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LEGAL

Terms of Business

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1. Introduction

- 1.1 This is an important document and is intended to have legal effect. It sets out the contractual terms on which Lawful Limited (“the Company”) agrees to act for you. You should read these terms alongside the Engagement Letter we send to you.

2. Defined Terms

- 2.1 In these Terms of Business:
- 2.2 The Company means Lawful Limited trading as Lawful and any successor practice and any service company owned or controlled by or on behalf of the Company or any of the Directors.
- 2.3 Associated Entity means (where you are a body corporate) your shareholders, directors (as individuals not acting together as the Board), officers and employees, subsidiaries, parent companies, and subsidiaries of parent companies, and (where you are a trade association) your individual members;
- 2.4 Credit Period means the period of 30 days from the date of our Invoice for our fees and/or expenses;
- 2.5 Data Controller means Lawful Limited will act as a data controller. That means we are responsible for determining the purposes and means of the processing of personal data;
- 2.6 Data Protection Legislation means means (i) unless and until it is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) (‘GDPR’) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 2018;
- 2.7 Director means a Director of the Company;
- 2.8 Documents means Documents Held for You, Our Documents and Your Documents;
- 2.9 Documents Held For You means documents we create or receive on your behalf (including communications from or with third parties, notes of conversations and meetings, draft and final documents and instructions to and opinions of barristers.
- 2.10 Engagement Letter means in relation to any Matter, the Letter (or other agreement) recording the basis of our engagement;
- 2.11 Force Majeure means any circumstance beyond the reasonable control of the party affected by it and includes telecommunications failure, power supply failure, terrorism, fuel strikes, severe weather, computer breakdown, failure of suppliers to meet delivery requirements, industrial disputes and absence of personnel due to illness or injury;
- 2.12 Internally Provided Services means ancillary

services (including, but not limited to photocopying, document scanning and catering) supplied by us for which you will be liable to pay;

- 2.13 Personal Data means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- 2.14 Matter means means any specific transaction, dispute or issue in relation to which you ask us to provide Services whether or not it has been defined in an Engagement Letter or other agreement
- 2.15 Our Documents means documents (other than Documents Held For You) which we create or receive for our benefit (including copies of our letters to you, your letters to us, notes of telephone conversations and meeting with you for which we have not charged you and our preliminary drafts, research materials and internal notes);
- 2.16 Services means all services we provide to you in relation to the relevant Matter;
- 2.17 We, Us and Our means or refer to the Company;
- 2.18 You includes the addressee of the relevant Engagement Letter and any other person identified in the Engagement Letter as our client.
- 2.19 Your Documents means documents which you give or lend to us to enable us to provide Services

3. Our Aim

- 3.1 Our aim is to offer our clients quality legal advice efficiently and cost effectively. We aim to use the latest technology to complete this aim via our online service and if necessary, in person. We will work to represent your interests and keep your business confidential.

4. Our Contract

- 4.1 These Terms of Business issued by Lawful Limited as supplemented and/or amended by any relevant Engagement Letter, apply to each Matter we work on for you.
- 4.2 No Variation of these Terms shall be effective; unless it is set out in the Engagement Letter or it is in writing and is signed by a Director.

5. Your Responsibilities

- 5.1 In addition to any responsibilities set out in the Engagement Letter which has been sent to you, you will or will make reasonable endeavours to:
- i provide us with timely and adequate instructions, information and materials to allow us to perform the Services for you;
 - ii notify us promptly of any changes or additions to instructions, information and materials previously provided by you or on your behalf;
 - iii safeguard any documents and/or materials which are likely to be required in performing the Services for you;
 - iv provide us access to all documentation pertinent to your Matter as reasonably requested by us;
 - v ensure that all information provided to us is complete in all material respects and not misleading;
 - vi not deliberately mislead us;
 - vii co-operate with us;
 - viii attend any appointment, court hearing, medical or other examination which we reasonably request you to attend;
 - ix make payment for our fees, disbursements and expenses promptly and when required;
 - x treat our staff with respect and not to act towards them in a manner that is anti-social, abusive, aggressive or violent;
 - xi notify us before we are asked to carry out any work on your behalf, if you are bankrupt or have entered into a legal arrangement to deal with your debts;
 - xii take steps to reduce or prevent any avoidable losses or potential losses as best you can;
 - xiii provide us with a secure email address, where possible and check it regularly; and
 - xiv if communicating with us by email, to operate a good email security policy including keeping a strong password in operation and inform us immediately if your email account has been compromised or hacked or there has been any fraud, attempted fraud and cease to use that email account.

6. Our Responsibilities

- 6.1 We aim to offer all our clients an efficient and cost-effective service and the highest standards of client care. We value your business.
- 6.2 We will advise you as to the scope of the Work.
- 6.3 We will agree with you the next steps to be taken from time to time in your matter and keep you advised of progress.

7. Authority

- 7.1 You give us full authority to act for you to the fullest

extent necessary or desirable to provide the Services.

- 7.2 We may engage barristers and other third parties and otherwise incur on your behalf reasonable expenses of a type which it is necessary or desirable to perform the contract we have entered into with you in order to provide the Services in question. If we so require, you will contract directly with any third party so engaged by us and assume direct responsibility to them for the payment of their fees and expenses.
- 7.3 We are authorised to act on your instructions. Where your instructions are to achieve an objective, we will proceed without further instructions every step of the way.
- 7.4 If you are a director or other representative acting on behalf of a company, we are entitled to assume that the instructions we receive from you have been authorised by the company.
- 7.5 Where you have instructed us in writing that we may take instructions from a third party, we are entitled to assume that the instructions we receive from that person have been authorised by you.

8. Our Services

- 8.1 The Director or Partner at the Company named in any Engagement Letter as the overall supervisor will be the person primarily responsible for the provision of our Services. That Director has complete discretion to deploy such of our lawyers, trainee lawyers, paralegals or other staff as he/she deems necessary or desirable to ensure appropriate delivery of the Services.
- 8.2 We only advise on the law of England and Wales. If you require advice on the law of other jurisdictions, we will, with your agreement, instruct lawyers practising in that jurisdiction to give such advice, on the same basis as we engage other third parties on your behalf.
- 8.3 We will not carry out any work beyond the scope of the Engagement Letter with you unless expressly agreed between you and us in writing and: we have agreed to provide additional services for a commercially viable additional fee (profit costs and disbursements); and
- 8.4 The additional work is related to the main transaction (otherwise a new separate client care letter with a new matter number and new estimate for our costs and disbursements is required); and
- 8.5 Our estimate for new costs and disbursements has been agreed with and accepted by you;
- 8.6 Additional funds have been received on account, where it has been requested. Unless that occurs we will not act on additional requests for further work from you.
- 8.7 Our scope of work and advice only relates to documents and information that we have been provided with, made aware of during the transaction and specifically asked to advise on. Our scope of work is

limited expressly to what we are instructed to do or for which we charge professional fees for. There is no implied extension to our engagement beyond that.

