

GARDNER THORPE

TERMS OF ENGAGEMENT

1. INTRODUCTION

This document together with the engagement letter provided to you at the commencement of a matter sets out the terms on which we accept instructions and charge for services. If there is any conflict between these terms and the engagement letter, then the engagement letter will take precedence.

2. PAYMENTS ON ACCOUNT OF COSTS

2.1 We reserve the right to require a payment on account of costs and/or expenses. Where a payment on account of costs has been requested, work will not start or continue on the matter until we receive payment of the sum concerned, or such lesser amount as may later be agreed. The amount of any payment on account will be assessed by the partner dealing with or supervising the matter on the basis of his pre-estimate of the costs which will be incurred in dealing with the matter either as a whole or, alternatively, up to a certain point notified to you when the request is made. However, payments on account should not be considered as an estimate of our total costs unless we advise you to the contrary.

2.2 If a payment is requested on account of an expense, that expense will not be incurred until such time as the payment on account has been received. We will endeavour to identify disbursements when an estimate is given.

3. CHARGES AND EXPENSES

3.1 Our charges are based on the time we spend in dealing with the case. Time spent on your affairs will include meetings with you and perhaps others; any time spent travelling; considering, preparing and working on papers; correspondence; and making and receiving telephone calls. We record time in units of six minutes.

Our current hourly charging rates are as follows:-

Partners:	£235 to £265
Consultants:	£235 to £265
Solicitors:	£195 to £210
Legal Executives:	£185 to £195

These rates are subject to periodical review.

If, for any reason, this matter does not proceed to completion, we will charge you for work done and expenses incurred.

In addition to the time spent, we may take into account a number of factors which include the complexity of the issues, the speed at which action must be taken, the location where the work is done, the expertise or specialist knowledge which the case requires and, if appropriate, the value of the property or subject matter involved.

In accordance with our professional obligations, we will, where possible, give you an estimate of our charges upon accepting your instructions. We will revise this estimate where necessary from time to time. Our estimate should not be regarded as a fixed quotation, but should be used as a guide to assist you in understanding the level of charges and expenses you may incur by instructing us.

The estimate is always provided on the basis that it is subject to the addition of VAT and expenses.

We will inform you if any unforeseen additional work becomes necessary (for example, due to unexpected difficulties, or if your requirements, or the circumstances, significantly change during the course of the matter).

3.2 Expenses

We may have to make payments on your behalf, such as court fees, for expert's reports and counsel's fees, which you will have to pay. VAT will also be payable on certain expenses.

3.3 Experts and other Third Parties

We may be required to instruct third parties on your behalf, such as expert witnesses, costs draftsmen, process servers or overseas lawyers. Where such persons are instructed on your behalf, we will do so as your duly authorised agent. We are not responsible for any act or omission of such third party unless we agree this in writing before the issue of any instructions.

3.4 **Counsel's Fees**

We have an obligation to pay Counsel's fees promptly after the work is done, and a fee note rendered. We may invoice you separately for these fees upon receipt of Counsel's fee note.

3.5 **Invoices and VAT**

We will add VAT (where it applies) to our costs at the rate that is applicable when the work is done. At present, that rate is 20%.

Please note that we are instructed to address our invoices to our client only. If, therefore, you have agreed with another party to a transaction that it will be responsible for your legal fees, you should be aware that the invoice will nonetheless be addressed to you as our client, and we will be obliged to look to you for payment of our costs, notwithstanding any agreement you have with that third party. The consequence of this is that VAT is not recoverable by the third party.

3.6 **Interim bills**

3.6.1 It is our standard practice to issue bills on a quarterly basis or at such intervals as may be convenient at our discretion. Interim bills represent a payment on account of the costs of your case with reference to the work done to the date of invoice in cases where an overall evaluation of our firm's charges cannot be made until the matter is completed, when the factors mentioned in paragraph 3.1 above will be taken into account. An interim bill is therefore only a request for payment of the final bill to be delivered at a later stage and is not intended to be a final bill in its own right. Your statutory rights will only run from delivery of the final account. Please note that the final invoice may exceed the aggregate amount of interim bills previously rendered.

3.6.2 Interim bills are payable within 30 days from the date of invoice and we reserve the right to withdraw from the matter and render a final invoice at any time in the event that interim bills are not settled upon the due date.

