

## **1. Elmwoods Law and Mediation**

1.1. Jonathon Stokes Limited trading as Elmwoods Law and Mediation ('Elmwoods Law') is a Limited Company ("Company"), registered in England and Wales with number 10664841.

The Company's registered office is at: 128 Maling Exchange Hoult's Yard Walker Road Newcastle NE6 2HL; telephone number: (0191) 691 3034; web site: [www.elmwoodslaw.co.uk](http://www.elmwoodslaw.co.uk); Value Added Tax ('VAT') number 271 5566 90.

1.2. Elmwoods Law is authorised and regulated by the Solicitors Regulation Authority with SRA number 639583.

1.3. In these Terms of Business all first person terms such as 'we', 'us' and 'our' refer to Elmwoods Law and not to any Director, shareholder, consultant or employee personally or to any combination of Director's, consultants or employees collectively. By entering into this Contract, you are entering into a contract with Elmwoods Law and not with any Director, shareholder, consultant or employee personally or with any combination of Directors, shareholders, consultants or employees collectively.

1.4. We are bound by various professional rules of conduct which can be viewed at [www.sra.org.uk](http://www.sra.org.uk) or by writing to 'Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham, B1 1RN' or calling the Solicitors Regulation Authority's contact centre on 0370 606 2555 (inside the UK), 09.00 to 17.00, Monday to Friday.

1.5. A list of Directors is available for inspection at our registered office, together with a list of those (if any) non-shareholders who are referred to as Directors. We may from time-to-time use the word 'partner' to refer to a Director or shareholder of the Company or an employee or consultant of Elmwoods Law with equivalent standing and qualifications.

1.6. The SRA Indemnity Insurance Rules in force from time to time require us to take out and maintain professional indemnity insurance with Qualifying Insurers. Information about the

compulsory layer of professional indemnity insurance we carry, including the contact details of our insurers and the territorial coverage of our insurance, are available in hard copy at our registered office.

## **2. Terms of Business**

2.1. These Terms of Business may not be varied unless agreed in writing and signed by a member of Elmwoods Law. They should be read in conjunction with our engagement letter, which sets out the basis on which we act for you, and any documents referred to in that letter. Together, these form the 'Contract' between us relating to each matter on which we advise you.

2.2. These Terms of Business, including the limits on our liability, shall apply to all work done by us for you (and any work to be done in the future) unless we otherwise notify you in writing.

2.3. If any term of this Contract is inconsistent with our legal obligations under the relevant laws then the relevant laws shall apply instead of those terms.

## **3. Excluded Advice**

3.1. We do not advise on the laws and regulations of jurisdictions other than England & Wales (which for these purposes includes the law of the European Union as applied in England & Wales).

3.2. Whilst we have a degree of understanding of taxation relevant to an individual or corporate entity or VAT or other taxation, we are not qualified to give any taxation advice in any form you should the professional advice of a taxation accountant or your own accountant. If you authorise us to proceed with the transaction, we will proceed on the basis you have sought appropriate professional advice. If you wish us to help you appoint an appropriate accountant, please ask.

3.3. We do not provide financial advice generally, or comment upon the commercial viability of any transactions upon which we advise. You should

rely on your own judgement in such matters, or on advice from other professionals.

#### **4. Your Duty to Retain and Preserve Documents**

- 4.1. If now, or at any time in the future, any matter on which we act for you is the subject of formally contested proceedings, whether in the courts or other tribunals, you will almost certainly have to disclose documents, including electronic documents, relevant to the matter. You should ensure that you do not destroy or allow to be destroyed any documents that relate to such matter in any way (however slight you believe the connection may be), as your position in such proceedings could be seriously compromised if you do so.

