

**DAVID CONWAY & CO**

**GENERAL TERMS OF ENGAGEMENT**

**1. Introduction and Acceptance of Retainer**

- 1.1 The following terms of engagement as may be amended from time to time together with any collateral letter of engagement shall apply to all work carried out by David Conway & Co for the party to whom it is addressed or otherwise treated as the counterparty as hereinafter referred to. In these terms, "we", "us" and "our" refers to David Conway & Co, and "you" and "your" refer to our client.
- 1.2 No failure by you expressly to acknowledge in writing the acceptance of these terms of engagement shall affect their application to our engagement and your continuing instructions shall in the absence of such written acceptance be treated as such acceptance.
- 1.3 In the event that you are more than one person or company then your obligations hereunder shall be deemed to be on a joint and several basis.
- 1.4 Where you are a Company having any holding company or subsidiaries as those expressions are defined by section 1159 of the Companies Act 2006 then in the absence of any agreement in writing to the contrary these terms shall apply equally to such holding company or subsidiaries.
- 1.5 Under the Consumer Protection (Distance Selling) Regulations 2000, for some non-business instructions, you may have the right to withdraw, without charge, within seven working days of the date on which you asked us to act for you. However, if we start work with your consent within that period, you lose that right to withdraw.
- 1.6 Your acceptance of these Terms and Conditions of Business will amount to such a consent. If you seek to withdraw instructions, you should give notice by telephone, e-mail or letter to the person named in these Terms of Business as being responsible for your work. The Regulations require us to inform you that the work involved is likely to take more than 30 days.

**2. Instructions and Termination**

- 2.1 In relation to all our work for you, it is your responsibility, when requested, to provide us with complete, accurate and timely information and to carry out any obligations ascribed to or undertaken by you or others under your control. Our advice may be based upon information provided by you or on your behalf. Accordingly, we assume no responsibility and make no representations with respect to the accuracy or completeness of any information provided by you or on your behalf.
- 2.2 You remain responsible for any commercial decision that you make, and in taking such decisions regard must be had to the restrictions on the scope of our work and to the large number of other factors, commercial and otherwise, of which you and your other advisers are, or should be aware from sources other than our work.
- 2.3 We expect to continue to act for you until we finish the work concerned. Either you or we may bring instructions to an end at any time by telling the other. We will not do this without good reason. Examples

include the creation of a conflict of interest, your requiring us to break rules of professional conduct, our determining that the relationship of trust and confidence necessary between solicitor and client does not exist between us, your failure to give us adequate instructions and your failure to pay any amount due to us or provide monies on account of costs.

- 2.4 If either of us terminates instructions, you must pay all fees and disbursements incurred before termination, plus any further fees and disbursements for work necessary to transfer our files to another adviser of your choice.

**3. Costs and payments**

You are responsible for our costs and disbursements together with any VAT. The following provisions apply in regard to these:

**3.1 Fee estimates and quotations**

3.1.1 If we provide a costs estimate or a quotation for a piece of work, then that estimate is our indication, made in good faith, of likely costs for carrying out the work concerned, based on information at the time the estimate is given. An estimate is subject to revision and does not amount to a contractual commitment on our part to carry out the work within that estimate. We will tell you promptly if it becomes apparent that our fees are likely to exceed an estimate that we have given.

3.1.2 A quotation is a proposal by us to carry out specified work for a stated fee. If you accept that proposal, it then becomes a contractual commitment. If we carry out work in excess of that specified, our fees for that additional work will be charged at our then applicable standard hourly rates. We also reserve the right to charge additional fees on the same basis for material additional work arising from circumstances known to you when you accepted our quotation, but did not disclose to us.

3.1.3 In the case of property transactions, the fees will normally be determined by reference to the value element to be agreed either by way of a standard scale or on a transaction by transaction basis dependent upon its nature.

3.1.4 In other cases, including abortive transactions our charges will be principally based upon hourly rates for those members of the firm who may deal with the matter. These rates, which are exclusive of VAT where applicable and disbursements which expression includes not only sums paid out to third parties by us and chargeable to you but also a reasonable and proper sum in respect of the cost to us of faxes, photocopying and postage incurred in your matter. Hourly charge out rates are usually reviewed on 1st September in each year.

