

# Clapham & Collinge LLP

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## Terms of Business

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# Clapham & Collinge LLP

## Terms of Business

### 1. Introduction

- 1.1 This document and any relevant engagement letter contain the terms that apply to each matter in relation to which Clapham & Collinge LLP undertakes work for you.
- 1.2 If there is any conflict between these terms and any relevant engagement letter, the engagement letter shall prevail.

### 2. Agreement

Your continuing instructions will be acceptance by you of these terms. This is so even if we ask you to sign a copy of a relevant engagement letter and you fail to do so but continue to instruct us.

### 3. Who we are

Clapham & Collinge LLP is a limited liability partnership registered in England and Wales with registration number OC373858. It provides legal services and is authorised and regulated by the Solicitors Regulation Authority (SRA) under number 567627. A list of its members may be inspected at its registered office at St. Catherine's House, All Saints Green, Norwich NR1 3GA. The terms "partner" or "partners" mean or refer to a member or members of Clapham & Collinge LLP.

### 4. Professional Indemnity Insurance

We maintain professional indemnity insurance in accordance with the requirements of the SRA. Details of the insurer and the scope of the insurance are available for inspection at our registered office.

### 5. Identification and Anti-Money Laundering

- 5.1 We are required by law to obtain satisfactory evidence of the identity of our clients and sometimes people related to them.
- 5.2 We must identify our clients and carry out the appropriate money laundering checks. Either complete the online verification process or complete and return the **Identification Form at Appendix 1** as soon as possible to enable us to carry out the appropriate checks.
- 5.3 We will require to see the **original** of one item of photographic identity, for example, a current passport or driving licence, this can also be uploaded via the online verification system.
- 5.4 ***If you are unable to attend our offices and do not wish to use the online verification process***, an **Identification Certificate at Appendix 2** should be signed and completed by a solicitor, accountant or bank official (or other person bound by the Money Laundering Regulations), exhibiting certified copies of the documents as specified in the Certificate, and returned to us as soon as possible.
- 5.5 In cases involving companies, partnerships or trusts we are required to identify those with ultimate control or ownership of the company, partnership or trust.
- 5.6 We may ask you detailed questions in order to satisfy ourselves that all sources of funding are legitimate.
- 5.7 If we know or suspect that you or any other party involved in the matter are involved in money laundering, funding terrorism or hold the proceeds of crime, we may be required

by law to report the matter to the National Crime Agency (NCA). We cannot tell you that we are making such a report and must stop work on the matter until such time that NCA authorises us to proceed. Our duty to make such a report may override our duty of confidentiality to you.

- 5.8 Any fees and expenses incurred in complying with our obligations set out above will be charged to you. There may be circumstances where we reasonably believe that we are required to make a report to NCA and where it later turns out that the report was not required by law. We will not accept any liability or responsibility for any loss, damage or expense incurred (direct, consequential or otherwise) arising from any delay or otherwise as a result of our making reports to NCA and complying with our statutory obligations.
- 5.9 If you change your source of funding during a matter we reserve the right to refuse to accept such funds until a satisfactory explanation is provided for the change and any additional money laundering checks completed.
- 5.10 Generally we do not accept cash payments exceeding £500.

## 6. **Our responsibilities to you**

We will:

- 6.1 Advise you on any legal issues that arise and, where appropriate, on the merits of your case;
- 6.2 Respond to your letters and telephone calls promptly;
- 6.3 Keep you informed about the progress of your matters;
- 6.4 Handle your matters competently and efficiently and in accordance with our professional conduct rules;
- 6.5 Treat what you tell us in confidence;
- 6.6 Tell you if our costs estimate is going to be exceeded;
- 6.7 Account to you all monies received and paid out on your behalf.

## 7 **Your responsibilities to us**

You agree:-

- 7.1 to provide us with clear instructions;
- 7.2 to supply all the information required to progress your case;
- 7.3 upon request to supply us with details of the source(s) of any funding;
- 7.4 to put us in funds promptly if and when requested;
- 7.5 to pay any interim and final accounts when rendered;
- 7.6 to advise us promptly of any change of your address and contact details;
- 7.7 to tell us if you do **not** want us to contact you by e-mail;
- 7.8 that we are entitled to assume that whoever instructs us to provide services has actual authority to do so and we can rely on any information given to us by that person;
- 7.9 that where a client consists of more than one person or entity the liability of those

persons or entities is joint and several;

- 7.10 that we may disclose to any other of joint clients any information which by virtue of our duty of confidentiality we would otherwise be prohibited from disclosing.