#### **5. Copyright**

- 5.1. Unless we agree otherwise, all copyright which exists in the documents and other materials that we create whilst carrying out work for you will remain our property. You have the right to use such documents and materials for the purposes for which they are created, but not otherwise.
- 5.2. If you use such documents for any purpose other than that for which they were created we are not responsible to you for any losses that you may suffer as a result.
- 5.3. Unless otherwise required by law or court order, you agree not to make our work, documents or materials produced by us available to third parties without our prior written permission. Our work is undertaken for your benefit alone and we are not responsible to third parties for any aspect of our professional services or work that you make available to them.

#### **6. Client Satisfaction**

- 6.1. We operate strict client care and quality policies and always aim to provide you with the highest level of legal expertise and to be available, approachable, understandable, prompt and courteous. We will keep you informed about all important developments in your case and we will respond to your letters, emails and telephone calls promptly and efficiently.

- 6.2. The majority of our clients are very happy with the service we provide them, but in the event that you have any cause for concern, including about a bill, then please be aware that you are entitled to make a complaint, and that you can do so by contacting our designated Complaints Manager, Angela Curran, Solicitor and Consultant to the Company. We take all feedback from clients seriously and operate a Complaints Handling Procedure, a copy of which is available upon request.

- 6.3. We are usually able to deal with any concerns you have promptly and to your satisfaction, but if this is not the case, you will be able to make a complaint to the Legal Ombudsman provided you do so within six months of the end of our internal complaints procedure if you are still not satisfied with the outcome.

- 6.4. In addition, there are time limits for bringing a complaint to the Legal Ombudsman, linked to the date of the act or omission giving rise to a complaint or the date on which you should reasonably have known there were grounds for a complaint. The relevant time limits are set out in the version of the Legal Ombudsman's Scheme Rules in force from time to time and may only be extended by the Legal Ombudsman in exceptional circumstances. If you wish to bring a complaint to him, you should refer to the version which is in force at the time of your complaint. The Rules can be accessed at: [www.legalombudsman.org.uk/about/scheme\\_rules.html](http://www.legalombudsman.org.uk/about/scheme_rules.html)).

- 6.5. You should also be aware that, when your complaint relates to a bill, the Legal Ombudsman will not consider your complaint while your bill is being assessed by a court.

- 6.6. A complainant to the Legal Ombudsman must be one of the following:

- (a) An individual;
- (b) A micro-enterprise as defined in European Recommendation 2003/361/EC of 6 May 2003 (broadly, an enterprise with fewer than 10 staff

and a turnover or balance sheet value not exceeding €2 million);

- (c) A charity with an annual income less than £1 million;
- (d) A club, association or society with an annual income less than £1 million;
- (e) A trustee of a trust with a net asset value less than £1 million; or a personal representative or the residuary beneficiaries of an estate where a person with a complaint died before referring it to the Legal Ombudsman.

If you do not fall into any of these categories, you should be aware that you can only obtain redress by using our Complaints Handling Procedure or by mediation or arbitration, or by taking action through the Courts.

#### 6.7. Legal Ombudsman Contact Details:

- (a) Address: PO Box 6806, Wolverhampton, WV1 9WJ
- (b) Telephone: 0300 555 0333
- (c) Email: [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)
- (d) Website: [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)

## 7. Fees

### 7.1. Fixed Fee Services

- (a) Where our engagement letter states that we are charging on a fixed fee basis, additional services may be provided on request and (unless otherwise agreed by us in writing) will be charged at our standard hourly rates as set out in our engagement letter (or Client Information Leaflet) plus expenses (if any) and VAT.

### 7.2. Hourly Rate Services

- (a) Where our engagement letter states that we are charging on an hourly basis, the hourly rate varies according to the experience and expertise of the person dealing with the matter. The rates which apply to each matter are set out in our engagement letter.

- (b) The time spent on your matter for which you will be charged includes meetings with you and others, travelling, waiting, researching and considering, sending and receiving correspondence (including emails), making and receiving telephone calls, preparing and working on documents, and making file notes.
- (c) The time spent on your matter is recorded as units of one tenth of an hour (6 minutes). Therefore, this is the minimum amount of time we will charge for any piece of work undertaken on your matter.
- (d) Once a year, we review our hourly rates. We will notify you in writing of any change in our hourly rates.
- (e) We will add VAT to our fees at the rate that applies when the work is done.

