

### Introduction and Scope

1. These Terms of Business explain the basis on which Winckworth Sherwood LLP (“we”, “us” and “our”) will carry out all legal work to comply with your instructions. Our registered office is at Minerva House, 5 Montague Close, London SE1 9BB. Your contract is with Winckworth Sherwood LLP and not with any partner, employee or consultant of, or any person connected with Winckworth Sherwood LLP, who delivers the services on behalf of Winckworth Sherwood LLP. These terms will apply to all dealings between us unless supplemented or varied by other terms of business issued by us, or otherwise varied in writing.
2. We are authorised and regulated by the Solicitors Regulation Authority whose professional rules apply to us (see [www.sra.org.uk/rules](http://www.sra.org.uk/rules)).
3. We are not authorised by the Financial Conduct Authority. However, we are included on the register maintained by the Financial Conduct Authority so that we can carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by Solicitors Regulation Authority. The register can be accessed via the Financial Conduct Authority website at [www.fca.org.uk/register](http://www.fca.org.uk/register)
4. We are not authorised to give investment advice. If such advice is required, it should be provided by a person authorised by the Financial Conduct Authority. We are authorised to carry out only a limited range of activities relating to investments incidental to the provision of our legal services. Details of these can be provided on request. Complaints and redress mechanisms for any such activities performed by us are provided through the Solicitors Regulation Authority and the Legal Ombudsman.
5. Unless we are engaged expressly by you to give tax advice, we will assume you have your own tax adviser and our services will not include any tax advice in relation to any matter.

### Advance Costs Information

#### The Overall Cost

6. Where specific information is available, we will give the best indication possible about the likely overall

costs, including a breakdown between fees, VAT and disbursements (i.e. payments relating to goods or services supplied to you), before we begin any work and at appropriate stages throughout the matter. Our VAT number is 183 8680 66. All our charges are exclusive of VAT which will be payable at the appropriate rate in force from time to time.

7. Where possible, we will explain clearly the time likely to be spent in dealing with a matter, if time spent is a factor in the calculation of the fees.
8. You may, with our agreement, set an agreed upper limit on the costs you are prepared to pay. You will notify us immediately if you become aware that you are not able to pay our fees.

### Our Charges and Expenses - Method of charging

9. Except where we have expressly agreed an alternative fee arrangement with you, our charges are based on the time we spend dealing with your matter. Time spent on your affairs will include meetings, considering, preparing and working on papers, correspondence (including e-mails) and making and receiving telephone calls. Time is recorded in six-minute (1/10<sup>th</sup> of an hour) units. If your instructions require us to spend time dealing with your affairs outside office hours, or where special factors apply such as complexity, urgency, risk, or the need for special expertise, we may have to increase our charges, in which case we will notify you in advance.
10. We make a charge of £30 plus VAT when taking on an instruction from you to cover the administrative costs of set up, including compliance with the requirements of our regulatory body. We make separate charges for photocopying, bank charges, courier costs and other specific expenses. This is done so that only those who use these resources pay for them.
11. Our hourly rates are reviewed from time to time, normally with effect from 1<sup>st</sup> October each year, to take into account, amongst other things, increases in our costs. Where this method of charging applies, we will notify you of any changes in the hourly rates of partners, solicitors, specialist consultants, legal executives and other professional staff before implementation. Unless otherwise agreed in advance, we normally charge for time necessarily spent

travelling to or from meetings for the purposes of advising you.

#### **Charging by value element**

12. The above hourly rates apply where it is appropriate to calculate a fee solely by reference to time spent. For certain areas of work such as the administration of estates, trust administration, mortgages, commercial leases and conveyancing it may be appropriate to include a value element in the method of charging.
13. Whether a value element is used is a matter for agreement between us. For trust administration, the basis of calculation of the value element is set out in our Terms of Business for Trustees. For probate work it is set out in our Terms of Business for Personal Representatives.

#### **Estimates**

14. Any estimate we give will be based on the information available at the time given and will be subject to revision as the work progresses. It is not a fixed quote unless specifically stated to be so and may have to be exceeded if the work involved is more than expected at the time of the estimate. We will inform you in writing as soon as practicable if it appears that a costs estimate or agreed upper limit may or will be exceeded.

