



# Terms of business

- 1.1 These terms of business ("terms") and any engagement letter we provide in relation to your matter state the terms on which RWK Goodman LLP accepts your instructions and charge for our services ("the Engagement").
- 1.2 Where we refer in these terms to "you" or "your", we refer to the client identified in the engagement letter. Any reference to "the firm", "we", "our" or "us" means RWK Goodman LLP.
- 1.3 All advice given and work done for you is given or done on behalf of RWK Goodman LLP and only RWK Goodman LLP will be liable for the consequences of that advice or work done. There is no contract between you and any member or employee of the firm. No member of the firm assumes, or will assume, personal liability for the conduct of the Engagement or will have any personal liability for any matter arising out of or in connection with the Engagement whether in contract, tort, negligence, breach of statutory duty or otherwise and you waive any such claim as may arise.
- 1.4 The term "partner" in these terms, and any correspondence sent by us, is used to denote members of RWK Goodman LLP and staff of equivalent qualification and experience.
- 1.5 These terms shall be deemed to have been accepted by you upon receipt from you or your agent of any instructions, verbal or written, in any matter. In the event of any conflict between these terms and the engagement letter, the provisions of the engagement letter shall prevail.
- 1.6 Where the engagement letter is addressed to more than one person or entity, each shall be jointly and severally liable for our fees, disbursements and other costs. In this situation

each party will be a principal obligee and not merely a guarantor. By “jointly and severally liable”, we mean that you and the persons or entities in question are jointly responsible for ensuring that our bill is paid, and we can pursue all or any one of you for the whole amount that is due to us.

## **2 Standards of service**

2.1 As part of our commitment to provide excellent service, we will:

- represent your interests and carry out the work with reasonable skill and care;
- explain the legal work that will be required;
- keep you regularly informed of progress;
- communicate in plain English – please tell us if this is not happening;
- advise you of the costs and risks/benefits of pursuing a matter; and
- advise you of the estimated timescale involved.

2.2 We ask that you:

- give us clear, timely and accurate instructions;
- provide all documentation and information that we reasonably request in a timely manner;
- do not deliberately mislead us or ask us to work in an improper or unreasonable way;
- safeguard any documents that may be required for your matter, including documents that you may have to disclose to another party;
- inform us of any changes to your contact details or financial circumstances which may affect the funding of your matter; and
- co-operate with us.

## **3 If you are unhappy with our service**

3.1 We have a procedure in place which details how we handle complaints and is available on request.

3.2 If you are not satisfied with our handling of your complaint you can ask the Legal Ombudsman at PO Box 6806, Wolverhampton WV1 9WJ to consider your complaint (telephone number 0300 555 0333). The Legal Ombudsman expect you to give us 8 weeks to try and resolve the matter. Normally, you will need to bring a complaint to the Legal Ombudsman within 6 months of receiving a final written response from us regarding your complaint. There are specific timeframes within which the Legal Ombudsman can accept a complaint. These are:

- 6 years from the date of the event/omission; or

- 3 years from when you should have known about the complaint.
- 3.3 The Legal Ombudsman will not accept complaints where the act or date of awareness was before 6<sup>th</sup> October 2010.
- 3.4 If you think a solicitor might be dishonest or you have concerns about their ethics or integrity, you also have the right to notify our regulator, the Solicitors Regulation Authority (SRA). There are no time limits for making a report but there are limits on what the SRA will consider. Please note that the SRA is not able to deal with issues of poor service (complaints of this nature should instead be referred to the Legal Ombudsman). For further information about the SRA's role, please visit: <https://www.sra.org.uk/consumers/>

#### **4 Confidentiality and data protection**

- 4.1 We will keep all information which you pass to us confidential and will not disclose it to third parties except as authorised by you, where we are required by a legal or professional obligation to do so (including sharing privileged and confidential communications and documents to our professional indemnity insurers, legal advisers and our regulators), or as otherwise stated in these terms.
- 4.2 It is a condition of our professional indemnity insurance that we notify our insurers and/or broker of any circumstances which may give rise to a claim against us. In doing so, we may disclose confidential and/or privileged documents and information to our insurers, broker and legal advisers on a confidential basis. Our insurers, brokers and legal advisers are contractually obliged to keep all information we pass to them confidential.
- 4.3 If we propose to instruct other professional advisers on your behalf, we will tell you of the adviser we intend to use (if you do not have an existing or preferred adviser) and ask them to provide you with an estimate of their costs for which you will be directly liable. Please note that, although we may recommend an adviser with which we have previously worked, any such adviser will be independent of us and will be instructed on your behalf and will not act as our agents. We assume no responsibility or liability for advice given to you or otherwise in respect of the information supplied or work undertaken by any such adviser or by any other adviser with whom we may work in relation to our services, whether recommended by us or suggested or instructed by you. Unless you otherwise advise us in writing, we will assume that we are authorised to communicate information (whether confidential to you or not) to such advisers for the purpose of their work.

