



## TERMS AND CONDITIONS OF BUSINESS

### **1 Disbursements & Third Party Costs**

- 1.1 As well as our fees, we will charge you costs and expenses that we incur, for example, court/tribunal fees, charges for searches, couriers, information services, postage, telephone, subject access requests and other petty disbursements. Where costs are charged to us by third parties, we will charge you the amount charged to us.
- 1.2 Where we instruct counsel, experts, lawyers in other jurisdictions or other third parties on your behalf, we will do so as your agent. You will be responsible for their fees, costs and any applicable tax. We may arrange for these charges to be billed directly to you, but in either situation, cleared funds for the applicable fees must be held on account five working days before instruction.

### **2 Charges in Contentious Matters**

- 2.1 This paragraph applies only to contentious and potentially contentious matters.
- 2.2 The Solicitors Regulation Authority requires us to tell you that:
- (a) you will be responsible for paying our bills in full, regardless of any reserves or regulations imposed by and funding arrangements, order for costs made against an opponent, or that are found in your favour but are less than that charged to you;
  - (b) if the case is lost, you are likely to have to pay the opponent's costs as well as your own;
  - (c) even if you win, the opponent may not be ordered to pay or be capable of paying your costs, especially if your case was heard in a tribunal -they have legal aid or help from the Community Legal Services fund;
  - (d) the rules of court/tribunal limit the costs recoverable in some types of legal proceedings.
- 2.3 If the court/tribunal orders us to pay any costs because of the way in which you instructed us to conduct a matter, or because you did not put us into funds or give us adequate and timely instructions, we may charge those costs to you.

2.4 At the end of an interim hearing, the court may assess its costs and order a party to pay them. If the court/tribunal makes this sort of order against you, and we do not hold enough funds for you in our client account, you must provide the balance in time for us to pay within the deadline, or you must arrange payment direct.

2.5 Unlike in the county court, there is a general rule in tribunal proceedings that each party will bear their own costs. Although in limited circumstances costs can be awarded against another party, this is very much an exception to the norm. Therefore, when bringing a case in the tribunal you should be prepared to bear the burden of paying for your own legal costs in bringing those proceedings, this is even so if you win your case.

### **3 Our Responsibilities**

Our Firm must:

- 3.1 always act in your best interests, subject to our duty to the court;
- 3.2 explain to you the risks and benefits of taking any legal action;
- 3.3 give you our best advice about whether to accept any offer of settlement;
- 3.4 give you the best information possible about the likely costs of any legal action;
- 3.5 provide you with a good standard of service.

### **4 Your Responsibilities**

You must:

- 4.1 give us clear and prompt instructions that allow us to do our work properly;
- 4.2 not ask us to work in an improper or unreasonable way;
- 4.3 not deliberately mislead us;
- 4.4 co-operate with us, any instructed third party or agent;
- 4.5 go to any medical or expert examination or court hearing as required and otherwise remain in contact with us so that we obtain instructions and/or obtain your signature at short notice;



- 4.6 preserve and provide us forthwith or on demand with all original and copy documents relevant to your case, even where harmful to it and howsoever stored (including documents and files stored on current or old computers, handheld or other portable devices such as iPads and smartphones);
- 4.7 provide us with all information that we may consider to be relevant to your case, whether or not you consider it to be relevant;
- 4.8 not do anything that may jeopardize your case including, but not limited to, communicating directly or indirectly with your opponent, your opponent's legal representatives and/or the media (unless advised to in advance in writing by us) and/or commenting on your case on any website, blog, forum or other social media platform;
- 4.9 inform us if you receive any communication in any form whatsoever from your opponent, your opponent's legal representatives and/or the media and supply us with a copy of any such communication forthwith.
- 4.10 At the outset of this matter you should provide us with a draft chronology and statement setting out what happened and who can corroborate your position. You need to consider your own case's weaknesses and what weaknesses and pressure points (including familial, financial and reputational) that your opponent(s) may have and that we may be able to exploit to your advantage.
- 4.11 You should, wherever possible, provide us with a list of any assets legally or beneficially owned and/or controlled by your opponent(s) so that we can advise you on the ease or otherwise of enforcing any judgment and/or costs orders that are or may be awarded in your favour. Likewise, you should provide us with a similar such list of your own assets as it may be that we can protect them from litigation risk.
- 4.12 You should retain all information and documentation, both physical and electronic, which relates to your matter or any possible associated counterclaims or issues. Such documents shall be required by disclosure, of which you have a continuing and ongoing requirement to adhere to. Please also note that originals must be retained where possible and where only copies are held these too should be retained; you are under a duty not to amend, alter, damage or destroy such, whether the content is beneficial, detrimental or neutral in respect of your position.

