your agreement to this obtained.

## 1. Our Responsibilities

We will:

- Always act in your best interests, subject to our duty to the Court and under statute;
- Explain to you the risks and benefits of proceeding;
- Give you our best advice; and
- Give you the best information possible about the likely costs of the action which you are proposing to take, or the work you are asking us to undertake

If you feel that the level of the service provided falls below the criteria outlined above you should first raise your concern with the person responsible for your case, and in the event that you have any continuing concern you should approach the Managing Director. Our complaints policy is attached.

## 2. Your Responsibilities

You will:

- Give us instructions that allow us to do our work properly;
- Provide prompt (and not late) and realistic instructions;
- Not ask us to work in an improper or unreasonable way;
- Not deliberately mislead us;
- Cooperate with us; and

- Make all payments reasonably due to us in accordance with this agreement.

### 3. Hours of Business

Our hours of business are normally 9.00am to 6.00pm weekdays. When the office is closed voicemail messages may be left.

### 4. Confidentiality and Privilege

Generally speaking the information and documentation which you provide to us is confidential and subject to legal professional privilege. However in some circumstances we may be obliged to pass on information which we receive, for example to the Authorities who deal with money laundering and the Proceeds of Crime Act. You should also note that some methods of communication are not secure, for example mobile telephones and e-mails. Unless you let us know otherwise, we shall assume that you are content for communications to be made by such means even though they are not totally secure. If there is some particular document or some particular piece of information which you require us specifically not to disclose to some third party, then please make that clear when you supply it to us (though please bear in mind our obligations set out above which may override any requirement that you impose).

From time to time we may be called upon to demonstrate our maintenance of certain professional standards as set by appropriate authorities. Unless you notify us to the contrary we will assume that we have your authority to produce your file for that purpose only as an exception to our duty of confidentiality.

The return of these conditions signed by you will constitute your consent to the giving of such information, unless you advise us to the contrary.

### 5. Data Protection Act 1998 and Data Protection Policy

In acting for you, we shall compile and hold personal data relating to you. This may include sensitive personal data. This will be both in electronic form and part of a paper filing system. Data of this sort is covered by the Data Protection Act 1998. If you consent to the collection of such personal data, you can be assured we will comply fully with the Act. In general, such data is retained after the conclusion of your case because this is thought to be in your best interests. Our

obligations under the Act are in addition to our duty of confidentiality. We sometimes use this data to enable us to identify clients who may wish to be made aware of any legal developments which might affect them. If you do not wish to receive such material in the future please advise us.

## 6. The Consumer Protection (Distance Selling) Regulations 2000

If your instructions to us have not been given to us at a face to face meeting and you are a consumer, you may have the right to cancel those instructions without any cost to you within seven working days of these instructions being received by us. However, if your instructions to us require urgent action, you will be responsible for our charges for work done up to the date of our receiving cancellation of the retainer. You can cancel the agreement either by delivering a letter or note cancelling your instructions to our office or by sending it by post, fax or e-mail.

## 7. Storage of Documents and Production of Documents

At the end of your matter we will store your file of papers and any other documents that you have left with us for such period as we think is appropriate after which time the file will be routinely destroyed. If you would prefer your documents not to be destroyed, you should notify us in writing at which stage your records will be forwarded to you for safe custody. Please note that we are only obliged to produce documents that belong to you and that we are under no obligation to produce documents that we have not charged for preparing.

We do not normally make a charge for retrieving stored papers in response to continuing or new instructions to act for you. However we reserve the right to make a charge for retrieving stored papers in relation to matters which have been concluded based on the time we spend on reading papers, writing letters or other work necessary to comply with your additional instructions.

## 8. Limitation on Liability

We carry professional indemnity insurance giving cover of £250,000 for any one claim for professional negligence. We do not accept liability for any loss or damage in excess of the level

of our insurance cover, unless we have agreed a special arrangement with you at the outset of your matter. From time to time the level of our indemnity cover is reviewed and we can tell you the current level if requested; that figure will not be less than £250,000.

## 9. Fixed Fees

In limited cases we may be able to agree a fixed price with you. In the event that you wish to consider a fixed fee arrangement, please contact us to so it may be discussed.

