

## TERMS AND CONDITIONS OF BUSINESS

**Our aim** is that within our areas of expertise we will provide our clients with efficient legal services, charged at fair rates, with transparent, plain and clear advice and work. If you have needs which we cannot ourselves carry out, we will refer you to other firms who we believe can provide an equally efficient and professional service.

### Our standard terms of business

#### 1. General application

- 1.1 These terms (hereafter called the "Terms") apply in respect of all matters handled by Phillips Lewis Smith Ltd trading under the name "Phillips Lewis Smith" (referred to in these terms as "the firm", "we" or "us"). A copy is given to the client ("you") when you first retain us, and any changes in the Terms will be notified to you in writing. **Please read these terms and conditions of business carefully.**
- 1.2 These Terms were introduced on 19 June 2018.
- 1.3 Save where we are required by legislation or by the Courts or by the Solicitors Regulation Authority to alter any term or condition during the currency of any matter, in which case you will be promptly notified of such change, these Terms will apply to each new matter started on or after 1 June 2015. Any existing matter will continue to be dealt with under the terms and conditions prevailing when it began, unless we tell you of the change and you agree to be bound by it.
- 1.4 These terms also apply to work on any matter where your instructions were originally given to any precursor of the firm, that is Rubinstein Phillips (as the business was constituted until 30 April 2006) Rubinstein Phillips LLP (as it was until 1 March 2011) Rubinstein Phillips Lewis LLP from then until 31 May 2015) and/or Rubinstein Phillips Lewis Smith Ltd (as the firm was named from 1 June 2015 to 1 June 2018) and no new terms have been applied to it.
- 1.5 If you instruct, or continue to instruct us after we have provided you with these Terms, this will be taken to mean that you have agreed to be bound by them. The laws of England shall apply to these terms, including any question relating to their validity and construction.
- 1.6 Sometimes due to the urgent nature of your instructions it may be in your interest that we start work before we have been able to send you these Terms. If, once you have received them, you continue to instruct us, that will likewise be taken to mean that you have agreed to be bound by them from the outset. Where either of two consumer protection measures applies, the position may be different: see paragraph 2 below.
- 1.7 A client care letter which refers to these Terms will be sent to you on the opening of each new matter during your retainer of the firm. We will send you a further copy of these Terms if you request one.
- 1.8 These Terms (and any letter which is sent with them) set out the basis on which we are willing to deal with the transaction on your behalf. **If you wish to proceed, please sign the copy of our client care letter and return it to us. Where two or more clients instruct us jointly, please would all sign. On receipt, or if you give us further instructions without signing and returning the copy letter, we shall regard ourselves as acting on your behalf on these Terms.**
- 1.9 Where there are joint clients, instructions given by any one of them will be taken as given by (and will bind) all of them, unless you tell us that instructions must be given by two or more clients.

#### 2. Consumer Protection Measure giving a right to cancel your instructions

- 2.1 This section only applies to private clients (i.e. not businesses or organisations).
- 2.2 If you have given us instructions without the benefit of meeting at our office, the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 - to which we will refer as "the 2013 Regulations" - give you the right to cancel your instructions within a limited period as set out below. This applies to all matters except that there is no right to cancel in relation to any conveyancing transaction.

In any case where the 2013 Regulations apply:

- a) You have a right to cancel your instructions without any cost to you within 14 days of our receiving your written instructions to proceed. If you decide to cancel, you should put this in writing to us, either by letter or by fax or email making a clear statement of your intention to cancel. You may if you wish use the notice/cancellation slip which you will receive with our client care letter.

- b) After that period, or sooner if we have (with your permission – see point c) below) started the work, you may still terminate your instructions but may be liable to pay us for any work we have undertaken.
- c) By signing and returning our client care letter you are agreeing that it is in your interest that we should start work and therefore incur costs on your behalf without waiting for the cancellation period to expire.
- d) We will also take the return of that letter as your understanding that our agreement is ongoing and our work will not be completed within 30 days. This will not prevent you from instructing us to stop work at any time - by notice in writing sent to the individual who is handling your case - but means you may have to pay for any work done on your behalf until that notice is received.

### 3. Evidence of Identity & Source of Funds

3.1 We are subject to money laundering regulations that oblige us to obtain proof of identity before we can undertake work.