## **8 Early ending of our Services**

- 8.1 You may end your instructions to us by notice in writing at any time.
- 8.2 We will not stop acting for you without giving you reasonable written notice and without good reason, for example:
- 8.2.1 you fail to pay us an amount due or a sum requested on account;
  - 8.2.2 a conflict of interest is discovered or arises;
  - 8.2.3 you request us to break the law or a professional obligation;
  - 8.2.4 we are prevented from continuing to act by the NCA;
  - 8.2.5 you fail to give us instructions or adequate instructions;
  - 8.2.6 you become insolvent;
  - 8.2.7 there arises a breakdown in the necessary relationship of trust and confidence between us.
- 8.3 If you or we decide that we will stop acting for you, you will be responsible for payment of our fees incurred up to the date of termination and any fees, costs and payments incurred in transferring your matter to another person or firm. If we have quoted a fixed fee for the matter, we will charge a pro rata fee based on how far the matter has progressed.
- 8.4 We are entitled to keep your papers and documents while you owe us money.

## **9 Communications and E-mails**

- 9.1 Unless you tell us otherwise, we will communicate with you using whatever method of communication appears appropriate, including email.
- 9.2 E-mail communication is not always a secure means of communication.
- 9.3 We shall not be liable for any loss, damage or breach of confidentiality arising from any unauthorized interception or reading of e-mails or their attachments.
- 9.4 We may use your e-mail address to send newsletters and other promotional material to you. You may unsubscribe from such material by clicking on the link at the foot of any material so received.
- 9.5 Where possible and agreed with you we will use the most convenient third party platform to communicate with you for video or audio conferencing. We take no responsibility for the security or confidentiality of communications whilst using a third party platform. You are fully responsible and liable for the security of your own online accounts including those used for video or audio conferencing. Where video or audio conferencing products/services are outsourced to or provided by a third party you will be accepting and bound by the terms and conditions of the third party.

## **10 Fees and Charges**

- 10.1 Normally our fees are based on the time we spend dealing with the matter. We reserve the right to apply an uplift to our hourly rates to reflect such matters as complexity, importance to you, value, urgency and work done outside normal business hours.

- 10.2 We record time spent in six minute units. If less than six minutes are spent on your matter, a full six minutes may be recorded, for example a call of 3 minutes may be charged as 1 unit and one of 9 minutes as 2 units.
- 10.3 Time recorded will include time spent in meetings with you and/or others, travelling, preparing, reading or considering documents, telephone calls made or received, correspondence, e-mails, research, preparing attendance notes, file opening and compliance procedures.
- 10.4 Our hourly rates are reviewed annually but we reserve the right to vary rates at any time. We will notify you of any alteration to our rates.
- 10.5 Where appropriate, we may offer you a fixed fee for the work that we carry out. In a letter of engagement we will specify the extent of the work which we will carry out for the fixed fee. If a fixed fee matter does not proceed to completion, we may charge you on a time spent basis for the work done by us, not exceeding the amount of the agreed fixed fee. If such a matter then recommences, a new fixed fee may be offered.
- 10.6 We base our fixed fees upon the facts and circumstances of the particular matter. It is essential that you provide us with full and accurate details (together with all documents) relevant to your matter. We reserve the right to revise our fixed fee if:
- 10.6.1 the fixed fee was based in whole or in part on information provided to us that was incorrect; or
  - 10.6.2 information was not provided to us which, had it been provided, would have resulted in our quoting a higher fixed fee.
- 10.7 If we need to do work additional to that specified in our letter of engagement because either you ask us to or we advise that additional work is required due to facts or circumstances that arise subsequently or come to our attention and which we could not reasonably have foreseen, we will give you a further fixed fee for that additional work for your approval before undertaking the additional work and will attempt to agree that with you. Alternatively we will agree with you to charge for the additional work on a time basis at our hourly rates. If we cannot reach agreement we will do no further work and charge you for the work done to date as set out in 8.3 above.
- 10.8 In addition to our fixed fees or hourly charges we may charge an 'Administration and Compliance Fee' of £30 for each matter to cover work relating to compliance issues on file opening and electronic or other storage/management of files and documents.
- 10.9 Our fees are subject to the addition of Value Added Tax.

## 11 **Billing and Payment**

- 11.1 If you are a limited company or trade through a limited liability partnership, we reserve the right at any stage to require one or more directors/shareholders/members to enter into a deed of guarantee to secure payment of our fees.
- 11.2 Unless otherwise agreed in the letter of engagement, we will be entitled to bill you for work done, expenses incurred on your behalf and other charges monthly and on completion of the matter. Expenses incurred on your behalf may be billed at any time, even after a final bill.
- 11.3 You agree that we may send our bills to you by email.
- 11.4 Unless otherwise agreed, our bills are payable on receipt and without any deduction, counterclaim or set-off and may be settled by any funds that we hold in our client account or on client deposit account on your behalf on any matter.
- 11.5 We are entitled to charge interest in accordance with Article 5 of the Solicitors (Non-

Contentious Business) Remuneration Order 2009 if your bill, or any part of it, remains unpaid one month after the date of delivery of the bill. Interest will be charged at the rate applicable to Judgment debts until payment is made in full.

