

Standard Terms and Conditions of Business

*This document together with your engagement letter sets out the terms on which we will act for you.
Please read it carefully*

1. Pemberton Greenish LLP

1.1 Pemberton Greenish LLP is a limited liability partnership registered in England and Wales with registered number: OC350893. Its registered office is at 45 Cadogan Gardens, London SW3 2AQ. References in these Terms and Conditions to 'we', 'us', 'our' and 'LLP' are to Pemberton Greenish LLP.

1.2 In these Terms and Conditions the word 'partner' is used to refer to a member of the LLP.

2. Fees and disbursements

2.1 Our fees are normally based on the time we spend dealing with each matter. In certain cases where we have agreed a fixed fee this will be charged upon completion of the transaction or upon completion of the relevant stage of the transaction. Time spent on the matter will include meeting with you and others; time spent travelling; considering, preparing and working on papers; correspondence; and making and receiving telephone calls.

Time is recorded in six-minute units. Each lawyer has a basic hourly rate, based on seniority and experience, at which he or she is charged out. The current hourly rates (exclusive of VAT) for lawyers of different seniority are as follows:

• Partner	£320-375
• Senior Solicitor	£290-320
• Solicitor	£195-290
• Legal Assistant	£155-185
• Trainee Solicitor	£95-125
• Paralegal	£70

2.2 Although most fees will be time-related, in assessing a fair and reasonable fee it is not always appropriate to ignore other factors such as the value to you of work done and advice given. In assessing this, the following matters may be taken into account:

- the complexity of the matter and the number and nature of documents involved;
- the difficulty of the matter and any special skills or knowledge involved;
- the value involved;
- where the matter is transacted;
- the importance to you, including urgency.

Where one or more of these factors applies, we reserve the right to adjust the above charging rates. At all times, it is our intention to charge a fee which is both fair and reasonable to you and to us.

2.3 Our hourly rates are reviewed at the end of our financial year (31 March) with any changes brought into effect from 1 April each year. We will inform you of any changes. We reserve the right to review our charges at any other time during the financial year.

3. In addition to our fees, we will charge you for third party costs that we incur on your behalf in carrying out the work for you (disbursements). Unless they are unusual, they will be incurred and charged to you without the need for prior authority.

Unless there is a particular urgency, you will normally be consulted before we instruct Counsel, experts or any other professional person on your behalf. Disbursements include Counsel and expert's fees, travelling expenses, delivery and courier charges, company searches and land registry fees, search fees, stamp duty and Court fees.

Postal and telephone costs, copying and secretarial services are normally included within our general fees. We may charge separately for bulk or colour copying and we charge an administration fee of £25 plus VAT for money transfers made on your behalf.

4. **VAT**

We will add VAT to our charges where legally required to do so at the prevailing rate that applies when the work is done. The supply of our services to overseas clients (other than in relation to UK property) may however be VAT zero-rated.

5. **Billing arrangements**

5.1 Unless otherwise agreed, we will send you interim bills for our fees and any disbursements at agreed intervals. We will send you a final bill after completion of the work.

5.2 Our bills are due for payment within 14 days from the date of delivery.

5.3 We reserve the right to charge interest at 4 per cent over the base rate from time to time of National Westminster Bank Plc on any accounts which are not paid within 14 days of delivery. Where we hold monies on client account on your behalf, we reserve the right to deduct from such monies (including interest earned thereon) any costs (including interest) that are properly due and owing to us whether or not such costs relate to the current matter or to any other matter upon which you have instructed us.

6. **Payments on account**

We may ask you for payments on account of fees and/or disbursements in both contentious and non-contentious matters from time to time and it is a condition of our acceptance of your instructions or our continuing to act for you (as relevant) that you agree to make such payments. It should be clearly understood that the total of our fees and disbursements in the matter may amount to more than the payments on account requested from you. Without prejudice to our right to deduct any costs owing to us from monies held on account pursuant to paragraph 5.3, monies on account will not generally be used to settle a fee note until our final bill for the matter has been sent to you and so you will be required to pay any interim bills from other sources. Monies on account may, however, be used to pay disbursements as and when they arise. In almost all cases, any monies on account will be paid into an interest-bearing client account in our name until used for disbursements or until delivery to you of a final bill. If at any time you would like confirmation of the monies remaining on account, please let us know. If you do not pay promptly any request for money on account, we reserve the right to decline to act further.