#### **Interest on monies held**

15. Subject to paragraphs 17 and 18 below, any sizeable sum or sums of money will be held by us as client funds to your account on an interest earning basis. Alternatively, if required, funds will be lodged in a separate bank deposit account designated with your reference as an identifier, which will be subject to a charge of £50 plus VAT per month for complying with the regulatory requirements involved and for monitoring the account. Any other money held on your behalf will ordinarily be held on client account, on terms that it is immediately available.
16. Interest shall not accrue on monies held on account of costs or disbursements incurred, or to be incurred, on your behalf.
17. We will try to pay out money to those entitled to it promptly when funds are or have become available. We will not, except by prior agreement, charge you for processing payments (other than bank charges) but, in return, we will only account for interest earned on money held by us (a) if we have agreed to do so in writing (in which case we will charge an agreed fee for the service) or (b) if we hold £1,000 or more on your behalf for more than 28 days. The rate of interest we

will pay is that which would be payable on a separate deposit account had we opened one for the appropriate amount. Amounts of interest of £40 or less will be retained by us as falling below the related administrative costs.

18. If we are to hold large sums of money on your behalf, we will be happy to agree special arrangements with our bank concerning the rate of interest payable.
19. Where our professional charges have been discounted compared with our standard charge rates, we normally retain any interest earned on monies held where this is fair and reasonable, but we will pay interest to the extent that it exceeds the value of any discount given.

#### **Commission monies**

20. Except where we have given you prior notice to the contrary, insurance or other commissions paid to us as a result of our conduct of your affairs will be credited to you unless the administrative costs of this exceed the commission value. Amounts of commission of £20 or less will be retained by us as falling below the related administrative costs.

#### **Scope of Liability**

21. Since our advice is particular to your individual circumstances we are unable to accept liability:
  - a. in respect of any person to whom our advice is not addressed, save where its content expressly creates a legal duty of care in favour of that person;
  - b. for any loss, damage, cost or expense arising from any breach by you of your agreement with us or any act or omission of any other person;
  - c. for any advice or opinions given to you by any third party (whether or not nominated or recommended by us);
  - d. for any indirect loss or damage or any loss of profit or income arising in any circumstances and howsoever caused.

However, nothing in these terms exempts us from liability arising from our fraud, dishonesty or wilful misconduct.

22. Winckworth Sherwood LLP alone will provide the services and you agree that no claim in respect of our services shall be brought personally against any partner, or any consultant to, or employee or agent of Winckworth Sherwood LLP or any service company owned or controlled by or on behalf of any of the members (who may be referred to in our

communications as “partners”) in Winckworth Sherwood LLP. Those members, consultants, employees and agents shall be entitled to rely on the terms of this agreement insofar as they limit their liability.

23. We do not accept liability (including, notwithstanding the terms of the preceding paragraph any liability of any members, consultants to and employees and agents of Winckworth Sherwood LLP) in respect of any claim (and for the purposes of these terms a “claim” shall be regarded as including all claims arising as a result of one act or omission or a series of related or similar acts or omissions, whether in the same matter or in a series of related matters or transactions) to one or more persons above £25,000,000 except where a rule of law overrides this term.
24. If you have any reason to think that the above mentioned sum is insufficient to cover any foreseeable loss, or is otherwise unreasonable, please raise this immediately with the supervising partner dealing with your business in order that he can confirm in writing whether alternative arrangements may be acceptable.

#### **Barristers**

25. We are professionally bound to pay Counsel's fees once Counsel has been instructed and may be bound similarly to pay fees to third parties (such as expert witnesses) we instruct to assist in your matter. We will obtain your prior agreement to the instruction of Counsel and/or third parties and we reserve the right to ask you to make payments in advance to us to meet fees associated with their involvement.

#### **Monies on Account**

26. We may be required to incur costs and/or expenditure on your behalf, often at an early stage, and reserve the right to ask you to provide us with funds in advance to meet such liabilities.
27. We shall be entitled to apply any monies held on your behalf to discharge professional fees and disbursements properly incurred on your behalf and notified to you.