3.7 **Final and specific period invoices**

3.7.1 Final invoices will be rendered as soon as practicable after the conclusion of the matter to which they relate or at another appropriate time and will cover all work carried out during the period specified in the invoice ("specific period invoices"). Further work carried out after an invoice has been rendered, will be separately charged at an appropriate point.

3.7.2 Payment terms are 30 days from the date of invoice. We reserve the right to charge interest for late settlement at the rate allowed on judgment debts from time to time.

3.7.3 Save in exceptional circumstances where the costs are likely to be substantial, the following expenses are included within the hourly charging rate set out in paragraph 3 above and will not be separately charged:-

- (a) ordinary postal charges; and
- (b) ordinary telephone and facsimile expenses.

Any courier charges are not included and will be itemised on our final invoice.

3.7.4 Travelling and waiting time is charged at our current hourly charging rate.

3.7.5 Detailed breakdowns of costs are available upon request.

4. **NON-CONTENTIOUS MATTERS**

4.1 You are entitled in non-contentious matters:-

4.1.1 to require us under the provisions of Article 4 of the Solicitors' (Non-Contentious Business) Remuneration Order 1994 to obtain a certificate from the Law Society stating that, in their opinion, the costs charged in our bill are fair and reasonable or, as the case may be, what other sum would be a fair and reasonable sum.

4.1.2 to apply to the Court under the provisions of the Solicitors' Act 1974 for an order that our bill of costs be checked by an officer of the Court.

4.2 Under the Solicitors' (Non-Contentious Business) Remuneration Order 1994, if you require a remuneration certificate as in 4.1.1 above, then (unless we already hold money on account of costs and expenses generally up to or exceeding the following sums) you must first pay (a) half the fee shown in the bill; (b) all VAT; and (c) all paid expenses. This is subject only to your right in exceptional circumstances to ask the Legal Complaints Service (at 8 Dormer Place, Royal Leamington Spa, Warwickshire CV32 5AE) to waive these requirements.

4.3 These rights will be repeated on our final invoice or on any specific period invoice, but please note that your right to require as to obtain a certificate from the Legal Complaints Service under 4.1.1 above is exercisable only within one month from the date of receipt of the notice endorsed on the invoice. Your right to apply to the Court under 4.1.2 above is exercisable as of right within one month of the delivery of the final or a specific period invoice. If you do not apply within one month but apply within 12 months of delivery of the invoice, the Court may impose terms upon which this right may be exercised. If you apply after the expiration of 12 months from delivery of the invoice, the Court will only check the invoice if special circumstances exist. You will have no right to apply under 4.1.2 above after the expiration of 12 months from the date on which you pay the invoice.

5. CONTENTIOUS MATTERS

5.1 Litigation is often protracted and it can take considerable time before matters are settled or come to Court. It is therefore our standard practice to render regular interim bills and specific period invoices (see paragraphs 3.6 and 3.7 above) at appropriate stages during the course of the litigation.

5.2 It is important that you understand that you will be responsible for paying our bills. We will discuss with you whether your charges and expenses might be paid by another person. Even if you are successful, the other party may not be ordered to pay all your charges and expenses or these may not be recovered from them in full; if this happens, you will have to pay the balance of our charges and expenses. If the other party is legally aided, you may not get back any of your charges and expenses, even if you win the case.

5.3 If you are successful and the Court orders the other party to pay some or all of your charges and expenses, interest can be claimed on them from the other party from the date of the Court order, we shall account to you for such interest to the extent that you have paid our charges or expenses on account, but we are entitled to the rest of that interest.

5.4 You will also be responsible for paying the charges and expenses of seeking to recover any charges and expenses that the Court orders the other party to pay.

5.5 The amount of costs which you will have to pay us may be greater than the amount you can recover from the other party to the case.

5.6 In some circumstances, the Court may order you to pay the other party's legal charges and expenses; for example, if you lose the case. The money would be payable in addition to our charges and expenses. We shall discuss with you whether our charges and expenses, and your liability for another party's charges and expenses, may be covered by insurance and, if not, whether it would be advisable for you to have insurance to meet the other party's charges and expenses.

5.7 You are entitled, in contentious matters, to apply to the Court under the provisions of the Solicitors' Act 1974 for an order that our bill of costs be checked.

