

# VYMAN SOLICITORS LIMITED

## Terms of Business (January 2021)

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1. **Our Contract**

- a) Extent - These Terms of Business issued by the Firm as supplemented and/or amended by any relevant Client Care Letter apply to each Matter we work on for you.
- b) Variation - No variation of these Terms of Business shall be effective unless it is in writing and is signed by one of our Directors.

2. **Defined Terms**

In these Terms of Business the following words have the following meanings:

- a) **‘Firm’** - means Vyman Solicitors Limited and any successor practice and any service company owned or controlled by or on behalf of the Firm or any of its Directors.
- b) **‘Associated Entities’** - means (where you are a body corporate) your shareholders, directors (as individuals not acting together as the board), officers, employees, subsidiaries, parent companies, and subsidiaries of parent companies, (where you are an unincorporated association) your individual members, and (where you are a partnership or LLP) your individual partners or members.
- c) **‘Client Care Letter’** - means, in relation to any Matter, the letter (or other agreement) recording the basis of our engagement.
- d) **‘Conflict of Interest’** means any situation where:
  - (1) we owe (or, if we accepted your instructions, would owe) separate duties to act in the best interests of two or more clients in relation to the same or a related matter and those duties conflict, or there is a significant risk that those duties may conflict; or
  - (2) our duty to act in your best interests in relation to a matter conflicts, or there is a significant risk that it may conflict, with our own interests in relation to that or a related matter; or
  - (3) we have confidential information in relation to a client or former client, and you wish to instruct us on a matter where:
    - a. that information might reasonably be expected to be material; and
    - b. you have an interest adverse to our other client or former client, and for the purposes of this paragraph “you” does not include Associated Entities.
- e) **‘Credit Period’**- means the period of fourteen (14) days from the date of our invoice for our fees and/or expenses.
- f) **‘Documents’** - means Documents Held For You, Our Documents and Your Documents.
- g) **‘Documents Held for You’** - means documents we create or receive on your behalf (including communications from or with third parties, notes of conversations and meetings, draft and final documents, and instructions to and opinions of barristers).

- h) **‘Force Majeure’** - means any circumstance beyond the reasonable control of the party affected by it and includes, without limitation, telecommunications failure, power supply failure, terrorism, pandemic, national or local lockdown, fuel strikes, severe weather, computer breakdown, failure of suppliers to meet delivery requirements, industrial disputes and absence of personnel due to illness, injury or bereavement.
- i) **‘Matter’** - means any specific matter, transaction, dispute or issue in relation to which you ask us to provide Services whether or not it has been defined in a Client Care Letter or other agreement.
- j) **‘Our Documents’** - means documents (other than Documents Held for You) which we create or receive for our benefit (including copies of our letters to you, your letters to us, notes of telephone conversations and meetings with you for which we have not charged you, and our preliminary drafts, research materials and internal notes).
- k) **‘Partner’** - means a Director of the Firm.
- l) **‘Services’** - means all services we provide to you in relation to the relevant Matter.
- m) **‘We’, ‘Us’, and ‘Our’** - mean or refer to the Firm.
- n) **‘You’** - includes the addressee of the relevant Client Care Letter and any other person identified in the Client Care Letter as our client and ‘your’ shall have a cognate meaning.
- o) **‘Your Documents’** - means documents which you give or lend to us to enable us to provide Services.

### 3. **Our Authority and Services**

- a) **Our Authority** - You give us full authority to act for you to the fullest extent necessary or desirable to provide the Services.
- b) **Barristers & Third Parties** - In particular, we may engage barristers and other third parties and otherwise incur on your behalf reasonable expenses of a type which it is necessary or desirable to incur in relation to the Services in question. If we so require, you will contract directly with any third party so engaged by us and assume direct responsibility to them for the payment of their fees and expenses.
- c) **Discretion** - A Director of the Firm named in any Client Care Letter as the ‘Supervising Director’ will be the Director primarily responsible for the provision of our Services. That Director has complete discretion to deploy such of our lawyers, trainee lawyers, paralegals or other staff as she/he deems necessary or desirable to ensure appropriate delivery of the Services.

### 4. **Your Responsibilities**

- a) You will provide us with timely instructions, information, documents and materials necessary or desirable for us to perform the Services for you.
- b) You will notify us promptly of any changes or additions to instructions, information, documents and materials previously provided by you or on your behalf.

- c) You will ensure that all instructions, information, documents and materials provided to us is complete in all material respects and not misleading.

## 5. **Client Care Code**

We want you to be satisfied with every aspect of our Service. We therefore operate a Client Care Code, the principles of which are as set out below.

- a) We are committed to the professional standards laid down by the Solicitors Regulation Authority.
- b) To the extent that we are reasonably able to do so, you will be advised at the outset of our engagement about the legal issues relating to your Matter and how we advise they be dealt with, and the immediate steps we propose to take on your behalf.
- c) The Client Care Letter should notify you of the following details:
  - i. the name of the person or persons who is/are dealing on a day to day basis with your Matter; and
  - ii. the name of the supervising Director.
- d) You will be told the name of the new fee earner if the Matter is transferred from one fee earner to another.
- e) We cannot guarantee that the fee earner or supervising Director will be available on demand, but we will do our best to get back to you promptly and efficiently.
- f) You will be informed of the progress of your Matter and the reason for any serious delay.
- g) If you do not understand anything, please always ask. We will explain any important document. If you still are unclear as to the position, please say so. We want you to be fully informed and satisfied.
- h) You may ask for an appointment to discuss your case. Since time is money, you may plan to bring a written list of questions and note the answers. This can also be helpful when telephoning so you do not forget any point.
- i) There may be certain preparatory tasks that you ought to consider carrying out yourself to save costs. An example is putting the papers in order in a file and flagging material items. This is helpful to us, and lowers your bill by saving the time we would otherwise spend.
- j) At the end of your Matter you will be sent a bill and a letter confirming the matter has been completed and, where necessary, summarising any continuing consequences.
- k) If in doubt, ask. If you are still unclear or disagree, you can ask for us to confirm it by letter and you can then write with your comments.