**3.2 Hourly Rates and Supplements**

- 3.2.1 Save where otherwise agreed in writing between us, current hourly rates applicable to our services to you for the work to which these terms of engagement relate are as set out

below, usually reviewed in September of each year:-

Principal per hour	£475
Paralegal per hour	£90

3.2.2 In the case of time charges they may be supplemented in appropriate circumstances as a result of any of the following factors:

1. complexity of the item or of the cause or matter in which it arises and the difficulty or novelty of the questions involved;
2. skill, specialised knowledge and responsibility required of, and the time and labour expended by, the solicitor or counsel;
3. number and importance of documents (however brief) prepared and perused;
4. place and circumstances in which the business involved is transacted;
5. importance of the cause or matter to the client;
6. money or property is involved, its amount or value;

### 3.3 Payment on account of fees

We may ask you, either at the outset of our work or as it progresses, to make a payment to us on account of our fees and disbursements. We would hold this payment in a separate bank account, as described below under "Custody of client money" and credit it against our final invoice for the work concerned.

### 3.4 Interim Invoices

We may invoice you at periodic intervals either at the end of each month or the end of each quarter as we consider appropriate before final completion of the work we have undertaken for you. An interim invoice represents our final charge for our work up to the date stated in the invoice unless we tell you otherwise at the time. We will send a final bill after completion of the work.

### 3.5 Disbursements and expenses

Unless you notify us in writing to the contrary, we will assume that we have authority to incur the usual disbursements and expenses encountered in the course of work we do for you. We shall in any event seek your express agreement before incurring on your behalf sums which are substantial in the context of the work in question and our knowledge of your circumstances. Disbursements and expenses are charged to you in addition to our fees.

### 3.6 Payment terms

We are committed to providing a timely service and in turn we request you to pay interim and final invoices within 28 days of the invoice date. If you wish to dispute any invoice you should speak to the person responsible for the relevant work within 21 days of the invoice date, so that any necessary action can be taken before the end of the credit period. We reserve the right to charge interest, from the end of our credit period, at the rate for the time being payable on Judgement debts (currently 8 per cent per annum) on any unpaid invoice.

## 3.7 Assessment of Costs

3.7.1 Except in cases where our retainer constitutes a contentious business agreement (see subparagraph 3.7.2 below you may apply to have our fee reviewed by the Court, whether it is for contentious or non-contentious work. This process is called "assessment of costs". The procedure is set out in ss 70, 71 and 72 of the Solicitors Act 1974.

3.7.2 Unless the Engagement Letter states otherwise our retainer under these items of engagement is not intended to be and shall not constitute a contentious business agreement under s. 59 of the Solicitors Act 1974, and accordingly your entitlement to require an assessment of costs is unaffected.

3.7.3 The court will not, except in special circumstances, order an assessment of costs of an invoice once twelve months have expired since the delivery of the invoice or one month has expired since payment of the invoice.

## 4. **Cash**

Our Firm's policy is not to accept cash exceeding £500. If clients circumvent this policy by depositing cash direct with our bank we reserve the right to charge for any additional checks we deem necessary regarding the source of the funds

## 5. **Legal Insurance and Legal Aid**

5.1 We do not normally accept Legal Aid funded work. On occasions however we will accept instructions in circumstances where the client has a bona fide insurance policy to cover them for legal expenses provided we are satisfied that either we will obtain a full recovery at normal rates for our charges and the client understands that they remain responsible for our charges irrespective of whatever recovery or contribution is made from or by the client's insurers.

5.2 It is recommended that you check at the outset whether you have any qualifying insurance either under the terms of a stand alone legal expenses policy or as part of a home owners policy whether relating to the building insurance or contents insurance or a comprehensive policy cover in both and if in doubt send to us a copy of the Policy.

5.3 You should also consider the availability of 'before the event' or 'after the event' insurance cover on which we can advise if so requested by you.