- a) These apply to
  - individual clients
  - in the case of a trust, all of the trustees, every beneficiary with the eventual right to 25% or more of the capital, and any “protector” of the settlement
  - in the case of an estate, all of the executors
  - in the case of a company client, all the directors and everyone owning more than 25% of the shares or voting rights
- b) For each person we need to see (i) a current passport or photo card driving licence as evidence of identity and (ii) a bank statement, credit card or household utility bill no more than 3 months old as evidence of your address. If we need you to produce original documents, we will copy and promptly return them.
- c) For companies, partnerships, etc. we will tell you what documents are required.
- d) You authorise us, where we consider it necessary, to obtain or verify your details with a third party (such as a credit rating agency) and to add to your account any fees that are charged to us for this process. You also agree that we may disclose your details if we are required to do so by law.

3.2 We may also require you to provide evidence of the source of funds for any transaction you ask us to undertake. Section 16.8 below explains that we may be obliged to report any concern that assets of any kind may be derived from unlawful activity.

### 4. Your responsibilities

It is your responsibility to provide us with complete, accurate and timely information where we have requested this and to carry out any other obligations that we explain are placed on you or persons under your control. We will not be responsible for any consequences arising from any delay or failure by you to do so (and may charge additional fees for any further work required as a result of such delay or failure).

### 5. Keeping you informed

Once you have instructed us, we will keep you informed by one or more of telephone email faxed or posted letter. You may tell us how you would prefer us to contact you. Our client care letter will tell you who is dealing with your matter and therefore who is responsible for keeping you informed of what is happening in it.

### 6. The Practice's Structure

The Practice has the structure of a limited company, in the sense that all contracts are made with, and all obligations undertaken by, the limited company, not any individual who is involved in it.

### 7. Estimates

7.1 We will provide you at the outset and at regular intervals with details of costs incurred and our best estimate of future costs and fees (and any payments we may have to make to third parties on your behalf; these are called “Disbursements” – see clause 8 below). You may also ask us for an estimate at any time and we will do our best to work within any estimate we give.

However, litigation and other legal business can be unpredictable so any estimate may only be able to indicate the range of figures between the likely best- and worst-case scenarios. Frequently, also, issues only become apparent after the matter has been running for some time. We will advise you as soon as we reasonably can of anything that is likely to affect any previous estimate of costs and to what extent it may do so.

7.2 A written estimate of our fees and any Disbursements will be provided at the earliest reasonable opportunity after you have first contacted us. If urgent work is undertaken, an oral estimate will be supplied, followed as soon as practicable by a written confirmation.

- 7.3 Where the extent of the work to be done, or the issues it raises, is unclear at the outset, we will provide an initial estimate for the work needed to identify the issues and to advise you on them so that you can decide the basis on which you want to proceed.
- 7.4 You may at any time set a ceiling on the costs we are authorised to incur, whether for the whole matter or any individual stage.
- 7.5 Unless otherwise stated, estimates are for our fees prior to the addition of VAT and disbursements.

## 8. Disbursements

- 8.1 "Disbursements" are payments which we make to third party suppliers specifically on your behalf during a case or matter. These may include, but are not limited to; fees payable to counsel, foreign law firms or expert witnesses, Court fees, costs draftsmen's fees, search fees, Stamp Duty, Land Registry Fees, Patent Office and other Intellectual Property registry fees, travel expenses, courier and special delivery charges and copying charges. These may also include payment for telephone charges where conference calls, mobile telephone calls, or calls of exceptional duration are required.
- 8.2 You have to pay for Disbursements properly incurred by us in carrying out work for you, and for any VAT or sales tax payable on services provided to us or to you by third party suppliers. Where these are known in advance, details are set out in our client care letter or any separate estimate of costs.
- 8.3 You agree to pay us on account such sums as we may reasonably require from time to time to enable us to pay third party suppliers (if necessary in advance) for services rendered by them on your behalf.
- 8.4 We will not be obliged to engage any third party supplier unless we have already received sufficient monies to cover their proper charges.