- 4.4 We use your personal data as described in our privacy policy which can be found on our website <https://www.rwkgoodman.com/policies/privacy-policy/>. We take your privacy very seriously. Please read the privacy policy carefully as it contains important information about:
- what personal data we collect and how that data is collected;
  - how, why and on what grounds we use personal data;
  - who we share personal data with;
  - where personal data is held and how long it will be kept;
  - whether personal data may be transferred out of the European Economic Area and, if so, the measures taken to protect that data;
  - your rights in relation to the personal data we hold or use;
  - the steps we take to secure personal data;
  - how to make a complaint in relation to our use of personal data; and
  - how to contact us with any queries or concerns in relation to personal data.
- 4.5 Where you have entered into an agreement for third party funding and the terms of that funding include an obligation on us to disclose information about your matter, including by way of regular updates to the third party funder and the provision of your file for auditing by that third party funder, you consent to our disclosure of your information. Where you have entered into a contract of insurance in relation to your matter and the terms of that insurance include an obligation on us to disclose information about your matter, including by way of regular updates to the insurer and the provision of your file for auditing by the insurer, you consent to our disclosure of your information.
- 4.6 External firms or organisations may conduct audit or quality checks on our practice from time to time. They may wish to audit or quality check your file and related papers for this purpose. It is a specific requirement imposed by us that these external firms or organisations fully maintain confidentiality in relation to any files and papers which are audited or quality checked.
- 4.7 Your files may also be reviewed in a due diligence exercise relating to the sale or transfer of all or part of our business, the acquisition of another business by us or the acquisition of new business.
- 4.8 If we are also acting for your proposed lender in a conveyancing transaction, we have a duty to reveal fully to your lender all relevant facts about the purchase and mortgage. This includes: any differences between your mortgage application and information we receive during the transaction; any cash back payments or discount schemes that a seller is giving you.

- 4.9 Our use of your personal data is subject to your instructions, the UK General Data Protection Regulation (UK GDPR), the EU General Data Protection Regulation (EU GDPR), other relevant UK and EU legislation and our professional duty of confidentiality.
- 4.10 RWK Goodman LLP is a data controller for the purpose of the UK GDPR, EU GDPR and other relevant data protection legislation, such as the Data Protection Act 2018. We have nominated our Director of Risk and Best Practice as our DCO (Data Compliance Officer), the firm's representative for the purpose of data protection. Our DCO can be contacted via [privacy@rwkgoodman.com](mailto:privacy@rwkgoodman.com). As we process the personal data of citizens in the EU and EEA we have appointed a Data Protection Representative in the EU, details of which can be found in our privacy policy.

## **5 Limitation of liability**

- 5.1 Save as otherwise agreed in writing, and subject as set out below, our total aggregate liability to you (whether in contract, tort (including negligence), breach of statutory duty or otherwise) under or in relation to the Engagement and any matter ancillary to the Engagement shall not exceed £5 million (including interest and legal and other costs).
- 5.2 Subject as below, we shall not be liable (whether in contract, tort (including negligence), breach of statutory duty or otherwise) for:
- loss of profit;
  - loss of business;
  - loss of business opportunity;
  - indirect loss; or
  - consequential loss,

in each case whether or not such loss might have been foreseeable at the start of the matter; or unless you are acting as a consumer, for:

- loss of monies caused by the failure of any bank in which they are deposited;
  - subject to clause 5.5 below, any loss suffered by someone who is not a party to the Engagement; or
  - reliance upon or any advice or action taken contained in a draft document before the final version has been prepared.
- 5.3 Subject to paragraph 5.4 below, if we are acting for more than one person or where we agree that someone else may rely on our advice to you then the cap represents our total liability to you all. It will be a matter for you, the court or any arbitrator to decide how the cap will be divided. Our liability to you will also be limited to that proportion of the loss or

damage (including interest and costs) suffered by you, as awarded by a court, after taking account of the extent to which any other person is also liable for and/or has contributed to the same loss or damage.