## 6. **Third Party Guarantees**

In the event that any third party shall guarantee payment to us of our charges and expenses that shall not imply or impose any duty or obligation by us to any such third party as a client or otherwise.

## 7. **Confidentiality, Identity and Disclosure**

7.1 Except as explained below, we will maintain our professional and legal obligations of confidentiality in relation to the work we undertake for you and in relation to information which is confidential to you which comes into our possession in the course of undertaking that work. However we may make disclosures of information which is confidential to you:

- 7.1.1 for the purpose of acting for you including, without limitation, disclosures to your other advisers or to third parties involved in the work we are undertaking for you;
- 7.1.2 to our auditors or other advisers or for the purposes of our professional indemnity insurance;
- 7.2 You are responsible for providing such information as is necessary to enable us to comply with all statutory and regulatory provisions to which we are subject. We are entitled to refuse to act for you if you fail to supply appropriate proof of identity for yourself or for any principal whom you may represent.
- 7.3 Your contact details will be added to our contacts database for use within David Conway & Co and from time to time you may receive information from us that we think is relevant to you. We will not pass this information to any third party. If you do not want us to add your contact details to our database please inform us in writing. Our privacy policy for the purposes of the General Data Protection Regulations 2018 and the Data Protection Act 2018 is on this firm's website.
- 7.4 Solicitors are not allowed to disclose information about a client's affairs without the client's authority. This obligation, however, is subject to a statutory exception: recent legislation on money laundering and terrorist financing has placed solicitors under a legal duty in certain circumstances to disclose information to the Serious and Organised Crime Agency. Where a solicitor knows or suspects that a transaction on behalf of a client involves money laundering, the solicitor may be required to make a money laundering disclosure. If this happens, we may not be able to inform you that a disclosure has been made or of the reasons for it.
- 7.5 By accepting these Terms and Conditions of Business you authorise us to disclose to the other parties in the transaction and, if applicable, to all other parties in the chain of transactions and their agents and advisers, all information which we have in relation to your involvement in the transaction including any related sale or mortgage and other financial arrangements and wishes as to dates for exchange and completion.
- 7.6 You may withdraw this authority at any time but if you do so you should appreciate that we will inform the other party or parties and their agents or advisers that this authority has been withdrawn.

## **8. Staff Solicitation**

You agree not to offer employment to any of our personnel or induce or solicit any such person to take up employment with you, nor will you use the services of any such person either independently or via a third party, for a period of six months following the end of any involvement by that person with any transaction for you.

## **9. Work Allocation and Service Levels**

- 9.1 We shall endeavour to carry out your instructions to a proper professional standard in which connection your attention is drawn to the following:

- 9.2 You will be advised of the name and status of the fee-earner or fee-earners having day to day conduct of your instructions and the name of the Partner with overall responsibility or during such period as our firm carries on business with the status of sole practitioner by David Conway or his successor to that status. Any service issues that arise should be addressed to him.
- 9.3 You will separately be advised of an explanation of the issues raised by your instructions and any likely timescale
- 9.4 Our aim is to progress your work as quickly as circumstances allow, and we expect to review progress with you as an ongoing part of our services.
- 9.5 It is frequently the case that meeting target dates will be outside our control. Often the pace of a matter will depend not only upon timely instructions from you and a prompt response from ourselves, but also upon the degree of cooperation we receive from persons with whom you are dealing, those persons; advisers and other third parties involved. Accordingly, unless we have specifically agreed to the contrary we do not accept any liability arising from failure to meet any target date(s) or to complete any part of your work within a proposed timescale, unless the failure is directly and exclusively caused by unreasonable delay on our part in providing our services.