## 9. Our fees

- 9.1 We normally charge for work done by reference to the time spent at the hourly rate(s) quoted to you, having regard to the nature of the work and its urgency. Other charging arrangements (including retainers, fixed fees, etc.) may be made by specific agreement.
- 9.2 We are required to add VAT to fees and certain Disbursements charged to clients who are domiciled or resident within any European Union Member State (except entities that are registered for VAT in any EU country other than the UK) and also where the client, although domiciled and resident outside the EU, instructs us in relation to land/property in the UK.
- 9.3 Time spent by us includes time spent on telephone calls with you; this is chargeable time, and frequent or lengthy telephone calls will mean higher fees being incurred.
- 9.4 If a matter is not completed for whatever reason (whether you withdraw your instructions, or a third party no longer wishes to proceed with you, or we terminate your retainer because you have not paid our bill, or otherwise) you are still responsible for paying us in respect of work done up to the conclusion of our instructions.
- 9.5 The cost of any unbilled abortive work will generally not exceed any initial estimate or the most recent estimate (as the case may be) relating to that work. Among other exceptions, see as next mentioned.
- 9.6 In a contentious matter, if you decide for any reason not to proceed or we terminate the retainer because you have either not paid our costs or not complied with any order of the Court, we may be obliged to carry out further work before the Court will allow us to cease acting. In such circumstances you will be liable to pay us at the agreed rate(s) for any such work, whether or not it falls within our most recent estimate.
- 9.7 Estimates of costs also do not include Court fees or our own fees relating to any procedure in which the Court is asked to assess what you must pay in respect of your opponent's costs or our own.

## 10. Billing

- 10.1 We may send you one or more interim bills (as well as a final bill when the matter is completed). Interim bills are submitted at intervals, usually quarterly. We may request you to pay a sum to be held on our client account in advance of costs to be incurred in a subsequent period.
- 10.2 Where Disbursements need to be paid to a third party (see also clause 8 above), separate bills may also be raised to cover those items. We may ask you to put us in funds to cover disbursements before we incur them on your behalf.
- 10.3 Bills must be paid within 14 days following the date of their delivery to you.
- 10.4 We are entitled to charge interest at 4% per annum over base rate from time to time prevailing on any bill outstanding beyond the due date for payment.
- 10.5 If you have a query concerning a bill, we ask you to raise it promptly after you receive the bill.
- 10.6 The above Terms do not affect your statutory rights under the Solicitors Acts from time to time in force, due notice of which will be given to you on delivery of each bill.
- 10.7 **IMPORTANT:** We will not be obliged to continue working on any matters currently being undertaken for you whilst any bill we have sent you remains outstanding beyond the due date for payment. By law, we are entitled to retain any papers or data belonging to you until all bills sent to you have been settled in full (in legal terms this is called exercising a lien).

## 11. Litigation

- 11.1 This paragraph applies only to litigation matters.
- 11.2 Although there may be instances where all or part of your costs are recoverable from or payable by another party, you are still personally liable to pay us the full amount and we are unable to await payment from other parties for such costs. In particular we cannot be expected to wait for the outcome of any assessment of costs by the Court.
- 11.3 If you lose proceedings, you will probably have to pay your opponent's costs as well as your own. The same result may occur if you withdraw a claim you have made. Even if you win, your opponent will probably not be ordered to pay the full amount of the costs you have to pay us.
- 11.4 If your opponent is legally aided, you are unlikely to recover any costs even if you win.
- 11.5 If you do win, your opponent may fail to pay either the sum for which you have been given judgement or the costs he has been ordered to pay. You may incur further costs in enforcing payment.
- 11.6 During the course of litigation it is often necessary to apply to the Court for orders concerning the conduct of your case. Costs in relation to any such application are assessed at the hearing or may be agreed in advance of the hearing if the application is settled without the need for attendance. This may result in an obligation for you to pay the other side's costs. We will tell you of any liability no later than 7 days after the order is made and you must put us in funds to discharge those costs within 7 days of us telling you of your liability or 14 days from the date of the order, whichever is the later.
- 11.7 During the course of litigation you may be required to sign a statement of truth on various documents. When doing so you confirm to the Court that the contents of the document signed are true. Should the contents of a document signed with a statement of truth be false, proceedings may be brought against you for contempt of Court, the consequences for which may be a fine or a custodial sentence. You are responsible for confirming the accuracy of any document prepared by us that require the signing of a statement of truth. We take no responsibility for any inaccuracies in a document prepared by us for which you sign a statement of truth.