- 5.4 The limitations and exclusions on liability in clause 5 shall not limit or exclude our liability for death or personal injury caused by our negligence, for fraud or for any other liability which cannot lawfully be excluded or limited. If you are a consumer and we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaching the terms of the Engagement or our failing to use reasonable care and skill in the carrying out of the work.
- 5.5 Clause 5 is intended to benefit our members, employees and consultants who may enforce this clause pursuant to the Contracts (Rights of Third Parties) Act 1999.

## **6 Fees, estimates and expenses**

- 6.1 At the outset of the matter we will agree the basis on which we will charge you and our arrangements in respect of fees and expenses.
- 6.2 In some cases, our fees will be based on time spent or expected to be spent. For other services we are able to provide fixed or capped fees. Estimates can only be based on information available to us at the time of providing the estimate and there may be circumstances in which such estimates are exceeded.
- 6.3 At your request, or our instigation, an upper limit can be set on the amount of our fees and disbursements. We will not exceed this upper limit without your consent.
- 6.4 Where appropriate, standard hourly rates are charged for different types of work and according to the experience of any person who handles any part of your matter for you.
- 6.5 If you have indicated the work is urgent, in order to meet your objectives as to timing, we reserve the right to apply a premium to the estimate you have been provided. We will notify you of the premium before carrying out the work.
- 6.6 Unless otherwise agreed, our time is recorded and charged in 6 minute units. In addition, we may charge you for the expenses of postage, photocopying, faxes, courier services and travelling. There is also a charge payable on any telegraphic transfers sent.
- 6.7 Our hourly rates are reviewed with effect from 1<sup>st</sup> May each year and we will advise you of any increase. Our rates may occasionally be revised at other times and we will notify you of any increase before it takes effect.

- 6.8 In addition to our fees, it may be necessary to make payments to third parties on your behalf, for example: court fees, search fees, barristers' fees, registry fees, stamp duties etc. (known as disbursements). We will assume we have your authority to do so unless you tell us otherwise at the outset. We normally request payment in advance for disbursements so that we can pay them promptly. Please respond quickly to avoid delay and in some cases to avoid the accrual of interest and penalties.
- 6.9 If you use any scheme to fund the payment of legal costs, you should first seek independent advice regarding the suitability of the credit arrangement. Such facilities are regulated by the Financial Conduct Authority. For any credit arrangement RWK Goodman LLP is an introducer only and is not authorised or under any obligation to provide credit advice.
- 6.10 Where you are involved in a dispute you should consider whether you have an alternative way of paying our fees, such as legal expenses insurance or through a trade union. You should tell us if you think you may have such an alternative means and, where appropriate, give your consent for that body to be contacted in connection with your dispute.
- 6.11 For certain types of work only, public funding may be available. We will discuss with you whether public funding may be available to you.

## **7 Invoicing and payment**

- 7.1 Where a matter is completed within a short period of time we will usually invoice in full on completion. Otherwise we will submit interim invoices to you, generally at monthly intervals. In some cases we will ask you to pay sums of money on account to cover the cost of the firm's work or expenses.
- 7.2 Our invoices do not usually include a formal narrative of the work that we have done. However we are happy to provide you with this if required.
- 7.3 Estimates of fees do not include VAT, which will be charged additionally, where appropriate. Some disbursements also attract VAT.
- 7.4 All invoices are payable in full within 30 days of the date of issue, without any deduction by way of set off, abatement, counterclaim or otherwise.
- 7.5 Where we are holding money due to you, for example on completion of the sale of a property or other asset, or on recovery of monies from a third party for you, our charges and disbursements may be deducted from the balance due.