## 6. **Hours of Business**

- a) The normal hours of opening at our offices are between 9.30 a.m. and 5:30 p.m. on weekdays (excluding bank holidays).

- b) Messages can be left on the answerphone outside those hours and appointments can be arranged at other times when this is essential.

7. **Fees and Expenses**

- a) **Basis of Charging** - Unless otherwise agreed in the Client Care Letter, our fees will be calculated principally by reference to the time spent by us in providing the Services at the fixed hourly rates applicable to the relevant staff.
- b) **Premium charges** - We may, in accordance with professional guidelines, also charge a premium (where reasonable to do so) to take account of the nature, responsibility, complexity, value and urgency of the Services and other criteria specified in those guidelines.
- c) **Review of Rates** - The fixed hourly rates of each of our Partners, Solicitors, Trainee Solicitors, case handlers, paralegals and other staff are reviewed from time to time and we will inform you of any variation in these rates and the date upon which they take effect.
- d) **Expenses** - You will be responsible for paying the expenses we incur in the course of providing the Services (including travel and subsistence expenses, search and filing fees, court fees and barristers', foreign lawyers' and other third parties' fees and expenses). We have no obligation to pay for such expenses unless you have provided us with the funds for that purpose.
- e) **VAT** - VAT will be charged at the appropriate rate on all fees and expenses. Unless stated in writing to the contrary, any quotation or estimate does not include any expenses or VAT.
- f) **Limited Companies and Limited Liability Partnerships (LLPs)** - Where our client is a limited company or an LLP, any person who instructs us or signs our Client Care Letter on behalf of the Company or LLP shall be deemed also to be doing so on behalf of himself or herself and shall be jointly and severally liable, together with the limited company or LLP, to pay our fees, disbursements and expenses and shall indemnify the Firm in respect of any failure by the company or LLP to do so. Without prejudice to the liability under the preceding sentence, we may in addition require a director and/or controlling shareholder or member to provide a personal guarantee in respect of our fees and expenses. If such request is refused, we will be entitled to stop acting and require immediate payment of our fees on a time spent basis and expenses as set out above.
- g) **Payments on Account** - We may require you to make a payment to us on account of our fees and expenses at any time and on more than one occasion. Money paid on account which is not subsequently required for fees and expenses will be returned promptly. We are not obliged to credit payments on account against interim invoices but may do so if you fail to make prompt payment.
- h) **Estimates** - The provision of figures (orally or in writing) from time to time for the likely cost of a piece of work is an estimate only and does not constitute a contract to carry out the work at that cost.

- i) **Quotations** - The provision of a written quotation for work constitutes an offer to carry out the work at that cost and does not become a contract until you accept the quotation or a defined part of it.
- j) **Additional Work** - Where we carry out work which falls outside the scope of an accepted quotation, or of an estimate which is subsequently incorporated into a contract between us, we may charge fees at our fixed hourly rates, in addition to the quoted or estimated fee. We may also charge additional fees on the same basis for work within the scope of such a quotation or estimate which is made more time consuming, onerous or urgent as a result of:
  - i. circumstances or information which we did not know or could not reasonably have anticipated at the time of the quotation or estimate (whether or not you were aware of them/it); or
  - ii. your, or your agents', act or omission.
- k) **Commissions** - If we receive a commission from a third party arising from work we are doing for you, we will credit you with the commission unless you have agreed otherwise or the amount is less than (£20) twenty pounds (excluding VAT).

## 8. **Our Invoices**

- a) **Frequency of Invoices** - Unless otherwise agreed in the Client Care Letter, we will be entitled to invoice you in respect of our fees and expenses monthly and on completion of each Matter. At the end of our financial year we shall be entitled to bring up to date our invoicing in respect of all your then unbilled work.
- b) **Interim Invoices** - Unless otherwise stated, monthly or other interim invoices are a final account of our fees for all work done during the period to which they relate. You agree that we may bring proceedings on interim invoices which are not final bills where we have provided Services and the amount of the invoice does not exceed the cost of the Services provided at the applicable fixed hourly rates.
- c) **Disbursement Invoices** - There may be a delay in invoicing expenses incurred on your behalf pending our receipt of the relevant invoices from suppliers. Unless otherwise stated, such invoices are not a final invoice in relation to such expenses.
- d) **Payment Terms** - Interest will accrue on all debts over 14 days until the time they are paid at the rate of 8% per annum. Any debts that have to be chased will incur a handling charge of £50 plus VAT on each occasion that the debt is chased (whether in writing, by telephone, by email or otherwise).
- e) **Non Payment** - If you do not pay any invoice by the end of the Credit Period, or the sum we have requested on account within fourteen (14) days (or such longer period as we may specify) of our demand, we may suspend or terminate the provision of all or any Services (and instruct any third parties engaged by us to suspend the provision of their services) and may invoice you for all accrued fees and expenses. We will not be liable for any damage caused to you or your Matter as a consequence of or in connection with such a delay or suspension.
- f) **Third Party Payments** - In some circumstances, you may have a right of recovery or indemnity against a third party in respect of all or part of our invoices, but we are not permitted to issue a VAT invoice to any person other than you in any circumstances, and you remain liable to us to pay our invoices notwithstanding such a right.

- g) **Right to Retain Money, Documents and Property** - As a contractual right, in addition to any right to retain Documents, your money, and property available to us under the general law (lien), we have the right to retain Documents, your money, and your property (whether held in relation to the Services for which payment has not been made or any other Services or for any other reason) until you have paid us in full.
- h) **Payment Methods** - You may pay by cheque, credit or debit card, or directly into our bank account. Please contact us directly for our bank details.
- i) **Cash Payments** - The Firm's policy is not to accept cash payments from clients. If you try to avoid this policy by depositing cash directly with our bank, we may decide to charge you for any additional checks we decide are necessary to prove the source of the funds. Where we have to pay money to you, it will be paid by cheque or bank transfer. It will not be paid in cash or to a third party.