## **5 Dealings with the Firm**

- 5.1 If you wish to have a meeting with a solicitor, or to speak to a solicitor, you must telephone to arrange an appointment in advance. Due to the demands on our solicitors' diaries, we are unable to see you if you attend the Firm's offices without making an appointment.
- 5.2 No other person at our Firm, other than solicitors, has any authority to give you any legal advice and if you seek to obtain any such advice directly or indirectly, or wilfully or inadvertently, from any such other member of staff then we reserve the right to terminate this retainer with immediate effect.
- 5.3 In the event that any bankruptcy trustee, liquidator, administrator, receiver or other court appointed nominee is appointed over your affairs, any advice given to you by us becomes the property of that appointee. It is imperative that you remember this throughout our retainer.
- 5.4 Any correspondence or advice passing between our firm and yourself, or authorised agent, is not to be communicated or copied to any other party without our prior written agreement; for the avoidance of doubt, this duty shall continue after the conclusion of your matter or closure of your file.

## **6 Litigation, Courts and Tribunals**

- 6.1 You need to prepare yourself for the ordeal of your matter proceeding to trial. Even if you believe or are advised that this is not likely, you need to consider any negative coverage that may arise in the print, broadcast or new media and that you and others are likely to be required to give oral evidence and to be cross-examined on it. You therefore need to prepare yourself for the time commitment and stress that any dispute entails, recognising that the more that you do in cooperation with us, the lower your fees will be.
- 6.2 At the outset of this matter you should provide us with a draft chronology and statement setting out what happened and who can corroborate your position. You need to consider your own case's weaknesses and what weaknesses and pressure points (including familial, financial and reputational) that your opponent(s) may have and that we may be able to exploit to your advantage.



6.3 You should, wherever possible, provide us with a list of any assets legally or beneficially owned and/or controlled by your opponent(s) so that we can advise you on the ease or otherwise of enforcing any judgment and/or costs orders that are or may be awarded in your favour. Likewise, you should provide us with a similar such list of your own assets as it may be that we can protect them from litigation risk.

6.4 Due to the significant administrative requirements of cases, unfortunately both courts and tribunals can at times suffer significant delays. On this basis, you have to allow for and appreciate that this may have a bearing on the time spent on your matter. At times, it may be beneficial to obtain court-approved transcripts of hearings and/or judgements.

6.5 In any litigation matter, there are elements of uncertainty and often such matters require an investment of time and money to address. In any dispute, you stand a risk of being ordered to pay any costs awarded in favour of your opponent(s). It is crucial that at all times you and we act reasonably and proportionately in our dealings with the court and your opponent(s). Courts have discretion when it comes to awarding costs. While ordinarily the loser pays the winner's costs, courts can decide otherwise. You will rarely, if ever, recover all of the costs you incur even if you win. Further, the general rule for tribunal proceedings is that each party bears their own cost.

## **7 Payments on Account**

7.1 We shall periodically request payments on account of legal costs and disbursements. If you wish to send a cheque for this payment to accompany your due diligence documents please make it payable to "Griffin Law". Alternatively, we are prepared for you to make payment by bank transfer directly into our client account and will provide you with those details as soon as we have received signed acceptance of our terms and due diligence documents. We are unable to accept any payment on account of costs until the requirements are completed.

7.2 When payments are made on account you are required to take into account the additional time that the method of payment will incur to result in cleared funds reaching our account; e.g. a cheque needing to be paid in and then clearing through the banking system. If funds are not provided with such sufficient time then this may result in a delay and possible detriment to your matter.

7.3 Payments made on account will be held in our client account and will be applied towards any bills rendered by us in accordance with the Solicitors' Accounts Rules. We do not ordinarily pay interest on sums held in our client account and in instructing us you consent to not being paid interest by my Firm.