- 11.6 Bills are payable in sterling, unless otherwise agreed.
- 11.7 You may pay your bill(s) (including all disbursements) by credit card or debit card either by giving the card details to our accounts department over the telephone or by attending our office with your card.
- 11.8 If someone else agrees to be responsible for payment of our fees and expenses on your behalf but payment is not made in accordance with our terms, you will be responsible for paying the amount outstanding.
- 11.9 In relation to non-contentious business your rights are set out fully in the Solicitors (Non-Contentious Business) Remuneration Order 2009
- 11.10 Before carrying out any work for you, or continuing to act for you, we reserve the right to request a payment on account of our charges in an amount to be agreed with you.
- 11.11 If a bill, or part of it, remains unpaid for one month after its date we reserve the right to cease acting for you until all monies owed (and any interest due) are paid by you.

## 12 **Confidentiality**

- 12.1 We will keep any information which we acquire about your business or your affairs confidential. However, we are subject to legal and regulatory requirements so may be required to disclose information to others, for example our auditors, the SRA, HMRC, our professional indemnity insurers and brokers to obtain such insurance.
- 12.2 It may be necessary for us to instruct third parties, for example, barristers, accountants, experts and agents, or communicate with organisations, such as the courts, on your behalf and in so doing disclose information about you and your matter. Unless you inform us otherwise, your agreement to disclose information for the proper conduct of your matter is assumed.

## 13 **Holding Client's Money**

- 13.1 Funds held by us on your behalf will be (unless otherwise agreed with you) held in our general client account which is subject to the provisions of the Solicitors Regulation Authority Accounts Rules ("the Rules").
- 13.2 Subject to the Rules, we will not be liable to you for any loss arising as a result of a bank insolvency.
- 13.3 If we need to make a claim for compensation to the Financial Services Compensation Scheme, you agree that we may disclose the necessary information about you to make such claim.
- 13.4 We will account to you for interest on funds held on your behalf when it is fair and reasonable to do so in all the circumstances. Our policy relating to the payment of interest is available upon request.
- 13.5 Interest will be paid without the deduction of tax unless we inform you otherwise. You are responsible for accounting for any tax on such interest paid to you.

## 14 **Investment Business**

Sometimes our work involves handling investments. We are not authorised by the Financial Conduct Authority (FCA) to give financial advice and so may refer you to someone who is authorised to provide any necessary advice. As members of the Law Society of England and Wales we can provide certain limited services in relation to

investments, provided they are closely linked to the legal services we are providing to you.

15. **Insurance Mediation Activities**

We are included on the register maintained by the FCA so that we are permitted to carry on insurance mediation activity. This is the advising on, selling and administration of insurance contracts. This part of our business is regulated by the SRA. The register can be accessed by the FCA website at [www.fca.org.uk/register](http://www.fca.org.uk/register)

16. **Regulatory Bodies**

16.1 The Law Society is a designated professional body for the purposes of the Financial Services and Markets Act 2000.

16.2 The SRA is the regulatory arm of the Law Society.

16.3 The Legal Ombudsman deals with complaints against lawyers.

17. **Equality and Diversity**

We are committed to promoting equality and diversity in all our dealings with clients, third parties and employees. Our written Equality and Diversity Policy is available upon request.

18. **Complaints**

18.1 If you have any reason to be unhappy with the work carried out on your behalf please raise the matter immediately with the person carrying out the work. If that does not resolve the problem, or you feel it would be inappropriate to raise the matter with that person, then please take your concerns up with our Complaints Partner setting out the nature of your complaint.

18.2 A copy of our complaints procedure is available on request. It is also on our website.

18.3 If we are unable to resolve your complaint between us you may refer the matter to the Legal Ombudsman whose contact details are:

PO Box 6806	Telephone:	0300 555 0333
Wolverhampton	E-mail:	<a href="mailto:enquiries@legalombudsman.org.uk">enquiries@legalombudsman.org.uk</a>
WV1 9WJ	Website:	<a href="http://www.legalombudsman.org.uk">www.legalombudsman.org.uk</a>

18.4 There are time limits for making a complaint to the Legal Ombudsman. These are broadly:

18.4.1 Within 6 months of you receiving a final written response under the complaints handling procedure referred to above; and

18.4.2 6 years from the date of act/omission, or

18.4.3 3 years from the date when you should reasonably have known there were grounds for complaint.