- 7.6 We do not accept direct credits to our account other than by way of BACS, CHAPS payment or internet banking. Specifically you must not pay cheques or cash directly into our account. If you 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 funds. To help us reconcile your payment speedily, please let us know in advance when making a payment to us. Please also kindly quote our reference or invoice number for any payments you make to our account. In some cases, we may need to verify your identity before we are able to accept funds into our account.
- 7.7 At our discretion, we may accept payment by credit card.
- 7.8 We do not accept cash. If you 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. Where we have to pay money to you, it will be paid by bank transfer, or by cheque in exceptional circumstances. It will not be paid in cash or to a third party.
- 7.9 If an invoice is not paid within 30 days of the date of issue, we reserve the right to charge interest at the County Court rate of 8% or under the Late Payment of Commercial Debts (Interest) Act 1998 and/or a late payment fee.
- 7.10 We may retain all documents and any data in our possession relating to any matter until our outstanding invoices have all been paid in full.
- 7.11 We reserve the right to stop work in the event of an invoice being overdue for payment or a request for money on account not being satisfied. We shall not take this action without first informing you and having satisfied ourselves that we have reasonable grounds to do so. In this event, the total amount of work done to that date will be charged to you and will be payable immediately, and we shall be discharged from all further duties to you in respect of carrying out work. Where appropriate, we shall also be entitled to apply to the court for an order removing us as solicitors appearing on any court record as acting for you.
- 7.12 Please notify us where money is to be paid to a third party as at least 5 working days must be allowed for clearance of any cheques or drafts sent or given to us by you or anyone on your behalf for these payments. BACS payment will take at least 3 working days to get to us. In many cases, it may be both cheaper and more convenient for you to arrange for funds to be sent to us by telegraphic transfer (CHAPS).
- 7.13 Please be aware that we do not notify changes to important business information, such as bank account details, by email.



## **8 Commissions**

Any third party commission received by us as a result of work done on your behalf (from insurance and stockbrokers etc.) may either be paid directly to you or be credited against our fees. In some matters, the commission we receive may cover our fees entirely, although other expenses will still be payable by you. If for any reason we subsequently have to refund any part of such commission, you will be liable to pay any fees then outstanding.

## **9 Client account**

9.1 Client money will be held in a general client account to facilitate your transaction. We are unable to provide interest rates similar to those available if you had invested the money elsewhere yourself. Amounts of interest under £20 will be paid at our discretion.

9.2 Where appropriate, we accept payments into our client account in Euros and US Dollars. Foreign currency is converted at the exchange rate offered by our bank at the time the funds are received.

9.3 The money we hold for you will be held at one of a number of financial institutions where we deposit money. We will endeavour to deposit client monies with recognised domestic banks but because we have no control over the financial stability of these institutions we cannot be responsible for their failure or for any monies lost as a consequence of their failure. In such circumstances you may be entitled to compensation under the Financial Services Compensation Scheme (FSCS). You should check with the Financial Conduct Authority to find out whether or not you would be entitled to compensation. By engaging us you consent to our supplying your details to the FSCS in the event of a bank failure

## **10 Ending our services**

10.1 You may end your instructions to us in writing at any time.

10.2 We may decide to stop acting for you only with good reason. Examples where this might occur include, but are not limited to, the following: a conflict of interest; a breakdown of confidence between us and you; or where we are unable to obtain proper instructions or non-payment of our invoices. We must give you reasonable notice in writing that we will stop acting for you. If you or we decide that we should stop acting for you, we will invoice you for any work done to that point.

## **11 Financial services and insurance distribution activities**

- 11.1 We are not authorised by the Financial Conduct Authority (FCA). However, we are included on the register maintained by the FCA so that we can carry on insurance distribution 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 Conduct Authority website at [www.fca.org.uk/firms/financial-services-register](http://www.fca.org.uk/firms/financial-services-register) and searching for "RWK Goodman LLP".
- 11.2 We provide these services only if they are an incidental part of the professional services we have been engaged to provide. If, while we are acting for you, you need advice on investments then we may need to refer you to someone who is authorised to provide the necessary advice.
- 11.3 The Law Society of England and Wales is a designated professional body for the purposes of the Financial Services and Markets Act 2000. The Solicitors Regulation Authority is the independent regulatory arm of the Law Society. The Legal Ombudsman investigates complaints about solicitors. If you are unhappy with any financial or insurance advice you receive from us, you may raise your concerns with either of those bodies.

## **12 Copyright**

We retain ownership of the copyright and all other intellectual property rights in all documents and other materials produced by us in the course of the Engagement. We grant a licence to you to use these documents and materials for the purposes for which they were created.

## **13 Storage of deeds and documents**

- 13.1 In order to comply with our regulatory and legal obligations, we will retain all documents and data in relation to your matter or in relation to your prospective instructions prior to the formal opening of a matter, in line with our Data Retention Policy, on the understanding that we have your authority to destroy them after this time. Your consent to such destruction is deemed to have been given upon your acceptance of these terms. We may retain documents and data beyond the minimum retention period specified in our Data Retention Policy where we identify a legitimate and justifiable need to do so. Our retention and storage of documents is subject to our confidentiality and data protection responsibilities outlined at clause 4 of these terms.
- 13.2 We have facilities for storing deeds and wills and are pleased to provide these services free of charge.

