

**J GARRARD & ALLEN SOLICITORS**  
**TERMS AND CONDITIONS OF BUSINESS**

**IF YOU HAVE ANY QUERIES, PLEASE TELEPHONE 01234 711215**

A copy of these terms are available for download at [www.jgalaw.co.uk](http://www.jgalaw.co.uk)

*These Terms and Conditions of Business are to be read in conjunction with your Retainer and Engagement Letters*

**1. OUR AIM**

We aim to offer our clients high quality legal advice with a personal service at a fair cost. As a start, we hope it is helpful to you to set out in this statement the basis on which we will provide our professional services.

**2. BUSINESS INFORMATION**

- a. Our contact details are as set out on our firm's headed notepaper. They are also available on our firm's website at [www.jgalaw.co.uk](http://www.jgalaw.co.uk)
- b. We are Authorised and Regulated by the Solicitors Regulation Authority of 8 Dorner Place, Royal Leamington Spa, CV2 5AE under registration number 47796
- c. We are VAT registered, and our registration number is 119981143
- d. We have professional indemnity insurance in place with W R Berkley Syndicate Management Limited, which policy has a worldwide coverage.
- e. This firm has a written complaints procedure, the details of which are set out in paragraph 32 of these Terms & Conditions of Business. If you would like a standalone copy of the Procedure, you should please contact Richard Satyanadhan.

**3. OUR HOURS OF BUSINESS**

The normal hours of opening at our offices are between 09.00 and 17.30 on weekdays. Messages can be left on the answerphone outside those hours and appointments can be arranged at other times if possible. We are closed on public holidays, and for an extended period between Christmas and the New Year.

**4. PEOPLE RESPONSIBLE FOR YOUR WORK**

The solicitor(s) responsible for dealing with your work are as detailed in the accompanying Letter of Engagement. We will try to avoid changing the people who handle your work but if this is required, we will tell you promptly of any change.

**5. OUR WORK FOR YOU**

- a. Our advice is given only for the purpose of the specific matter you have instructed us on and is given solely to you as our client.
- b. You will provide us with a full description of the services you require and a statement of your objectives.
- c. You agree to respond to and co-operate with our requests for information and/or instructions promptly to enable us to protect and advance your interests at all times.
- d. We can only do our work for you on the basis of information that you provide. We will achieve the best results for you if you give us as much information as possible at the outset. Please tell us as soon as you can of any changes in your objectives or circumstances, or if you receive new and relevant information. We may have to stop acting for you if you do not do so, in which case we will charge for all work done up to the time we stop acting.
- e. If we engage other professional advisers on your behalf, we do so as your agent. Their fees shall be payable by you in addition to our own fees and unless we have otherwise agreed in writing, we accept no responsibility for their work. We may require sufficient monies to cover such fees in advance.
- f. We operate procedures for identifying and assessing conflicts of interest at the outset of and during any matter. If a conflict arises we may have to cease acting for you. If you become aware of a possible conflict, please advise us as soon as possible. Should a conflict situation arise, we will be unable to supply any details.
- g. Where we are working on a matter in conjunction with any of your other professional advisers, unless you notify us otherwise, you agree that we may disclose any information which you have provided to us and discuss it with any of such other professional advisers if we consider this appropriate.

- h. Any business conducted with us is solely with the firm and the firm has sole legal liability for the work done for you and for any act or omission in the course of that work. No member, partner, principal, employee, associate, consultant or agent of the firm will have any personal liability for work undertaken for you. If a member, partner, principal, employee, associate, consultant or agent signs in his or her own name any letter or other document in the course of carrying out that work does not mean he or she is assuming any personal legal liability for that letter or document.
- i. Where our services are supplied to two or more persons then your liability for our costs is joint and several; you will each be liable for any amounts due to us. If a third party or other source is to be responsible this must be agreed with us in writing before work is undertaken.
- j. If we are instructed to act for a third party, in circumstances where we hold information which is confidential to you which will be material and adverse to that third party, we may accept that parties instructions provided that we put in place such information barriers as may be suitable under the Solicitors Code of Conduct (as the same may from time to time be amended) to prevent the passage of that information to the third party. Your consent to our proceeding in that manner is deemed to have been explicitly given by your agreement to these terms.
- k. Wherever possible we will, upon accepting instructions, give you an estimate of the likely costs involved and will revise that estimate from time to time if it becomes necessary. Likewise, we will give you an estimate of disbursements that are likely to be incurred. If we have provided you with a written estimate it is given only as a guide to assist you in budgeting and should not be regarded as a fixed quotation.
- l. Unless specifically otherwise agreed we shall not be under any continuing obligation to advise you of changes in the law which may affect advice previously given.
- m. All communications generated between us during the currency of our retainer shall remain confidential and shall not be disclosed to any third party without our consent;
- n. The acceptance by us of your instructions does not constitute an entire contract between us. This is the case for all work categories, especially litigation, and we refer you to the terms below regarding termination generally.

## 6. CHARGES AND EXPENSES

- a. Our charges will be calculated mainly by reference to the time actually spent by the solicitors and other staff in respect of any work which they do on your behalf. This may include meetings with you and perhaps others; reading, preparing and working on papers; making and receiving telephone calls, emails, faxes and text messages; preparation of any detailed costs estimates, schedules and bills; attending at court; and time necessarily spent travelling away from the office. From time to time we may arrange for some of this work to be carried out by persons not directly employed by us; such work will be charged to you at the hourly rate which would be charged as if we had done the work ourselves.
- b. Routine letters, e-mails and texts that we send or receive, together with routine telephone calls that we make or receive are charged at one tenth of the hourly rate. Messages left will be treated, and charged, as an incoming item of correspondence.
- c. Other, non-routine, letters, e-mails and calls are charged on a time spent basis.
- d. The current hourly rates are set out below. We will add VAT to these at the rate that applies when any account is delivered, or as may be required by law.