## 12. Use of Email

- 12.1 Unless you give us instructions to the contrary, we may correspond by means of the Internet or other electronic media. Where we do so, we will take reasonable steps to safeguard the security and confidentiality of the information transmitted, but you acknowledge that we cannot guarantee either of these. It will also be your responsibility to check incoming electronic mail for viruses as the firm accepts no liability for the same.
- 12.2 We reserve the right at our discretion to suspend or terminate the use of email communication with you or with any third party connected with or relevant to any matter being conducted by us, if such use breaks, or threatens to break, any law regulating the use of electronic communications or we believe that communicating with you via the Internet or other electronic media poses a risk to the security and confidentiality of our correspondence.

## 13. Investment Business

- 13.1 Sometimes the work we are instructed to do involves investments. We are able to provide a limited range of advice and arrangements for which we are regulated by the Solicitors Regulation Authority. For more complicated matters or those which are outside our permitted terms of reference, we may refer you to someone who is authorised by the Financial Conduct Authority or the Prudential Regulation Authority as we ourselves are not so authorised.
- 13.2 The following statement is given as required by law:-

***We are not authorised by the Financial Conduct Authority. However, we are included on the register maintained by the Financial Conduct Authority so that we can carry on insurance distribution activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Solicitors Regulation Authority. The register can be accessed via the Financial Conduct Authority website at [www.fca.org.uk/register](http://www.fca.org.uk/register)***

## 14. Insurance Mediation Services

- 14.1 We are not authorised by the Financial Conduct Authority or the Prudential Regulation Authority but we are permitted to undertake insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Solicitors Regulation Authority.
- 14.2 Where we arrange a title indemnity policy in connection with any conveyancing transaction we do not conduct an individual analysis of all the possible insurance policies which may be suitable and available at the relevant moment in time. While we are not contractually tied to any particular insurance provider we are aware of a number of providers whose services we have found satisfactory in the past. To minimise the cost to you of our time, we will normally approach our known providers only. We can provide details of these companies on request.
- 14.3 Before we arrange any insurance on your behalf we will remind you that we will not be conducting a wide review of the insurance market and all clients are free to make separate insurance arrangements if preferred.

## 15. Commission and Interest

- 15.1 If we receive commission from a broker or other third party arising from a matter we handle for you, this belongs to you. Unless you ask us to pay it over to you, we will credit it to client account on your behalf and put it towards our next fees (or any fees then outstanding).

15.2 The same principle will apply if we hold money of yours on client account and the amount of interest, at the rate we apply generally from time to time, would be more than £20. Due to the cost of administration, we are allowed to keep any amounts of interest less than £20. Currently, our client account does not pay any interest.

15.3 Interest on any designated bank deposit account will belong to you regardless of the amount. These pay interest.

## 16. Termination

We will have the right to cease work immediately and terminate our retainer by giving you written notice at your last known address if, among other reasons:

- a) Any bill remains unpaid for more than 14 days after delivery, or
- b) You fail to pay any sum requested pursuant to paragraph 10.2 or 10.3 of these Terms within 14 days of request, or such lesser period as may in the circumstances be reasonable, or
- c) You fail without reasonable cause to give us instructions within one month after we have requested them.

## 17. Data Protection and Confidentiality

17.1 We are subject to the Data Protection Act 2018 and the requirements of UK GDPR.

17.2 By retaining us, you consent to us storing and processing, whether manually or electronically, any personal data (and where required sensitive personal data) relating to you (if an individual) or of personnel engaged or employed by you for the purpose of carrying out your instructions.

17.3 We will take reasonable commercial measures to ensure the security of the firm's electronic systems and the firm's database and to preserve the confidentiality of information held from time to time by us.

17.4 We will store your personal data for only so long as the same is properly and reasonably required to carry out your instructions, and consistent with our professional obligation (following the ending of instructions in any matter), to keep records of and relating to matters carried out by us on your behalf.

17.5 We may from time to time use your name, telephone number, address and or email address stored whether electronically or physically for the purpose of communicating legal developments and professional information to you. You may at any time ask that your name and address are not to be used for these purposes.

17.6 You acknowledge that data about you or belonging to you which is stored on a database maintained by or for us may be backed up and held securely at premises operated by a trusted third party for the purposes of insuring the continuation of the Firm's business in the event of any breakdown, destruction of, or external interruption or interference with our office systems as well as stored in the Cloud".

