

**TERMS OF ENGAGEMENT**

This document sets out the terms and conditions upon which Peachey & Co LLP ("P&Co") accepts your instructions to act. These terms may be varied or added to by correspondence at (or after) the time when your instructions are accepted by P&Co. If, for whatever reason, you do not accept or understand these terms you should tell the responsible partner (whose name appears in the accompanying letter) immediately. P&Co is a Limited Liability Partnership having members not partners. However, the expression partner may be used in our dealings with you to describe a member.

**1. GENERAL**

- 1.1 It is P&Co's professional duty to provide our legal services with reasonable care, skill and diligence. The advice we give does not include taxation advice (unless previously agreed in writing) and all commercial implications are a matter for you to assess at all times including the decision to complete any given transaction. Confirmation of oral, draft or interim advice must be requested and given for us to be liable to you for it. Further, it is not incumbent on us to update any advice after the end of a matter without first receiving a written request for us to do so and we have accepted the obligation to do so in writing.
- 1.2 Throughout the handling of your matter P&Co will rely on you to supply, in a timely manner, all information needed to act on your behalf. It is your obligation to tell us promptly of any relevant change in or addition to such information in the circumstances. P&Co will not be under any obligation to verify or check the accuracy of such information unless it is specifically agreed in writing that they should do so.
- 1.3 Unless otherwise specifically agreed in writing these terms of engagement shall apply only to all matters that you instruct us to advise on. P&Co are not liable for any loss, cost or expense caused by any act, omission or insolvency (either threatened or otherwise) of any bank, financial institution or other payment or clearing system where we might have placed funds.
- 1.4 If you appoint us to advise on a project or transaction with other professional advisers, our liability to you for any loss arising in relation to that matter from a breach of these terms of engagement shall be limited to such proportion of the loss which is fair and reasonable for us to bear, to be determined on the condition that all such other professional advisers have entered into binding obligations owed to you in terms no less onerous than the terms of this clause 1.4 and have paid to you such proportion of the loss as it is fair and reasonable for each of them to bear.
- 1.5 Any reference to a partner of P&Co is to be deemed a reference to a member of the LLP entity only and no member, consultant, or employee of P&Co contracts with you personally or assumes any legal responsibility to you personally when acting on behalf of P&Co. All correspondence, email or other communication sent by any such person during their work performed for P&Co should be treated as having emanated from P&Co.

**2. CONFIDENTIALITY/COMMUNICATIONS BETWEEN US**

- 2.1 Your instructions, information and other documentation entrusted to P&Co are confidential and will not be disclosed by P&Co save on your instructions, as required by law or our professional conduct rules or as hereinafter set out.
- 2.2 P&Co accepts oral, written or email instructions but, although we try to ensure they are not, we cannot guarantee our communications are secure and free from error, virus or malware. Further, use of email cannot ensure confidentiality, timely delivery or delivery at all and we accept no liability in respect thereof.

**3. DATA PROTECTION ACT**

- 3.1 In order to act for individuals, it may be necessary for us to record on our files and also on our computer system certain personal details such as dates of birth, addresses and telephone numbers etc. In addition other non essential information may also be held by us when acting for either individuals or companies.

You are entitled to ask at any time for a copy of the information that we hold about you or your company and its officers or employees.

- 3.2 Further, you agree that information we may hold may be used in connection with our services provided to you in other countries outside the European Economic Area, some of which may not have laws to protect such information.

