

Withy King Trustees Limited

Terms of Business

1 Introduction

- 1.1 These terms of business ("terms") and any engagement letter we provide in relation to your matter state the terms on which Withy King Trustees Limited accepts your instructions and charges 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 company", "we", "our" or "us" means Withy King Trustees Limited.
- 1.3 All advice given and work done for you is given or done on behalf of Withy King Trustees Limited and only Withy King Trustees Limited will be liable for the consequences of that advice or work done. There is no contract between you and any director, shareholder or employee of the company. No director or shareholder of the company 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 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.

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 to consider your complaint. You can contact the Legal Ombudsman via their website at: www.legalombudsman.org.uk, by email at: enquiries@legalombudsman.org.uk, by telephone at: 0300 555 0333 or in writing at: at PO Box 6806, Wolverhampton WV1 9WJ. The Legal Ombudsman expect you to give us 8 weeks to try and resolve the matter before they will investigate a complaint. They also expect you to bring your complaint to them within:

- six months of receiving our final response to your complaint

and:

- one year from the date of the act or omission being complained about; or
- one year from the date when you should reasonably have known that there was cause for complaint.

3.3 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 As a wholly owned subsidiary of RWK Goodman LLP, our systems are shared with RWK Goodman LLP. We process our data in accordance with RWK Goodman LLP's information security policies. 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 (including to our professional indemnity insurers and our regulator), to do so, or as otherwise stated in these terms.

4.2 We use your personal data as described in our privacy policy which can be found on RWK Goodman LLP's website at www.rwkgoodman.com/privacy/. 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.

4.3 External firms or organisations may conduct audit or quality checks on the company 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.

4.4 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.

4.5 Our use of your personal data is subject to your instructions, the EU General Data Protection Regulation (GDPR), other relevant UK and EU legislation and our professional duty of confidentiality.

4.6 Withy King Trustees Limited is a data controller (ICO registration number Z2840409) for the purpose of the 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.

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 directors, shareholders, 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 where these are substantial. There is also a charge payable on any telegraphic transfers sent.
- 6.7 Our hourly rates are reviewed with effect from 1st 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.

7 Invoicing and payments

- 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. Unless otherwise agreed in writing, all interim bills will be final accounts for our fees for the work undertaken in the periods to which they relate (known as interim statute bills). These are not final accounts in relation to disbursements or other expenses that we have incurred on your behalf.
- 7.2 In some cases we will ask you to pay sums of money on account to cover the cost of work or expenses which are expected to arise in your matter. Any payment requested on account before we start work on your matter is requested in the engagement letter.
- 7.3 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.
- 7.4 Estimates of fees do not include VAT, which will be charged additionally, where appropriate. Some disbursements also attract VAT.
- 7.5 All invoices are payable in full upon presentation, without any deduction by way of set off, abatement, counterclaim or otherwise.



- 7.6 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.
- 7.7 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.
- 7.8 At our discretion, we may accept payment by credit card.
- 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 Money will be held in designated client bank accounts to facilitate your transaction.
- 9.2 Where appropriate, we can 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 operate designated accounts. 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.

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) and do not carry out any financial services or insurance distribution activities within the scope of the SRA Financial Services (Scope) Rules.

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 We will retain all files and papers in relation to your 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 of files is deemed to have been given upon your acceptance of these terms. In order to comply with our regulatory and legal obligations, in certain circumstances, we are required to retain documents for longer periods of time in line with our Data Retention Policy. 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.
- 14.3 In the event of a dispute, you also have the right to seek Alternative Dispute Resolution (ADR).




15 Prevention of money laundering, terrorist financing and proliferation financing

- 15.1 To comply with anti-money laundering, counter-terrorist financing and counter-proliferation financing requirements, we are required to ask you for proof of your identity and we may conduct searches or enquiries for this purpose. We may also be required to identify and verify the identity of other persons such as directors or beneficial owners. If you or they do not provide us with the required information promptly, your matter may be delayed. 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, terrorist financing or proliferation financing will be used only for that purpose unless you give your consent, or as permitted by or under another enactment.
- 15.3 You agree that we may make checks using online electronic verification systems or other databases as we may decide. Where we do make use of electronic identification software as part of our anti-money laundering checks, we reserve the right to charge you for the cost of this service as part of our fee and will confirm the cost in our engagement letter.
- 15.4 Unless we expressly request money on account, you must not send us any money until we have told you these checks have been completed.
- 15.5 We may ask you to confirm the source of any money you have sent us or will send us. If you do not provide us with that information promptly, your matter may be delayed.
- 15.6 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, terrorist financing or proliferation financing. 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.
- 15.7 Subject to section 5 ("Limitation of Liability") above, we shall not be liable for any loss arising from or connected with our compliance with any statutory obligation, or reasonable belief we may have, to report matters to the relevant authorities under the provisions of the money laundering, terrorist financing and/or proliferation financing legislation.

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

Any dispute or legal issue arising from our terms or the Engagement will be governed by the law of England and Wales, and considered exclusively within the jurisdiction of the English and Welsh courts.

19 Provision of Services Regulations 2009

- 19.1 Withy King Trustees Limited is a limited company registered in England and Wales with registered number 07740771. It is authorised and regulated by the Solicitors Regulation Authority, SRA number 563762 and is a wholly owned subsidiary of RWK Goodman LLP. Details of our registration can be found at www.lawsociety.org.uk. Full details of all our offices can be found at www.rwkgoodman.com.
- 19.2 Our registered office is Midland Bridge House, Midland Bridge Road, Bath BA2 3FP (telephone number 01225 730100 and fax number 0330 818 6432).
- 19.3 Our Professional Indemnity Insurers are Aviva Insurance Limited, who can be contacted via Howden of One Creechurch Place, London, EC3A 5AF. Territorial coverage is worldwide.

© Withy King Trustees Limited

2 May 2023