9. ID Checks

- 9.1 Our regulator requires that we identify our clients so that we are clear about who we are acting for. We must also verify the identity and address of new clients as required by The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. That is consistent with the policy adopted worldwide by financial and government authorities to prevent the use of laundering systems to disguise the proceeds of crime.
- 9.2 Under the provisions of the Proceeds of Crime Act 2002 ("POCA"), we may be required to make a report to the relevant authorities if at any time we become aware of or suspect (whether from you or any other person) the existence of the proceeds of crime in relation to any Services on which we are engaged. Our obligation to make such a report will, in certain circumstances, override our duty of solicitor/client confidentiality and we may not be permitted to inform you whether or not we have made, or might intend to make, such a report.
- 9.3 We may terminate the provision of any Services to you, or be instructed to do so by the relevant authorities, if you fail to comply with your obligation to provide evidence of identity or we suspect that you or any other party connected with you or with the Matter is involved in activities proscribed by POCA.
- 9.4 If you are a new client or an existing client who has not recently supplied information, and where simplified due diligence does not otherwise apply, you will be asked to supply as a minimum one item from List A and one item from List B below. Originals will be required, copies are not acceptable. If we will be acting for more than one person, these requirements apply to each person

i List A

- i.i Valid Full Passport.
- i.ii Valid photo card driving licence.
- i.iii Valid HM Forces Identity card.
- i.iv Valid National Identity Card.

ii List B

- ii.i Banking or building society statement no more than three months old.
- ii.ii Utility bill less than three months old (e.g. gas, water, electricity or landline telephone, but not a mobile phone bill).
- ii.iii Council rent book showing the rent paid for the last three months.
- ii.iv Council tax bill less than three months old.
- ii.v Mortgage statement for the mortgage accounting year just ended.
- ii.vi HMRC self-assessment letters or tax

demand less than three months old.

- 9.5 We may need to meet you in person to verify your ID, or you may visit another professional (from a list we provide) with the ID documents who will make certified copies for us, or we may conduct an online check. Where we conduct an electronic online ID verification check, there is a charge of up to £49.00 + VAT for each individual search conducted which represents the fee paid to the search facility provider and the rest covering our administration costs for conducting, and reviewing the results of the search. Each electronic verification check may leave a record against your credit history/record. You agree to electronic verification checks being carried out against you notwithstanding that.
- 9.6 We may request additional identification from you if the nature of your Matter requires and you agree to provide that to us if it is requested.
- 9.7 We need to be satisfied as to the constitution of any relevant company and will need evidence as to the identity of those persons who control the company or trust or who are its principal beneficiaries. You must comply with any requests for proof of identity as set out in our Engagement Letter and, if requested, you will meet us to enable us to verify your identity. If you fail to comply with our requests for identity we will be unable to act for you.
- 9.8 We are required to consider any political connections that may require investigation to safeguard against abuse of office. We will make our own checks in this regard. You must let us know immediately if you, any family member or a close business associate connected to you holds or will hold any prominent public office while we are acting for you.
- 9.9 If you provide our bank details to a third party who makes payment on your behalf, we will also need to conduct due diligence and checks on them before we can deal with those funds.
- 9.10 We are entitled to refuse to act for you if you fail to supply, when requested, appropriate and satisfactory proof of identity for yourself or any person you represent.
- 9.11 Conflict of Interest
- 9.12 We cannot act for you if there is a conflict of interest. 'Conflict of Interest' means any situation where:
- i we have (or, if we accepted your instructions, would have) separate duties to act in the best interests of two or more clients in relation to the same or a related Matter and those duties conflict, or there is a significant risk that those duties may conflict so that we cannot act in everyone's best interests; or
 - ii our duty to act in your best interests in relation to a Matter conflicts, or there is a significant risk that it may conflict, with our own interests in relation to that or a related Matter; or

- iii we have confidential information in relation to a client or former client, and you wish to instruct us on a Matter where that information might reasonably be expected to be material and you have an interest adverse to our other client or former client. For the purposes of this paragraph “you” does not include Associated Entities.

- 9.13 Once we have agreed to act for you in relation to a Matter, we will not act for a third party in relation to the same Matter if there is a Conflict of Interest between that third party’s interests and your interests.
- 9.14 We may act for parties engaged in activities similar to or competitive with yours.
- 9.15 Where our professional rules allow, and subject to satisfying the requirements of those rules (for example by implementing an information barrier), we may act for you and another client where a Conflict of Interest might arise, provided that we can act in the best interests of both parties so far as foreseeable and we have the written consent of both parties. We do not require your consent to act against an Associated Entity.
- 9.16 Where we receive joint instructions, we may act for all of you if there is no conflict.
- 9.17 If circumstances arise during your Matter which give rise, or could give rise, to a Conflict of Interest we will discuss with you how to deal with the conflict and may be obliged to stop providing Services to you and/or to all other clients affected by the Conflict of Interest.

10. Joint Instructions

- 10.1 Where we agree to work on a Matter for more than one client jointly, the rights and obligations of the joint clients to us in relation to the Services will be several (save for obligations to pay money to us, which will be joint and several).
- 10.2 Each joint client irrevocably permits us to disclose to any other of the joint clients at any time any information which we would otherwise be prohibited from so disclosing by virtue of our duty of confidentiality. If any joint client ends this permission during the provision of the relevant Services, or if a Conflict of Interest otherwise arises between joint clients, we may suspend or terminate the provision of Services related to that Matter to one or more of the joint clients.
- 10.3 If any joint client asks us to transfer documents we will deliver Your Documents to, or to the order of, the joint client who delivered them to us. We will retain any Documents Held For You and will supply copies to each joint client, making the originals available at one of our offices for inspection by any joint client on reasonable prior written notice.

11. Regulations Affecting your Right to Cancel our Contract

- 11.1 If you are an individual client (rather than a business client) and we have not met you in person (because, for example, instructions and signing of the contract documentation is taking place by telephone/mail, e-mail or online – i.e. by way of a “distance” contract) or we have taken instructions and a contract has been concluded away from our business premises (because, for example, we have met with you at home – i.e. by way of an “off-premises” contract), you may have the right to cancel this contract within 14 calendar days of entering into the contract without giving any reason. The Engagement Letter sent to you will confirm if that is applicable to your case. This is by virtue of The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.
- 11.2 The cancellation period will expire after 14 calendar days from the day of the start of the contract.
- 11.3 To exercise your right to cancel, you must inform us of your decision to cancel this contract by a clear statement (e.g. a letter sent by post, fax or email). We will communicate to you an acknowledgement of receipt of such a cancellation on a durable medium (e.g. by e-mail) without delay. To meet the cancellation deadline, you must send your communication concerning your exercise of the right to cancel before the cancellation period has expired.
- 11.4 Should you require the work to be commenced within the 14 calendar day cancellation period, you must provide your agreement to that in writing, by e-mail, post or fax to enable us to do so. By signing and returning a copy of the Engagement Letter/authority to act where the Company asks you to do so, you are providing your agreement in writing to enable us to commence work within the 14 calendar day cancellation period. Where you have provided your consent for work to commence within the 14 calendar day cancellation period and you later exercise your right to cancel within that 14 day cancellation period, you will be liable for any costs, VAT and disbursements incurred up to the point of cancellation. Unless you make an express request for us to commence work within the 14 day period (i.e. by signing and returning the signed copy of the Engagement Letter/authority to act or by other agreement) we will not be able to undertake any work during that period.

12. Hours of Business

- 12.1 Our phone lines are attended to between 9am and 5pm.

13. Our Fees and Expenses

- 13.1 Where possible we will charge on a fixed fee basis.
- 13.2 Unless otherwise stated in the Engagement Letter, our fees will be calculated principally by reference to the time spent by us in providing the Services at the hourly rates applicable to the relevant staff.