#### 4. **FEES**

- 4.1 The basis of P&Co's charges will be as agreed by you at the outset and set out in the accompanying letter or that which is fair and reasonable. The basis of our charges is subject to what may be mutually agreed between the parties from time to time during the course of or at the end of a matter. P&Co's charges are generally calculated based on the time and effort expended by our fee earners on your behalf with hourly rates charged with regard to the relative experience of those staff members. Charge rates are reviewed semi-annually each year and new rates apply with effect from such review date and will be notified to you in writing. Current rates can be supplied at any time upon request. Where appropriate other factors may be taken into consideration in the calculation of our charges. For example, the Solicitors' Remuneration Orders may be taken into account, whereby most notably the complexity, value and urgency of a matter can have an effect on the charges levied.
- 4.2 We charge by reference to six minute time units for all time spent managing and supervising a matter and all time spent for example in correspondence, preparing documents, drafting, attending meetings, travel, making and receiving telephone calls, researching, drafting and office conferences.
- 4.3 Sums incurred by P&Co on your behalf (such as stamp duty land tax, land registry fees, Court fees, online search fees, enquiry agents, process servers, translators, Counsel's fees and all other disbursements) will be chargeable, as will expenses incurred on travel, faxes, couriers, storage, bank charges, necessary support staff overtime telephone calls, scanning and copying.
- 4.4 Clients may direct that movements of money on their behalf be carried out by telegraphic bank transfer. You should be aware that the banking system does not necessarily produce instantaneous transfer of such monies. P&Co cannot be held responsible for delays or errors within the banking system. Bank charges incurred in relation to telegraphic transfers made at your request may be deducted by us from your client account without specific prior notification to you.
- 4.5 VAT is chargeable at the applicable rate on almost all fees including our hourly rates or fixed fees You undertake to provide us with the necessary documentation to enable us to classify your status as regards VAT and you agree to indemnify us against all and any interest, penalties or legal costs as a result of information in relation to VAT which proves incorrect.
- 4.6 Estimates of costs are given in good faith for guidance only on the basis of information then known to P&Co and are not to be regarded as quotations or fixed fees unless that fact is communicated in writing. You should note that it is often not possible to estimate costs accurately in advance. If a fixed fee is quoted then it is referable only to the scope of work anticipated and assumptions made at that time. Any changes to the scope or anything rendering our assumptions invalid will result in possible further charges.
- 4.7 A P&Co invoice or bill of costs would usually be submitted at the time of substantive completion of the transaction, however more usually if it is likely that the matter would proceed for some time interim invoices will be appropriate. Interim invoices will usually be submitted on a monthly basis during the course of such a matter.
- 4.8 You have the right to give P&Co written notice to set a limit on the fees which we may incur on your behalf. If that limit is reached, P&Co will then cease work, notify you and await your further instructions. Occasionally you might find the consequences of our ceasing to work for you can be detrimental to your interests and we will endeavour to outline the possible consequences of our ceasing to act, but ultimately we cannot be held responsible for the consequences thereof. You should understand that, particularly in

relation to contentious work, it may not be possible to limit your liability in relation to the costs incurred by any other party in the matter.

- 4.9 P&Co's charges are payable even if a matter does not complete. Further in certain Court related matters, another party may be ordered to make a contribution to your fees incurred with us and you should be aware that it is very unusual for the amount awarded to cover the entirety of our fees. You will remain liable for any fees incurred in excess of any award. Likewise you may be ordered by the Court to make a contribution to an opposing party's legal fees and in any event you will remain liable for our fees also. Further clarification is available upon request.

## **5. PAYMENT**

- 5.1 Invoices are issued monthly unless otherwise agreed in writing with you. You are responsible for paying the invoiced amount in full even if a third party is or becomes liable.
- 5.2 P&Co may, at any time, require payment from you of a reasonable sum on account of anticipated costs and disbursements. P&Co shall have the right to appropriate such sums to defray disbursements incurred on your behalf or to pay interim invoices which are overdue. However, such sums are, in the normal way, to be held against payment of the final account to be rendered to you and you are expected to settle interim invoices without resort to such sums. We are required to deduct any sums held on undesignated client account any fees, expenses or VAT within 14 days of the amount becoming due.
- 5.3 P&Co's invoices are due and payable within 14 days of the date of the invoice on delivery. P&Co are entitled to charge interest on any sum unpaid 30 days after the date of delivery of an invoice at the statutory rate applicable under the Late Payment of Commercial Debts (Interest) Act 1988 (as amended).
- 5.4 P&Co reserves the right to exercise a lien over your papers for unpaid costs.