	£
Mr Robert Marchant	295.00
Mrs Vanessa Schomberg	295.00
Mr Paul Gardener	295.00
Mr David Ralley-Davies	280.00
Mr Michael Osborne	275.00
Mrs Greer Pratley	260.00
Mrs Anne McCallum	230.00
Mr Richard Satyanadhan	225.00
Caroline Hemsley	195.00
Junior Executives/Personal Assistants	100.00

- e. The hourly rates quoted are valid until the review date on 1<sup>st</sup> January each year. On the 1<sup>st</sup> January each year our rate will increase by not less than the Retail Price Index or 5% whichever is the greater. You should assume that our hourly rate, therefore, will increase by that amount. We do reserve the right to charge, based on economic and prevailing conditions at the time, a higher hourly rate if necessary but if we do so we shall write to you to inform you of any such amended rate.
- f. In addition to the time spent, we may take into account a number of factors including any need to carry out work outside our normal office hours, the complexity of the issues, the speed at which action has to be taken, any particular specialist expertise which the case may demand. An increase in the rates may be applied to reflect such factors. Where an increase in the rates or a charge reflecting any value element is to be added we will explain this to you.
- g. Where travel is required by train, travel will be by first class.
- h. In addition we charge:-
  - i. £50.00 plus VAT for file storage.
  - ii. A minimum charge of £35.00 plus VAT for an administration charge
- i. For any claim made via the Portal System, there is an administration charge of £10.00 for searches required within the Ask CUE PI Service.
- j. We are professionally obliged to conduct identity checks, and we shall charge an administration fee of £30.00 plus VAT for this.
- k. Solicitors have to pay out various other expenses on behalf of clients ranging from Land Registry fees, court fees, experts' fees, and so on. We have no obligation to make such payments unless you have provided us with the funds for that purpose. VAT is payable on certain expenses. We refer to such payments generally as 'disbursements'.
- l. Due to a recent court case involving HMRC it is now the case that any monies paid out on your behalf in our provision of services to you have to attract VAT. The practical effect of this is that if we receive a bill for £100.00 even if it does not have VAT on it, as part of our service in providing an advice to you it means that because of this ruling we will have to add VAT into it so when you see a disbursement voucher for £100.00 you will be charged £120.00. Obviously it goes without saying the additional £20.00 is remitted by us to HMRC.
- m. We have no obligation to pay or incur any liability for disbursements or expenses unless you have paid us sufficient money in advance to cover such items.
- n. We may, at our discretion, pay or incur a liability for disbursements or expenses on your behalf provided it is within the scope of agreed work.
- o. Where we pay disbursements on your behalf, we are entitled to seek to recover, should we elect to do so, interest on any outgoing payments at a rate of 8% per annum.
- p. Where we hold any monies on account of costs, you hereby irrevocably undertake that we may pay any incurred disbursements from the sums held on account of costs.
- q. Where payments are made to you by bank transfer, there is a charge of £30.00 plus VAT.
- r. Where payment is made to you by cheque, but that cheque is not encashed, we reserve the right to charge to you the sum of £30.00 plus VAT for time spent in liaising with the bank to place a stop on the original cheque and re-issuing a new cheque to you, and you irrevocably agree that in those circumstances the deduction of £30.00 plus VAT may be taken from the monies held prior to re-issue of the cheque to you.

## 7. MINIMUM CHARGES / ABATED ACCOUNTS

- a. Whilst our fees are charged on an hourly basis as set in the Charges Section above, there are **minimum** charges that apply to certain matters. Such charges are exclusive of VAT and disbursements. These include:-
  - i. Single Will - £350.00
  - ii. Substantially similar joint Wills of husband and wife - £500.00
  - iii. Probate - £1,000.00
  - iv. Lasting Power of Attorney - £500.00
  - v. Registration of Enduring Powers of Attorney - £400.00
  - vi. Property or business transactions - ½% of value

- b. There may be instances where an abated account is agreed with you. Such abated accounts will be agreed on the basis that any agreed terms are complied with. Where payment terms are agreed, and if not complied with then the full fee shall fall due. By way of example, we may agree to reduce our fee, so long as it is paid within 30 days. If the account is not settled within 30 days, then the full original fee will become due and payable.
- c. You will be notified in writing, and, if applicable, a replacement account supplied to you.

## 8. COMMUNITY LEGAL SERVICE FUNDING

This firm does not offer public funding, formerly known as "Legal Aid". If, at our first meeting or shortly following it, it appears to us that you may be eligible for public funding in respect of your case, we will draw your attention to this and suggest that you instruct another firm that does undertake work which can be funded by the Legal Services Commission. If, while we are acting for you, your personal financial circumstances change, you should let us know immediately in case this may mean that you become eligible for public funding.

