

## Standard Terms of Engagement

### 1. GENERAL

#### 1.1 Definitions

“We” “us” or “our” are references to James Smith (Planning Law Services) Limited.

“You” and “your” refer to you, the client.

#### 1.2 Our approach to new instructions

Upon each new instruction you will be provided with a written terms of engagement letter with an appended Record of Instruction confirming your instructions, setting out the agreed scope of work to be provided and the fees or rates of charge that will apply to the work that we will carry out for you. Upon receipt of any such letter and Record of Instruction from us it is important that you read through it carefully and, if you have any questions or require any variations, that these are agreed in writing. You will be asked to sign and return a copy of each Record of Instructions as evidence of your acceptance of the information therein. If, however, you do not sign or return to us a copy of any Record of Instructions, we will treat your agreement to us commencing or carrying out work for you as your acceptance of the terms of engagement and of these terms and conditions.

Any hourly charge-out rates, fee estimates or fixed fee quotes given by us are given net of Value Added Tax (“VAT”) which will also be charged where required by law on our fees and on any other expenses and disbursement which are liable to VAT.

#### 1.3 Exclusion and limitations of liability

Nothing within these terms of engagement or any Record of Instructions will limit any liability that we may have to you in respect of any personal injury or death resulting from our negligence or any other situation where the law prevents or prohibits us from excluding or limiting our liability to you.

In all other cases our liability will be limited in the following ways:

- (i) We shall not be liable for any loss or damage arising as a direct or indirect result of the provision of services being prevented, hindered, delayed or rendered uneconomic by reason of circumstances beyond our control, including but not limited to Acts of God, government action, war, riot, acts of terrorism, strike, lock out, trade dispute or labour disturbance, accident, breakdown of machinery, fire, flood, storm or difficulty or increased expense in obtaining information or services of any description; and
- (ii) Unless otherwise agreed with you in writing, our total liability to you for any claim made in respect of our engagement on any matter for any loss, liability or damage howsoever caused, whether in contract, tort (including negligence), misrepresentation, restitution or otherwise (in each case whether caused by negligence or not) will be limited to £3 million (three million pounds) in aggregate.

The extent to which any loss or damage will be recoverable by you from us will also be limited so as to be in proportion to our contribution to the overall fault for such loss or damage, taking account any contributory negligence by you and any

negligence by any of your other advisers and/or any third party responsible to you and/or liable in respect of such loss or damage.

## **1.4 You as our client**

You confirm that you are acting as principal and not as agent for anyone else. Any advice provided by us to you is solely for your benefit and solely for the purpose of the instructions to which it relates. It may not be relied on for any other purpose or by any person other than you without our prior written agreement.

## **1.5 Complaints**

The work we do is undertaken in accordance with the requirements of the Solicitors Code of Conduct. If, however, you feel that we have not met the standards you expect please let us know immediately. A copy of our complaints procedure is available on request.

In the event your complaint is not resolved then you have the right to complain to the Legal Complaints Service. Further information about the Legal Complaints Service is available from us on request or from the Solicitors Regulation Authority.

If your complaint relates to a bill then you do have the right to apply to the Court for an assessment of the bill under Part III of the Solicitors Act 1974. Please note that the Legal Ombudsman may decline to consider any complaint about a bill which has already been referred to the Court for assessment.

Information concerning our professional indemnity insurance is also available on request.

## **1.6 Suspension and termination of retainer**

You may terminate your instructions to us at any time but please do so in writing. We will be entitled to retain all your papers and documents while there is money owing to us for our fees and any disbursements we have paid on your behalf even in a case where a third party would have been responsible for payment had the matter proceeded to completion.

We may decide to stop acting for you. However, we are only permitted to do so for good reason, such as your failure to pay an interim bill or to comply with our request for a payment. We must give you reasonable notice that we intend to stop acting for you.

## **1.7 Money laundering and the Proceeds of Crime Act 2002**

We are required to carry out identity checks on clients and those people instructing us within the client. Please bear with us if you are asked for confirmation of identity. We know this does take some time and effort but it is a legal requirement and not something that we are able to avoid.

In certain circumstances, we are required to reveal to the appropriate authorities (without informing you) any suspicions we have of money laundering or other illegal activities.

## **1.8 Variation of these standard terms and conditions and our fee rates**

We reserve the right to amend these terms and conditions in the future to comply with any change in the law or regulation or by agreement with you. We also reserve the right to revise our fee rates or charges from time to time. You will be notified in writing of any changes in advance of them taking effect and following such notification any new matters in respect of which you instruct us will be subject to those revised terms and conditions, fee rates or charges.