## 9. **Interest Policy**

- a) To facilitate the carrying out of your instructions to us, your money may be held in our client account. When money is held in our client account, interest may be accrued on that money. Our interest policy sets out the guidelines for when interest will be paid and is summarised below.
- b) As money held in our client account is necessary, but incidental, to facilitate the carrying out your instructions, the rate is unlikely to be as high as the rate you may be able to obtain when depositing the money with your bank.
- c) Unless we agree with you to the contrary, we will generally not pay interest to you on any of your money held in our general client account or in a designated client account.
- d) If we do agree to pay to pay you interest: it will be calculated on a daily basis and calculated on amounts held overnight from the day the funds are cleared; it will be calculated at the rate based on our current bank rate; it will be paid to you without deduction for income tax; it will not be paid if your money is being held for a specific purpose (e.g. payment of counsel's fees, other expenses or disbursements, or held to the order of another solicitor); it will only be paid if the amount is £20 or more; and we are entitled to deduct a reasonable administration fee for calculating and paying to you such interest.

## 10. **Payments**

- a) **Cybercrime** - There is a significant risk posed by cyber fraud, specifically affecting email accounts and bank account details. There is a heightened risk that emails which appear to be to or from us, and which may contain payment details or instructions, are in fact fakes or fraudulent. Fraudsters have targeted property buyers, sellers and their solicitors often by way of interception of emails to steal client funds.
- b) **Transferring Money to Us** - Please use the account details specified by us at the outset of your Matter when transferring funds to us. Always ensure that the payment reference is quoted so that we can allocate funds correctly upon receipt.

- c) **Verify Account Details** - It is highly unlikely that our bank account details will change during the course of a Matter. Please be careful to check account details with us if in any doubt. If you are advised that our bank details have changed please contact our offices immediately in order to verify this. If you are in anyway uncertain, or concerned about any communication received from us, then please telephone your fee earner, or speak to one of our Directors immediately. Please do not respond to any such communication by email, or take any action until you have verified the authenticity by speaking with us.
- d) **Transferring Money to You** - Because of the heightened risk of cybercrime or identity fraud, you must confirm to us by 2 separate and distinct means of communication the details of any account to which we are to send money. Such confirmation methods must include a written and signed authority for payment.
- e) **Exclusion of Liability** - We will not be liable for any loss or damage in connection with a payment to an incorrect account as a consequence of or in connection with email hacking, identity theft, cybercrime, or fraud by third parties in general.

## 11. **Conflict of Interest**

- a) **Similar Activities** - We may act for parties engaged in activities similar to or competitive with yours.
- b) **Third Parties** - Once we have agreed to act for you in relation to a Matter, we will not act for a third party in relation to the same Matter if there is a Conflict of Interest between that third party's interests and your interests.
- c) **Instructions Creating a Conflict of Interest** - We may decline to act for you where accepting your instructions would create a Conflict of Interest or cause us to break an existing agreement with a third party.
- d) **Consent** - Where our professional rules allow, and subject to satisfying the requirements of those rules (for example by implementing a 'Chinese Wall' or information barrier), we may act for you and another client where a Conflict of Interest would otherwise exist, provided that we have the consent of both parties. We do not require your consent to act against an Associated Entity.
- e) **Cessation of Services** - If, whether through a change in circumstances or otherwise, we find that we have agreed to provide Services to you in circumstances which give, or could give, rise to a Conflict of Interest we will discuss with you how to deal with the conflict and may, be obliged to stop providing Services to you and/or to all other clients affected by the Conflict of Interest. We will not be liable for any damage caused to you or your Matter as a consequence of or in connection with such a cessation of Services.

## 12. **Information, Data Protection and Confidentiality**

- a) **Information About You** - We use the information you provide primarily for the provision of or Services to you and for related purposes including updating and enhancing client records, analysis to help us manage our practice, statutory returns, and legal and regulatory compliance. Please note that our work for you may require us to give information to third parties such as expert witnesses and other professional advisers and to our Partners, employees and agents and IT and other service providers.



We may use it to administer your account with us, including tracing and collecting any debts. We may also use it to ensure the safety and security of our premises (where we may also use CCTV), for fraud prevention purposes (including verification checks for our money laundering obligations), to assess client satisfaction (such as by asking you to participate in surveys), and to help improve our services generally. We may also use it to contact you by letter, telephone, e-mail or otherwise about our services and about events such as seminars and conferences and to send you briefings and similar material.

- b) **Use by Third Parties** - Sometimes we ask other companies or people to undertake typing / photocopying / other administration duties on our files to ensure this is done promptly. We will always seek to agree a confidentiality obligation on the part of these outsourced providers. If you do not want your file to be outsourced, please tell us as soon as possible.
- c) **Identity Checks** – We may contact third parties including commercial providers to carry out electronic or other identity checks and verify information we have received about you. We will pass on to you the charges for doing so.
- d) **Data Protection** – Our use of your data is subject to your instructions, the Data Protection Act 2018, the General Data Protection Regulations (GDPR), and our duty of confidentiality. Our Data Privacy Manager (currently Anup Vyas) is responsible for data protection. You have various rights in respect of your data including: to request access; to request correction; to request erasure; to object to processing; to request restriction of processing; to request a transfer of your data; and to withdraw your consent. Full details about how we handle your data and your rights are set out in our Privacy Policy which is on our website.
- e) **Our Duty of Confidentiality** - We will treat any information which is confidential to you and which we obtain as a result of acting for you as strictly confidential, save:
  - (1) for the purpose of acting for you; or
  - (2) for disclosures to our auditors or other advisers or for the purposes of our professional indemnity insurance; or
  - (3) as otherwise required by law or other regulatory authority to which we are subject; or
  - (4) as set out elsewhere in these Terms of Business.
- f) **Publicity & Announcements** - We may refer publicly to your name as a client of ours, provided we do not disclose any information which is confidential to you.
- g) **Other Information** - We shall be under no duty to disclose to you (or take into account in the course of providing the Services) any information acquired by us in acting for any other client or any information in respect of which we owe a duty of confidentiality to a third party.
- h) **Your Duty of Confidentiality** - Our advice and other communications with you are confidential and may not, without our consent, be disclosed by you to any third party (other than to your employees and agents who require access and who do not disclose it further) or otherwise made public except as required by law or other regulatory authority to which you are subject. If, as a result of our acting for you, you acquire any information in respect of which we notify you that we owe a duty of confidentiality to a third party you will keep it confidential and not use it without our consent.