### 7.3. Estimates

- (a) If we have provided to you a written estimate of the total charges, it is given only as a guide to assist you in budgeting and should not be regarded as a fixed quotation unless otherwise agreed in writing. We will inform you if any unforeseen but significant additional work becomes necessary.
- (b) It is often impossible to tell at the outset what the overall cost of a matter will be. If this is the case we will provide you with as much information as possible at the start and keep you updated as the matter progresses. If a precise figure cannot be given at the outset, we shall explain the reason to you and give you the opportunity to set a ceiling figure beyond which you do not want us to act without your consent or we shall agree a review date with you on which we shall try to give you more information about the likely overall cost.

### 7.4. All Services

- (a) All expenses (which includes and may sometimes also be referred to as 'disbursements') which we incur in working on your matter will be payable by you in addition to

our fees. Examples of these expenses include Land Registry and Companies House fees, search fees, fees charged by experts, agents, couriers and barristers, court fees, travel expenses and subsistence, delivery charges (whether or not insured), faxes, international telephone calls, use of on-line databases and telegraphic transfer fees. In addition, we may also charge you for photocopying and other document production at a rate of £0.20p for each page and £0.25p for each colour page. VAT is payable on certain expenses, which you will need to pay in addition.

- (b) We will usually submit bills monthly but may choose to submit bills at other intervals during the course of working on your matter. We may also submit a bill on or at any time after conclusion of the matter or at the end of this Contract. Our bills are payable when they are submitted to you. All bills, whenever they are submitted, will be for final bills for the period to which they relate but this does not prevent us from invoicing you for expenses for that period on a subsequent bill.
- (c) We may also ask you initially and/or at any time during the matter to pay money in advance of any fees and expenses being incurred by us (known as a 'payment on account'). If we ask you to make a payment on account, we will not be obliged to undertake any further work on your matter until you have made that payment, and if you do not make the payment we may cease acting for you.
- (d) Where we decide to extend credit to you by carrying out urgent work on your matter after the money you have paid on account has all been used, you agree to remain liable for our fees regardless of whether or not we give you advance notification that we are going to extend credit to you.

## 7.5 Other

You are liable to pay legal costs as set out in our letter confirming your instructions. We will also usually discuss this at our initial meeting with you.

- (a) It is your responsibility to tell us when first instructing us if you have any form of insurance cover (such as legal expenses insurance) that you think will pay our fees. You must also tell us when first instructing us if there is a third party who may pay our fees. If a third party agrees to pay all or part of our bills, you will remain responsible to us for payment until those bills have been paid in full.
- (b) The general rule, in relation to litigation conducted in England & Wales, is that after trial the losing party is (subject to the discretion of the court) ordered to pay the fees and expenses of the successful party. These costs are as assessed by the court and are unlikely to cover more than half to two thirds of the fees and expenses actually incurred by the successful party.
- (c) This means that, if we are acting for you in relation to a contentious matter and you are successful, the unsuccessful party may be ordered to pay a sum towards your fees and expenses but this is unlikely to cover your total costs and you will always remain liable for these.
- (d) In addition, the court has power to order that the costs of any interim applications be paid immediately by the unsuccessful applicant to the successful applicant. Therefore, even if you are ultimately successful at trial, you may be liable for the costs of interim applications during the course of litigation.
- (e) If the other side is or becomes legally aided, it is highly unlikely that you will recover your costs even if you are successful.
- (f) If we are advising more than one person (usually individuals, companies or other entities) unless otherwise agreed by us in writing, we will act for those persons jointly and severally. If we are asked to address bills only to one person, those bills will nevertheless be payable in full by all other persons we act for under this Contract.
- (g) If you are instructing us jointly in relation to any matter it is your responsibility to tell us at the outset of the Contract if you require more than

one person to give us instructions in relation to that matter. Otherwise, we will accept instructions from any one person on behalf of all joint clients and will not be responsible to any other person for any losses they may suffer as a result. If you are a company, a limited liability partnership or other commercial entity it is your responsibility to tell us at the outset of the Contract if you require more than one director, member (or equivalent) to give us instructions. Any director or member (or equivalent) giving us initial instructions or instructions at any time during the conduct of the file agrees by doing so to be a joint client with the Company for the purposes of payment of fees VAT and expenses to Us.