19. **Storage of Papers and Deeds**

19.1 On the closure of your file the hard copy of this will be destroyed. We will then retain an electronic copy for usually 15 years. This period could be longer depending upon the type of work and each of our departments has a different policy. For example an electronic file in relation to the preparation of a Will will be kept by us for 99 years from the closure of the file.

- 19.2 We are required to retain centrally electronic copies of identification documents relating to money laundering and proceeds of crime identification checks for 5 years. These will be deleted 5 years after we take the copies from you.
- 19.3 If you wish us to retain your file for a longer period you should request this from the fee earner dealing with the file but under the General Data Protection Regulation we cannot hold the file beyond the above periods without your specific request. At any point you can ask for a copy of the electronic file that we hold up until the date of its deletion. This would be provided without charge. We will not be able to delete your electronic file earlier than as set out above as we have a legitimate interest in retaining the file for this period.
- 19.4 We will comply with the General Data Protection Regulation in relation to the storage of Wills, Deeds and other documents that you ask us to store. We will not destroy Deeds, Wills and other documents that you ask us to store.
- 19.5 Save as provided within any Administration and Compliance fee (see 10.8 above) we do not make a charge for retrieving stored files, Wills, Deeds or other documents whether hard copies or electronically.

## 20 **Exclusions and Limitations of Liability**

- 20.1 If we make a mistake, by which we mean any breach of our duties to you, we are liable to compensate you. In such a case you agree that our liability is limited in the following respects:
- 20.1.1 it is Clapham & Collinge LLP solely that is liable and you agree that you will not bring any claim against any members of Clapham & Collinge LLP or against any employee of or consultant to Clapham & Collinge LLP;
- 20.1.2 we shall not be liable for any indirect loss or damage or loss of profit, income or anticipated savings;
- 20.1.3 if others are also responsible for your loss, our liability is limited to our fair share, whether or not you are able to recover the rest from the others;
- 20.1.4 we are not liable for acts or omissions of agents appointed by us in good faith;
- 20.1.5 our maximum liability in respect of the services provided shall, in relation to each matter, be limited to the sum specified in your letter of engagement or, if no such is specified, the sum of £3 million;
- 20.2 The limitations in 20.1 above apply to the extent that they are permitted by law and, for example, we do not exclude or limit our liability for fraud or exclude or limit our liability if our negligence causes death or personal injury.
- 20.3 The services provided by us to you are solely for your benefit and they may not be relied upon or used for any other purpose or by any third party.

## 21 **Data Protection**

- 21.1 We comply with the General Data Protection Regulation (GDPR).
- 21.2 Our Data Protection Leads are currently Neale Grearson and Ben Lowe. All questions relating to Data Protection and the GDPR should be directed in the first instance to one of them.
- 21.3 Whilst a data subject access request under the GDPR or any other request for data or information from you can be made in any way we ask that this is confirmed in writing by you so that we can understand the nature of your request and the action you wish to have taken. The easiest way for you to do this is to use the email address that we have set up for this purpose which is [sar@clapham-collinge.co.uk](mailto:sar@clapham-collinge.co.uk)



We will require you to provide identification documents so that we can be sure that the request has come from you.

21.4 If there is a data breach which under the terms of the GDPR we are required to report to you we will contact you in accordance with the GDPR.

21.5 We have a separate Privacy Policy which can be found on our website. If you would like us to we can provide you with a written copy. The Privacy Policy is incorporated into these Terms of Business.

22. **Cybercrime Alert**

As a result of the increased risks posed by cyber fraud and especially those relating to bank account details, please note that Clapham & Collinge LLP's bank account details will NOT change during the course of a transaction. Please be vigilant and ensure caution is exercised when opening any e-mails, attachments or links when responding to any requests for your bank details. We will NOT accept responsibility if you transfer money into an incorrect bank account. If you receive bank details from us by e-mail please call us to check the details before transmitting funds.

23. **Waiver**

Any failure by us to enforce at any time any of these terms shall not be deemed a waiver of our right to enforce them at any time subsequently.

24. **Jurisdiction**

The law of England and Wales applies to these terms and the courts of England and Wales shall have exclusive jurisdiction in connection with them.

25. **Severance**

If any court finds any of these terms is invalid, illegal or unenforceable, that provision shall, to the extent required, be deemed to be deleted but without affecting any of the other terms.

**Clapham & Collinge LLP [08 Sept 2020]**