- 13.3 We may, in accordance with professional guidelines, also charge a premium (where reasonable to do so) to take account of the nature, responsibility, complexity, value and urgency of the Services and other criteria specified in those guidelines. The premium is likely to take the form of a mark-up on the hourly rates.
- 13.4 The hourly rates of each of our Directors, partners, solicitors, trainee solicitors, case handlers, paralegals and other staff are reviewed from time to time and we will inform you of any variation in these rates applicable to your Matter and the date upon which they take effect.
- 13.5 Whilst you may be insured in relation to such expenses, you will have primary responsibility for paying the expenses we incur in the course of providing the Services (including travel and subsistence expenses, search and filing fees, court fees and barristers', foreign lawyers' and other third parties' fees and expenses); we have no obligation to pay for such expenses unless you have provided us with the funds for that purpose.
- 13.6 You will also be liable to pay for Internally Provided Services at our prevailing rates. References to "expenses" in these Terms of Business include Internally Provided Services.
- 13.7 VAT will be charged at the appropriate rate on all fees and expenses. VAT is currently at the rate of 20%.
- 13.8 When agreeing to act or during acting on behalf of a limited company, we may require a director and/or controlling shareholder or a member to sign a form of personal guarantee for our fees and expenses. If such request is refused, we will be entitled to refuse to act or to stop acting and require immediate payment of any fees on a time spent basis and expenses as set herein.
- 13.9 We may require you to make a payment to us on account of our fees and expenses at any time and on more than one occasion. Money paid on account which is not subsequently required for fees and expenses will be returned promptly.
- 13.10 We are not obliged to credit payments on account against interim invoices but may do so if you fail to make prompt payment.
- 13.11 The provision of figures (orally or in writing) from time to time for the likely cost of a piece of work is an estimate only unless we state clearly that it is a quotation. Provision of an estimate does not constitute a contract to carry out the work at that cost.
- 13.12 The provision of a written quotation (as opposed to an estimate) for work constitutes an offer to carry out the work at that cost and does not become a contract until you accept the quotation or a defined part of it.
- 13.13 Unless stated in writing to the contrary, estimate or quotation does not include any expenses or VAT.
- 13.14 Where we carry out work which falls outside the scope of an accepted quotation (or of an estimate

which is subsequently incorporated into a contract between us) we may charge fees at our hourly rates, in addition to the quoted or estimated fee.

- 13.15 We may also charge additional fees on the same basis for work within the scope of such a quotation or estimate which is made more time consuming, onerous or urgent as a result of:
- i circumstances or information which we did not know or could not reasonably have anticipated at the time of the quotation or estimate (whether or not you were aware of them/it); or
 - ii your, or your agents', act(s) or omission(s).

14. Client Money

- 14.1 As part of carrying out instructions we may need to hold client money in our client account. We cannot carry out a banking service for clients and will only hold monies specifically related to the Matter concerned. Our professional rules require us to have a written policy regarding the payment of interest on client money that we hold. This is our policy.
- i The Solicitors Regulation Authority's Rules Apply.
 - ii Where we hold money in a separate designated client account (for example where large sums of money are held in respect of probate matters) we will account to you for all interest earned, although we reserve the right to charge for the time spent calculating that interest.
 - iii Where money is held in a general client account (for example, where money is held routinely during the course of a property transaction) if you so wish we can account to you for a sum in lieu of the interest earned. The interest will be calculated at the rate in effect from time to time, however, we reserve the right to charge for the time spent calculating the interest. Please let us know, therefore, if you would like to receive interest on your money. We would, however, point out that we are not required to pay a sum in lieu of interest in the following circumstances:-
 - iii.i if the amount calculated is £20 or less,
 - iii.ii if the sums shown in the left hand column below are held for a period of time not exceeding the period in the right hand column.
 - iii.iii £1000 – 8 weeks.
 - iii.iv £2000 – 4 weeks.
 - iii.v £10,000 – 2 weeks.
 - iii.vi £20,000 – 1 week.
 - iv If the sum exceeding £20,000 is held for one week or less, we will account to you for interest if it is fair and reasonable to do so, although again we reserve the right to charge for the time spent calculating any interest due.
 - iv.i When the Bank of England base rate is so low that those calculations would give neg-

ative percentages, we will not pay interest.

- iv.ii When the Bank of England base rate is negative and the bank charges us for holding your money, you agree to pay any share of bank fees that we charge on to you.
- iv.iii We can arrange for funds to be placed in a higher earning separate designated deposit account if the transaction meets certain criteria. In that event we would account to you for the full amount of interest received from the bank.
- iv.iv The criteria for those purposes are that we would hold a high value sum of £1,000,000 or more (or the equivalent at the time you pay it to us in foreign currency) for two weeks or more. However, we are prepared to discuss those parameters with you. Clearly, the important factor is the impact on the interest you will receive, and the higher the sum the shorter the period that will be relevant. If you would prefer to contract out of the policy to apply interest to any matter, that can be done by a written agreement between us.
- iv.v In the event of a banking failure, it is unlikely that the firm would be held liable for any losses of client account money. If a corporate body client is not considered a small company by the Financial Services Compensation Scheme ("FSCS"), then they will not be eligible for compensation. We currently hold our client account funds in Barclays Bank. The £120,000 FSCS limit will apply to each individual client so if you hold other personal monies yourself in the same bank as our client account, the limit remains £120,000 in total, so it may be advisable to check with your own bank as some banks now trade under different trading names. However, with effect from 3 July 2015, the FSCS will provide a £1 million protection limit for temporary high balances held with a bank, building society or credit union if it fails. Further details relating to what constitutes a temporary high balance and the rules relating to the protection can be found at www.fscs.org.uk. In the event of a bank failure you agree to us disclosing details to the FSCS in order that we may comply with our legal obligations. Any interest recovered from your opponent in litigation matters on our costs and disbursements shall belong to this company less any interest paid on disbursements held by us for and on behalf of you or the person or persons to whom the disbursements are ultimately paid.
- iv.vi If we receive a commission from a third party arising from work we are doing for you, we will credit you with the commission unless you have agreed otherwise or the amount is less than

twenty pounds (£20) excluding VAT.

- iv.vii If we still hold money on your behalf at the conclusion of your matter we will make a reasonable attempt to return it to you. Please ensure that we have your bank details so that we can pay residual money directly to your account. Otherwise, please keep us up to date with your contact details so that we can contact you to arrange a bank transfer or other method of repayment. If we are unable to return your money after a reasonable attempt to do so, we will donate it to charity.