## 9. PAYMENT ARRANGEMENTS / TERMS OF PAYMENT

- a. It is normal practice to ask clients to pay interim bills and sums of money from time to time on account of the charges and expenses which are expected in the following weeks or months. If such requests are not met with prompt payment, delay in the progress of a case may result. In the event of any bill or request for payment not being met, this firm must reserve the right to stop acting for you further.
- b. If we advise that your case no longer has reasonable prospects of success, we reserve the right to terminate the retainer and to be paid our fees and expenses incurred to that date, and you are referred to clause 5(n) above.
- c. Our invoice or written notification of costs ("the Account") is payable immediately.
- d. If the Account is not paid within 30 days of the Account date:-
  - i. we reserve the right to charge interest on the total amount payable:-
    1. Where you are an individual, at 8% per annum from the Account date until payment is made.
    2. Where you are a limited company, LLP, a partnership or a sole trader then we advise that we reserve the right to charge interest pursuant to the *Late Payment of Commercial Debts (Interest) Act 1998 (as amended)*.
  - ii. all other accounts submitted shall immediately become due and payable
- e. There may be instances where an abated account is agreed with you. Such abated accounts will be agreed on the basis that any agreed terms are complied with. Where payment terms are agreed, and if not complied with then the full fee shall fall due. By way of example, we may agree to reduce our fee, so long as it is paid within 30 days. If the account is not settled within 30 days, then the full original fee will become due and payable.
- f. Costs of recovery:-
  - i. We shall also be entitled to recover, on a full indemnity basis (irrespective of Track) for all work in accordance with our terms and conditions, all costs incurred by us in collecting overdue payments, whether or not proceedings are issued.
  - ii. Should any assessment by the Court be required, such assessment is to be on the solicitor own client basis, which, for the avoidance of doubt, will include all work undertaken that is irrecoverable on any inter partes basis, irrespective as to any track to which any recovery proceedings may be allocated.
  - iii. The hourly rates payable will be at the level of the fee earner conducting the matter, and not by virtue of any guideline rates that may be applicable to summary assessment procedures.
  - iv. A copy of these terms will be produced to the Court should the need arise, so as to assist with the determination of recoverable costs.
- g. We reserve the right to stop work (and instruct our agents, experts or Counsel to stop work) on all matters if any account on any matter shall be overdue for payment.
- h. Common law entitles us to retain any money, papers or other property belonging to you which properly come into our possession pending payment of our costs, whether or not the property is acquired in connection with the matter for which the costs were incurred. This is known as a "general lien". We are not entitled to sell property held under a lien but we are entitled to hold property, other than money, even if the value of it greatly exceeds the amount due to us in respect of costs.

- i. If we are conducting litigation for you, we have additional rights in any property recovered or preserved for you whether it is in our possession or not and in respect of all costs incurred, whether billed or unbilled. We also have a right to ask the court to make a charging order in our favour for any assessed costs.
- j. Payment of our bills may be made by cheque, MasterCard, Visa debit card issued by a UK High Street bank (Switch), BACS or CHAPS. We do not accept payment in cash in excess of £1,000.00.
- k. Monies due to you from us will be paid by cheque or bank transfer, but not in cash, and will not be made payable to a third party.
- l. Where you pay monies to us by way of cheque, we require 10 working days to ensure clearance before we are able to pay any monies out on it.

**10. BANKING & OUR FIRM'S CLIENT ACCOUNT DETAILS**

Bank Name : National Westminster Bank Plc  
 Account Name : J Garrard & Allen Client Account  
 Sort Code : *[available on request from Client]*  
 Account Number : *[available on request from Client]*

We hold all client money in National Westminster Bank Plc which is regulated by the Financial Conduct Authority (FCA). We are not liable for any losses you suffer as a result of any such banking institution being unable to repay depositors in full. You may, however, be protected by the Financial Services Compensation Scheme (FSCS).

**11. PRIMARY LIABILITY FOR COSTS & RECOVERY FROM OPPONENTS**

- a. You have to pay our charges and expenses in the first place and any amounts which can be recovered will be a contribution towards them. For example, our hourly rates may not be recovered in full from the losing party, nor will charges to you for letters and e-mails received be reimbursed, or for any works undertaken with regard to discussing funding with you, liaising with insurers, etc.
- b. Section 74 Solicitors Act 1974 agreement
  - i. This agreement expressly permits the solicitors to charge an amount of costs greater than that which you will recover or could have recovered from the other party to the proceedings and expressly permits payment of such sum.
  - ii. This part of this agreement is made under section 74(3) of the Solicitors Act 1974 and Civil Procedure Rules 46.9 (2) and (3).
  - iii. In so far as any costs or disbursements are of an unusual nature or amount these costs might not be recovered from the other party.
- c. In some cases and transactions a client may be entitled to payment of a contribution to costs by some other person. It is essential that you understand that in such circumstances, the other person will not be required to pay all the charges and expenses which you incur with us, with an opponent's contribution likely to be in the region of 40% to 50% of your costs liability. In addition, following changes to the relevant Rules in April 2013, simply because work is required and necessary, does not automatically make it proportionate and recoverable. You are referred to the relevant explanatory notes on costs recoverability contained within the client care paperwork.
- d. No costs are likely to be recovered if:-
  - i. The other party is in receipt of Community Legal Service (Legal Aid) funding
  - ii. The matter is being with within the Small Claims Track of the Civil Courts
  - iii. The matter is being dealt with in the Employment Tribunal
  - iv. You are a Defendant in a personal injury matter
- e. We confirm that we have already discussed with you whether any other form of funding may be available to you including pre-purchased insurance, public funding or assistance from, for example, a trade union or employer. These terms of business are offered on the basis that no other such funding is available or that you have chosen not to take it up.
- f. If you are successful and a court orders another party to pay some of your charges and expenses, interest can be claimed on them from the other party from the date of the court order. We will account to you for such interest to the extent that you have paid our charges or expenses on account, but we are entitled to the rest of that interest.
- g. You will also be responsible for paying our charges and expenses of seeking to recover any costs that

the court orders the other party to pay to you, should it need to be enforced.

- h. A client who is unsuccessful in a court case will usually be ordered to pay much of the other party's legal charges and expenses. That money would be payable in addition to our charges and expenses. Arrangements can sometimes be made to take out an insurance to cover liability for such legal expenses.

## 12. AFTER THE EVENT INSURANCE POLICIES

- a. Arrangements can sometimes be made to take out an insurance to cover liability for an opponent's legal expenses. Please discuss this with us if you are interested.
- b. You hereby give an irrevocable undertaking that we may retain any premium from any damages recovered on your behalf, including provisional and/or interim damages.
- c. Any premium will not be recoverable from your opponent and you are liable for this expense when it falls due. We reserve the right to terminate our retainer with you in the event that you do not pay the premium when requested to do so.
- d. The costs of investigating a policy and applying for it will not be recoverable from an opponent.