7. **Instructions from groups**

7.1 Where we are instructed by a group comprising two or more persons, any one member of the group who instructs us on its behalf shall be deemed to have full authority to do so and to bind the group, unless we are specifically advised in writing to the contrary. We shall also be entitled to assume that any information provided to us by the instructing member can be shared with other members of the group, unless the instructing member advises us otherwise in writing. In such circumstances, we are unlikely to be able to continue to act for either the instructing member of the group or the other members of the group or to let you know the reason for this.

7.2 All members of the group shall be jointly and severally liable for our fees and all disbursements.

8. **Legal Expenses Insurance**

If you think that you may be covered by a policy of insurance in respect of legal expenses you should inform us immediately upon our engagement.

9. **Recovering and paying costs in Civil Court proceedings**

9.1 Recoverability of costs as between parties to litigation is entirely at the discretion of the Court. If the matter proceeds to trial and you are successful, the Court is likely, although not bound, to order that the other side pays your costs, in an amount to be agreed between the parties or assessed by the Court. The Court may make such orders based upon success or failure on individual issues rather than on the case as a whole. In deciding whether to make an award of costs, the Court will consider the conduct of all parties, the success or otherwise of each party and any formal offers to settle of which the Court is aware.

9.2 You should be aware that in civil proceedings the Court may order or encourage the parties to attempt to resolve their disputes by other non-litigious means, eg by mediation. If a settlement does ensue, it is unlikely that litigation costs will be recoverable other than by agreement between the parties.

9.3 An award of costs, whether ordered by the Court or as part of the terms of settlement, does not mean that you will recover the full amount of your costs from an opponent. In our experience, you should anticipate a recovery of approximately 70 per cent of actual costs. You must therefore expect there to be a shortfall between what you recover if you succeed and what you are liable to pay us. It is important that you understand that you are responsible for paying our bills in full; regardless of any entitlement you may have to recover costs from another party.

9.4 If you are unsuccessful at trial, you will probably be required to pay your opponent's costs. Likewise, you may agree, as part of a settlement, to pay an opponent's costs or to contribute towards them.

9.5 An order for costs is likely to be made by the Court at every hearing before it, whether on an interim application or at the final trial.

(a) **Detailed assessment**

(1) For some short and most longer hearings, a detailed assessment of these costs will be ordered. 'Assessment' is a formal procedure for determining the precise amount payable in respect of costs, which takes several months to complete. (We will, however, require you to pay the whole of our outstanding fees once we render a bill and you must therefore be prepared for some delay between your paying our bill and effecting a recovery from the other side if a costs order is made in your favour). It may be possible in these circumstances to ask the Court to order the paying party to make an interim payment on account of the costs finally assessed as due.

(2) If a detailed assessment of your costs is ordered, we will provide the services of a costs draughtsman to prepare all necessary documents and, if necessary, attend the assessment hearing on your behalf.

(b) **Summary assessment**

In respect of hearings which do not last more than one day, the Court also has the power to make a summary assessment of costs. This involves the Court ordering one party to pay a specific sum to the other party in respect of costs instead of having to wait for a detailed assessment. This will be a relatively rough and ready figure (based on short statements of costs filed before the hearing).

9.6 Any order for the payment of costs must be complied with within 14 days failing which the Court has the discretion to strike out the paying party's claim (or defence). We will inform you promptly if a costs order is made against you.

9.7 There is the possibility that at the end of the case, a party ordered to pay your costs may be unable to do so and you will not therefore recover anything. However, you will remain responsible for payment of any of our outstanding bills in full. This is a matter which we will review as the case progresses, but it is not always possible to protect against such an outcome. You should also be aware that you will have to pay additional legal fees in order to take enforcement proceedings if that becomes necessary in order to recover costs which are awarded in your favour.

10. **Recovering and paying costs in Tribunal work**

If your case is brought before a Tribunal that has no power to award costs, except in exceptional circumstances, you will be unable to recover your costs from the other party even if successful. The same applies to the other party's costs should you lose.