5.8 Your right to apply to the Court under 5.7 above is exercisable as of right within one month of the delivery of the final invoice. If you do not apply within one month but apply within 12 months of delivery of the invoice, the Court may impose terms upon which this right may be exercised. If you apply after the expiration of 12 months from delivery of the invoice, the Court will only check the invoice if special circumstances exist. You will have no right to apply under 5.7 above, after the expiration of 12 months from the date on which you pay the invoice.

6. INTEREST ON CLIENT MONEYS

Where we hold your money on our general client account, we will not account to you for interest unless the amount calculated is £20 or more unless it would be fair and reasonable to do so.

7. STORAGE OF PAPERS AND DOCUMENTS

After completing the work, we are entitled to keep all your papers and documents while there is money owing to us for our charges and expenses. We will keep our file of papers (except for any of your papers which you asked to be

returned to you) for no more than 7 years from the date of the final bill we send to you for this matter. We shall keep the file on the understanding that we have the authority to destroy it after this time. We shall not destroy documents you ask us to deposit in safe custody.

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 retrieval. However, we may make a charge based on time spent producing stored papers or documents to you or someone else at your request. We may also charge for reading correspondence or other work necessary to comply with the instructions given by you or on your behalf.

8. LIMITATION OF LIABILITY

- 8.1 Our liability to you in respect of breach of this retainer or breach of duty or negligence or otherwise arising out of, or in connection with, our engagement or the services we provide shall be limited to £2,000,000. Any liability for breach of this retainer resulting in either consequential or indirect loss (foreseeable or unforeseeable at the instigation of our retainer) is excluded. Any liability in respect of third parties instructed by us on your behalf is excluded pursuant to paragraph 3.3 above, which exclusion you are deemed to accept as a result of your continuing instructions.
- 8.2 Should you ask us to agree a higher limit of liability, we reserve the right to charge a higher fee for the matter. Any increase to the limit of our liability must be confirmed in writing by the partner with overall responsibility for your matter.
- 8.3 Our liability to you in respect of breach of contract or breach of duty or negligence or otherwise arising out of, or in connection with our engagement, or the services we provide, shall be further limited by 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). This provision shall have no application to any liability or for death or personal injury, any other liability that cannot lawfully be excluded or limited or to a liability arising as a result of fraud on our part.
- 8.4 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 shall 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.

9. INSURANCE WORK

We are not authorised by the Financial Services Authority. However, we are included on the register maintained by the Financial Services Authority 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 Authority website at www.fsa.gov.uk/register.

10. TAX ADVICE

Unless specifically agreed in writing in the engagement letter, our advice to you will not extend to advice on the tax implications of the work on which we are advising you.

11. INTELLECTUAL PROPERTY RIGHTS AND COPYRIGHT

We retain all intellectual property rights including copyright in documents, reports and other advices provided to you.

12. REPORTS AND DRAFTS

You may not place reliance on draft or interim reports and advice whether oral or written as our advice may vary considerably from the final report or advice in a matter. Any advice or report which is provided to you during the course of our retainer is for the benefit of the person to whom the engagement letter is addressed and no benefit may be conferred to another without our prior written consent.

13. PRIVACY AND DATA PROTECTION

Gardner Thorpe is a registered data controller. Your details will be kept on our database for the purpose of the retainer, administration, accounting and so that we can send you relevant information on our services and on events which may be of interest to you. Your details will be processed and kept securely in accordance with the Data Protection Act 1998. The data will not be disclosed to third parties except for the purposes mentioned above or if our partnership merges with another or

converts to a Limited Liability Partnership. Any questions or concerns regarding our use of your data should be addressed to the Partner with overall responsibility for this retainer.

14. CONFIDENTIALITY AND COMMUNICATION

- 14.1 One partner will have an overview of all the work that we may be doing for you. That partner may not be directly involved in all of your work as we only provide the services of the most appropriate lawyer or lawyers to deal with each piece of work. You will be provided with the identity of the lawyer with conduct of your matter in the engagement letter.
- 14.2 Information passed to us is kept confidential and we will not disclose it to third parties except as authorised by you or required by law. If, on your authority, we are working in conjunction with other professional advisers, we may disclose any relevant aspect of your affairs to them unless you give us written instructions to the contrary. Where you provide us with facts or computer network addresses to which material is to be sent, we shall assume, unless you tell us otherwise, that your arrangements are sufficiently secure and private to protect your interests.
- 14.3 The internet is not secure and there are risks if you send sensitive information in this matter or if we use it as a means of communication. Data sent by us by e-mail is not routinely encrypted and so please advise us if you do not want us to use e-mail as a form of communication with you.
- 14.4 We protect the integrity of computer systems by screening for viruses in the e-mail sent or received and expect you to do the same.