## **6. ANTI-MONEY LAUNDERING/BRIBERY**

- 6.1 Anti-money laundering regulations require us to obtain, in appropriate cases, formal evidence of identity of our clients and/or the beneficial owners of any client entity. In doing so, we may require, before we can start acting for you (or on an ongoing basis), documentation to allow us to verify your identity and comply with our obligations generally.
- 6.2 P&Co will not tolerate bribery and corruption and by instructing us under these terms of engagement you are agreeing to this approach and to report any such activity coming to your attention during our retainer.
- 6.3 On occasion, we have to make disclosure to third parties. In particular, P&Co may be required by statute to make a disclosure to the Serious Organised Crime Agency if P&Co knows or suspects that a transaction may involve money laundering or terrorist financing or the Serious Fraud Office or other relevant authorities in relation to suspected bribery. If P&Co makes a disclosure in relation to your matter, P&Co may not be able to tell you that a disclosure has been made or to explain why work has stopped on your matter for a period of time.

## **7. LITIGATION**

This paragraph applies only to litigious matters.

- 7.1 If you are successful in a litigation matter it may be that you will be entitled to an order for assessment of costs for the payment of your costs by another party. Such an award is in the discretion of the Court. You should be aware that it is rare for an 'assessment of costs' to result in your opponent having to pay the full amount of your costs. In this case, you will be responsible to P&Co for the difference between the actual costs incurred and the assessed costs payable by your opponent. If any sum ordered against your opponent is not recovered in full or in part, you will also be responsible for the shortfall in the amount received.

Likewise, if you lose proceedings, you may have an assessment of costs order against you and you will have to pay your opponent's costs as well as your own.

- 7.2 It is not P&Co's practice to do work under any legal aid scheme administered by the Legal Aid Agency. Consequently, if you become eligible for legal aid during the course of a matter, P&Co may terminate the retainer.
- 7.3 If you obtain interest under an order for costs against your opponent, P&Co are entitled to retain such interest to the extent that any of their fees have not been paid on account.
- 7.4 In certain circumstances insurance may be available to cover you against the risk of a costs order being made against you or your failure to recover your own costs from another party. Please contact us if you require further detail.

## **8. INSURANCE MEDIATION ACTIVITIES/FINANCIAL SERVICES**

- 8.1 P&Co 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 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 independent regulatory body of the Law Society (SRA). The register can be accessed via the Financial Conduct Authority website at [www.fca.org.uk](http://www.fca.org.uk).
- 8.2 P&Co's primary role is to provide legal advice and not to provide advice in relation to investment (including mortgage) transactions. The decision to consider or enter into any such investment transaction is your sole decision and we recommend you seek advice from an appropriately regulated person or entity. Nothing we write or say should be construed as an inducement or invitation to engage in investment activities.
- 8.3 Being regulated by the SRA does mean, in certain limited circumstances, we are able to offer a limited range of investment, insurance and mortgage related services if they are incidental to the legal services we are engaged to provide.

## **9. FILE/DOCUMENT STORAGE**

- 9.1 Your file of supporting papers will be stored for a reasonable period (which will not be less than six years) free of charge either in hard copy or electronically. However, a charge may be made for particularly voluminous files and for retrieving any file from storage at your request and for supplying copies of any documents. After six years the file may be destroyed unless you instruct us otherwise in writing.
- 9.2 If P&Co store deeds, original documentation, wills or other important documents, we do so entirely at your sole risk. As a consequence, we will not be liable for any loss or damage thereto howsoever caused except to the extent that we are insured.

## **10. JURISDICTION**

P&Co advises on matters relating to the laws of England and Wales and the Articles of the EC Treaty (and the regulations and directives adopted pursuant to the EC Treaty) to the extent relevant to England and Wales only.

## **11. TERMINATION**

- 11.1 You may suspend or terminate our services upon written notice.
- 11.2 P&Co have the right to cease work and/or terminate their retainer by giving you written notice at your last known address in the event in the event:

- (a) any invoice remains unpaid for more than 14 days after delivery;
- (b) we consider that the relationship of trust and confidence required in a solicitor client relationship has broken down;
- (c) you fail, without reasonable cause, to give us instructions in a timely manner in relation to Court proceedings or for a period of 30 days in other circumstances; or
- (d) you become eligible for Legal Aid in accordance with paragraph 7.2 above.