## 13. CLIENT FUNDS

We hold client money on the basis that we are trustees for you, and we do not hold it in any other capacity. All client money is held in our client account at National Westminster Bank PLC, and you agree and direct that this should be done and agree that our capacity is as trustees only.

## 14. INTEREST PAYMENT

- a. Any money held or received by us on your account is placed in our Client Account. We will account to you for interest in accordance with our professional rules (see (b) below). However, we will not pay interest on money we retain after we have rendered a final bill to you, if the retention is made to cover unpaid expenses or disbursements.
- b. We will not pay interest or account for commission of £50 or less, or such higher figure as may be permitted by the Solicitors Regulation Authority.

## 15. WILLS & PROBATE

In addition to the above terms and conditions of business, the following are applicable to matters regarding Wills & Probate matters:-

- a. It is your responsibility to deal with any draft papers submitted to you and we are not obliged to remind you.
- b. The correct execution of wills, codicils and other documents is vital. We will only accept responsibility for correct execution if done under supervision of our staff.
- c. Your will should be reviewed from time to time, especially on any material change in circumstance such as marriage, divorce, the birth of a child or inheritance.
- d. Any tax advice will be based on the information that you provide and the law at the time the advice was given.
- e. We do not accept responsibility for notifying you of subsequent changes to law or practice.

## 16. CONVEYANCING

- a. As this firm is a member of the Law Society's Conveyancing Quality Scheme, we are required to adopt the Law Society's Standard Contract, incorporating the Standard Conditions for Sale (Fifth Edition). In order to provide you with additional protection and/or make the contract more applicable to you and your property, additional special conditions may be added into the contract.
- b. By agreeing to these Terms and Conditions of Business, you confirm that you have no objection to our varying the terms of the standard contract in circumstances where we feel it necessary. If you do not wish us to vary the standard contract terms, you should specifically instruct us not to do so.
- c. On a sale, the Seller is now entitled to ask for 10% of the purchase price to be paid as a deposit on exchange of contracts. It may be possible to negotiate this to a lower percentage in advance to 5%. You should advise as soon as possible if you wish to request a reduced deposit and if so, how much.
- d. It is usual to utilise the deposit from a sale towards a purchase, but if you are purchasing for a price greater than that which you are selling for, you will need to top up your sale deposit.
- e. We are unable to complete any transaction until all requested monies have been received by way of cleared funds.
- f. As detailed above, where any monies are paid to us by way of cheque, we require 10 working days for

- clearance, and cannot pay out any monies on it until clearance.
- g. We leave it to you to contact the water authorities on your sale and deal with personal accounts such as council tax, gas, electricity and telephone. If you are buying, we recommend that you contact companies to ensure that the supplies will be transferred into your name(s) from completion, and that you Seller has asked for final readings to be taken.
  - h. Enclosed with your engagement letter is a list of anticipated disbursements and other charges in respect of your matter.
  - i. In respect of a purchase, we are unable to undertake any works on your behalf until we have received from you the sum of £400.00 on account of searches and other fees.
  - j. In respect of a sale:-
    - i. Please complete and return to us copies of the following:-
      1. Fitting and Contents Form
      2. Property Information Form
    - ii. Please Supply the following:-
      1. All paperwork referred to in the Property Information Form
      2. All guarantees
      3. All warranties
      4. All NHBC Documentation
      5. Any other deeds and documents that you hold
    - iii. We are unable to commence work in drafting any contractual documentation for your sale until the above have been received.
    - iv. With regard to the Property Information Form, please reply to as many questions as you can. If you are uncertain, please simply put “not known” or “not to the best of my knowledge and belief” rather than endeavouring to compose a response. These replies can be relied upon by the purchaser, and if any is incorrect then the purchaser may have an action against you for any losses that arise due to that incorrect information.
  - k. Flood Risk & Insurance
    - i. The result of the environmental search which we will undertake on your behalf (and, if applicable, on behalf of your lender) may show a risk of flooding within the area of the property you are proposing to purchase. Generally the risk is of pluvial or surface water flooding.
    - ii. If your Seller confirms in responses to enquiries which we will raise with their solicitors that the property is situated on or near land which may be susceptible to flooding, then we strongly advise that you instruct us to undertake a flood report on your behalf.
    - iii. The purpose of the report is to identify from available data where there are current and potential flood risks which could result in your property being flooded or adversely affect your ability to obtain insurance cover.
    - iv. We will, should the above circumstances occur, undertake this search as a matter of course.
    - v. If you do not wish for us to undertake this search, you are required to provide specific instruction in this regard.
  - l. Insurance
    - i. Where you are purchasing a property, the risk passes to you, under the terms of the standard contract, on exchange.
    - ii. We strongly advise you to ensure that you are able to obtain full buildings insurance cover (and contents) on the property you are purchasing as early as possible in the transaction, and certainly prior to exchange of contracts.
    - iii. You should put your buildings insurance “on risk” on exchange of contracts, not completion.
  - m. Title Indemnity Insurance
    - i. We may have to secure title indemnity insurance to deal with some defects in title.
    - ii. Please refer to the Financial Services & Insurance Contracts section below.
  - n. Survey
    - i. We would strongly advise you to have a survey carried out, particularly if you are not obtaining mortgage finance in your purchase.
    - ii. Even if you are obtaining mortgage finance, it is advisable to instruct a surveyor, as any valuation

contained in the mortgage offer is often produced solely for the benefit of the mortgage lender.