- i) **Consent** - By signing and returning a copy of any Client Care Letter, or instructing us generally, you are agreeing that we may use your contact details and information in this way. If you do not wish your information to be used in any of the ways described, please inform us in writing.

13. **Custody, Retention and Transfer of Documents**

- a) We will, at your request, either during the provision or after completion of any Services, release to you or to your order Your Documents and Documents Held For You, provided that we are not at the time exercising our right to retain documents pending payment of outstanding fees and expenses or are prevented by any court order, undertaking or other legal constraint from doing so. We may copy all of Your Documents and Documents Held for You before releasing them.
- b) We may at any time scan, copy, or otherwise make electronic copies or images of any Documents (other than Documents held in safe custody), destroy the originals and thereafter hold the Documents only in such copy or image form. Unless expressly agreed otherwise in writing we will keep all Documents whether in original, copy or imaged form for a minimum of six (6) years, after which we may destroy them and any copies or images of them.
- c) We may agree to store title deeds, wills and other especially valuable documents in safe custody for you if you require and, if we do, we will not, without your consent, destroy any such documents.
- d) We do not accept responsibility for the loss or damage of any item which we hold on your behalf unless we expressly agree in writing to the contrary.
- e) After completing the work, we will be entitled to keep Documents and all your papers whilst there is still money owed to us for fees and expenses.
- f) We will keep our file of your papers for up to six (6) years, except those that you ask to be returned to you. We keep files on the understanding that we can destroy them six (6) years after the date of the final bill. We will not destroy documents you ask us to deposit in safe custody.
- g) If we take papers or documents out of storage in relation to continuing or new instructions to ask for you, we may charge for such retrieval. We may also charge you both for time spent producing stored papers that are requested as well as reading correspondence or other work necessary to comply with your instructions in relation to the retrieved papers.

14. **Intellectual Property Rights**

- a) **Copyright** - We retain copyright and all other intellectual property rights in all documents and other works we develop or generate for you in providing the Services (including know-how and working materials as well as final documents).
- b) **Licence** - We grant you a non-exclusive, non-transferable, non-sublicensable licence to use such documents or other works solely for the Matter to which the Services of developing or generating them relate and not otherwise. If you do not pay us in full for our Services in relation to that Matter we may, on giving you notice, revoke that licence and only re-grant it to you once full payment has been made.

- c) **Opinions from Barristers and other Third Parties** - We may retain, for our subsequent use, a copy of the advice or opinion of any barrister or other third party given in written form (or any note of any advice or opinion) obtained in the course of providing the Services. Any barrister or other third party will be instructed on the basis that any such advice or opinion will be so retained. If we retain a copy of any advice or opinion in this manner we will take all reasonable steps to conceal information (such as names, addresses or descriptions) which might reasonably enable you to be identified.

15. **Joint Instructions**

- a) **Responsibilities of Joint Clients** - Where we agree to work on a Matter for more than one client jointly, the rights and obligations of the joint clients to us in relation to the Services will be several (save for obligations to pay money to us, which will be joint and several).
- b) **Disclosure of Information** - Each joint client irrevocably permits us to disclose to any other of the joint clients at any time any information which we would otherwise be prohibited from so disclosing by virtue of our duty of confidentiality.
- c) **Suspensions or Termination** - If any joint client ends this permission during the provision of the relevant Services, or if a Conflict of Interest otherwise arises between joint clients, we may suspend or terminate the provision of Services related to that Matter to one or more of the joint clients.
- d) **Documents** - If any joint client asks us to transfer documents we will deliver Your Documents to, or to the order of, the joint client who delivered them to us. We will retain any Documents Held For You and will supply copies to each joint client, making the originals available at one of our offices for inspection by any joint client on reasonable prior written notice and subject to payment of our reasonable charges for copying or arranging inspection.

16. **Limitation and Exclusions of Liability**

- a) **Duty of Care** - We will use reasonable skill and care in the provision of the Services.
- b) **Risk Assessments** - Where we make an assessment for you, either expressly or by implication, of the likely level of risk associated with different potential courses of action, you accept that such assessment is a matter of opinion only and made relying only upon the information and documents then available to us and cannot, therefore, be definitive. Accordingly, such an assessment should only be used as one element in the making of any practical or commercial decision.
- c) **Commercial & Practical Decisions** - You accept that the magnitude or acceptability of a risk and the making of any commercial or practical decision is a matter for you exclusively. We are under no obligation whatsoever to give commercial or practical advice. Whilst we may offer commercial or practical advice, you accept that any such advice that we do give is without liability on our part.

- d) **Cap on Liability** - The aggregate liability of the Firm (or of any service company owned or controlled by or on behalf of any of the Partners) and of all Partners, consultants to and employees and agents of the Firm and any service company owned or controlled by or on behalf of any of the Firm or the Partners in any circumstances whatsoever, whether in contract, tort, under statute or otherwise, and howsoever caused (including but not limited to our negligence or non-performance), for loss or damage arising from or in connection with the Services provided shall, in relation to each Matter, be limited to the sum, unless otherwise agreed, of six million pounds (£6,000,000.00)
- e) **Third Parties** - The Services are provided to and for the benefit of you as our client and you alone. No other person may use or rely upon the Services nor derive any rights or benefits from them. The provisions of the Contracts (Rights of Third Parties) Act 1999 are to that extent excluded.
- f) **No Liability of Partners, Consultants, Employees or Agents** - The Firm alone will provide the Services and you agree that you will not bring any claim whether in contract, tort, under statute or otherwise against any Partner, or any consultant to, or employee or agent of the Firm or any service company owned or controlled by or on behalf of any of the Partners; and those Partners, consultants, employees and agents shall be entitled to rely on these terms of Business insofar as they limit their liability.
- g) **Drafts** - Where we provide draft or provisional advice or other materials, that advice or those materials are not to be relied upon as constituting our final view.
- h) **Current Law** - The Services are provided in accordance with professional practice requirements and the proper interpretation of English law, as each exists on the date on which the relevant Service is provided. If there is any change in such requirements or English law, or their interpretation, after the relevant Matter has been concluded (or before that time but which could not reasonably be known by us at that time), we have no responsibility to notify you of, or of the consequences of, the change.
- i) **English Law** - We only advise on the Laws of England and Wales. If you require advice on the laws of other jurisdictions, we will, with your agreement, instruct lawyers practising those laws to give such advice, on the same basis as we engage other third parties on your behalf. We shall have no liability in respect of any advice received from us or from third parties in respect of the laws of any other country. We shall not be liable for any loss, damage, cost or expense arising from any advice or document subject to the laws of a jurisdiction outside England and Wales. If we draft the document or advise in connection with a matter which is subject to the laws of a jurisdiction outside England and Wales, you will accept the risk and responsibility of obtaining or not obtaining expert advice on the laws of that jurisdiction.
- j) **Communication** - We shall communicate with you at the postal and email addresses and the telephone and fax numbers which you publish unless you ask us to use other addresses and numbers. You will notify us in writing if you regard any communications from us as particularly confidential and the means by which you require us to make such communications. Subject to any such notification you may make to us, we shall not be required to encrypt, password-protect or digitally sign any email, or attachment, sent by us.