11.3 In litigious matters, the consent of the Court may be required and notification thereof shall be at your cost.

## **12. THIRD PARTIES/LOSS OF PRIVILEGE**

12.1 These terms of engagement are not enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party. This does not affect any right or remedy of a third party which exists or is available apart from under that Act.

12.2 Our duty of care is to you rather than any third party and you agree to indemnify us should you instruct us to take any instructions on your behalf from any third party, if it subsequently transpires that they were not entitled to act on your behalf.

12.3 Further, the use of third parties to instruct us may cause you to be deemed to have waived legal professional privilege which may not ultimately be in your interests. A natural consequence of this may be that other parties may be able to see communications from the third party to us.

12.4 Any dissemination by you of any documentation or communication benefiting from legal professional privilege may compromise that privilege and it may be lost altogether.

## **13. COMPLAINTS PROCEDURE/PROFESSIONAL INDEMNITY**

13.1 It is the policy of P&Co to investigate complaints and expressions of dissatisfaction fully and promptly. If you are dissatisfied with or have a complaint relating to the work being carried out for you, you should raise this in the first instance with the fee earner dealing with the matter who will endeavour to resolve the matter. If you are dissatisfied with his or her response, you should raise the matter with the partner responsible. If you are still dissatisfied, you should then make a formal complaint addressed to the Complaints Partner of P&Co, in writing, giving full details of the nature of your complaint. The Complaints Partner, or another independent partner nominated by him or her, will then look into the matter and deal with it in accordance with our complaints procedure. A copy of our complaints procedure is available on request from any partner. P&Co has eight weeks to consider your complaint. If we have not resolved it with you within this time you may complain to the Legal Ombudsman. If you are not satisfied with our handling of your complaint you can ask the Legal Ombudsman (see above for contact details) to consider the complaint. Normally, you will need to bring a complaint to the Legal Ombudsman within six months of receiving a final written response from us about your complaint or within a year of the act or omission about which you are complaining occurring (or you becoming aware of it).

13.2 If you are dissatisfied with any invoice which P&Co renders to you, you may have the right to (a) make a complaint to the Legal Ombudsman (on 0300 555 0333 or at [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)) and/or (b) apply to the High Court under the provisions of Part III Solicitors Act 1974 relating to the assessment of costs to have the invoice checked by an officer of the High Court. This procedure may involve additional expense for you.

13.3 We maintain professional indemnity insurance as required by the SRA. Details of our professional indemnity policy or provider are available on request or for inspection at our registered office.

13.4 In the event that circumstances arise which require us to notify our professional indemnity insurer, our

insurance brokers, the SRA or the Legal Ombudsman, we may share with them all necessary documents and information in our possession in relation to any work or related matter which gave rise to the above requirement.

#### **14. CONFLICTS OF INTEREST**

- 14.1 Occasionally, conflicts of interest arise (or become likely to arise) between two or more clients which may prevent us continuing to act or accepting new instructions altogether. This may arise as a result of information we hold for third parties which is confidential but material to you too. If so, we may have to notify you that we must stop acting for you, whereupon we will endeavour to minimize the inconvenience or cost of our doing so.
- 14.2 In certain circumstances it may be possible to accept your instructions or continue to act (perhaps jointly) despite a conflict having arisen however these circumstances require the consent of the parties and very careful internal consideration.
- 14.3 It is our practice to check for conflicts at the outset of a matter, however they can be difficult to identify and can arise at any time in any matter.

#### **15. LAW**

These terms of engagement are subject to the laws of England and Wales. No Courts other than the English Courts are to have jurisdiction over any claim brought by you against us. However, we may bring proceedings against you for the enforcement of any judgment in any jurisdiction in which you have residency, domicile, incorporation or assets and you irrevocably submit to such jurisdiction for that purpose.

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