7.6. If we do not receive prompt payment of any bill, then:

- (a) We may charge you interest (on a daily basis) on the unpaid element of the bill at the rate payable on judgment debts from the date of the bill until payment, unless it is determined that you do not have to pay that element;
- (b) We may refuse to undertake any further work for you (whether in respect of the matter to which the bill relates or any other matter on which we are acting for you) until that bill is paid and/or we may stop acting for you; and
- (c) We may retain any papers or documents belonging to you, together with our own records.

7.7. If you have any queries in respect of any element of a bill, you should still promptly pay all other elements of the bill.

7.8. Where we hold money for you, whether because you have made a payment on account or we otherwise receive funds on your behalf, we may use this money toward payment of our bills. We will advise you when this is being done. If we take any security for our fees, whether from you or any third party, this shall not affect any rights we have (or which we may have) to retain your papers.

7.9. Our bills will be addressed to you and you will be liable to us for our fees and expenses. This will be the case even if our bill acknowledges that another person may pay it on your behalf.

7.10. 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.

7.11. If you wish to make a complaint about one of our bills, you may do so by using the firm's Complaints Handling Procedure (copy available on request). You may also have a right to object to a bill by making a complaint to the Legal Ombudsman and/or applying to the court for an assessment of the bill under part III of the Solicitors Act (1974). The contact details for the Legal Ombudsman can be found in the section relating to 'Client Satisfaction'.

## **8. Storage of Documents and Deeds**

8.1. We retain all documents relating to your matter (other than any documents which are in your possession or returned to you) for at least six years from the conclusion of our involvement in the matter. If this involves the retention of valuable documents we will invoice you either before or on closure and archiving of your file. If within fourteen days after the date of our archiving invoice you do not arrange to come to collect the documents concerned, our invoice will be immediately due and payable. Invoicing charges for years subsequent to the amount charged for the first three years will be at a rate adjusted by reference to the increase in the All Items Retail prices Index between the month before the initial invoice and the month before any subsequent invoice, and all invoices are due for payment on delivery. You agree that we may destroy your file and documents after six years, so if you do not want them destroyed you must come and collect them no later than the date notified to you in our file closure letter. We will

not destroy documents you ask us to deposit in our deeds store.

- 8.2. If you ask us to retrieve documents from storage there is a charge, which is a minimum £50.00 plus VAT for each matter, although we will not normally charge that fee if we retrieve documents to enable us to carry our further work for you. We will charge, however, for any work necessary to comply with instructions given by you in connection with retrieved documents. Unless otherwise agreed with you in writing, those charges will be at our hourly rates applicable at the relevant time and those charges will be applied on the same basis set out in clause 7.

## **9. Services**

- 9.1. The Law Society of England and Wales is a designated professional body under Part XX of the Financial Services and Markets Act 2000 which means that we may carry on certain regulated activities without being regulated by the Financial Conduct Authority. This means that we may be able to provide limited financial services to you where such services arise out of, or are complementary to, the provision of legal services.
- 9.2. The Law Society is the designated professional body for the purposes of the Financial Services and Markets Act 2000, but responsibility for regulation has been delegated to the Solicitors Regulation Authority (the independent regulatory body of the Law Society), and responsibility for handling complaints has been delegated to the Legal Ombudsman. The contact details for the Solicitors Regulation Authority can be found at clause 1.4 and the contact details for the Legal Ombudsman can be found at clause 6.7.
- 9.3. The limited regulated activities that we carry out are issuing certain insurance policies, such as after the event legal expenses insurance, defective title insurance and other property indemnity insurance (such as breach of covenant, absence of easement, lack of planning permission, unknown rights and covenants policies).