11. **Recovering and paying costs in arbitration**

11.1 Unless the parties reach an alternative agreement, the arbitrator will have the power to award costs to any party in the proceedings. As with civil proceedings, they can award a party some or all of their costs.

11.2 Unless the parties can reach agreement between themselves, the assessment of these costs is dealt with by either the arbitrator or the Courts. The process is as set out in paragraph 9 above. It is important to understand that you are responsible for paying our bills in full, regardless of any entitlement you may have to recover costs from another party.

12. **Complaints**

We aim to provide you with a high standard of service. If you have any queries or concerns about our work for you, please raise them in the first instance with the partner responsible for your matter or, if you prefer, with Robert Barham, our managing partner. If for any reason we are unable to resolve the problem, then the matter can be referred to the

Legal Complaints Service which is the independent complaints handling body of the Law Society. A copy of our complaints handling procedure is available on request.

13. Storage of papers and documents

13.1 After completing our work and engagement, we are entitled to keep all your papers and documents where there is money owing to us for our fees and/or any disbursements. We will, in any event, keep our file of papers (except for any papers which you ask to be returned to you) for no less than six years. Unless you instruct us to the contrary, you hereby authorise us to destroy them six years after the date of the final bill that we send you for this matter. We will not destroy any documents which you ask us to deposit in safe custody.

13.2 If we retrieve papers or documents from storage in relation to continuing or new instructions to act in connection with your affairs, we will not normally charge for such retrieval. However, we may make a charge based on time spent for producing stored papers or documents to you or another at your request. We may also charge for reading, correspondence or other work necessary to comply with your instructions.

14. E-mail

14.1 All of our lawyers have individual e-mail addresses. If you wish, you may correspond with us by e-mail. Your e-mail, once received by us, will be kept confidential by us in the same way as we would keep any correspondence received by other confidential means. We shall treat receipt of an e-mail from you as a request to us to communicate with you by e-mail.

14.2 We cannot guarantee that e-mails sent to us or by us will not be viewed or intercepted whilst en route. Nor can we guarantee that e-mails sent to us or apparently sent from us are genuine; the nature of email makes this impossible. Further, e-mails may be subject to misrouting, delay or the breakdown of service providers on your or our own equipment. This may result in non-receipt or delayed receipt of the e-mail which may not be apparent to the sender or recipient. If you have any concerns, you should consider avoiding the use of e-mail or, alternatively, follow up all important e-mails by other methods of communication.

14.3 We will charge for time spent on e-mails in the same way as other communications but the Courts may not allow some or all of such costs to be recovered from another party.

14.4 If you do intend to communicate with us by e-mail, by accepting these Terms and Conditions you confirm that you understand the risks and you authorise us to act upon electronic instructions which have been transmitted (or appear to have been transmitted) by you, and communicate with you by email.

15. Limitation of liability

15.1 The effect of this paragraph is to limit our financial liability to you. The liability referred to may arise from negligence, breach of contract or retainer, misrepresentation, or in any other way except by fraud or fraudulent misrepresentation or reckless disregard of our professional obligations. However nothing in these Terms and Conditions excludes or limits our liability in respect of death or personal injury caused by our negligence or for any other liability that cannot lawfully be excluded or limited.

15.2 Liability to you (or anyone else who may claim to benefit from your instructions to us) is limited in aggregate to the sum of £4,000,000 (four million pounds) for each cause of action. This limit applies in relation to this and each and every transaction and retainer and any subsequent work we undertake for you unless expressly overridden in a subsequent written engagement letter signed by a partner.

15.3 Our partners, employees and consultants will be acting on our behalf and will not be personally liable for any loss arising out of, or in connection with, our work for you.

15.4 We shall not be liable to you for any loss that arises from us relying (where it is reasonable to do so) on information or documents that are misleading, incomplete or incorrect.

15.5 We shall not be liable to you for any failure or delay or for the consequences of any failure or delay in performance of your instructions if it is due to any event beyond our reasonable control including, without limitation, acts of god, war, industrial disputes, protests, fire, flood, storm, tempest, explosion, acts of terrorism and national emergencies.

15.6 Unless paragraph 15.7 applies, we will not be liable for any loss caused by anything any person other than the LLP and our partners, consultants and employees does or fails to do.