## **8 Billing**

8.1 On this matter, we propose generally to bill on an interim basis; however, if there are any specific billing requirements please inform us of the same before work is commenced.

8.2 Interest will become chargeable if any bill, or part of such, is not paid within one calendar month after delivery. Interest is calculated at a daily rate; your rights are also detailed upon the reverse of our bills.

8.3 If you expect a third party to assist with or meet the charges incurred, it is agreed that we are entitled to recover full payment from you directly, irrespective of whether the third party makes payment to you or not.

8.4 You have the right to object to our bill by applying to the court for an assessment of the bill under Part III of the Solicitors Act 1974.

## **9 Complaints**

9.1 In the event of a problem, you are entitled to complain. It is our policy to investigate complaints promptly fairly and effectively. A copy of our complaints procedure is available on request.

9.2 To make a complaint about our service or about a bill, please contact the Griffin Law Individual with overall responsibility for the matter. If you are dissatisfied with the response, please write to Andrew MacLeod.

9.3 A Complainant as defined by the Legal Ombudsman Scheme Rules has the right to complain to the Legal Ombudsman. If your complaint has not been resolved to your satisfaction within 8 weeks of having been made (sooner if an ombudsman considers that there are exceptional reasons to consider the complaint sooner, or without it having been made first to us, or where an ombudsman considers that it is impossible for us to resolve it due to an irretrievable breakdown in the relationship between us and you), a Complainant has the right to complain to the Legal Ombudsman. Their address is PO Box 6806, Wolverhampton WV1 9WJ, or a Complainant may call them on 0300 555 9333, +44 121 245 3050 or contact them at [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk).



9.4 There is a timeframe for making a complaint to the Legal Ombudsman. Ordinarily a Complainant must refer your complaint to the Legal Ombudsman within 6 months of our written response, if that written response prominently included an explanation that the Legal Ombudsman was available if a Complainant remained dissatisfied, and included full contact details for the Legal Ombudsman and a warning that the complaint must be referred to the Legal Ombudsman within 6 months. Otherwise, a Complainant must refer a complaint to the Legal Ombudsman within 1 year from the act/omission or 1 year from when the Complainant should reasonably have known there was cause for complaint without taking advice a third party.

9.5 The Legal Ombudsman may not deal with a complaint about a bill if an application has been made to the court for assessment of that bill.

9.6 An up-to-date copy of the Solicitor's Handbook can be found on the website of the Solicitors Regulation Authority at [www.sra.org.uk](http://www.sra.org.uk).

## 10 Ending the Engagement

You may end our Engagement at any time unless other arrangements are expressly agreed for a matter or implicit in its circumstances. We may end our instruction by you at any time, upon receipt of clear notice of the same. After our instruction has ended, you agree to pay our fees, costs and VAT incurred before it ended and for any work we have to do afterwards. If we have agreed a fee for a matter and our instruction ends before the matter concludes, we may charge up to the agreed fee by reference to the time spent. Until payment of all sums due to us, we will have a lien on all your papers and on any other assets we hold.

## 11 Financial Services and Markets Act 2000

Our services may involve regulated activities relating to investments within the meaning of the Financial Services and Markets Act 2000. We are not authorised by the Financial Services Authority under that Act. We may, however, undertake activities (such as arranging and advising) which are incidental to our legal services or which may reasonably be regarded as a necessary part of them. In doing so we are regulated by the Solicitor's Regulation Authority. You should not interpret anything in any of our communications with you as advice on the merits of acquiring or disposing of particular investments or as an invitation or inducement to engage in any investment activity.

## 12 Translations

Where we use or prepare a translation on your matter you should be aware that words and legal concepts used in one language may not have equivalents in another. You should not assume, therefore, that any translation is exact.

## 13 Copyright

13.1 Copyright and all other intellectual property rights in all documents, software and other work products we supply to you will stay vested in us (or our licensors). We grant you, to the fullest extent we can, licence to use and copy them for the matter for which we supplied them; for the avoidance of doubt, this duty shall continue after the conclusion of your matter or closure of your file.