**17. EMPLOYMENT & LITIGATION**

- a. You should please refer to the additional documentation contained within the client care papers sent to you, which documentation should be read in conjunction with these Terms and Conditions:-
  - i. Engagement Letter
  - ii. Costs Advice Letter
  - iii. Information required by the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
  - iv. Before The Event Insurance Checklist and Form
  - v. Explanatory Note of After the Event Insurances and Before the Event Indemnities
  - vi. Detailed Explanatory Note on Costs Recovery in Litigation
  - vii. Information for Clients on Funding of Dispute Resolution and Litigation
  - viii. Information for Clients on Handling of Cases involving Court Proceedings
  - ix. Explanatory Note relating to Qualified One-Way Costs Shifting in personal injury claims
  - x. Explanatory Note relating to Part 36 Offers

**18. FINANCIAL TRANSACTIONS**

- a. We take your financial security very seriously. We have therefore decided that we will not accept bank details over the phone or by e-mail due to the risk of fraud, and the integrity of your bank details being too great. We will therefore only forward monies to a designated bank account as authorised by you, utilising the Authority sent to you within the retainer documentation.
- b. We are unable to accept its bona fides if it is scanned and returned by e-mail, and must be an original signed authority to enable us to send any monies electronically.

**19. CONFIDENTIALITY**

Except to the extent that disclosure is required by law or regulation, and subject to contrary terms contained herein, we shall keep your affairs and the information we receive from you confidential, and will not disclose it to third parties without your permission.

**20. CONSENT TO DISCLOSURE OF CONFIDENTIAL INFORMATION**

- a. As part of our regulatory requirements we are subject to various audits. Our auditors may request copies of our engagement letters, which may include confidential information. You agree that we may disclose any engagement letter entered into between us to our auditors in connection with their audit work if we consider it appropriate.
- b. Our professional indemnity insurers require us to disclose as soon as practicable any circumstances which may give rise to a claim. You irrevocably agree to waive privilege in relation to such disclosure so that we may disclose to our insurers any relevant information relating to your matters to enable us to comply with the conditions of our insurance.
- c. We may need to disclose your information to third parties (such as barristers, accountants or government agencies) to enable us to handle your affairs. We may also permit third parties (such as our auditors and the Solicitors Regulation Authority) to have access to your information for administrative or regulatory purposes. We will not otherwise disclose your information to any third party unless permitted or required to do so by law.
- d. By accepting these terms and conditions of business you authorise us to disclose to the other parties in the transaction and, if applicable to all other parties in the chain of transactions and their agents and advisers, all information which we have in relation to your involvement in the transaction including any related sale or mortgage and other financial arrangements and wishes as to dates for exchange and completion.
- e. In order to comply with court and tribunal rules and procedures, all documentation relevant to any issues in litigation, however potentially damaging to your case, should be preserved and may be made available to the other side. This aspect of proceedings is known as "disclosure". Subject to the obligations on disclosure, our partners and staff will not reveal confidential information about your case. There may be circumstances however beyond disclosure where, for example, an insurer is paying your costs, that we have to meet obligations to them to reveal details of the case, even against your wishes.
- f. We also reserve the right to instruct third party contractors and to use outsource resources in the needs

of our business, to whom we may make available confidential information, but only having obtained an agreement as to confidentiality from such third party.

## 21. COPYRIGHT

- a. Unless we agree otherwise, all copyrights subsisting in the documents and other materials that we create whilst carrying out work for you will remain the property of J Garrard and Allen. You will have the right to use such documents and materials solely for the purposes for which they were created.
- b. You agree not to make our work, documents or materials available to third parties without our prior written permission and we accept no responsibility to third parties for any aspect of our professional services or work that is made available to them.

## 22. DATA PROTECTION

- a. We use your personal data primarily to provide legal services to you, but also for related purposes as detailed in our firm's Privacy Policy. A copy of this policy can be found at <http://www.jgalaw.co.uk/Information/Privacy-Policy>. If you would like a hard copy of this policy, please contact Richard Satyanadhan at [richard.satyanadhan@jgalaw.co.uk](mailto:richard.satyanadhan@jgalaw.co.uk).
- b. Our Privacy Policy explains the ways in which we intend to process your data.
- c. We do not need your consent when we process your personal data for the purpose of fulfilling our contractual obligations to you, complying with our own legal obligations, or for our own legitimate interests.
- d. 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.
- e. Paul Gardener is a data controller for the purpose of the GDPR and other relevant data protection legislation.
- f. We take your privacy very seriously. Please read the Privacy policy carefully as it contains important information on:
  - i. what personal data we collect about you and how that data is collected
  - ii. how, why and on what grounds we use your personal data
  - iii. who we share your personal data with
  - iv. where your personal data is held and how long it will be kept
  - v. whether your personal data may be transferred out of the European Economic area and, if so, the measures taken to protect that data
  - vi. your rights in relation to the personal data we hold or use
  - vii. the steps we take to secure your personal data
  - viii. how to make a complaint in relation to our use of your personal data
  - ix. how to contact us with any queries or concerns in relation to your personal data

## 23. STORAGE OF PAPERS AND DOCUMENTS

- a. On completing the work, we will store our file of papers and electronic records (except for any of your papers that you ask to be returned to you) for at least six years after the date of the final bill, save for instances where we are required by law to retain the papers for a longer period, on the understanding that we have your authority to destroy them after the six years have elapsed (or such other time as may be applicable).
- b. Storage is on the clear understanding that we have the right to destroy it after such period as we consider reasonable or to make a charge for storage if we ask you to collect your papers and you fail to do so. We will not of course destroy any documents such as Wills, Deeds, and other securities, which you ask us to hold in safe custody.
- c. If we retrieve papers or documents from storage in relation to continuing or new instructions to act in connection with your affairs, we will not normally charge for such retrieval.
- d. However, we make a charge based on time spent, at the Fee Earner's normal hourly rate, for producing stored papers or documents to you or another at your request. We also charge for reading, correspondence or other work necessary to comply with your instructions.