15.7 If you have instructed other advisers, we will not be liable for any loss you suffer for which the other advisers alone are responsible. If you have suffered a loss for which we and the other advisers are jointly and individually responsible, we will pay our share of the loss up to the limit shown in paragraph 15.2. When deciding our share of the loss, we will not take account of any agreement limiting the amount of damages other

advisers pay and any actual or possible shortfall in this amount (whether this is due to settling or limiting claims, or any other reason).

16. Investment business

We are not authorised by the Financial Services Authority. However:

- 16.1 sometimes conveyancing, probate and company work involves investments and we may refer you to someone who is authorised to provide any necessary advice. In addition, as we are regulated by the Solicitors Regulation Authority we can provide certain limited services in relation to investments, provided they are closely linked with the legal services we are providing to you.
- 16.2 we are included on the register maintained by the Financial Services Authority so that we can carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts. The Solicitors Regulation Authority regulates this part of our business, including arrangements for complaints or redress if something goes wrong. The register can be accessed via the Financial Services Authority website at www.fsa.gov.uk/register.

17. Data protection

- 17.1 All information that we hold concerning you as an individual (or if you are a company, any of your shareholders or directors or if you are a limited liability partnership, any of your members) will be held and processed by us strictly in accordance with the provisions of the Data Protection Act 1998 (or any amending/updating legislation). Such data will be used by us to provide you with legal services and for related purposes.
- 17.2 We will not, without your consent, supply your name and addresses to any third party except:
- (a) where such transfer is a necessary part of the legal services that we undertake, or
 - (b) where we are required to do so by operation of law, or
 - (c) to carry out credit checks to detect, investigate and prevent fraud and to trace debtors.
- 17.3 As an individual, you have a right under the Data Protection Act 1998 to obtain from us various information including a description of the data that we hold on you. Should you have any queries concerning this right, please contact us.
- 17.4 We may occasionally use your contact details to inform you of legal updates, client seminars and similar matters. If you do not wish to receive such information, please tick the box when returning the countersigned letter accompanying these Terms and Conditions.

18. Money laundering regulations

- 18.1 We operate a money laundering and reporting procedure in accordance with the Money Laundering Regulations 2007 ("the Regulations").
- 18.2 Under the Regulations we are required to obtain identification evidence from clients and this will be implemented in every case.
- 18.3 In appropriate cases information may be disclosed by us to the relevant authorities in accordance with the Regulations and without reference to you or the other parties involved.

19. Termination

- 19.1 You shall be entitled at any time to terminate our appointment to act for you.
- 19.2 Unless paragraph 19.3 applies, we shall only be entitled to cease acting for you after giving you at least 14 days' notice in writing.
- 19.3 We shall be entitled to cease acting for you without notice if:
- (a) you fail to pay any bill in full within 14 days of delivery (unless we have agreed otherwise);
 - (b) you fail to give proper or full instructions at any time following a written request for the same (including those relating to discovery and injunctions);

- (c) you fail to provide monies on account within 14 days of being asked to do so;
- (d) a conflict of interest arises (see below);
- (e) there is a serious breakdown in confidence between us.

19.4 On termination of our appointment, for whatever reason, we shall maintain a lien on all your papers, deeds, documents and monies then in our possession until all outstanding fees and disbursements have been settled. If we terminate we will give reasons if we can.

20. **Tax Advice**

Any work that we do for you may involve tax implications or necessitate the consideration of tax planning strategies. We may not be qualified to advise you on the tax implications of a transaction that you instruct us to carry out, or the likelihood of them arising. If you have any concerns in this respect, please raise them with us immediately. If we can undertake the research necessary to resolve the issue, we will do so and advise you accordingly. If we cannot, we may be able to identify a source of assistance for you.

21. **Quality Standards**

We may be subject to periodic checks by outside assessors. This could mean that your file is 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 for you. Please do not hesitate to contact us if we can explain this further or if you would like us to mark your file as not to be inspected.

22. **Communications**

22.1 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 if you regard any communication from us as particularly confidential and the means by which you require us to make such communications and we shall have no liability to you if you fail to notify us.