#### **Client's ability to pay and source of funding**

28. We will discuss with you how, when and by whom any costs are to be met and consider:
- whether you may be eligible and should apply for Legal Aid Agency funding;
  - whether your liability for your own costs may be covered by insurance;

- whether your liability for another party's costs may be covered by before-the-event insurance and, if not, whether it would be advisable for such liability to be covered by after-the-event insurance (including in every case where a conditional fee or contingency fee arrangement is proposed); and
- whether your liability for costs (including the costs of another party) may be covered by another person e.g. an employer, trade union or membership organisation.

#### **Cost-benefit and litigation risk**

29. We will discuss with you at the outset whether the likely outcome in a matter will justify the expense or risk involved including, if relevant, the risk of having to bear your opponent's costs. Should a significant event occur (such as the disclosure of previously unknown facts) that affects the risks associated with a matter we will inform you of any consequent changes to the cost-benefit relationship.

#### **Privately paying clients in contentious matters**

30. If you are a party in a dispute or legal proceedings you may become liable to pay the other side's costs in addition to this firm's costs. However, it is important that you should understand that, regardless of whether or not you win:
- you will be responsible for paying this firm's bill in full whether or not any order for costs is made against an opponent;
  - your opponent may not be ordered to pay or be able to pay the full amount of your costs; and
  - if your opponent has Legal Aid Agency funding he or she may not be ordered to pay costs.
- In some cases, alternative dispute resolution may provide a more appropriate means for resolving a dispute.

#### **Legal Aid Agency Funding**

31. We only undertake work that is subject to Legal Aid Agency Funding in exceptional cases and only with the Legal Aid Agency's approval. Where we do accept such instructions we will make you aware of:
- the services and levels of service available under community funding;
  - the forms of legal representation available;
  - the availability of support funding;
  - your financial eligibility and your liability (if any) to make a capital and/or income contribution;
  - your obligation to pay any contribution assessed and the consequences of failing to do so;
  - the effect of the statutory charge and its likely amount;

- g. the fact that the court may order you to contribute to your opponent's costs if you lose even though you are publicly funded; and
- h. the fact that, even if you win, your opponent may not be ordered to pay or be able to pay the full amount of your costs.

#### **Liability for third party costs in non-contentious matters**

- 32. You may be liable for the payment of the costs of a third party. We will explain the basis of any such liability and try to limit them by agreeing a figure or upper limit for such costs.

#### **Updating costs information**

- 33. We will keep you informed about costs as the matter progresses. In particular, we will:
  - a. tell you, unless otherwise agreed, how much the costs are at regular intervals (at least every six months) and in appropriate cases deliver interim bills at agreed intervals;
  - b. explain to you (and confirm in writing) any changed circumstances which will, or which are likely to affect the amount of costs, the degree of risk involved, or the cost-benefit to you of continuing with the matter;
  - c. inform you in writing as soon as it appears that a costs estimate or agreed upper limit may or will be exceeded; and
  - d. consider your eligibility for Legal Aid Agency funding if a material change in your means comes to our attention.

#### **Disclosure of our arrangements with third parties**

- 34. We will disclose to you any relationship we have with a third party (for example a funder, fee sharer or introducer) which affects the steps we can take on your behalf. We will explain any constraints or conditions which affect you and confirm the information given to you in writing as soon as possible.

#### **Interim bills**

- 35. We will normally bill you at monthly intervals where a matter is expected to take longer than three months to be concluded or where costs incurred are significant.

#### **Final bills**

- 36. A final bill will be issued on completion or conclusion of a matter once the full amount of costs applicable has been ascertained.

#### **Payment**

- 37. All bills issued are payable on delivery and interest is payable after thirty days at the rate of 1.5% per month for any amount unpaid. If you have any query on a bill this should be raised with us immediately on receipt.
- 38. You may be entitled to object to a bill by making a complaint to the Legal Ombudsman and/or by applying to the court for an assessment of the bill under Part III of the Solicitors' Act 1974.
- 39. Where you are a joint client with others, you will each be jointly and severally liable for our fees, costs and disbursements. That means we may recover the full amount of such fees, costs and disbursements from any of you unless we agree to the contrary in writing.

#### **People responsible for your work**

- 40. You will be assigned a Client Partner at the outset who will have responsibility for leading the work. However, it is usual in a number of cases for most of the work to be carried out by a by a member of our professional team under the supervision of the Client Partner or if a separate legal specialism is involved, by a matter partner in that specialist area. The team member may be assisted by others as the work progresses. We will try to avoid changing the legal personnel who handle your work, but if this cannot be avoided, we will inform you, in writing, promptly who will be handling the matter and why the change was necessary.