## 24. DEEDS

- a. Following dematerialisation the Land Registry do not hold any paper documentation, but simply make computer entries. In addition, the lenders no longer hold any title deeds but rely on the Land

Registry records.

- b. It is important that the deeds, including old searches, etc., are kept in a safe place as reference may need to be made to them, not only during your ownership but also when you come to sell or otherwise dispose of your property.
- c. We will happily hold your deeds, if you do not have a safe or similar secure repository for them.
- d. We do not charge a fee for holding your deeds, but will make an administration charge if you remove the deeds from our care otherwise than on a temporary basis. The charge is based on time spent, at the Fee Earner's normal hourly rate for producing stored papers or documents to you or another at your request. We also charge for reading, correspondence or other work necessary to comply with your instructions.

## **25. ELECTRONIC COMMUNICATION AND ELECTRONIC DATA STORAGE**

- a. When using electronic methods of communication, we take reasonable precautions to preserve confidentiality. We are unable to guarantee it however and you accept that we cannot be held liable for any breaches of confidentiality which may occur as a result of electronic communications with us. You also accept the risks associated with electronic communications. If you prefer not to use electronic communications on any particular matter, please let us know.
- b. Our computers are loaded with virus protection software and we take various measures to reduce the risk of viruses finding their way on to our computers. We are not however responsible for any loss or damage caused to you or your computer system directly or indirectly as a result of electronic communication with us.
- c. We may utilise electronic document storage/access facilities. The information may be stored on servers abroad and under the control of the service provider and we cannot guarantee any person's compliance with those undertakings, although we do endeavour to ensure that those service providers comply with any relevant data protection legislation, and by acceptance of these terms of business you confirm your agreement to their use.
- d. We will not be responsible for loss, disclosure or damage resulting from the storage of your data.
- e. We may store any information you give us or that we obtain in the conduct of your work electronically. We may also make that information available to you through electronic means. We will use reasonable endeavours to keep that information secure and take appropriate technical and organisational measures against the unauthorised or unlawful processing and accidental loss, destruction or damage of any personal data within that information. However it is impossible to guarantee that your information will be free from every possible security breach, and you acknowledge and accept that risk in instructing us.

## **26. EQUALITY & DIVERSITY**

We are committed to promoting equality and diversity in all of our dealings with clients, third parties and employees. A copy of our firm's equality and diversity policy is available upon request.

## **27. FINANCIAL SERVICES AND INSURANCE CONTRACTS**

- a. If, while we are acting for you, you need advice on investments, we may have to refer you to someone who is authorised by the Financial Conduct Authority, as we are not. However, as we are regulated by The Solicitors Regulation Authority, we may be able to provide certain limited investment services where these are closely linked to the legal work we are doing for you.
- b. 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. Insurance mediation activities and investment services, including arrangements for complaints or redress if something goes wrong, are regulated by The Solicitors Regulation Authority. The register can be accessed via the Financial Conduct Authority website at [www.fsa.gov.uk/register](http://www.fsa.gov.uk/register).
- c. In particular, we are not authorised by the Financial Conduct Authority in relation to Consumer Credit Services. We may, however, provide certain limited consumer credit services where these are incidental to the professional services we provide.
- d. This firm does not conduct a "fair analysis" of the market. Accordingly you must be advised that the firm is not contractually obliged to conduct insurance mediation activities in this way.

- e. The Law Society is a designated professional body for the purposes of the Financial Services and Markets Act 2000, but responsibility for regulation and complaints handling has been separated from The Law Society's representative functions. The Solicitors Regulation Authority is the independent regulatory body of The Law Society and the Legal Ombudsman is the independent complaints handling body of The Law Society.

**28. TERMINATION**

- a. The acceptance by us of your instructions does not constitute an entire contract between us. This is the case for all work categories, especially litigation, and we refer you to the terms below regarding termination generally.
- b. You may terminate your instructions to us in writing at any time but we will be entitled to keep all your papers and documents while there is money owing to us for our charges and expenses ("a lien"). If at any stage you do not wish us to continue doing work and/or incurring charges and expenses on your behalf, you must tell us this clearly in writing. You will be responsible for all costs and charges up until termination of our retainer.
- c. If we decide to stop acting for you, for example if you do not pay an interim bill, comply with the request for a payment on account, agree to any increase in hourly rate as set out in Clause 6(e) above, we will tell you the reason and give you reasonable notice in writing.
- d. By virtue of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, you have the right to cancel this contract within 14 days of the date of our Retainer Letter without giving any reason. The cancellation period will therefore expire on the 15th day after the date of the Retainer Letter. To exercise the right to cancel you must inform us in writing by post fax or e-mail, and although not obligatory you may use the cancellation form annexed to the Terms and Conditions of Business. The cancellation must be received before the 15th day after posting.
- e. However, if we start work with your consent within that period, you lose that right to withdraw.
- f. Should you elect to instruct us prior to the expiry of the cancellation time limits, and expressly ask us to start work within that period, you agree that you will be responsible for paying our reasonable costs of the services that we provide, both before and after expiry of the cancellation period.
- g. Whilst we reserve the right to terminate our engagement with you at any time, we will only do so in writing on reasonable notice and for good cause. By way of example, if you have failed to give clear and proper instructions as to how you wish us to proceed, or if you have failed to pay a submitted account, there is a breakdown in our relationship such that mutual trust or respect that we must have for each other has occurred, or breach of these terms and conditions.
- h. We also reserve the right to terminate our engagement with you by reason of your failure to pay any insurance premium, or other disbursement, upon request.
- i. Where our engagement is terminated, whether by you or us, you will be liable for all costs and expenses incurred or accrued as at the date of termination.

**29. LIMITED COMPANIES AND/OR LIMITED LIABILITY PARTNERSHIPS**

When accepting instructions to act on behalf of a limited company and/or an LLP, we may require a Director, Member and/or controlling shareholder to sign a form of personal guarantee in respect of the charges and expenses of this firm. If such a request is refused, we will be entitled to stop acting and to require immediate payment of our charges on an hourly basis and expenses as set out earlier.