## 10. Normal Basis of Charging

### 10.1 Inter Parte Bill of Costs

- 75% to 5.5% of profit costs as drawn (subject to volume) – agreed in advance; or
- 6% of agreed/assessed profit costs\*

\*strictly subject to TMC being instructed at the outset to negotiate settlement and, if necessary, attend any detailed assessment hearing on your behalf. In the event that costs are reduced significantly as a result of matters outside our control ie retainer issues, inclusion of irrecoverable items upon instruction or an adverse finding under the new proportionality rule TMC's fees will be subject to a minimum 4% of profit costs as originally drawn.

### 10.2 Schedule of Costs

- 5% of the profit costs as drawn; or
- 5% of agreed/assessed profit costs\*

\*this fee includes all negotiation time and is subject to TMC being instructed at the outset to negotiate settlement. In the event that settlement is not achieved and a full bill of costs is required, the fee will be 2.5% of profit costs as drawn.

### 10.3 Negotiation and Advocacy

- £140 per hour where total costs claimed (including VAT) do not exceed £75,000

- £165 per hour where total costs claimed (including VAT) exceed £75,000

## 10.4 Costs Budgeting

- Precedent H preparation - £85 per hour\*
- All subsequent budget related work - £85 per hour

\*limited to 75% of the total fee permitted by para 2.2 of Practice Direction 3E.

## 10.5 Legal Aid Only cases

- 6% of profit costs as drawn\*

\*save where expressly agreed in writing to the contrary in advance of any work being carried out, our fees will not be affected in any way by the limitation of the funding certificate, or by any reductions on assessment, and will remain payable at the agreed rate..

## 10.6 All other work

- £150 per hour or as otherwise agreed in writing.

## 10.7 Minimum Fee

All work is subject to a minimum fee of £50.

The above rates apply to all instructions received by TMC from you and can only be adjusted by agreement between us in writing. They are subject to periodic variation and we will notify you in advance of any change. The rates applied may also be adjusted to reflect the level of responsibility which we have accepted, the exceptional value of our work to you, working unsociable hours or unusual skill or unusual speed applied to your matter.

In every case we will review our account and assess such sum as we believe represents a fee fairly and reasonably payable by you. In other words, if we consider that the actual number of hours multiplied by the hourly rate is too high, we will reduce the amount of our invoice to reflect this when appropriate. We repeat that we are happy to justify our charges at any assessment. In appropriate cases we are prepared to discuss with you our terms generally.

## 10.8 Time Charging

We will charge you for time spent on the following:

- Researching the legal position and background of your case
- Reading and studying papers and documents in your case
- Talking to you and other parties in person and on the telephone
- Corresponding with you and other parties by letter or email
- Drafting pleadings and/or other documentation
- Preparing papers for your barrister (if applicable) and the court
- Attending meetings with your barrister
- Attending court on your behalf

## 11. Billing

Unless otherwise agreed we generally render invoices at such times as we complete our instructions. For example if we are instructed to draft a bill and negotiate/conclude all aspects of costs we shall render one account at the conclusion of the matter. Should we only receive instructions to draft a bill, we will render our invoice at the time the bill is returned. Should you then require further services from us we shall raise a separate invoice for such further instructions. In long running matters we reserve the right to send interim bills at certain intervals in the proceedings, as this enables you to budget and assists our cash flow.

Accounts are payable within thirty days of delivery, unless otherwise agreed. We reserve the right to cease acting should interim bills not be paid within thirty days or money not paid to us when reasonably requested for disbursements and/or on account of our costs. Our charges and expenses are payable whether or not the matter is successfully concluded or the transaction is completed. If any matter or transaction is not concluded, we shall be entitled at our discretion to charge for the work done on our normal charging basis as set out in this agreement. This applies even where a fixed rate has been agreed for the whole matter.

### 11.1 Interest

Interest on overdue invoices (ie over 30 days old) is payable in all cases, unless waived by us in writing, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 as amended by The Late Payment of Commercial Debts Regulations 2013.