15. Our Invoices

- 15.1 Unless otherwise stated in the Engagement Letter, in order to perform the contract to provide you with our Services, we will be entitled to invoice you in respect of our fees and expenses monthly, at 'milestones' and on completion of each Matter. At the end of our financial year, currently September, we shall be entitled to bring up to date our invoicing in respect of all your then unbilled work.
- 15.2 Unless otherwise stated, monthly or other interim invoices are a final account of our fees for all work done during the period to which they relate. You agree that we may bring proceedings on interim invoices which are not final bills where we have provided Services and the amount of the invoice does not exceed the cost of the Services provided at the applicable hourly rates.
- 15.3 There may be a delay in invoicing expenses incurred on your behalf pending our receipt of the relevant invoices from suppliers. Unless otherwise stated, such invoices are not a final invoice in relation to such expenses.
- 15.4 If we send you bills electronically, you waive your right to receive a signed hard copy bill under section 69(2) of the Solicitors Act 1974
- 15.5 You will pay our invoices within the Credit Period in the currency in which they are expressed, without any deduction, set off or counterclaim. We may charge interest on sums outstanding from the end of the Credit Period until the date of payment. The rate we will apply is the same rate as that which applies from time to time to judgment debts under the Judgments Act 1838, which is currently 8% per annum.
- 15.6 If you do not pay any invoice by the end of the Credit Period, or a sum on account within seven days (or such longer period as we may specify) of our demand, or sums outstanding exceed a credit limit set by us, we may suspend or terminate the provision of all or any Services (and instruct any third parties engaged by us to suspend the provision of their services) and may invoice you for all accrued fees and expenses.
- 15.7 In some circumstances, you may have a right of recovery or indemnity against a third party in respect of all or part of our invoices, but we are not permitted to issue a VAT invoice to any person other than

you in any circumstances, and you remain liable to us to pay our invoices notwithstanding such a right.

- 15.8 As a contractual right, in addition to any right to retain money, Documents and property available to us under the general law (lien), we have the right to retain your money, Documents and property (whether held in relation to the Services for which payment has not been made or any other Services) until you have paid us in full.
- 15.9 If you have a query regarding your bill, you should contact us straight away on receipt. We aim to work on the basis that no bill should come as a surprise to you. If after speaking to us and your query remains unresolved and you wish to complain about any aspect of our bill then please see the Client Care Code below.
- 15.10 You have the right to object to your bill by making a complaint to the appropriate body and/or in limited circumstances by applying to the Court for an assessment of the bill under Part III of the Solicitors Act 1974.

16. Payment to Us

- 16.1 We prefer to receive payments from clients by bank transfer (from a UK clearing bank) or debit card. We accept credit card payments up to a maximum of £500 per matter. We do not accept American Express.
- 16.2 Please include your Matter reference when making any payment to us. Failure to do so may delay funds being credited to your Matter.
- 16.3 We may not accept funds from business accounts unless we act on behalf of the business.
- 16.4 It is extremely rare for us to change our bank account details. If we did change our bank details we would give appropriate notification to all our clients well in advance.
- 16.5 If during the course of your transaction you receive any type of notification of a change in our bank details (especially by email) you should treat it as a fraudulent request and check with us before transferring any money. We will investigate any reported suspicion fraud. Fraudsters can intercept emails and telephone calls so we would not communicate with you by email and would want to meet with you personally to discuss the matter. You must not transfer any money unless you have met with us once you have made a suspected fraud notification.
- 16.6 The Company policy is to not accept cash from clients.

17. Payments to Clients

- 17.1 From time to time, we may need to send some money back to you. We will only do so in accordance with your written instructions. The written instructions regarding the payment of any money must be given by all clients (and any other party identified as needing to confirm agreement). Payment will usually be made by telegraphic transfer (BACS, Faster Payment

or CHAPS) unless agreed otherwise between us.

- 17.2 As a safeguard against fraudulent activity, we may need to seek clarification of bank details from you including confirmation of your details by telephone. Where your bank details have already been provided to us and there is an instruction to change the bank account, we may seek further clarification and evidence that the request to make a payment into another account is genuine.
- 17.3 All payments are made solely on the basis that you the client and not us are responsible for the financial transaction and its arrival/nonarrival/receipt/non-receipt into the correct account.
- 17.4 We take no responsibility for any failure on your part to provide information correctly, or you are providing us with compromised information or your failing to maintain your own security systems. A failure to protect your systems could result in monies due to you being paid to the wrong bank account, to fraudsters or a bank account not under your control. A failure to provide correct bank account information can cause you very serious and permanent financial losses.
- 17.5 In the event we send money to you in error, where the money clearly does not belong to you (e.g. overpayment of deposit or net balance), you are required to inform us about the overpayment immediately and to make arrangements to repay to us the whole surplus amount within 48 hours of you becoming aware of the overpayment or the time you ought to have been aware that surplus funds have been received by you. In such circumstances, you provide us with irrevocable authority to communicate with your bank. We reserve the right to charge for the time spent in recovering any sums that are not rightfully due to you in the event that you fail to co-operate in a timely manner or at all.
- 17.6 If you or the banking process provides us with either incorrect bank or closed bank details which may lead to us having to investigate the whereabouts of the funds or spend time dealing with enquires in relation to an error (including dealing with returned funds) not caused by the acts or omissions of us, we reserve the right to charge you £195.00+VAT per hour with an initial estimate of up to 5 hours work for managing the process. We will inform you if the charge exceeds the initial estimate. Due to the fact that money laundering and/or regulatory issues apply, please be aware that it can take a considerable amount of time to resolve the issue as we do not control the banking process.
- 17.7 If you ask us to send money abroad, we reserve the right to charge £250.00+ VAT for each and every instruction for an International Money Transfer (IMT). We do not transfer to all foreign jurisdictions and you should check with us whether an IMT is possible. We suggest that you transfer money to your own UK bank account and then process your own IMTs through your own bank. We are not responsible for the outcome of money transfers of any kind electronic or otherwise, for-

foreign or domestic. All monies are transferred at your risk.

18. Data Protection

- 18.1 The Company is committed to ensuring that all Personal Data is processed in accordance with Data Protection Legislation. Please refer to the Data Privacy Notice at Lawful.co.uk
- 18.2 Pranav Bhanot is the Data Protection Officer.
- 18.3 You have the right to make a complaint about data protection any time to the Information Commissioner's Office (ICO), the UK supervisory authority for data protection issues. The ICO can be contacted at www.ico.org.uk/concerns/ or 0303 123 1113. We would, however, appreciate the chance to deal with your concerns before you approach the ICO so please contact us in the first instance.
- 18.4 Our advice and other communications with you are confidential and may not, without our consent, be disclosed by you to any third party or otherwise made public except as required by law or other regulatory authority to which you are subject.
- 18.5 If you are an organisation of any kind, 'third party' does not include your directors, owners, employees, staff, trustees, agents or similar who require access and who do not disclose our advice and other communications further.
- 18.6 If, as a result of our acting for you, you acquire any information in respect of which we notify you that we owe a duty of confidentiality to a third party you will keep it confidential and not use it without our consent.
- 18.7 We may be obliged to share Personal Data with the Solicitors Regulation Authority which is our regulatory body. We may also be required to share Personal Data with law enforcement agencies or statutory bodies with such powers, such as the police, National Crime Agency and HMRC.
- 18.8 Our quality accreditations mean that we are subject to periodic checks by outside assessors. The Company will only transfer Personal Data where we have a legitimate reason for doing so. This could include sharing data with the following:
- i Lexcel and assessors (currently Recognising Excellence), to maintain a recognised quality standard for the practice.
 - ii ISO assessment body (currently QMS International), to maintain a recognised quality standard and information security standard for the practice.
 - iii Other external auditors or examiners to ensure that we meet our legal quality and financial management standards.

19. Custody, Ownership and Retention Documents and Personal Data

- 19.1 You agree that we may store any document created

in the course of our work, including any Counsel's (Barrister's) opinion and any documents belonging to you on our computer system or in paper form.