**30. TAX ADVICE**

We will not give advice on any tax or Social Security implications of any proposed settlement or potential court order. If you require such advice, please let us know as otherwise we will assume that you are taking such advice elsewhere. If we find that we are not qualified to advise on the particular aspects applicable to you, we will be happy to introduce you to a tax advisor who can assist you.

**31. IDENTITY, DISCLOSURE AND CONFIDENTIALITY REQUIREMENTS**

We are required by law to apply procedures to guard against the risk of money laundering and proceeds of Crime. It will help us to avoid any problems with your legal work if you bear in mind the following:-

- a. Identification checks.
  - i. We need to obtain formal evidence of your identity. This may be necessary even though we have acted for you before, or even if you are known personally to a member of staff or a partner. We will tell you if such evidence is necessary but it may help us if you are able to bring evidence to

- your very first meeting with us.
- ii. Normally the evidence we ask for is a copy of your Passport, military ID or photo driving licence, plus two or more documents to establish your address, such as a recent utility bill, Council Tax statement or Bank statement.
  - iii. Please do not worry that we want the original of these documents as we will photocopy them and hand them back to you immediately.
- b. Cash.  
We are normally only able to accept cash up to a limit of £1,000.00 in any 28 day period. We prefer not to accept payments in cash at all but we will look at each individual case on its merits.
- c. Source of funds.  
At the start of any matter we would normally ask you to tell us the source of any funds that you will be using. It is simple for us if the source is an account in your name in a UK Bank or Building Society. If the source is an unusual one such as an account in another country or in the name of someone other than yourself please tell us as early as possible, including the reason for payment from that account.
- d. Destination of funds.
- i. Where we are to pay money out to you we would normally do so by cheque in your favour or in to an account in your name. If instead you want us to pay surplus monies out in to the name of someone else other than you please tell us as early as possible and, again, include the reason why.
  - ii. We take your financial security very seriously. We have therefore decided that we will not accept bank details over the phone or by e-mail due to the risk of fraud, and the integrity of your bank details being too great. We will therefore only forward monies to a designated bank account as authorised by you, utilising the Authority sent to you within the retainer documentation.
- e. Confidentiality.
- i. We always seek to keep our client's affairs confidential. However the *Proceeds of Crime Act 2002* can **oblige us to report information about financial offences to the National Crime Agency.** In particular, if it seems that any assets involved in your matter were derived from a crime, we may **have** to report it.
  - ii. This can include even small amounts of money and covers all offences including, for example, tax evasion and benefit fraud. Please note that the solicitor him/her self commits a criminal offence, punishable with up to 14 year imprisonment if this is not done. You will appreciate that we have to take this very seriously.
  - iii. If we have to make a report we will not be able to tell you that we have done so. The report may result in an investigation by the Police, the Inland Revenue or any of the other authorities. The law does, however, contain exceptions and if you are concerned about how this may affect you please ask us to clarify.
- f. We are entitled to refuse to act for you if you fail to supply appropriate proof of identity for yourself or for any principal whom you may represent. We may arrange to carry out an electronic verification of your identity if we consider that a saving of time and cost will be achieved by doing so. The cost of any such search will be charged to you. If the amount is in excess of £30 plus VAT, we will seek your prior agreement.

## 32. COMPLAINTS & PROCEDURE

- a. J Garrard & Allen is committed to providing a high quality legal service to all our clients. When something goes wrong, we need you to tell us about it. This will help us to improve our standards.
- b. If you have a concern or a complaint, please contact us as soon as you are aware of the problem so this can be addressed. You should contact the solicitor with conduct of your file in the first instance, and in many cases the matter is capable of resolution.
- c. If, however, the matter is not resolved to your satisfaction by the Solicitor with conduct of your case, you should please send in a formal written complaint addressed to Mr Robert Marchant, the Senior Partner of the firm.
- d. PROCEDURE:-
  - i. We will send you a letter acknowledging receipt of your complaint within 10 working days of our receiving the complaint, enclosing a copy of this procedure.
  - ii. We will then investigate your complaint. This will normally involve passing your complaint to a

partner of the firm, who will review your matter file and speak to the member of staff who acted for you.

- iii. We will aim to send you a detailed written reply to your complaint, including suggestions for resolving the matter, within 20 working days of sending the acknowledgement letter. If we are unable to produce a detailed response within this timeframe, we will make contact with you advising of a date whereby the response will be sent.
  - iv. The partner will also invite you to a meeting to discuss and, it is hoped, resolve your complaint, once you have had an opportunity to consider the detailed written reply.
  - v. At this stage, if you are still not satisfied, you should contact us again to explain why you remain unhappy with our response and we will review your comments. Depending on the matter we may at this stage arrange for another partner to review the decision.
  - vi. We will write to you within 20 working days of receiving your request for a review, confirming our final position on your complaint and explaining our reasons.
  - vii. If you are still not satisfied, you can contact the Legal Ombudsman, PO Box 6806, Wolverhampton, WV1 9WJ about your complaint. Any complaint to the [Legal Ombudsman](#) must usually be made within twelve months of the date of our final written response on your complaint but for further information, you should contact the Legal Ombudsman on 0300 555 0333 or at [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk).
  - e. Before the Legal Ombudsman can investigate a complaint, it requires the firm's internal Complaints Procedure to have been exhausted.
  - f. Alternative complaints bodies (such as Ombudsman Services - <http://www.ombudsman-services.org/>) exist which are competent to deal with complaints about legal services should both you and our firm wish to use such a scheme.
  - g. We do not agree to use Ombudsman Services.
- 33. INFORMATION ON CHALLENGING AN ACCOUNT**
- a. If you are dissatisfied with any charges and expenses payable under this agreement, you are entitled to object by way of the firm's complaints procedure, a copy of which is set out above. A standalone copy is available upon request. Please contact the fee earner with conduct of the file in the first instance.
  - b. If you are not satisfied with our handling of your objection, then you may ask the Legal Ombudsman at PO Box 6806, Wolverhampton, WV1 9WJ to consider the objection. Normally you will need to bring any complaint to the Legal Ombudsman within 12 months of receiving a final response from us in relation to any objection raised for which you should allow 16 weeks.
  - c. Alternatively, you are entitled to have our charges reviewed by the Court and apply for an assessment of your Account under Part III of the Solicitors Act 1974.
  - d. Whilst any objection is being dealt with, we reserve the right to charge interest on the account, or any unpaid part thereof, such interest to be charged in accordance with the Payment Arrangements above