17.7 We have a general duty to keep your business confidential and not disclose it to anyone else without your permission. In some cases we are obliged by law to report evidence (or suspicion) of any unlawful activity, including past or present activities relating to money or other assets with which we are dealing. You accept that we will make any such disclosure that the law requires of us and that we may not be allowed to tell you we are making it.

17.8 In certain instances, we will need to share your data with third parties, for compliance and operational purposes. This includes but is not limited to auditors, IT providers and third party software companies. We will limit this to whatever is necessary and have agreements in place to ensure the safeguarding of your data.

## 18. File storage and destruction of files.

18.1 Original documents (wills, deeds and other documents of title) will normally be kept without limit of time but will be returned to you (i) at any time, if you request, or (ii) if you tell us that you have instructed other solicitors in our place, or (iii) if we give you at least one month's notice at any time.

18.2 As to files, we will routinely keep these in hard copy for six years from the conclusion of the matter, except for (i) files relating to land/property transactions, which will be kept for twelve years, and (ii) files relating to wills, which we will routinely keep until we are advised that the client has died. At the expiry of the relevant period above we will routinely destroy such files, unless you have already asked us to retain them and you agree to pay a reasonable charge for storage.

18.3 You may ask us at any time to return documents or files (which we will then do if you have paid our fees in full and you agree to pay in advance for the costs of retrieval and despatch) or you may request us to continue to store these but at your expense.

18.4 Electronic copies of documents may be stored by us for such period and duration as we in our discretion, and consistent with Data Protection legislation, consider appropriate.

18.5 We store some data in the "Cloud" and apply the same compliance requirements. We hold appropriate cyber security insurance.

## 19. Limitation of liability

19.1 The firm is a limited company. If we use the word "partner" or "principal", this is only to indicate that someone who is a director or employee of the company is of seniority equivalent to that of a partner in a conventional (that is, unlimited) partnership. It does not impose liability on any individual for the obligations of the company.

19.2 You agree that any claim whatsoever arising out of or in connection with the engagement of the firm shall be brought only against the company and that you will not bring any such claim personally against any director, shareholder, employee or consultant of the firm (whether or not that person is or has at any previous time been described as a "partner").

19.3 Where any claim relates to services provided by any foreign lawyers, you agree that you will only direct such claim against the relevant foreign lawyers and that we shall have no liability for any act or omission on their part.

19.4 Except for cases of death or personal injury or any other liability where the law does not allow us to exclude or restrict our liability, you agree that we may limit our liability to you under any kind of claim whatever arising out of our engagement (including any liability for interest and/or costs) to a figure that is reasonable but which shall not in any event be greater than £3 million.

19.5 No-one who is not a party to any agreement which incorporates these Terms shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any part of that agreement. This does not affect any right or remedy which is available to any person other than pursuant to that Act.

## 20. Concerns or complaints about our services

We have a procedure for handling any complaints and a copy is available on request.

If you have a concern about any aspect of our service, please draw it to our attention as soon as possible as that will make it easier for us to help you. Martin Lewis is the partner designated to deal with such matters (although you may contact Jacques Smith if you prefer).

If your concern reaches the level of a complaint, we will put this procedure into action.

If you are not satisfied by our response, you have the right to refer your complaint (within a limited timeframe) to the Legal Ombudsman service which is operated by the Solicitors Regulation Authority. Their address is: PO Box 6806, Wolverhampton WV1 9WJ, <http://www.legalombudsman.org.uk/>.

LeO, under its revised Scheme Rules from 1 April 2023, will not normally consider complaints unless they meet all of the following criteria:

- a) the poor service occurred after 5 October 2010
- b) the complaint is referred to LeO within either of the following:
- c) one year from the date of the act or omission being complained about, or
- d) one year from the date when the complainant should have realised that there was cause for complaint
- e) the complaint is referred to LeO within six months of the firm's final response

LeO has a discretion to consider a complaint outside the above time limits where it determines it is fair and reasonable to do so.

*Phillips Lewis Smith (in Association with Belluzzo International Partners) is the business name of Phillips Lewis Smith Limited, a company incorporated in England number 09466510 with its registered office at 38 Craven Street, London WC2N 5NG. The firm is authorized to practice in and is governed by the law of England and Wales  
The firm is authorised and regulated by the Solicitors Regulation Authority (SRA reference number: 621025)*

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