- 19.2 We will, at your request, either during the provision or after completion of any Services, release to you or to your order Your Documents and Documents Held For You, provided that we are not at the time exercising our right to retain documents pending payment of outstanding fees and expenses or are prevented by any court order, undertaking or other legal constraint from doing so. We may copy all of Your Documents and Documents Held for you before releasing them.
- 19.3 We may at any time scan, or otherwise make electronic copies or images of any Documents (other than Documents held in safe custody), destroy the originals and thereafter hold the Documents only in such copy or image form.
- 19.4 Unless expressly agreed otherwise in writing we will keep all Documents whether in original, copy or imaged form for a minimum of six years. The data retention period in respect of your Matter may be longer.
- 19.5 The Company will retain your Personal Data and to determine the data retention periods, will consider:
- i retention in case of queries following completion of your Matter;
 - ii retention in case of claims for as long as you could reasonably bring claims against the Company;
 - iii retention in accordance with legal and regulatory requirements;
 - iv retention of papers and Documents whilst we await any outstanding payments due to us in respect of fees and expenses.
- 19.6 Where we gather customer due diligence information about you, we would ordinarily be required to delete that data five years after our relationship with you comes to an end. However, we retain files and data for longer than five years and hereby give you notice that will also include your customer due diligence data. By signing and returning the Engagement Letter or otherwise instructing us you consent to that retention.
- 19.7 When your Matter is concluded, we will return to you any original or sensitive documents or other paperwork. If any documents are accidentally left with us we will use reasonable endeavours to return these to you.
- 19.8 You will own:
- i Original documents you send to us.
 - ii Letters and emails we send to others on your behalf.
 - iii Letters we receive from others on your behalf.
- 19.9 Final versions of documents prepared by us and others, including counsel's advice and expert reports, as long as you have paid the fees charged by those others.

19.10 We will own:

- i Documents prepared for our benefit or protection while acting for you.
- ii Letters and emails that you send to us.
- iii File copies of letters we send to you.
- iv Accounting records, including fee notes.

19.11 Your Documents will be archived in storage after conclusion of your Matter. We may charge you for storage. If we take papers or Documents out of storage in relation to continuing or new instructions to act for you, we will not normally charge for such retrieval. However we may charge you both for time spent producing stored papers that are requested as well as reading correspondence or other work necessary to comply with your instructions in relation to the retrieved papers.

19.12 We may agree to store title deeds, wills and other especially valuable Documents in safe custody for you if you require and, if we do, we will not, without your consent, destroy any such documents. We will not destroy documents you ask us to deposit in safe custody.

19.13 At the end of the data retention period we will destroy other Documents and any copies or images of them and any data held about you.

20. IP Rights

20.1 We own the copyright and all other intellectual property rights in all documents and other works we develop or generate for you in providing the Services (including know-how and working materials as well as final documents). We grant you a licence to use such documents or other works for the purpose for which it was created only. If you do not pay us in full for our Services in relation to that Matter we may, on giving you notice, revoke that licence and only re-grant it to you once full payment has been made. We have the right to be identified as the author of the work and to object to any misuse of it.

20.2 We may retain, for our subsequent use, a copy of the advice or opinion of any barrister or other third party given in written form (or any note of any advice or opinion) obtained in the course of providing the Services. Any barrister or other third party will be instructed on the basis that any such advice or opinion will be so retained.

20.3 If we retain a copy of any advice or opinion in this manner we will take reasonable steps to conceal information (such as names, addresses or descriptions) which might reasonably enable you to be identified.

21. Provisions Relating to Litigation and Disputes Work

21.1 This paragraph contains further contractual provisions and important information which we are professionally obliged to give you where the Matter relates to litigation or the resolution of disputes by

other means (including a non contentious Matter which becomes contentious, or gives rise to further instructions on a contentious Matter).

21.2 In litigation Matters, the Court may decide to order one party to pay the costs of the other. The Court usually orders the unsuccessful party to pay all or a part of the successful party's costs, although there is no certainty about this. You should be aware that:

- i If you make an interim application to Court which does not succeed, you may have to pay the other side's costs, usually within fourteen days.
- ii If you lose the case, you may have to pay the other side's costs and it is not usually possible for you to withdraw from the case without dealing with the issue of those costs.
- iii In higher value claims, we may have to prepare a 'costs budget' which plans out future costs. The court may impose a cap on future work, limiting the costs before work is done and we will aim to adapt to the cap if that happens.
- iv Your opponent may make an offer which places you at risk on costs if it is not beaten. We will consider any such offers received.
- v Costs awarded have to be proportionate to the value of the dispute and, in the ordinary course, recovered costs from the other side rarely exceeds sixty to seventy per cent (60- 70%) of actual expenditure.
- vi You will still be liable to pay our costs in full, even if the other party fails to pay the costs awarded to you by the Court or which your opponent agrees but fails to pay.

21.3 If you instruct us to enforce an order or agreement to pay costs against your opponent, you will also be responsible for paying our fees and expenses on the same basis our fees and expenses were payable in relation to the Matter.

21.4 Issues which the Court may take into account in assessing the costs payable or recoverable include:

- i Efforts made before and during the proceedings to try to resolve the dispute, including the appropriate use of mediation and other alternative dispute resolution procedures.
- ii The effects of offers of settlement.
- iii The complexity and size of the Matter and the difficulty or novelty of the questions raised.
- iv The skill, effort, specialized knowledge and responsibility involved.
- v The time spent.
- vi The place and circumstances the work was done.

21.5 If the other side is or becomes legally aided, it is highly unlikely that you will recover your costs, even if you are successful.

- 21.6 If you are unsuccessful, or the Court so orders for some other reason, you may be ordered to pay the other side's costs. We will discuss with you whether the likely outcome will justify the expense/risk.
- 21.7 Legal expenses insurance may be included in your contracts of insurance and you should check your policies to see if you are covered. Your policy may cover your costs and/or your liability to pay the other side's costs. If you believe you are covered, please discuss this with us so that we can assist you in notifying your insurer. If you do not have legal expenses insurance, you may be able to purchase insurance to cover you in the event that you have to pay the other side's costs. It may be that you and your Matter have been referred to us by an organisation which has agreed to meet the legal costs which you are obliged to pay to us. That organisation may be a legal expenses insurer company, a motor insurer, a liability insurer or some other kind of insurer, compensator or organisation. If that is the case, our fees and expenses will be met by them in accordance with and subject to the agreement between you and them.
- 21.8 A conditional fee agreement is an agreement under which we would be entitled to charge you an increased fee if you were successful, and would charge you no fee or a reduced fee if you were not successful. You might be able to take out an insurance policy to cover you in the event that you were ordered to pay the other side's costs and our expenses. You would not usually be able to recover that insurance premium and any increase in the fees you paid to us from the other side even if you were successful. Not all Matters are suitable for this type of conditional fee arrangement/insurance but we will discuss this further with you at your request.
- 21.9 It is important that you are aware of Legal Aid. It is only available in a limited number of cases and we will consider if you are eligible for it in respect of your Matter. Legal Aid is useful to a litigant because if he loses, his liability is limited to his means-tested contribution, and it is very unlikely the Court will allow the victor to recover any costs against him. Legal Aid is not free. In most cases it is only a loan repaid from the fruits of the action. If the assisted party succeeds and recovers or preserves any asset (except for some exemptions for maintenance and family proceedings), it is subject to the statutory charge. The statutory charge operates to put the recovery or the preserved asset first towards payment of the assisted party's unrecovered legal costs, and the assisted party only gets the net balance (if any) – often much later because of the time taken in quantifying the final costs. If money is recovered, it has to be paid to the assisted party's solicitor who has to pay it into the Legal Aid Fund who carry out the accounting and pay out the balance. The Legal Aid Agency has no power to reduce or waive the effect of the statutory charge. If a home is involved, it is sometimes possible to delay payment, but the statutory charge then operates like a mortgage and attracts interest until everything is repaid on sale. For more information please go

to the LAA website www.justice.gov.uk/legal-aid.