13.3 If you require us to retrieve papers/documents from storage, we reserve the right to charge a minimum retrieval fee of £25 plus VAT for retrieving papers/documents upon a request from you or a third party, as well as the right to charge for work necessary to comply with your instructions or those of the third party. In addition, we may charge you for:

- time spent copying stored papers/documents that are requested; and/or
- reading, correspondence or other work necessary to comply with your instructions in relation to the retrieved papers/documents.

13.4 We will not destroy original papers/documents that you specifically ask us to keep in safe custody. Separate insurance, if required, should be arranged by you for particularly valuable papers/documents deposited with us.

13.5 A copy of our Data Retention Policy is available on request.

## **14 Your rights**

14.1 You have the right to have your costs assessed by the Court under Part III of the Solicitors Act 1974.

14.2 The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (as amended) may apply to the Engagement. If your instructions have not been given to us at a face-to-face meeting at one of our offices, you have the right to cancel your instructions to us within 14 working days of the date you enter into a contract with us to provide services based on those instructions. You can cancel your instructions by contacting us by post to any office or by email marked for the attention of the individual responsible for your matter.

## **15 Money laundering activity and proceeds of crime**

15.1 We are required by law to confirm satisfactory evidence of the identity of our clients and, sometimes, people related to them. This is because solicitors who deal with money and property on behalf of their clients can be used by criminals wanting to launder money.

15.2 To comply with the law, we will need evidence of your identity as soon as possible. This is explained further in our engagement letter. Any personal data we receive from you for the purpose of preventing money laundering or terrorist financing will be used only for that purpose unless you give your consent, or as permitted by or under another enactment.

15.3 We are professionally and legally obliged to keep your affairs confidential. However, we are legally obliged to report to the National Crime Agency (NCA) any activity which raises a suspicion of money laundering or other breach of The Proceeds of Crime Act 2002 or The

Terrorism Act 2000. If this happens we are not permitted to inform you that a disclosure has been made. We may, in some circumstances, have to stop acting for you as a result of anti-money laundering legislation. Our duty to report may override any duty of confidentiality that we owe to you and legal professional privilege may not apply in these circumstances.

## **16 The Foreign Account Tax Compliance Act (FATCA)**

FATCA is a US piece of legislation, which has effect in the UK, intended to ensure US citizens disclose their worldwide income to the US tax authority (the Internal Revenue Service or IRS). The FATCA regime requires certain financial institutions to identify and report (to HMRC) specific payments. To comply with the law, we may have to share some of your information, including your FATCA status and, if applicable, your Global Intermediary Identification Number (GIIN) with financial institutions. It is vital that we keep your information current at all times. You are responsible for communicating to us any changes in circumstances that may alter your FATCA status.

## **17 Rights of third parties**

Save as expressly provided, the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply.

## **18 Applicable law**

You irrevocably agree that the courts of England and Wales will have exclusive jurisdiction over any dispute or matter arising in connection with these Terms or our engagement save that we shall have the right, at our sole and absolute discretion to commence proceedings in any alternative competent jurisdiction.

## **19 Provision of Services Regulations 2009**

19.1 RWK Goodman LLP is a Limited Liability Partnership registered in England and Wales with registration number OC361361. It is regulated by the Solicitors Regulation Authority whose address is The Cube, 199 Wharfside Street, Birmingham B1 1RN ([www.sra.org.uk](http://www.sra.org.uk)). Our Solicitors Regulation Authority registration number is 557896. Details of our registration can be found at [www.lawsociety.org.uk](http://www.lawsociety.org.uk).

19.2 Our registered office is 5-6 Northumberland Buildings, Queen Square, Bath BA1 2JE (telephone number 01225 730100 and fax number 01225 730101). Full details of all our offices and contact details for individual partners can be found at [www.rwkgoodman.com](http://www.rwkgoodman.com).

19.3 Our VAT number is 108 2357 32.

19.4 Our Professional Indemnity Insurers are Aviva Insurance Limited, AIG Europe Limited and Starr International Europe Limited who can be contacted via Marsh Limited of Tower Place, London EC3R 5BU. Territorial coverage is worldwide.

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