#### **Complaints**

- 41. If you have a complaint or are not satisfied with the standard or proficiency of the work, the service provided or the associated bill you should raise the matter with your assigned Client Partner.
- 42. If the work is being done in a department of the firm of which the assigned Client Partner is not a member, the Client Partner will deal with your complaint in conjunction with the Head of Department concerned.
- 43. If your complaint is about the Client Partner you should take the matter up with the firm's Managing Partner.
- 44. We will acknowledge complaints within 2 working days and try to ensure that they are dealt with promptly. The Client Partner, Head of Department or Managing Partner (as applicable) will investigate the complaint and aim to respond within 10 working days. If this is not possible, we will advise you of the likely timescale for responding and reason for the delay. We will respond to your complaint in any event within eight weeks.

45. If we are not able to resolve the complaint you may refer it to the Legal Ombudsman. The Legal Ombudsman can investigate complaints up to six years from the date of the problem happening or within three years of when you found out about the problem. If you wish to refer your complaint to the Legal Ombudsman this must usually be done within six months of our final response to your complaint. If you would like more information about the Legal Ombudsman, you should visit their website at [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk) or call 0300 555 0333 (charged at standard rate) or call +44 121 245 3050 from overseas or write to Legal Ombudsman, PO Box 6806, Wolverhampton WV1 9WJ.
46. A Serious Complaint is one which endangers the solicitor and client relationship or one which threatens to give rise to a conflict of interest because, for example, it involves an allegation of professional negligence and our interests, as a firm, begin to diverge from the client's interests. Where such a complaint is made, we may have to decline to act for that client. Serious Complaints should be made in writing.
47. The Client Partner is under a duty, under our internal rules, to report any Serious Complaint to the Managing Partner. This enables us to maintain knowledge and understanding of where complaints are emanating from and how they are being dealt with.
48. The Managing Partner keeps a record of all Serious Complaints made and monitors the progress of their resolution, undertaking a review of ongoing complaints every 2 months for consideration by our Practice Standards Committee.

**Intellectual Property**

49. Save where the law provides otherwise or unless we agree otherwise with you in writing, we will retain the intellectual property rights in all of the documents and other material produced by us.

**Storage of papers and documents**

50. The storage of documents or records on your behalf is an administrative service only and, in particular, excludes a responsibility on our part for providing a monitoring or advisory service for the effects of any changes in the law or your circumstances.
51. We may electronically reproduce information you provide to us so that we can hold it in electronic rather than physical form. We reserve the right to destroy all duplicate information whether in 'hard' or 'soft' format.

When a matter is completed we are entitled to keep all your information while money is owing to us. We will keep your information (except any you ask to be returned to you) for no more than six years and then we will destroy it. We will not destroy documents you ask us to deposit in safe custody, unless you fail to inform us of any change of address and after reasonable attempts to trace you we are unsuccessful in ascertaining your whereabouts; in which case we reserve the right to destroy papers held on your behalf (including wills) after a period of five years has elapsed from your last communication with us.

52. We do not normally make a charge for retrieving stored papers or deeds in response to continuing or new instructions to act for you. However, we reserve the right to make a charge based on the time we spend on reading papers, writing letters or other work necessary to comply with the instructions.
53. We reserve the right to make a charge subject to VAT for storage from the time a matter is completed in the case of deeds, wills or documents and after six years in the case of records:

| Quantity of Records or Deed Packet | Annual charge per Record/ Deed Packet | Minimum Charge |
|------------------------------------|---------------------------------------|----------------|
|                                    | £. p                                  | £. p           |
| Up to 5                            | 6.00                                  | 30.00          |
| 25                                 | 5.00                                  | 30.00          |
| 50                                 | 4.00                                  | 125.00         |
| 100                                | 3.00                                  | 200.00         |
| 500                                | 2.50                                  | 300.00         |
| 1000                               | 2.00                                  | 1250.00        |
| 5000                               | 1.50                                  | 2000.00        |

54. Where we are asked to retrieve a deceased's will and associated papers we incur costs in so doing. As such, we reserve the right to charge £250 for such retrieval where we are not also instructed to handle the estate.