- 21.10 Where we recover our fees for acting for you from your opponent in litigation, we may make an offer in accordance with Part 36 of the Civil Procedure Rules to accept a reduced amount for those fees. If we do so, and that offer is not accepted but not bettered when the court assesses your costs, an additional penal amount may be payable by your opponent. Any such amount or amounts will belong to this Company.

22. Client Care and Handling Complaints

- 22.1 It is our intention as a firm to provide an excellent service and therefore we hope you will not have cause to complain about the service you receive. In the unfortunate event that you do feel frustrated or dissatisfied with any aspect of our service and you feel that you cannot resolve the matter directly with the person dealing with your case or with his or her supervisor please put your complaint in writing and send it marked for the attention of the Complaints Manager, Lawful Limited, 71- 75 Shelton Street, Covent Garden, London, WC2H 9JQ will attempt to resolve the issues contained within your complaint.
- 22.2 A copy of our complaints handling policy as to how we will handle your complaint is available on our website (lawful.co.uk). If, after having exhausted our internal complaints procedure you continue to remain dissatisfied with our handling of your matter, you can refer your matter to the Legal Ombudsman at PO Box 6167 Slough SL1 0EH (tel: 0300 555 0333 between 9.00 to 17.00; www.legalombudsman.org.uk; email enquiries@legalombudsman.org.uk – you should check these details with the Legal Ombudsman to ensure they are current and correct) to consider the complaint. Normally, you will need to bring a complaint to the Legal Ombudsman within six months of receiving a final written response from us about your complaint or within a year of the act or omission about which you are complaining occurring (or you becoming aware of it). You should not in any way feel intimidated at making a complaint. Experience shows that most problems can very soon be remedied, especially when we are informed of the complaint as soon as it arises.

23. Insurance

- 23.1 We have a legal duty to tell you about our professional indemnity insurance. We have a legal obligation to carry such insurance and the Company maintains professional indemnity insurance in accordance with SRA requirements. The insurance is provided by Axis Speciality Europe SE covering our practice in England & Wales. Please note that if the Company has to make a notification under the terms of its professional indemnity policy, information about you and your file may be seen by our insurers.

24. Liability

- 24.1 We will use reasonable skill and care in the provision of the Services. Where we make an assessment for

you, either expressly or by implication, of the likely level of risk associated with different potential courses of action, you accept that such assessment is made relying only upon the information and documents then available to us and cannot, therefore, be definitive.

- 24.2 Accordingly, such an assessment should only be used as one element in the making of any practical or commercial decision. You accept that the magnitude or acceptability of a risk is a matter for you. Any decision made by you must remain your responsibility.
- 24.3 Our agreement with you is personal as between you and us and is not intended to confer any rights of enforcement on any third parties pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 24.4 Where we provide draft or provisional / preliminary advice or other materials, that advice or those materials are not to be relied upon as constituting our final view.
- 24.5 The Services are provided in accordance with professional practice requirements and the proper interpretation of the law, as each exists on the date on which the relevant Service is provided. If there is any change in such requirements or the law, or their interpretation, after the relevant Matter has been concluded (or before that time but which could not reasonably be known by us at that time), we have no responsibility to notify you of, or of the consequences of, the change.
- 24.6 We shall communicate with you at the postal and email addresses and the telephone and fax numbers which you provide us with unless you ask us to use other addresses and numbers. You will notify us if you regard any particular type(s) of communications from us as confidential and the means by which you require us to make such communications and we shall have no liability to you arising out of your failure so to notify us.
- 24.7 Subject to any notification you may make to us under the previous paragraph, we shall not be required to encrypt, password-protect or digitally sign any email, or attachment, sent by us. We shall not be responsible for any loss or damage arising from the unauthorised interception, re-direction, copying or reading of e-mails, including any attachments. We shall not be responsible for the effect on any hardware or software (or any loss or damage arising from any such effect) of any emails or attachment which may be transmitted by us (save to the extent caused by our negligence or wilful default).
- 24.8 We will try to meet any deadline we agree with you for the performance of any Services but, unless we agree otherwise in writing in relation to any time, date or period for delivery or performance by us, time shall not be of the essence.
- 24.9 Unless specifically agreed with you in writing in our retainer letter, we will not keep under review, or re-visit in the future, any advice which we give to you in relation to any instruction.

25. Proportionate Liability

- 25.1 If you accept or have accepted any express exclusion and/or limitation of liability from any of your other professional advisers, our total liability to you arising out of the Services will not exceed the net aggregate of the amount for which we would otherwise have been liable after deducting any amount which we would have been entitled to recover from such adviser as a matter of law whether pursuant to statute or otherwise, but are prevented from doing so as a result of any such exclusion and/or limitation of liability.

26. Exclusion of Liability

- 26.1 We will not be liable for:
- i any loss, damage, cost or expense arising from any breach by you of your agreement with us or any act or omission of any other person; or
 - ii any advice or document subject to the laws of a jurisdiction outside England and Wales; or
 - iii any advice or opinion given to you by any third party (whether or not nominated or recommended by us); or
 - iv any loss or damage of any item which we hold on your behalf unless we expressly agree in writing to the contrary; or
 - v any loss, damage or delay arising out of our compliance with any statutory or regulatory requirement; or
 - vi any losses caused by the hacking of your own email account.

27. Exclusion of Liability for Loss of Profit

- 27.1 We shall not be liable for any indirect loss or damage or any loss of profit, income, production or accruals arising in any circumstances whatsoever, whether in contract, tort, under statute or otherwise, and howsoever caused (including but not limited to our negligence or non-performance).

28. Financial Limit of Liability

- 28.1 The aggregate liability of the Company and of all Directors, consultants to and employees and agents of the Company and any service company owned or controlled by or on behalf of any of the Company or the Directors in any circumstances whatsoever, whether in contract, tort, under statute or otherwise, and howsoever caused (including but not limited to our negligence or non-performance), for loss or damage arising from or in connection with the Services provided shall, in relation to each Matter, unless otherwise agreed, be limited to the sum of three million.

29. Non-Excluded Liability

- 29.1 Nothing in this agreement exempts us from liability arising from our fraud or reckless disregard of our professional obligations; or from our negligence resulting in death or personal injury; or where, in the

case of a contentious business agreement, law or regulation prohibits the exclusion of such liability.