**34. TERMS AND CONDITIONS OF BUSINESS**

- a. Unless otherwise agreed, and subject to the application of then current hourly rates, these Terms and Conditions of Business shall apply to any future instructions given by you to this firm, unless such Terms and Conditions of Business have been updated and sent to you, in which instance the later version applies.
- b. It is not possible for us to start work on your behalf until the signed acknowledgement letter has been returned.

**35. LIABILITY FOR PROFESSIONAL NEGLIGENCE**

- a. Except only to the extent that the law does not permit us to exclude or limit our liability, the total liability of this firm, its partners and employees in connection with or arising, directly or indirectly, from this matter, will be limited to an aggregate amount of £5m. This limit will cover all claims of any sort whatsoever whether arising in contract negligence or otherwise and all losses or damages including interest, costs and expenses.
- b. To the extent that it is effective in law to do so, our Terms of Business also limit our liability to those who are not our clients but who it is foreseeable may benefit from or be affected by the services we provide, to the same extent as if they were a client of this firm. This limitation shall not be interpreted

as an assumption of liability on our part to anyone who is not our client.

- c. Proceedings in respect of any claim against us must be commenced within 3 years after you first had (or ought reasonably to have had) both the knowledge for bringing an action for damages and the knowledge that you had a right to bring such an action and in any event no later than 6 years after any alleged breach of contract, negligence or other cause of action. This provision expressly overrides any statutory provision which would otherwise apply; it will not increase the time within which proceedings may be commenced and may reduce it.
- d. You agree that you will not bring any claims or proceedings against our individual partners or employees. This clause shall not operate so as to exclude any liability which a partner or employee is not permitted by law or rules of professional conduct to limit or exclude. This clause is intended to benefit such partners or employees who may enforce this clause pursuant to the Contracts (Rights of Third Parties) Act 1999 ("the Act"). Notwithstanding any benefits or rights conferred by this agreement on any third party by virtue of the act, the parties to this agreement may agree to vary or rescind this agreement without any third parties consent. Other than expressly provided for in this agreement the provisions of the act are excluded.

### **36. LIABILITY**

- a. Where the letter and Terms of Business is addressed to more than one person (and in the absence of any contrary indication in the letter) your liability to us will be joint and several.
- b. The Contracts (Rights of Third Parties) Act 1999 shall not apply to these Terms of Business or the accompanying letter except to the extent that the letter expressly provides otherwise.
- c. All our invoices are primarily payable by you, whether or not you have an agreement or arrangement with a third party for their payment.
- d. Where you are a limited liability company, we may require one or more of your directors or in the case of a Limited Liability Partnership, one or more of your members or designated members to guarantee your liabilities to us or that you provide other suitable security for the payment of your fees and expenses.
- e. We reserve the right to suspend work until satisfactory guarantees or security have been provided.
- f. Where you are a business, we will not be liable for any consequential, special, indirect or exemplary damages, costs or losses, or any damages, costs or losses attributable to lost profit or opportunity.
- g. Where you are a consumer, we will not be liable for:-
  - i. losses that were not foreseeable to you and us when this contract was formed
  - ii. losses not caused by any breach on the part of the firm, and
  - iii. business losses, including losses sustained by any individual not acting for purposes of their trade, business, craft or profession

### **37. FOREIGN JURISDICTIONS**

- a. We are not in a position to and will not advise you in relation to aspects of the matter relating to foreign jurisdictions. This includes circumstances where the matter relates to an overseas transaction but is subject to English law. In all such cases we think it is important that you instruct a local lawyer to advise you how your position might be affected in the local jurisdiction, and we would be pleased to provide you with the names of advisers we have previously dealt with or who have been recommended to us.

### **38. OTHER MATTERS**

- a. For the purposes of the Contracts (Rights of Third Parties) Act 1999, no term of our agreement with you is enforceable by a third party, unless we agree otherwise in writing.
- In signing our letter of acknowledgment, or providing instructions following receipt of the retainer documentation, you are expressly agreeing to all the terms and conditions set out in the Terms and Conditions of Business.
  - Where we have agreed to act for you with the benefit of a Conditional Fee Agreement, and there are any contrary terms contained within the CFA and these Terms and Conditions of Business, the relevant term within the CFA will prevail, but does not affect the remaining terms contained herein

CANCELLATION NOTICE

If you wish to cancel this contract, you MUST do so in writing and deliver personally, or send (which may be by electronic mail) this to the person with conduct of your matter. You may utilise this form, but do not have to do so.

Complete, detach and return this form ONLY if you wish to cancel this contract. Do NOT complete if wish to proceed with instructing Messrs J Garrard & Allen to act on your behalf.

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TO:

Fee Earner with Conduct : .....  
Messrs J Garrard & Allen, 4 High Street, Olney, Buckinghamshire, MK46 4BB

I, \_\_\_\_\_ hereby give you notice that I wish to cancel my contract for matter number :

Signed .....

Full name and address .....

.....

Dated .....