- k) **E Mails** - We shall not be responsible for any loss or damage arising from the unauthorised interception, re-direction, copying or reading of e-mails, including any attachments. We shall not be responsible for the effect on any hardware or software (or any loss or damage arising from any such effect) of any e-mails or attachment which may be transmitted by us (save to the extent caused by our negligence or wilful default).
- l) **Deadlines** - We will try to meet any deadline we agree with you for the performance of any Services but, unless we agree otherwise in writing in relation to any time, date or period for delivery or performance by us, time shall not be of the essence, and we shall not be liable for any loss or damage to you or your Matter as a consequence of any delay.
- m) **Proportionate Liability** - If you accept or have accepted any express exclusion and/or limitation of liability from any of your other professional advisers, our total liability to you arising out of the Services will not exceed the net aggregate of the amount for which we would otherwise have been liable after deducting any amount which we would have been entitled to recover from such adviser as a matter of law whether pursuant to statute or otherwise, but are prevented from doing so as a result of any such exclusion and/or limitation of liability.
- n) **Breach by You / 3rd Party actions and omissions** - We shall not be liable for any loss, damage, cost or expense arising from any breach by you of your agreement with us or any act or omission of any other person. We shall not be liable for any loss, damage, cost or expense arising from any advice or opinion given to you by any third party (whether or not nominated or recommended by us).
- o) **Free Services** - Where we do not charge for any Service provided to you we exclude any and all liability to you to in relation to ther Service the fullest extent permitted by law.
- p) **Tax** - We are not qualified to advise you on the tax implications of transactions you instruct us to carry out or Matters we act on. We shall not be liable for any loss, damage, cost or expense arising from the taxation consequences of any actions or omissions. You must seek and rely upon the advice of appropriate tax experts in relation to taxation liabilities and consequences in relation to any Matter. If we do offer tax advice, this is on the understanding that it is very informal and general in nature, on the basis that we do not accept any liability for such tax advice, and you must accept the exclusive risk and responsibility of obtaining, or not obtaining, appropriate advice from a tax specialist.
- q) **Planning** - We are not qualified to advise you on the planning implications of transactions you instruct us to carry out, or any Matter we act on. We shall not be liable for any loss, damage, cost or expense arising from the planning consequences of any actions or omissions. You must seek and rely upon the advice of appropriate planning experts in relation to planning consequences in relation to any Matter. If we do offer planning advice, this is on the understanding that it is very informal and general in nature, on the basis that we do not accept any liability for such planning advice, and you must accept the exclusive risk and responsibility of obtaining, or not obtaining, appropriate advice from a planning specialist.

- r) **Consequential, etc. Losses** - We shall not be liable for any consequential, special, indirect or exemplary losses, damages, costs or expenses arising in any circumstances whatsoever, whether in contract, tort, under statute or otherwise, and howsoever caused (including but not limited to our negligence or non-performance). Without prejudice to the generality of the foregoing, we shall not be liable for any loss of profit, opportunity, income, production or accruals.
- s) **Exceptions** - Nothing in these Terms of Business exempts us from liability arising from our fraud or from our negligence resulting in death or personal injury; or where, in the case of a contentious business agreement, law or regulation prohibits the exclusion of such liability. All of the provisions of these Terms of Business must be read subject to such exceptions.

## 17. **Termination**

- a) **Completion of Services** - An agreement between you and us for the provision of defined Services ends on the completion of the provision of those Services. An open-ended agreement for the provision of Services ends three (3) months after the last date on which we provided Services to you. Unless new or different terms are agreed, our acceptance of instructions to perform Services for you subsequent to the ending of any agreement gives rise, from the time of acceptance of the instructions, to a new agreement on these Terms of Business. If we provide you free of charge with any Service, seminar, information, or other document after the ending of an agreement, such provision does not give rise to any obligation or liabilities on our part.
- b) **Early Termination** - Either you or we may terminate the provision of all or any of the relevant Services at any time by giving written notice to the other. We will not do this without good and substantial reason, such as:
  - (1) the threat or risk of violence, injury or other danger to the physical, psychological or moral well-being of any of our personnel; or
  - (2) the discovery or creation of a Conflict of Interest; or
  - (3) your requesting us to break the law or any professional requirement; or
  - (4) the relationship of trust and confidence necessary between solicitor and client ceasing to exist between us; or
  - (5) your failure to pay to us any amount due, or money on account requested; or
  - (6) your insolvency; or
  - (7) your failure to give us adequate instructions; or
  - (8) our being forbidden to act by the National Crime Agency or other similar or successor agency; or
  - (9) our reasonable belief that our continuing to represent you may cause damage to the professional or personal reputation of our firm or any of its personnel; or
  - (10) any other breach by you of these Terms of Business.
- c) **Rights on Early Termination** - On early termination, by either you or us, you will remain liable to pay all fees and expenses incurred before termination and due under our contract or due on the basis of the time spent at our usual hourly rates, whichever is the less, together with any further fees and expenses for work necessary to transfer our files to another adviser of your choice. All our rights set out in these Terms of Business shall continue to apply even if we terminate the agreement.