22.2 Subject to any notification from you under paragraph 22.1, we shall not be required to encrypt, password-protect or digitally sign any email, or attachment, sent by us. We shall not be responsible for any loss or damage arising from the unlawful interception, re-direction, copying or reading of emails, including any attachments.

22.3 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 emails or attachment which may be transmitted by us (except to the extent caused by our negligence or wilful default).

22.4 All bills and any notice informing you of our ceasing to act for you sent pursuant to paragraph 19.2, shall be addressed to the last known address we have for you and shall be deemed to have been delivered to you and received by you, if delivered personally at the time of delivery and if delivered by post, 48 hours from the date of posting. In proving service it shall be sufficient for us to show that the envelope containing the bill or termination notice was addressed to your last known address and delivered either to that address or put into the custody of the postal authorities.

23. **Commissions**

If we receive commission from a third party arising from work we are doing for you, we will credit you with that commission unless you have agreed otherwise or the amount is less than £20 (excluding VAT).

24. **Conflicts 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. 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.

25. **Confidentiality**

Except as set out in these Terms and Conditions, we shall keep all information you provide us with confidential. However, unless you tell us otherwise, we shall assume that we are authorised to make information about you available to any other of your professional advisers involved in the matter if we consider it is appropriate to do so, and to other organisations such as [translation and waste-disposal agencies. We shall also make information available to courts, police or regulatory authorities, if we have a legal duty to do so.

26. **Advice**

26.1 Our advice relates to the specific circumstances in which you are instructing us, and will be based on our understanding of the law and practice as at the time we provide it. You must not rely on our advice in different circumstances or at a time other than when we provide it. Unless we agree otherwise with you, we shall not update the advice we provide to take account of any changes in the law or practice which may affect our advice.

26.2 Our advice shall not include advice on matters relating to the laws of any jurisdiction other than England and Wales.

27. **Critical Dates**

Unless we specifically agree to do so in writing, we do not operate a reminder system for important dates such as rent reviews and lease renewals to be drawn to your attention in advance. In the absence of such specific agreement, the responsibility for these time critical dates will be yours.

28. **Client Monies**

Our client accounts are held with our bankers, Coutts & Co of 440 Strand, London WC2R 0QS. You understand that in the event of any failure of our bankers, they will be liable to you for any money we hold on your behalf and that we accept no liability for any loss you incur.

29. **Agreement and jurisdiction**

29.1 Unless otherwise agreed, or until superseded by a further terms of engagement letter and accompanying Terms and Conditions, these Terms and Conditions apply to any future instructions you give us.

29.2 These Terms and Conditions together with the letter enclosing them ("the Engagement Letter") form the basis for the contract between us and you. In the event of any conflict between these Terms and Conditions and the Engagement Letter, the Engagement Letter will prevail.

29.3 Your continuing instructions in this matter will amount to your acceptance of these Terms and Conditions. Even so, please sign and date the enclosed copy of these Terms and Conditions and return it to us immediately.

29.4 No amendment or variation to these Terms and Conditions shall be effective unless it is in writing and signed by a partner. We reserve the right to amend, alter or replace these Terms and Conditions upon reasonable notice.

29.5 These Terms and Conditions are governed by English law and any dispute over them shall be subject to the exclusive jurisdiction of the English Courts.

30. **The Consumer Protection (Distance Selling) Regulations 2000**

This section applies only if you are a private individual and your initial instructions were received by us other than in a face-to-face meeting.

The Consumer Protection (Distance Selling) Regulations 2000 give you the right to cancel your agreement with us within seven working days of your returning the enclosed copy of these Terms and Conditions duly signed. It is in your interests that we start work as soon as possible. Please note therefore that by signing and returning the enclosed copy of these Terms and Conditions you authorise us to start work immediately. This means that you lose the right to cancel. However, under the Terms and Conditions you have the right to instruct us to stop work at any time, although if you exercise that right you will then have to pay us for the work we have done.

Please also note that by signing and returning the enclosed Terms and Conditions you also agree to the time for us to complete your work being extended beyond the 30 days envisaged by the above Regulations. If we do not hear from you or do not receive from you a signed copy of these Terms and Conditions within 28 days of the date of your Engagement Letter we shall assume that you do not wish to proceed and will take no further action.

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