- 9.4. 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 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 Solicitors Regulation Authority. The register can be accessed via the Financial Conduct Authority website at [www.fca.gov.uk](http://www.fca.gov.uk).

- 9.5. Any insurance policy arranged by us on your behalf, shall, in our opinion, be adequate to meet your needs, but you are hereby informed that we do not recommend any policy over and above any other and that it is your responsibility to check that you are satisfied with the excess levels, exclusions, limitations and other policy terms. We do not conduct a fair analysis of the insurance market prior to arranging insurance policies. You can request details of the insurance undertakings with which we conduct business at any time.
- 9.6. You hereby agree to provide us with details of any relevant existing insurance policies you may have and you agree that we shall not be liable to you for any losses you sustain as a result of your failure to provide us with such details.

## **10. Limitation of Liability**

- 10.1. You agree that the limitations on our liability as set out in this Contract are reasonable having regard to the nature of your instructions and the work involved and the availability and cost of professional indemnity insurance. We are, however, happy to consider options to increase these limitations, should you so require (which may result in an increase to our fees).
- 10.2. We will undertake the work relating to your matter with reasonable skill and care.
- 10.3. We accept liability without limit for the consequences of fraud by us or any of our partners or employees which is affected in their capacity as Directors, shareholders, consultants or employees and for any other liability which we

are not permitted by law or rules of professional conduct to limit or exclude. If any part of this Contract which seeks to exclude, limit or restrict liability (including provisions limiting the amount we will be required to pay or limiting the time you have to bring a claim) is found by a court to be void or ineffective for any reason, the remaining provisions shall continue to be effective.

10.4. We will not be liable under this Contract or laws of negligence for any deficiencies in the work we have undertaken if and to the extent that deficiencies are due to any false, misleading or incomplete information or documentation which has been provided to us (whether by you or any third party) or due to the acts or omissions of you or any third party. However, where any failure by us to identify any such false, misleading or incomplete information (or any failure by us to inform you that we have identified such information or any failure to act on your resulting instructions) constitutes negligence then we shall, subject to the other provisions of this Contract, remain liable for such failure.

10.5. Despite anything else contained in this Contract, we are not under any obligation to act for you (or to continue to act for you) if to do so would breach any laws or professional rules. Therefore, we will not be responsible or liable to you for any loss which you or any other party may suffer as a result of our refusal to proceed with your matter where we would be in breach (or we reasonably believe that we would breach) of our legal obligations or our professional rules.

10.6. Except as stated in 10.3 and 10.12, the total aggregate liability of Elmwoods Law to you under or in connection with this Contract (including any addition or variation to it), whether for breach of contract, negligence, breach of statutory duty, or otherwise, shall not exceed £3,000,000 (three million pounds).

10.7. Where we are instructed jointly by more than one party, the limit on our liability applies, in total, to all of you collectively (including anyone claiming through you or on your behalf).

10.8. You agree that you will not bring any claims or proceedings in connection with this Contract against our Directors, shareholders, consultants or employees personally, unless (and to the extent that) you are otherwise permitted to do so by law or our professional rules. Our employees may enforce this clause even though they are not parties to this Contract (but despite having such rights, this Contract may be varied or ended without their consent).

10.9. Proceedings in respect of any claim against us must be commenced within 3 years after you first had (or ought reasonably to have had) both the knowledge for bringing an action for damages and the knowledge that you had the right to bring such an action and in any event no later than 6 years after any alleged breach of contract, negligence or other cause of action. This provision expressly overrides any statutory provision which would otherwise apply; it will not increase the time within which proceedings may be commenced and may reduce it.

10.10. If we and any other party or parties are liable to you together in respect of the same claim, then we shall only be liable to pay you the portion which is found to be fair and reasonable having regard to the level of our default. Therefore, we shall not be liable to pay you the portion which is due to the fault of such party, even if you do not recover all or any money from such other party for any reason.