30. Disclaimers

- 30.1 When we provide Services to you we are acting as your legal adviser. We are not authorised by the Financial Conduct Authority under the Financial Services and Markets Act 2000.
- 30.2 Any work that we do for you may involve tax implications or necessitate the consideration of tax planning/strategy. We are not qualified or able to advise you on the tax implications of transactions you instruct us to carry out, or the likelihood of them arising. We are also not qualified or able to provide pensions advice. If you have any concerns in this respect, please raise them with us immediately so that we can, with your agreement, identify a source of professional assistance for you. It will always be your responsibility to consider whether you need to take any other advice, whether or not we prompt you, and then proceed accordingly.
- 30.3 We do not provide medical advice, accountancy services, valuation of property or goods, surveying, planning or construction services or financial advice or services to clients. If you require such assistance please let us know so that we can, with your agreement, identify a source of professional assistance for you. It will always be your responsibility to consider whether you need to take any other advice, whether or not we prompt you, and then proceed accordingly.
- 30.4 We will not advise you on the planning implications of your proposed purchase, unless specifically requested to do so by you, otherwise than by reporting to you on any relevant information provided by the results of the "local search".
- 30.5 We will not advise you about any issues relating to the possible contamination of any land which may be relevant to your property purchase. We are not qualified to advise on the results of any search made in that respect and would only be able to report to you the actual results of such a search.
- 30.6 It is not our responsibility to carry out a physical inspection of the property but, if you wish us to do this for any reason, please make a specific request. We shall not advise on the valuation of the property or the suitability of your mortgage nor any other financial arrangements. We shall not advise generally on environmental liabilities where we shall assume, unless you tell us to the contrary, that you are making your own arrangements for any appropriate environmental survey or investigations. We may, however, need to obtain on behalf of your lender, at your expense, an environmental search.

31. Termination

- 31.1 An agreement between you and us for the provision of defined Services ends on the completion of the provision of those Services. An open-ended agreement for the provision of Services ends six

months after the last date on which we provided Services to you, unless we decide otherwise.

- 31.2 Unless new or different terms are agreed, our acceptance of instructions to perform Services for you subsequent to the ending of any agreement gives rise, from the time of acceptance of the instructions, to a new agreement on these terms.
- 31.3 If we provide you free of charge with any seminar, information, or other document after the ending of an agreement, such provision does not give rise to a new agreement.
- 31.4 Early Termination
- i Either you or we may terminate the provision of all or any of the relevant Services at any time by giving written notice to the other. We will not do this without good and substantial reason, such as:
 - i.i the threat or risk of violence, injury or other danger to the physical, psychological or moral well-being of any Directors, consultants to and employees and agents of the Company and any service company owned or controlled by or on behalf of any of the Company or the Directors; or
 - i.ii your unreasonable behaviour; or
 - i.iii the discovery or creation of a Conflict of Interest; or
 - i.iv your requesting us to break the law or any professional requirement; or
 - i.v the relationship of trust and confidence necessary between solicitor and client ceasing to exist between us; or
 - i.vi your failure to pay to us any amount due, or money on account requested; or
 - i.vii your insolvency; or
 - i.viii your failure to give us adequate instructions; or
 - i.ix our being forbidden to act by the National Crime Agency; or
 - i.x our reasonable belief that our continuing to represent you may cause damage to the professional or personal reputation of our firm or any of its personnel; or
 - i.xi any other breach by you of these terms.
- 31.5 On early termination, by either you or us, you will remain liable to pay all fees and expenses incurred before termination and due under our contract or due on the basis of the time spent at our usual hourly rates, whichever is the less, together with any further fees and expenses for work necessary to transfer our files to another adviser of your choice. We can keep all your papers and documents while there is still money owed to us for fees and expenses. All our rights set out in these terms shall continue to apply even if we terminate the agreement.

32. General

- 32.1 These Terms of Engagement supersede any earlier terms of business we may have agreed with you and, in the absence of express agreement to the contrary, will apply to the services referred to in any retainer letter accompanying these Terms of Engagement and all subsequent services we provide to you.
- 32.2 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 and construed in accordance with the law of England and Wales. The parties irrevocably agree that the Courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).
- 32.3 This firm is authorised and regulated by the Solicitors Regulation Authority (the SRA). The SRA Rules can be accessed by visiting www.sra.org.uk.
- 32.4 All of our advice is given on the basis of the laws of England and Wales. To the extent we advise on documents governed by the laws of other jurisdictions, we will not be advising on any specific implications of the laws of those jurisdictions.
- 32.5 Our hourly rates are reviewed on 1 January in each financial year. If there is a change to the hourly rates, we will notify you seven days before those rates become effective. You will then have the option to accept the revised rates or disinstruct us.

Appendix 1 - Civil Procedure Rules – A Guidance Note for Clients

Under the Civil Procedure Rules, initiating Court proceedings is viewed as an absolute last resort. The historical possibilities of aggressively commencing proceedings or defending them through no more than stonewall tactics are no longer tolerated by the Courts, nor is the tactic of deliberately playing procedural games in an attempt to bludgeon your opponent into settling with you.

Full factual investigations are required at the very beginning in order that we may make a fully informed legal analysis of your case and advise you accordingly.

Pre-Action Protocols exist which require all parties to any potential litigation to engage in pre-action correspondence. In addition, a number of case specific Pre-Action Protocols exist (for example in construction, defamation, professional negligence and judicial review claims), all of which require an early exchange of information and evidence by all parties to a dispute on an open and co-operative basis. In appropriate cases, the identity of any expert witness must be agreed, and instructions are given jointly so far as may be possible. All parties to a dispute are required by the Courts to consider the possibility of resolving it in some way other than by litigation, and all appropriate types of alternative dispute resolution (ADR) must be canvassed and considered by all

sides at an early stage. In order to ensure this happens, the Court will examine the parties' conduct and any apparent failure to comply with these obligations can lead to adverse costs awards being made against any party whose conduct is found wanting, regardless of which party is ultimately successful in any action.

Once proceedings have been commenced, the Court takes over control of the process itself, and engages in active case management. Accordingly, the Court will often initiate stringent directions for the conduct of the proceedings up to trial, with tough sanctions readily applied. If orders are not complied with, or if any party's behaviour is deemed to be unreasonable, or indeed if any interim application fails, then the Court will usually make an adverse costs order. Costs awards made against a party to proceedings before trial are now invariably payable within fourteen days, and not (as used to be the case) wrapped up after the trial with all of the other costs orders. This has very real cashflow implications for the running of any action. The effect of this increased risk of adverse costs orders means that any step, however desirable, must be considered very carefully in order that any risk is taken on an informed basis. If in doubt, caution and reasonableness must prevail over any other impetus.

In addition, the rules require significant management involvement from client at an early stage. The overall effect is to front load some of the costs of litigation. Because of the timetabling imposed by the courts and the cashflow implications of the Civil Procedure Rules, very careful consideration must be given before deciding whether to assert a right or defend a position which may well be entirely justified as a matter of strict law.

You must also bear in mind that the overall rate of recovery of costs is far less than 100%. Typically, even if a party is wholly successful, it would only be awarded an amount of costs at a maximum of around 60% to 75% of its actual outlay. The Civil Procedure Rules (in particular the summary assessment of costs on interim applications mentioned above) has led to a further reduction of the percentage rate of recovery. The question of whether or not the unsuccessful opponent is actually able to pay that award must also be taken into account.

During the course of your action, each party is under an obligation to ensure that all relevant documents, even if they are prejudicial to your case, are preserved and in due course disclosed to the opponent. In essence, all parties to a dispute owe an obligation to the Court to preserve all documents (which includes not only paper, but also information stored in any electronic or other format), from the outset of the dispute and to disclose to the other parties all such documents as may be relevant. We have detailed guidelines to help our clients understand the nature of this very important obligation in full, which we will happily provide to you.