## **10. Custody of client money, Interest and Commissions**

- 10.1 Any of your money which we hold for you, for whatever reason, will be held in a client bank account, separate from our own money.
- 10.2 We will account to you for interest on this money, in accordance with the current Solicitors' Accounts (Deposit Interest) Rules. Generally, such interest is paid to UK resident clients without deduction on account of tax and should be declared by recipients to the appropriate taxing authorities accordingly.
- 10.3 If we receive a commission from a third party arising from work we are doing for you, we will credit you with that commission, unless you have agreed otherwise or the amount is less than £10.
- 10.4 On no account will we be liable for any losses resulting from the failure of a Bank with whom your money is deposited by us as part of our general client account or any separately designated account in your name. At the date of the issue of these General Terms of Engagement client monies are held at Bank of Scotland Plc.
- 10.5 You are asked to note that the Financial Services Compensation Scheme indemnity limit applies to each individual client so if you hold other money in the same Bank then that limit will be by reference to the aggregation of any of your funds deposited by us in that Bank with any monies you hold in that Bank. Should you require further information in regard with these issues you should check with your Bank with the Financial Services Authority or any other authority responsible for these matters.

## **11. Document custody and storage**

- 11.1 When we complete the work concerned we shall, if requested, return to you all documents and other

material loaned by you to use for the purpose of that work. Our working materials, all correspondence between you and us and other material generated by us in that work will remain our property. Unless agreed otherwise, we will retain these materials, normally for a minimum of 6 years, when we may destroy them without further reference to you. We may exercise a lien over (that is, retain) any of your property and money we hold for as long as fees are outstanding.

11.2 If we retrieve papers or documents from storage in relation to continuing or new instructions to act in connection with your affairs, we will not normally charge for such retrievals. However, we may make a charge based on time spent producing stored papers or documents for you or another at your request. We may also charge for correspondence, copying or other work necessary to comply with the instructions given by you or on your behalf.

11.3 We will store deeds and documents in our strong room for you if you require. We do not make any charge for this service but we cannot accept responsibility for the loss or damage of any item which we hold, except by prior arrangement.

## **12. Limitation of Liability**

12.1 Our liability to you in respect of breach of contract or breach of duty or fault or negligence or otherwise whatsoever arising out of or in connection with this engagement will be limited to the lower of:

(a) a total to £2,000,000 (or, if greater, the total amount of any increased minimum level of professional indemnity cover which we are obliged to insure for or such other amount as may be agreed in writing from time to time with you but not to exceed the amount of the level of our professional indemnity cover) to cover claims of any sort whatsoever (including interest and costs) arising out of or in connection with this engagement or;

(b) to that proportion of the loss or damage (including interest and costs) suffered by you, which is ascribed to us by a Court of competent jurisdiction allocating proportionate responsibility to us having regard to the contribution to the loss and damage in question of any other person responsible and/or liable to you for such loss and damage (loss and damage having the same meaning as in the Civil Liability (Contribution) Act 1978).

12.2 The provisions of this paragraph 12 shall have no application to any liability for death or personal injury, any other liability which cannot lawfully be excluded or limited or to liability arising as a result of fraud on our part.

12.3 Where there is more than one party to this engagement letter (other than ourselves) the limit of liability will have to be allocated among you. It is agreed that, save where an allocation is expressly stated in our engagement letter, such allocation will be entirely a matter for you and you shall be under no obligation to inform us of the allocation. If (for whatever reason) no such allocation is agreed, you shall not dispute the validity, enforceability or operation of the limit of liability on the ground that no such allocation was agreed.

12.4 For the purpose of assessing the contribution to the loss and damage in question of any other person pursuant to the preceding paragraph, it is agreed that no account should be taken of any limit imposed on the amount of liability of such person by any agreement made before the loss and damage in question occurred.

12.5 Neither we nor you shall be liable in any way for failure to perform, or delay in performing, our respective obligations under this engagement if the failure or delay is due to causes outside the reasonable control of the party who has failed to perform.

## **13. Electronic Communications**

13.1 During the period of our engagement we may wish to communicate electronically with each other. However, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use.

13.2 We each agree to use commercially reasonable procedures to check for the then most commonly known viruses before sending information electronically, but we recognise that such procedures cannot be a guarantee that transmissions will be virus free. Accordingly, we shall each be responsible for protecting our own interests in relation to electronic communications and for ensuring that an electronic communication is not misaddressed.

13.3 We endeavour to retain on disc or other electronic storage or in hard copy format copies of all emails which contain or refer to significant information, although others may often be deleted or destroyed. However it is sometimes impractical or unjustifiably time consuming to retain all such materials, and therefore your file may not necessarily contain a copy of every email sent or received.