10.11. If we are liable to you and any other party or parties would have been found liable to you together with us in respect of the same claim if either:

- (a) You had also brought proceedings or made a claim against them; or
- (b) We had brought proceedings or made a claim against them for a contribution towards our liability,

then any sum due from us to you shall be reduced by the proportion for which such other party or parties would have been found liable had those proceedings been brought or those claims been made.

10.12.Nothing in this Contract excludes or limits the liability of Elmwoods Law for:

- (a) Death or personal injury caused by negligence;
- (b) Fraud or fraudulent misrepresentation; or
- (c) Any liability if and to the extent that it is not permissible in law for such liability to be limited or excluded.

## 11. Client Money

11.1.When we hold money in a client account for you, the SRA Accounts Rules 2011 require us to account to you for interest 'when it is fair and reasonable to do so in all the circumstances'.

11.2.Interest rates are presently very low and the interest payable on solicitors' client accounts is even lower than that ordinarily obtainable by depositors. You therefore agree that it is fair and reasonable in these circumstances that no interest will be paid to you if:

- (a) the amount of interest calculated on the balance held is £30 or less;
- (b) the money we held for you was held in cleared funds in our client account for less than 8 days, irrespective of the amount;
- (c) the amount of money we held for you was less than £250,000 and the money was held in cleared funds in our client account for less than 30 days;
- (d) interest has only accrued because you failed to present a cheque issued to you by us (without good reason).

Otherwise we shall account to you for any interest earned if it is fair and reasonable for us to do so and subject to any other written Contract between us.

11.3.We will usually account to you for interest at the conclusion of your matter, but might in some cases consider it appropriate to account to you at intervals throughout. The rate of interest payable to you shall be whichever is lower, the base rate of the Bank of England, or the rate of interest

actually earned on our client account during the period whilst we held your money.

11.4.Although interest earned on Separate Designated Client Accounts is office money, our policy is to credit this interest to the SDCA opened for a client.

11.5.Unless otherwise agreed by us in writing, if we receive any sums to hold on your behalf (whether received directly from you or from a third party) then we may deposit such money into an account or accounts with any bank or financial institution (a "deposit provider" which expression shall include bank, financial institution or clearing house through which transfers are made) of our choosing. We confirm that we comply with any applicable laws and any applicable rules of a regulatory authority in respect of the making of any such deposits.

11.6.We shall not be liable for any loss which you or any third party may suffer in connection with an Insolvency Event occurring in relation to any deposit provider with whom we have deposited funds or through whom transfers are made, save if and to the extent that any such loss was caused by or contributed to by any breach by us of clause 11.5.

11.7.In clauses 11.6 and 11.8 an "Insolvency Event" means:

- (a) Any deposit provider is unable or admits inability to pay its debts as they fall due (or is deemed to be or declared to be unable to pay its debts under applicable law), suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties or commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;
- (b) The value of the assets of any deposit provider is less than its liabilities (taking into account contingent or prospective liabilities);
- (c) A moratorium is declared in respect of any indebtedness of any deposit provider;

(d) Any corporate or government action, legal proceedings or other procedure or steps taken in relation to:

- (i) The suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any deposit provider;
- (ii) A composition, compromise, assignment or arrangement with any creditor of any deposit provider;
- (iii) The appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any deposit provider or any of its assets;
- (iv) Enforcement of any security interest (however so described) over any assets of any deposit provider; or
- (v) The prevention or restriction (whether by way of freezing order or otherwise) of a deposit provider's ability to dispose of, deal with or diminish the value of its assets or any of them;

(e) Any event analogous to those set out in clause 11.7(d) occurs in any jurisdiction in respect of any deposit provider.