Appendix 2 - Litigation: The Basics

In case you have not been through the litigation process before, we have set out below some of the basic steps that are involved in most of the proceedings in this jurisdiction. This is intended to be a broad brush guide to give you a flavour of how litigation tends to proceed. Of course we will give you specific advice relevant to your case as it progresses.

Letter of Claim

The parties are required to exchange information relevant to the claim prior to any proceedings being commenced. The starting point is for the prospective Claimant to send the prospective Defendant a formal Letter of Claim setting out the claim in full. The prospective Defendant then has an opportunity to respond. From the outset, all documents which might be relevant to the case must be preserved.

Beginning the Proceedings

In order to then begin the court proceedings, a Claim Form and Particulars of Claim are issued at Court and served on the Defendant(s). These are often drafted by a barrister who is instructed and who remains involved in the case (each side will usually instruct a barrister). A Court fee is incurred at this stage as well as fees for the barrister. The Particulars of Claim set out in detail the nature of what has happened and what the Claimant seeks from the Defendant.

Responding to the Proceedings

This is the opportunity for the Defendant to set out their case in response to the Particulars of Claim by serving a Defence. Again, this is usually drafted by the barrister. To the extent the Defendant has a Counterclaim, this is incorporated separately into the Defence.

Reply and Defence to any Counterclaim

The Reply is an opportunity for the Claimant to answer anything the Defendant puts in their Defence and put in a Defence to any Counterclaim that has been brought by the Defendant. The process up to this point in the case can take several months to complete.

Case Management Conference

The parties' solicitors often attend at this stage at short procedural hearing at Court to agree the timetable for the remainder of the case. Sometimes, these steps can be agreed and attendance at Court can be avoided.

Interim Applications

It is necessary in most cases to make or defend applications made to the Court during the case which deal with various procedural matters. Such applications, which are heard by the Court, tend to be short hearings to determine, for example, contested changes to timetabling, security for costs and other interim points in the case.

Disclosure and Inspection

This is the next stage of the claim where the parties exchange documents that are relevant to the issues. All documents, whether they help your case or affect it adversely, must be disclosed. A Disclosure Statement must be signed by each party confirming that Disclosure obligations have been complied with. The obligation to disclose relevant documents continues throughout the litigation. Even if documents are discovered after the formal disclosure step has taken place you will be required to disclose them to the other

party.

Witness Statements

This is the opportunity for each side to set out in writing their position, often explaining all the detailed facts in the case. Witness Statements are provided by individuals who have evidence that is key to the issues in the case. The parties exchange witness statements simultaneously.

Expert Evidence

Depending on the type of case, sometimes it is necessary for experts to be instructed and to provide evidence to assist the Court in deciding the issues in the case. The experts often meet to see if they can find any common ground between them.

Mediation

Mediation is one of the forms of alternate dispute resolution ("ADR") available to the parties in litigation. It can take place at any stage in a case, and often takes place shortly after the Case Management Conference. On other occasions, however, it is more appropriate for mediation to take place once expert evidence has been exchanged. The appointed mediator acts as a neutral referee to help the parties work towards settlement. If successful the mediation will result in agreement which ends the litigation, otherwise the case continues. There are other means of trying to settle proceedings. These include "without prejudice" offers to settle, as well as what are referred to as Part 36 offers. These two types of offer have different costs implications, and it is a tactical decision as to how, if and when such offers are deployed.

Pre-trial Review

In certain cases, the parties' solicitors need to attend before the Court to discuss how the trial itself will be timetabled and to iron out any procedural issues that have arisen in the case so far.

The Trial

A large proportion of cases settle before the first day of Trial. For the cases that proceed to Trial, however, this is the forum for the Court to decide the legal issues in the case and to hear the evidence from those individuals who have provided Witness Statements and any expert evidence. In many cases, the Judge will not decide the issues immediately but will reserve Judgement to a later date.

Appeals

Once the Judge has handed down Judgement and costs awards have been dealt with, the losing party can consider applying for permission to appeal all or part of the Judgement. In County Court cases, the decision of the Circuit Judge is first appealed to a High Court Judge, whose decision can be appealed to the Court of Appeal. In High Court cases, it is the Court of Appeal that first considers the appeal. Further appeals can, in certain circumstances, be heard by the Supreme Court (formerly the House of Lords) and thereafter by the European Court of Justice or the Privy Council.

Appendix 3 - After the Event Insurance

Set out below is an estimate of Lawful's fees for a typical piece of small to medium commercial litigation. These estimates are not intended to be fixed. The figures below do not include estimated disbursements such as Counsel's fees, Court fees and expert's fees, which will be payable in addition.

No.	Stages of Litigation Cost estimate	(£) excluding VAT
1.	Instructing Counsel to provide an Opinion	£1,500 – £5,000
2A.	Drafting Claim and Particulars of Claim (where Claimant)	£2,500 – £10,000
2B.	Drafting Defence and any Counterclaim (where Defendant)	£2,500 – £10,000
3A.	Reviewing the Defence and preparing the Reply and Defence to any Counterclaim, (where Claimant) (including, instructing Counsel, meetings with you and drafting documents)	£2,000 – £5,000
3B.	Drafting any Reply to Defence of Counterclaim (where Defendant)	£2,000 – £5,000
4.	Preparation for and attendance at Case Management Conference	£1,500 – £3,500
5.	Interim Applications, where applicable, (such as requests for extensions of time, addition of parties, disclosure of specific documents)	£5,000 – £40,000
6.	Disclosure of documents relating to the case and inspection of the other side's documents	£2,500 – £25,000
7.	Preparation of witness statements (including meetings with witnesses and with you, and drafting statements.)	£3,000 – £30,000
8.	Advising on and preparation for any Mediation (where applicable) (including Mediation Statements, relevant documents etc.)	£10,000 – £20,000
9.	Preparation for and attendance at Pre-trial Review (where applicable)	£1,500 – £3,500
10.	Preparing for and attending the Trial	£1,500 – £3,500 (per day of trial)
11.	General issues including, without prejudice negotiations, liaising with you, Counsel and other side	Approximately 10% of total

Please note that this type of insurance is only available to cover legal costs, and not any damages that may be awarded against you.

Insurance is available on the market to cover most of your charges and expenses incurred with us, and your possible liability for your opponent's charges and expenses. This type of insurance is known as after the event insurance ("ATE Insurance"). Most ATE Insurance policies for commercial cases will only usually cover your liability to meet your opponent's charges and expenses, but there are providers who will also provide cover for your own disbursements and sometimes even your own costs. We can discuss your options with you as and when it becomes appropriate.

Premium

The cost of taking out ATE Insurance (i.e. the premium you pay) can be considerable, often running into many thousands of pounds depending on the level of cover you require. Premiums are payable in one of three ways:

1. Upfront – you will be required to pay the whole premium when you take out the ATE policy
2. Staged – you will be required to pay the premium in stages as the litigation progresses
3. Deferred – you are not required to pay the premium until the conclusion of the proceedings

Recoverability

The cost of taking out ATE Insurance (i.e. the premium you pay) is not recoverable from your opponent and you will be payable from any damages you receive.

If you would like us to provide you with any further information in relation to ATE funding, please contact the Lawyer who is handling your case.

WYN.

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