18. **Know Your Client / Anti - Money Laundering Regulations / Proceeds of Crime Act**

- a) We are required to comply with the anti money laundering regulations and in particular to verify the identity and permanent address of all new Clients. This is to ensure that the policy adopted worldwide by Financial and Government Authorities to prevent the use of laundering systems to disguise the proceeds of crime is achieved.
- b) If you are a new client or an existing client who has not previously supplied information, you are requested to supply the following information/documentation in respect of each individual client:
- Full Name and Title
  - Date of Birth
  - Nationality
  - Occupation
  - Address and Telephone Number
  - Details of all directorships held
  - Unique Taxpayer Reference (UTR) number
  - Passport/Full UK Driving Licence with photocard counterpart.
  - Bank, credit card statement or utility bill (not mobile phone) less than 3 months old.
- c) For corporate clients (limited companies or LLPs) we will also require:
- Documents for each Director/ Member and Company Secretary for Limited Company or LLP as noted above.
  - Certificate of Incorporation
  - Memorandum and Articles of Association
  - Last Annual Return
  - Last Annual Accounts
  - Other Statutory information filed at Companies House since the last Annual Return.
  - VAT Registration Certificate (if available)

For UK corporate clients, we should be able to download many of these documents from Companies House.

For non-UK corporate clients, you must provide such documents or their equivalents. We may also require a legal opinion or some other certification in relation to your instructions to us or in connection with your Matter.

- d) Under the provisions of the Proceeds of Crime Act 2002 ('POCA'), we may be required to make a report to the relevant authorities if at any time we become aware of or suspect (whether from you or any other person) the existence of the proceeds of crime in relation to any Services on which we are engaged. Our obligation to make such a report will, in certain circumstances, override our duty of solicitor/client confidentiality and we may not be permitted to inform you whether or not we have made, or might intend to make, such a report.

- e) We may terminate the provision of any Services to you, or be instructed to do so by the relevant authorities, if you fail to comply with your obligation to provide evidence of identity or we suspect that you or any other party connected with you or with the Matter is involved in activities proscribed by POCA.

19. **Equal Treatment / Equality and Diversity**

Consistent with our internal policies and procedures, we will not discriminate in the way we provide our Services on the grounds of race, colour, religion, belief, nationality (including citizenship), ethnic or national origin, sexual orientation, gender, age, disability, gender re assignment, marital status (marriage or civil partnership), pregnancy and maternity.

20. **Financial Services / Insurance mediation**

- a) If during the course of the matter upon which we are advising 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 and on the basis that we are included on the register maintained by the Financial Conduct Authority. The register can be accessed via the Financial Conduct Authority website at [www.fca.org.uk](http://www.fca.org.uk). As we are on this register we can carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts.
- b) If you have any problem with the insurance mediation services we have provided for you, then please let us know. We will try to resolve any problem between ourselves. If for any reason we are unable to resolve the problem between us, then you should note that we are regulated by the Solicitors Regulation Authority and so complaints and redress mechanisms are provided through the Solicitors Regulation Authority and the Legal Ombudsman.
- c) 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. For contact details of the Legal Ombudsman please refer to the Complaints section of these Terms of Business.

21. **Severability**

Each of these Terms of Business shall be severable and distinct from the others and if any term is held to be illegal, invalid or unenforceable, in whole or in part, the remaining terms shall not be affected.

22. **Complaints Procedure**

- a) **Scope** - All claims, complaints and disputes arising out of or in connection with the Services ('Disputes') will be resolved pursuant to this section.



- b) **Complaints Procedure** - We hope you will have no complaint. To underline how seriously we take complaints, we have a set Complaints Procedure which can be summarised as follows. A copy of our full complaints procedure is available on request.
- (1) If you have any complaint or observation (good or bad) about our service, please say so.
  - (2) Raise any complaint first with the Fee Earner assigned to your matter, including any complaint about your bill.
  - (3) If this does not resolve it satisfactorily, tell the relevant Head of Department.
  - (4) If this does not resolve it satisfactorily, contact Anup Vyas the Partner nominated by the Firm to ensure prompt and thorough investigation of any complaint.
  - (5) If still unresolved at this stage, you may take your complaint to the Legal Ombudsman. Normally, you will have to bring your complaint to the Legal Ombudsman within: 6 months of receiving a final response from us about your complaint; and 6 years from the date of the act or omission giving rise to the complaint; alternatively 3 years from the date you should reasonably have known there was cause for complaint.
  - (6) The contact details of the Legal Ombudsman are:  
PO Box 6806  
Wolverhampton  
WV1 9WJ  
Telephone: 0300 555 0333  
[www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)  
Email: [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)
- c) **Exclusions** - We shall not be obliged to comply with the Complaints Procedure in relation to any Dispute in which we seek:
- (1) an order or award (whether interim or final) restraining you from doing any act or compelling you to do any act; or
  - (2) a judgment or award for a liquidated sum to which there is no arguable defence (provided that the exception shall cease to apply and the Dispute may be referred to arbitration on the application of either party if the court decides that you should have permission to defend the claim); or
  - (3) the enforcement of any agreement reached or any binding order, award, determination or decision made,
  - (4) nor shall anything in this paragraph inhibit us at any time from serving any form of demand or notice or from commencing or continuing with any bankruptcy, winding up or other insolvency proceedings.
- d) **Regulator** - Nothing in this Terms of Business shall prevent you at any time from referring any Matter to the body or bodies for the time being charged with the regulation of solicitors. The Solicitors Regulation Authority can help if you are concerned about our behaviour. This could be for things like dishonesty, taking or losing your money or treating you unfairly because of your age, a disability or other characteristic.
- e) **Bills** – If our bill is for non-contentious business and our fee shown in this bill is not more than £50,000, under the Solicitors (Non-Contentious) Business Remuneration Order 1994, you have the right to require us within one month of the receipt of the bill to obtain a Remuneration Certificate from the Law Society stating that in their opinion the cost charged are fair and reasonable or what other sum may be fair and reasonable. If you ask us to obtain a Remuneration Certificate, then unless we already hold the

money to cover these you must first pay: (a) half our fee shown in the bill; (b) all the VAT shown in the bill; (c) all paid disbursements shown in the bill. However you may ask the Law Society to waive this requirement. You would have to show that exceptional circumstances apply in your case.