11.8.If an Insolvency Event occurs in relation to any deposit provider which holds money that we have deposited on your behalf, you agree that we may where applicable disclose to the Financial Services Compensation Scheme ("FSCS") all relevant details in our possession about you and the money that we hold on your behalf with such a deposit provider. However, if you do not wish us to make any such disclosure, please notify us in writing addressed to 'The Data Protection Compliance Officer'. Please note that by withholding consent to our disclosure of your details to the FSCS in such circumstances, you may forfeit any right you may have to receive compensation from the FSCS where an

Insolvency Event occurs in relation to a deposit provider holding money which we have deposited on your behalf. Compensation for deposits is limited to £85,000 for any individual's total deposit with that service provider, including any personal finances. Further information regarding the FSCS can be found at [www.fscs.org.uk](http://www.fscs.org.uk), telephone number 020 7892 7300.

## **12. Confidentiality, Privacy & Data Protection**

12.1.Please see the attached policy document.

## **13. Referrals to Third Parties**

13.1.If we recommend that you use a particular firm, agency or business, we shall do so in good faith and because we believe it to be in your best interests. If we recommend that you use a particular firm, agency or business that can only offer products from one source, we shall notify you in writing of this limitation. If we recommend that you use a particular firm, agency or business, we shall not be liable to you for any advice you may be given by that firm, agency or business.

13.2.Where we refer you to a third party then:

- (a) If the third party is not another firm of solicitors you will not be afforded the regulatory protection of the Solicitors Regulation Authority or of the SRA Code of Conduct and SRA Indemnity Insurance Rules, nor shall you be entitled to the benefit of the Solicitors' Compensation Fund;
- (b) Any information that is disclosed to us by you will not be disclosed to the third party unless you consent to this. By agreeing to these terms, unless you notify us to the contrary you give permission to us to communicate any relevant information to the third party;
- (c) All advice you receive from the third party will be independent and you are free to raise questions on any aspect of Elmwoods Law's relationship with this separate business.

## 14. Referrals from Third Parties

14.1.If we agree to pay a fee to a third party for referring your case to us, any such fee will not be payable by you and the total fees and expenses that you pay us for the work we agree to do for you will not be affected.

14.2.The payment of a referral fee will in no way compromise the independence of the legal advice that we will give to you and you are free to raise questions on all aspects of the matter. All information provided by you to us will never be disclosed to any third party without your consent. However, in the unusual situation in which we are acting for the third party in the same matter and a conflict of interests arises, we may be obliged to cease acting for you.

14.3.If there are any changes affecting our original agreement with the third party which affect you, we will inform you immediately.

## 15. Hours of Business

15.1.Our office is open between 9.00am and 5.00pm, Monday to Friday, excepting bank holidays. We do provide an out of office or emergency service to clients. The person responsible for your matter may, at his or her absolute discretion, provide you with a mobile telephone number, and may endeavour to take your telephone calls outside of office hours, but nothing he or she says should be interpreted as an agreement to routinely deal with your matter or to take your telephone calls outside of office hours.

15.2.We provide a 24/7 service to our Employer or our retained clients.

## 16. Costs & Funding: Litigation/Contested Matters

16.1.Elmwoods Law recognises the need for flexibility in funding litigation, particularly where there is a possibility that you will have to contribute to the other side's legal costs and expenses. At the outset we will investigate with you the best way of paying for your legal representation.

## 17. Anti- Money Laundering

17.1.Identity Checks

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(a) We shall inform you in our engagement letter whether the Anti-Money Laundering Legislation applies to you.

(b) All solicitors are obliged to carry out customer due diligence ("CDD") in accordance with the UK anti-money laundering and counter-terrorist financing regime. This includes us obtaining and keeping documentary evidence of the identity of clients and gaining an understanding of their financial status and normal business affairs.

(c) In the case of individuals (including directors, secretaries and shareholders of a company or members of a limited liability partnership), we require to see and keep a photocopy of a passport, photo driving licence, or national identity card (or similar document) as evidence of your identity and a recent utility or council tax bill (or similar type of document) as additional evidence of your address. We need to see original documents and will discuss with you acceptable documents and methods of certification if the original is not available. We may also utilise external agencies to assist with these checks and may charge you any expenses associated with such checks.