**Use of personal information**

55. In order to ensure compliance with the requirements of the Data Protection Act 1998, you hereby confirm that any personal information you provide to us, may be used by us in the provision of our professional services to you. This may necessitate disclosure of such information to third parties in pursuance of your legitimate interests, including, without limitation: for the verification of your identity or office holders of your organisation and its ability to meet our charges; the administration of files and records and trust

administration; to third parties on a confidential basis for the purposes of monitoring quality standards or providing specialist services; and for legal and regulatory compliance. Where appropriate, you confirm that you have obtained the consent of all persons whose personal information you have provided to us and you have informed them that we shall be using such information on your behalf for the purposes set out herein.

56. If you ask to be included on one or more of our postal or electronic mailing lists, we may contact you from time to time with information on the services available from us. If you later decide that you do not wish to be contacted in this way, please let us know.

#### **Compliance with money laundering regulations**

57. In order to comply with the law on money laundering, we need to obtain evidence of your identity as soon as practicable. We should be grateful, therefore, if you will provide us with documents to verify your identity and address, the identity and address of individuals who will be instructing this firm and, if appropriate, material to assist in verifying the identity of your organisation, as set out on the attached letter. We may also ask about the source of funds. If you change your funding arrangements, this may entail further checks by us, which could possibly delay completion where insufficient notice is given to us.

58. Solicitors are under a professional and legal obligation to keep the affairs of the client confidential. This obligation, however, is subject to a statutory exception: legislation on money laundering and terrorist financing has placed solicitors under a legal duty in certain circumstances to disclose information to the National Crime Agency. Where a solicitor knows or suspects or has reasonable grounds for knowing or suspecting that a transaction involves money laundering, the solicitor may be required to make a money laundering disclosure. If this happens, we may not be able to inform you that a disclosure has been made or of the reasons for it because the law prohibits 'tipping-off'.

#### **Property Matters**

59. You agree that we may disclose any information that comes to our attention to your lender where we act jointly for you and your lender on a property related instruction. In such circumstances we will be under a duty to inform your lender of the price being paid for the property since any representations to the contrary are likely to constitute fraud.

#### **Termination**

60. You may terminate your instructions to us in writing at any time. Otherwise we will decide to stop acting for you only for good reason, having regard to our obligations to you and on giving you reasonable notice.

61. We are entitled to stop work or terminate our engagement in the event of non-payment of our account or where there has been a breakdown in working relations between us such that we do not think that we can provide legal services to you in the manner which you require.

62. If you or we decide that we will stop acting for you, we will be entitled to render a final bill in respect of our outstanding charges on an hourly rate basis and all disbursements, expenses and VAT.

63. We will be entitled to take such steps as we consider appropriate to recover payment of our outstanding bills and any interest thereon pursuant to clause 38 herein, including but not limited to initiating court or insolvency proceedings against you. You agree to indemnify us fully in respect of the costs of, preparatory to and incidental to such proceedings, including pre-action costs, which we incur. Our costs will comprise the costs at our usual hourly rates of the individual(s) involved in the recovery from you of payment of our bills, disbursements (including any costs to us of instructing others to act on our behalf), and VAT.

#### **Communication**

64. Unless you instruct us otherwise, we may communicate with you by post, telephone, fax and email. Where we communicate by e-mail, you acknowledge that email is inherently insecure and gives rise to a risk of transmitting viruses.

#### **Governing law**

65. The law of England and Wales will govern our professional and contractual relationship with you notwithstanding that you may be based, or our services may be provided to you, elsewhere.

#### **Professional indemnity insurance**

66. This firm maintains professional indemnity insurance in accordance with the rules of the Solicitors Regulation Authority. Details of the insurers and the territorial coverage of the policy are available on request.

#### **Equality and diversity**

67. 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.

**The Consumer Contracts Regulations**

68. Where we have not met with you, the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 will apply to your matter. This means you have the right to cancel your instructions to us within 14 days of receiving notice of these terms and conditions. You can cancel your instructions by contacting us by post, fax or email. Once we have started work on your matter, you may be charged if you then cancel your instructions. If you would like us to commence work on your file within 14 days of receiving notice of these terms and conditions, please contact us immediately to confirm that is the case.