- f) There are also provisions in section 70,71 and 72 of the Solicitors Act 1974 relating to assessment of costs on contentious matters which gives you the right to have the bill checked by an Officer of the High Court.

23. **Law and Jurisdiction**

The terms on which we provide Services to you are governed by, and shall be construed in accordance with, English Law. You and we each agree to submit to the exclusive jurisdiction of the English courts, provided that we may in our sole and unfettered discretion commence proceedings against you in any other Court.

24. **Quality Standards**

Due to our own internal quality standards and us achieving Lexcel accreditation, Conveyancing Quality Scheme (CQS) and other accreditations, we are subject to periodic checks by outside assessors. This could mean that your file may be selected for checking, in which case we would need your consent for inspection to occur. All inspections are, of course, conducted in confidence. If you prefer to withhold consent, work on your file will not be affected in any way. Since very few of our clients do object to this we propose to assume that we do have your consent unless you notify us to the contrary. We will also assume, unless you indicate otherwise, that consent on this occasion will extend to all future matters which we conduct on your behalf. Please contact us if we can explain this further or to advise us if you do not want your file to be reviewed.

25. **Provisions Relating to Property Transactions**

- a) **Stamp Duty Land Tax ('SDLT')** - SDLT is a compulsory self assessment tax on UK Land transactions. In any transactions involving land, a Land Transaction Return must be completed and submitted to HM Revenue and Customs ('HMRC'). The Buyer or tenant must sign the Land Transaction Return personally. Therefore while we will prepare your return on your behalf, it is your responsibility to ensure that the information contained in the return is correct and complete. You must keep a record of the Land Transaction Return for six years after the transaction. You should be aware that HMRC may raise enquiries and demand additional information and documents from you after submission of the return.
- b) **Planning in property transactions** - We will not advise you on the planning implications of any property purchase or other property related transaction, unless we specifically agree in writing to do. However in respect of property purchase transactions we would normally report to you on any relevant information provided by the results of the 'local search'.
- c) **Physical Inspections, Valuations, Surveys, Mortgages** - It is not our responsibility to carry out a physical inspection of any property nor advise on the valuation of the property nor the suitability of your mortgage nor any other financial arrangements.

- d) **Environmental Issues** - We shall not advise generally on environmental liabilities where we shall assume, unless you tell us to the contrary, that you are making your own arrangements for any appropriate environmental survey or investigations. We may, however, obtain a desk top survey or environmental search which we shall forward to you. Whilst we may highlight certain result arising from such a report, we are not experts in this field. We are not qualified to advise on the results of any search made in that respect or the implications of it. We exclude all liability in connection with or as a consequence of any failure on your part to read any environmental report or to take follow-up action suggested in such a report.
- e) **Lender** - If we are instructed on purchase and we are also acting for your proposed lender, we have a duty to (and you authorise us to) reveal fully to your lender all relevant facts about the purchase and the mortgage. This includes any differences between your mortgage application and information we receive during the transaction, any cash back payments or discount schemes that a seller is giving to you.
- f) **Asbestos** - Pursuant to the Asbestos at Work Regulations, anyone with the responsibility for maintenance and repair of non domestic premises (which includes tenants) are subject to various duties. For example, reasonable steps must be taken to assess whether asbestos is present in the premises; an up to date asbestos register must be maintained; an asbestos management plan must be implemented; where asbestos is in existence, there is a duty to disclose this to anyone who may come into contact with or work on it. The Health & Safety Executive will enforce these obligations. Sanctions for breach include up to 2 years imprisonment and an unlimited fine. In light of the foregoing, we recommend that a specialist survey be carried out prior to exchanging contracts to buy property, or taking a lease of property, in order to assess the asbestos risk and that appropriate consultants are retained thereafter in order to help ensure compliance with the regulations.
- g) **Disability** - Under various disability legislation and regulations, reasonable steps must be taken to make services in and around buildings available to disabled people. There is a duty to make alterations to physical barriers to make them accessible to disabled people. Again, we advise that prior to committing yourself, specialist advice is obtained in relation to such matters in order to assess the extent and cost of any changes required by the legislation.

26. **Provisions Relating to Litigation and Other Work in Relation to Disputes**

This section contains important information which we are professionally obliged to give you where the Matter relates to litigation or the resolution of disputes by other means (including a non-contentious Matter which becomes contentious, or gives rise to further instructions on a contentious Matter).

a) **Costs Risk**

- (1) In litigation matters, the Court may decide to order one party to pay the costs of the other. The Court usually orders the unsuccessful party to pay all or a part of the successful party's costs, although there is no certainty about this. The successful party usually recovers a proportion of its costs from the unsuccessful party, although there is no certainty about this.
- (2) You will still be liable to pay our costs in full, even if the other party fails to pay the costs awarded to you by the Court.