## **14. Client Satisfaction and Firm's Investigatory Procedures**

14.1 Satisfying your requirements and expectations requires not only a professional approach on our part, but also that we should be kept aware of any concerns that you have about our work or about the progress of your matter. We therefore hope that you will raise any such concerns promptly and frankly, and indeed tell us of any suggestions to improve our services.

14.2 Any dissatisfaction or concern you may have in relation to our services, which may include those relating to an invoice, should be raised in the first instance with the Principal of our firm. He will investigate the subject matter of that complaint promptly, and attempt to resolve the issue to your and our mutual satisfaction within eight weeks of the complaint having been received. He will explain to you the procedure that he will follow to investigate the matter. He will try to resolve the issue in question in accordance with our firm's relevant procedure, a copy of which is available on request.

14.3 If you remain dissatisfied after receiving the Principals final determination you may refer the issue to the Legal Ombudsman PO Box 6806 Wolverhampton WV1 9WJ. Any such complaint

must usually be made within a year of the date of the act or omission about which you are concerned or within a year of you realising there was a concern. The requirement to refer your concerns to the legal ombudsman within six months of the date of our final response to you remains the case but for further information you should contact the Legal Ombudsman on 0300 555 0333 or at [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk).

14.4 No charge will be made for the time spent in investigating and responding to the issue as raised by you.

## 15. Other Services and Regulatory Provisions

15.1 We are not authorised under the Financial Services and Markets Act 2000 but we are able, in certain circumstances, to offer a limited range of investment services to clients because we are members of The Solicitors' Regulation Authority. We can provide these investment services if they are an incidental part of the professional services we have been engaged to provide. Otherwise, you should seek advice from an independent third party.

15.2 We are not authorised by the Financial Services Authority. However, we are included on the register maintained by them so that we can carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts. 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 Website at <https://register.fca.org.uk/s/>

15.3 The Solicitors Regulation Authority is the independent regulatory arm of the Law Society. The Legal Ombudsman deals with the complaints against lawyers. If you are unhappy with any investment or insurance advice you received from us you should raise your concerns with either body.

15.4 Any work that we do for you may involve tax implications or necessitate the consideration of tax planning strategies. We may not be qualified to advise you on the tax implications of a transaction that you instruct us to carry out, or the likelihood of them arising. If you have any concerns in this respect, please raise them with us immediately. If we can undertake the research necessary to resolve the issue, we will do so and advise you accordingly.

If we cannot, we may be able to identify a source of assistance for you.

## 16. Interpretation and Severability

16.1 If any conflict shall arise between these terms of engagement and any separate letter or letters relating to that engagement these Terms and Conditions shall prevail.

16.2 If any part or parts of these terms of engagement shall be determined by any Court or Tribunal of competent jurisdiction to be unenforceable in any way then to the extent that they would be enforceable but for the offending part or parts the remainder shall be deemed to apply with the omission of the offending part with such consequential amendments or variations as may be reasonably necessary to make the remainder valid and enforceable.

## 17. Fraud Prevention

Clients of law firms are increasingly at risk from fraudsters. If you receive an unexpected email which appears to come from our firm requesting your bank details or requesting that you send money to an alternative account, please telephone your usual contact at our firm immediately (checking that the number you are using to contact them is correct) to clarify. We cannot take responsibility if you transfer money to the wrong bank account or we transfer money to a bank account represented to us as being the clients intended recipient bank in circumstances where we are reasonably entitled to believe that the instruction we are given for the money transfer in question is genuine.

## 18. Law and Jurisdiction

The terms of our appointment (including these terms of engagement) are governed by and construed in accordance with English law. You and we hereby irrevocably submit to the non-exclusive jurisdiction of the English courts in respect of any claim, dispute or difference of whatever nature concerning our appointment and arising from it.

## 19. Third Party Rights

No person other than a party to this agreement may enforce it by virtue of the Contracts (Rights of Third Parties) Act 1999.

Signature .....

For and on behalf of

Date: .....