13.2 In the event that you breach, or facilitate such, our copyright and/or other intellectual property rights in any way, either personally, via third party or agent, you understand, acknowledge and agree that damages for breach of confidence, any other tortious wrongdoing shall be insufficient remedy and we shall be entitled to seek immediate injunctive relief to restrain any ongoing breaches and seek costs for or related to such on the indemnity basis, which you undertake not to oppose. You shall furthermore, cooperate with us in the event an action is taken by us against any such third party; for the avoidance of doubt, this duty shall continue after the conclusion of your matter or closure of your file.

## 14 Equality and Diversity

We are committed to promoting equality and diversity in all of our dealings with clients, third parties and employees. Please contact us if you would like a copy of our equality and diversity policy.

## 15 File Closure/Retention of Records

Please note that once your matter has concluded, we shall keep your file of papers (less those provided to you) for a period of six years. As some of the original papers held may continue to be your property, we shall hold the same to give you the opportunity to request such to be kept yourself. If we do not receive a written request for your original documents from your file during this period then we will assume that the content may remain in storage and be destroyed at the end of this period, without further notice. If you would like us to keep certain records for longer, please contact Andrew MacLeod. We may charge you if you ask us to retrieve or copy records for you after a matter has finished.



## 16 Changes

We reserve the right to change or add to these terms, either generally or for a particular matter, by notice in writing.

## 17 Deemed Acceptance

Please note that should this document be sent to you but not returned signed as requested, and thereafter you provide instructions for work to be carried out on your matter then you shall be deemed to have accepted the contents herein as if such had been signed by you.

## 18 Third Party Rights

Griffin Law reserves the right to assign this contract, or any rights thereunder, to a third-party; other than this right, no other party, other than the client and Griffin Law, shall have any right to enforce any of its terms.

## 19 Governing Law and Jurisdiction

English law governs all the agreements and arrangements between yourself and Griffin Law. If a claim or dispute of any kind arises from such then we both agree to submit to the exclusive jurisdiction of the English Courts.

## 20 Our Liability

20.1 On all matters on which we act for you, your relationship is solely with Griffin Law, not with any member, principal, manager, director, employee, consultant or subcontractor of Griffin Law or (except as they may expressly agree in an engagement letter) with any other entity, partnership or firm. Accordingly, on any matter on which we act for you (including but not limited to this matter):

- (a) no member, principal, manager, director, employee, consultant or subcontractor of Griffin Law and (except as mentioned above) no other entity, partnership or firm will have any liability to you; and
- (b) you shall not bring any claim against any member, principal, manager, director, employee, consultant or subcontractor of Griffin Law or, except as mentioned above, any other entity, partnership or firm whether in contract or tort (for example, negligence or misrepresentation), for breach of statutory or other duty, or otherwise.

20.2 You agree to prevent every entity which you control, or which controls you or which is under common control with you, and all the directors, employees, representatives or advisors of you and of those entities ("Associate") from bringing any claim against us in respect of any matter on which we act for you unless we have expressly agreed in writing to accept liability to any Associate. You must indemnify us and every member, principal, manager, director, employee, consultant or subcontractor of Griffin Law against any claim in breach of this paragraph (for example, a claim for negligence) and all related costs. If we do accept liability to any Associate, the limits of liability in these terms of business apply to you and that Associate taken together, without increasing the aggregate liability of Griffin Law.

20.3 Our financial liability to you arising in connection with that matter will not exceed in aggregate the higher of either the total fees (excluding VAT and disbursements) charged by us for the matter or the financial liability limit stated in the engagement letter accompanying these Terms of Business.

20.4 If we are liable to you on any matter and we are jointly liable with any third party or you or we have a right to contribution from any third party, our liability is limited to our net contribution. Our net contribution shall be calculated assuming all third parties have paid (and therefore after deducting) all amounts for which they are liable to you or us (whether or not you or we can collect any such amount), or would have been liable to you or us, but for any limit on or exclusion of or compromise or reduction in liability (whether by law or agreement) in favour of the third party or associate.

20.5 The limits in this paragraph apply to all liabilities whether arising in contract or tort (eg: negligence or misrepresentation), for breach of statutory or other duty, or otherwise except:

- (a) liability for death or personal injury caused by our negligence;
- (b) liability for our fraud or our reckless disregard of professional obligations; or
- (c) any other liability to the extent that its limitation or exclusion is prohibited by law.