- (3) If you lose the case, you may have to pay the other side's costs.
  - (4) It is not usually possible for you to withdraw from the case without dealing with the issue of those costs.
  - (5) You should be aware that if you make an interim application to Court which does not succeed, you may have to pay the other side's costs, usually within two (2) weeks.
  - (6) Costs awarded have to be proportionate to the value of the dispute and, in the ordinary course, recovered costs from the other side rarely exceeds sixty to seventy per cent (60-70%) of actual expenditure.
  - (7) Issues which the Court may take into account in assessing the costs payable or recoverable include:
    - efforts made before and during the proceedings to try to resolve the dispute, including the appropriate use of mediation and other alternative dispute resolution procedures;
    - the effects of payments into court and offers of settlement;
    - the complexity and size of the Matter and the difficulty or novelty of the questions raised;
    - the skill, effort, specialised knowledge and responsibility involved;
    - the time spent;
    - the place and circumstances in which the work was done.
  - (8) If the other side is or becomes legally aided, it is highly unlikely that you will recover your costs, even if you are successful.
  - (9) If your opponent's solicitors are undertaking the case on a conditional fee agreement, your liability to pay their costs in the event you lose may be substantially increased and could be doubled by reason of having to pay their 'success fee' on top of their 'base costs'. In addition you may be liable to reimburse a substantial 'after the event' insurance premium.
- b) **Legal Expenses Insurance** - Legal expenses insurance may be included in your contracts of insurance and you should check your policies to see if you are covered. Your policy may cover your costs and/or your liability to pay the other side's costs. If you believe you are covered, please discuss this with us so that we can assist you in notifying your insurer. If you do not have legal expenses insurance, you may be able to purchase insurance to cover you in the event that you have to pay the other side's costs.
- c) **Conditional Fee Agreements** - A conditional fee agreement is an agreement whereby we would be entitled to charge you an increased fee if you were successful, and would charge you no fee or a reduced fee if you were not successful. You might be able to take out an insurance policy to cover you in the event that you are ordered to pay the other side's costs. You would usually be able to recover this insurance premium and any sums you paid to us from the other side if you are successful. Not all Matters are suitable for this type of conditional fee arrangement, but we are happy to discuss this further with you at your request.

- d) **Statements of Truth** - Under the Civil Procedure Rules, all statements of case (the term for pleadings which includes documents such as claim forms, defences and witness statements) and certain other documents must be verified by a statement of truth to the effect that the party putting forward the document believes the facts stated in it are true. Making a false statement of truth is potentially a contempt of Court. Whilst a statement of truth can be signed by you or your legal representative, it is our policy that you should sign your own Statement of Truth.
- e) **Attendance at Hearings** - Please be aware that, under the Civil Procedures Rules, the Court can order you to attend hearings. We will discuss this with you further as your case progresses.
- f) **Alternative Dispute Resolution** - As part of the active management of a case under the Civil Procedure Rules, both the Courts and the parties in a dispute are required to consider the use of alternative dispute resolution ('ADR') if it is considered appropriate to help to resolve the dispute. ADR includes methods of dispute resolution such as mediation, adjudication and expert determination. There have been occasions when the Courts have imposed costs penalties on parties who unreasonably refuse to consider ADR. We will discuss both the methods of ADR and any possible costs implication further with you if and when it becomes appropriate.

27. **Regulations affecting your cancellation rights**

- a) You have certain right to cancel our engagement under The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. If we have not met you either in person (because, for example, instructions and signing of the contract documentation is taking place by telephone/mail, e mail or on-line – i.e.: by way of a “distance” contract) or we have taken instructions and a contract has been concluded away from our business premises (because, for example, we have met with you at home - i.e.: by way of an “off-premises” contract) and the contract was entered into on or after 14 June 2014, you have the right to cancel this contract within 14 calendar days of entering into the contract without giving any reason.
- b) The cancellation period will expire after 14 calendar days from the day of the conclusion of the contract.
- c) To exercise your right to cancel, you must inform us Vyman Solicitors Limited whose office address, telephone number, email address and fax number are as stated in the Client Care Letter sent to you at the start of the matter, of your decision to cancel this contract by a clear statement (e.g.: a letter sent by post, fax or e mail).
- d) To meet the cancellation deadline, you must send your communication concerning your exercise of the right to cancel before the cancellation period has expired.
- e) Should you require the work to be commenced within the 14 calendar day cancellation period, you must provide your agreement to that in writing, by e mail, post or fax to enable us to do so. By signing and returning a copy of the Client Care Letter sent to you, you are providing your agreement in writing to enable us to commence work within the 14 calendar day cancellation period. Where you have provided your consent for work to commence within the 14 calendar day cancellation period and you later exercise your right to cancel, you will be liable for any costs, VAT and disbursements incurred up to the point of cancellation. Unless you make an express request for us to

commence work within the 14 day period (i.e. by signing and returning copy of your Client Care Letter, we will not be able to undertake any work during that period.

28. **Professional Indemnity Insurance**

- a) We have a legal duty to tell you about our professional indemnity insurance. We have an obligation to carry such insurance and details of our current qualifying insurers can be inspected at our registered Office.
- b) The insurance covers our practice carried on from our offices in England and Wales and will extend to acts or omissions wherever in the world they occur.

29. **Financial Services Compensation Scheme ('FSCS')**

- a) We currently hold our client account funds in National Westminster Bank Plc.
- b) The FSCS is the UK statutory compensation scheme for customers of financial services providers. The FSCS can pay compensation to consumers if the financial service provider is unable to meet to claims against it. The amount the FSCS can pay compensation will be limited to £85,000.
- c) The £85,000 FSCS limit will apply to each individual client so if you hold other monies yourself in the same bank as our client account, the limit remains £85,000 in total. It is advisable to check with your own bank as some banks now trade under different brands.
- d) In certain limited cases, the FSCS will provide *natural persons only* protection for 'temporary high balances' of up to £1 million for up to 6 months. This will include real estate transactions and proceeds from inheritance.
- e) In the event of a bank failure you agree to us disclosing details to the FSCS.
- f) In the event of a banking failure it is unlikely that this Firm would be held liable for any losses of client account money.
- g) We exclude liability to the fullest extent permitted by law in respect of any loss suffered by you as a consequence of us holding funds on your behalf in a financial institution.

30. **Legal Aid**

- a) We only undertake Legal Aid work in criminal matters. We do not undertake any civil legal aid work.
- b) However it is important that you are aware of civil Legal Aid. Civil Legal Aid may be useful to a litigant because, if he loses, his liability is usually limited to his means-tested contribution, and it is unlikely the Court will allow the winner to recover any costs against him. However, Legal Aid is not free. It is like a loan secured by a 'statutory charge' (similar to a mortgage) over any assets (e.g. a home or other property) that the assisted party recovers or preserves. This 'statutory charge' may also be subject to interest.

- c) For more information please discuss this with a civil Legal Aid specialist. They will be able to confirm if Legal Aid will be relevant to your type of case and if you may qualify. Alternatively go to the LAA website [www.justice.gov.uk/legal-aid](http://www.justice.gov.uk/legal-aid) or telephone them directly on 0300 200 20 20.