## **2. FINANCIAL ISSUES**

### **2.1 Fees, billing and other costs**

We will charge you for the work which we carry out on your behalf in accordance with the method of charging we have agreed with you and which is set out in our Record of Instructions. If no alternative arrangements are specified within the relevant Record of Instructions then we reserve the right to invoice you on a monthly basis for any work carried out.

Upon presentation of any invoice you are to pay said invoice as soon as reasonably practicable and in any event within 30 days. If any invoice is not paid within 30 days then we reserve the right to suspend work and to charge interest on any sums outstanding at the base rate of the Bank of England plus 2.5% starting at the date of presentation and compounded on a monthly basis on the last day of each month. We cannot accept payment in cash. All invoices will be presented in hard copy unless agreed otherwise with you.

If, when carrying out work for you we make any payments on your behalf (for example to the Land Registry) or incur expenses such as travel or accommodation costs, we will include the full amount of such payments in our invoices to you (including any VAT which is payable on them). If appropriate, we may render disbursement only invoices.

### **2.2 Appointment of third parties**

We may need to procure the services of third parties, such as experts, to act on your behalf during the course of handling an engagement for you. Where we do so we will be acting as your agent in procuring their services and the contract for their services will be with you directly unless agreed in writing to the contrary. We will not be responsible for any negligent advice or other default on their part. Your cause of action will be direct against the third party and you will have no cause of action against us. You will be responsible to them directly for payment of their fees, together with VAT as appropriate whether you receive invoices from them directly or whether their fees and costs are included as disbursements on our bill.

## **3. COMMUNICATIONS WITH YOU**

### **3.1 Confidentiality**

Solicitors are under a professional and legal obligation to keep affairs of clients confidential. In the event that work is undertaken for you by us in conjunction with your other advisors, we will assume that we have your authority to discuss relevant confidential information with them and to provide them with personal data and relevant documentation unless you tell us otherwise.

Our files are from time to time reviewed on a random basis by an independent assessor to ensure they comply with Law Society and Solicitors Regulation Authority practice requirements. Your file may be selected for review unless you tell us you do not wish it to be inspected by an assessor. These external firms or organisations are required to maintain confidentiality in relation to files.

### **3.2 Electronic communication**

Unless you instruct us in writing to the contrary, we will use ordinary email to communicate with you and to send you documents. You should be aware that email and other modes of electronic and/or internet communications are not secure methods of communication. Information sent in this way could be intercepted, arrive late, be incomplete, lost or destroyed. Please let us know if you would therefore prefer that we do not communicate with you by email.

### **3.3 Data protection**

Information which you give us is recorded or processed by us both manually and electronically. We do not make this information available to third parties without your consent.

## **4. FILES AND DOCUMENTS**

After completing any work for you we will retain, either electronically or physically, our files of papers (except for any you ask to be returned to you) for no more than 7 (seven) years and on the understanding that after that period we have the authority to destroy the documents. We will not, however, destroy any completed original agreements or documents which we may be storing on your behalf.

We retain any copyright and all other rights in all documents and other work, whether in writing or not, provided to you. You are granted a non-exclusive licence to use such documents for the purposes for which they are produced but not otherwise.

We may from time to time adapt, develop or use such documents or work for other clients and in other engagements.

## **5. CONTRACT**

This document sets out our standard terms and conditions which will apply to all matters where we do work for you unless otherwise agreed in writing. It is an important document. Please retain it for future reference.

This document, together with the terms of engagement letter sent to you and any Record of Instructions constitute the contract between us which will also apply retrospectively where the provision of services has commenced before this contract is made.

This contract is with the company and not any individual director, employee or consultant of James Smith (Planning Law Services) Limited.

If any provision of the contract is held by any court or other competent authority to be void or unenforceable (either in whole or in part) then the contract shall continue to be valid and remain in full force and effect. Any failure or delay by us in enforcing any provision of the contract shall not be construed as a waiver of any of our rights under the contract.

The contract between us, these terms and conditions and any matter arising out of them will be governed by and construed in all respects in accordance with English Law and are subject to the exclusive jurisdiction of the courts of England.

## **6. JAMES SMITH (PLANNING LAW SERVICES) LIMITED**

James Smith (Planning Law Services) Limited is a limited company registered under the Companies Act 2006 (registered number 07622709). Its registered office is at Fleet House, 8-12 New Bridge Street, London, EC4V 6AL.

James Smith (Planning Law Services) Limited is a recognised provider of legal services regulated by the Solicitor's Regulation Authority (SRA number 562054). The Solicitor's Regulation Authority is the independent regulatory arm of the Law Society.

JAMES SMITH (PLANNING LAW SERVICES) LIMITED – AUGUST 2011