## 11.2 Discounted Fees

Any discounts offered are subject to payment within 30 days. In the event of payment not being made in full within this time TMC reserves the right to submit a revised invoice in the non discounted amount.

## 11.3 Administration Charges

In the event that a file is requested by you to be returned after receipt by TMC but prior to any work being carried out, we reserve the right to charge a fee of £5 + VAT per file to cover administration and carriage fees.

## 11.4 Debt Recovery

If an invoice is not paid and a debt recovery specialist is instructed to recover the amount of the outstanding invoice, TMC reserves the right to add the costs incurred to the amount of the invoice and to charge interest (calculated as above) on the total amount owing.

## 11.5 Lien

TMC reserves the right to retain any of your files or other papers in our possession for the purpose of carrying out legal costing work pending full payment of any outstanding fees due to us.

# 12. Additional Expenses

In addition you will be responsible for VAT and out of pocket expenses.

# 13. Payments on Account

Before we incur disbursements, we may ask you for funds to meet them. We may also ask you for money on account either at the commencement of your case or at some other time. This will be held generally on account of fees disbursements and VAT and will be applied where we consider

appropriate in discharge or reduction of any liability for any disbursement made or to be made, or any subsequent invoice rendered.

You may receive periodic requests for specific payments in respect of disbursements to be made and for general payments on account in respect of any liability which we have to pay ourselves. Examples of the former are court fees; and counsels' fees.

## 14. VAT

VAT at the rate applicable when the work was done or at the point of delivery of invoice, whichever is applicable, will be added to our charges and be claimed on any disbursements attracting VAT. In the event that VAT is payable by a third party it shall be your responsibility for collecting and discharging the VAT on our charges.

## 15. Costs of Other Parties

Sometimes you may be required to pay the costs of another person or other body involved in your matter. These are payable in addition to our own costs and expenses. You are always personally liable to pay those. We do not pay these on your behalf.

## 16. Termination of this Agreement

This agreement will come to an end when:

- All work required under the agreement has been completed;
- You terminate this agreement. In that event we shall be entitled to any fixed fee agreed or otherwise payment of our reasonable charges in accordance with the terms of this agreement.
- You do not comply with your responsibilities. In that event we shall be entitled to any fixed fee agreed or otherwise payment of our reasonable charges in accordance with the terms of this agreement.

- You or we die.

## 17. Law

The laws of England and Wales applicable at the time of this agreement shall apply to this agreement.

## 18. Acceptance of Terms

Acceptance of these terms will be implied in the event of continued instruction hereafter.

## Our Complaints Policy Complaints handling procedure

We are committed to providing a high-quality legal service to all our clients. When something goes wrong, we need you to tell us about it. This will help us to improve our standards.

- If you have a complaint, please contact us with the details in writing at: T M Costings Ltd, 46-48 The Green, Wooburn Green, Buckinghamshire, HP10 0EU
- We will normally send you a letter or email acknowledging receipt of your complaint within seven days of us receiving the complaint, enclosing a copy of this procedure.
- We will then investigate your complaint. This will normally involve passing your complaint to our Managing Director, Toby Moreton, who will review your matter file.
- Toby Moreton may invite you to a meeting to discuss and hopefully resolve your complaint. If this is considered appropriate Toby Moreton will do this within seven days of sending you the acknowledgement letter.
- Within three days of the meeting, Toby Moreton will write to you to confirm what took place and any solutions Toby Moreton has agreed with you.

- If a meeting is not appropriate, Toby Moreton will send you a detailed written reply to your complaint, including his/her suggestions for resolving the matter, within twenty-eight days of receipt of the written complaint. In the event that this resolves the complaint we will comply with our obligations arising from the complaint.
- At this stage, if you are still not satisfied, you may contact us again and if you wish we will arrange for an independent review of the complaint to be undertaken by someone unconnected with this firm. We will be bound by his or her determination.
- Upon receipt of the review decision we will comply with our obligations arising from the review decision.
- If you are still not satisfied, you can then contact the Office of the Legal Ombudsman at:

Legal Ombudsman

PO BOX 6806

Wolverhampton

WV1 9WJ

Tel: 0300 555 0333

Web: [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)

Email: [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)