15. LIMITED LIABILITY PARTNERSHIP

We may in future convert into a Limited Liability Partnership from a partnership. In such case, no further arrangement, consent or notification will be necessary and your retainer will automatically be transferred to the new LLP and proceed under its terms of engagement.

16. APPLICABLE LAW

These terms are governed by English law and any disputes arising in connection with them are subject to the exclusive jurisdiction of the English Courts.

17. THE CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999

Our agreement with you is personal as between you and us, and not intended to confer any rights of enforcement on any third party. Accordingly, this Act shall not apply to our agreement with you.

18. TERMINATION

- 18.1 You may terminate your instructions to us in writing at any time but we shall be entitled to retain any money held by us on your account and your papers and documents while there is money owing to us for our charges and expenses including any VAT.
- 18.2 In some circumstances, you may consider we ought to stop acting for you, for example, if you cannot give clear or proper instructions on how we are to proceed, or if it is clear that you have lost confidence in how we are carrying out your work.
- 18.3 We may decide to stop acting for you only with good reason, for example, where there is a conflict of interest with another of our clients or if you do not pay an interim bill, specific period invoice or comply with a request for a payment on account. We must give you reasonable notice that we will stop acting for you.
- 18.4 If you or we decide that we will no longer act for you, you are liable to pay our charges on an hourly basis and expenses as set out earlier to the date of the termination of our retainer.
- 18.5 The foregoing is not intended to be and does not constitute any form of contentious or non-contentious business agreement and therefore does not restrict any of your rights mentioned in paragraph 4.1 and 4.2 of these terms.

19. COMPLAINTS

If you have any problem with the service we have provided to you then please let us know. We will try to resolve any problem quickly and operate a complaints handling system to help us to resolve the problem between ourselves.

If for any reason we are unable to resolve the problem between us, then the Solicitors' Regulation Authority and the Legal Complaints Service provide complaints and redress mechanisms. You should not contact the Law Society because, although the Society is our designated professional body for the purposes of the Financial Services and Markets Act 2000, responsibility for regulation and complaints handling has been separated from the Law Society's representative functions. The Solicitors Regulation Authority is the independent regulatory body of the Law Society and the Legal Complaints Service is the independent complaints handling body of the Law Society.

20. AGREEMENT AND UPDATING

Unless otherwise agreed, these terms of engagement apply to any further instructions you give us.

21. MONEY LAUNDERING PRECAUTIONS

1 Proof of Identity

The law requires solicitors as well as banks, building societies and others, to obtain satisfactory evidence of the identity of their clients. We would be grateful therefore if you would provide us with either of the following:

- your current photocard driving licence, correctly showing your current address, or
- your passport, plus an item of evidence to prove your address, such as a recent utility bill, recent council tax demand or bank statement. If you cannot provide such evidence please tell us and we will advise what alternative evidence may be acceptable. Please do not send us any funds until the identification procedures have been carried out.

We may use electronic identification service providers to confirm your identity, and that of any beneficial owners.

2 Confidentiality

Solicitors are under a professional and legal obligation to keep the affairs of clients confidential. This obligation, however, is subject to a statutory exception. Legislation on money laundering and terrorist financing places solicitors under a legal duty in certain circumstances to disclose information to the Serious 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 by law to make a money laundering disclosure. If that happens, we may not be able to inform you that a disclosure has been made or of the reasons for it because the law prevents "tipping off".

3 Cash

Please note that we are normally only able to accept cash up to a limit of £500 in any 28 day period. 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.

.....
Steven Thorpe

Your continuing instructions in this matter amounts to your acceptance of these terms of engagement. Even so, we ask you to please sign and date the enclosed copy of the final page of these terms and return it to us immediately. We can then be confident that you understand the basis on which we will act for you.

This is an important document, so please keep it in a safe place for future reference.

Signed Dated

Signed Dated