(d) For all companies we will carry out a search of Companies House (or similar registry in foreign jurisdictions) and may ask for further information.

(e) For non-listed companies and other organisations, we will also require the evidence for individuals for one or more directors, company secretaries, shareholders, partners or other persons authorised to represent the organisation.

(f) For other legal entities we will inform you of the evidence required to confirm identity.

17.2.Disclosure to the Authorities etc.

(a) We are in certain circumstance obliged under Money Laundering Regulations 2007, The **Money Laundering** and Terrorist Financing (Amendment) **Regulations 2019**, Proceeds of Crime Act 2002 ('POCA') as amended by the Serious Organised Crime and Police Act 2005

('SOCPA') to make a report to the National Crime Agency ('NCA') where we are suspicious that any matter or transaction in which we are instructed involves the proceeds of criminal conduct. We may be prohibited by law from informing you or anyone else when such a report has been made, and it is possible that we may not be allowed to proceed with the transaction or matter concerned until NCA gives us permission to do so. We may not be permitted to tell you anything about any of these circumstances should they occur.

- (b) If any term or provision of these Terms of Business or our engagement letter is inconsistent with complying with our legal obligations under Anti-Money Laundering Legislation, our legal obligations will override the inconsistent term which shall be deemed modified accordingly.
- (c) We will not accept any liability for any loss caused to you or any other party as a result of our refusal to proceed with a matter or transaction or otherwise complying with our legal obligations.

### 17.3.Cash Payments

- (a) We will not accept payments from you in cash of over £1000 regardless of whether the payment is to settle our bill, to pay money on account, or in respect of transactions we may be acting upon.
- (b) For the avoidance of doubt the £1000 cash limit applies to each matter in which we are acting for you and not just to each transaction relating to that matter.
- (c) We shall not be liable to you for any losses you may suffer as a result of any refusal by us to accept cash payments of over £1000.

### 18. Equality & Diversity

18.1.We are committed to encouraging equality of opportunity and respect for diversity in all of our dealings with clients, third parties and employees. Please contact us if you would like a copy of our Equality and Diversity Policy.

18.2.If you consider yourself to have a disability, or if you have any special requirements in relation to the way in which you would like us to handle your work, please let us know.

### 19. Rights of Third Parties

19. 1.Except as stated otherwise in clause 10.8, a person who is not a party to this Contract shall not be entitled to enforce any of its terms.

### 20. Applicable Law, etc.

20.1.These Terms of Business and our engagement letter shall be governed by, and interpreted in accordance with English law. Any disputes or claims concerning this Contract and any matters arising from it shall be dealt with only by the courts of England.

20.2.If we or you do not enforce our respective rights under this Contract at any time it will not prevent either us or you from doing so later.

20.3.If any provision of this Contract is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Contract which shall remain in full force and effect.

### 21. Termination

21.1.You may end this Contract (and therefore, your instructions to us) at any time by writing to us by post, fax or email (see clause 1 of these terms for details). However, we may be entitled to keep all of your documents and deeds while there is money owing to us (including fees and expenses which have not yet been billed).

21.2.We may end this Contract (and, therefore, cease acting for you) in relation to any matter or all matters of yours but only on reasonable written notice and for good reason. Examples of a good reason include where you have not given us sufficient instructions, where you have not provided appropriate evidence of identification or we reasonably believe that the relationship between you and us has broken down.

21.3.If your matter does not conclude, or we are prevented from continuing to act because of our legal obligations or our professional rules, we will charge you for any work we have actually done. Our charges will be based on our hourly rates set

out in this Contract (and where a fixed fee has been agreed, the charges will not exceed that fixed fee).

21.4.If we cease acting for you, we shall (where relevant) inform the court or tribunal that we no longer act for you and shall apply to be removed from their records. We may charge you for doing so at our hourly rates applicable at the relevant time and those charges will be applied on the same basis set out in clause 7.2 and for any expenses which we incur on the basis set out in clause 7.4.

## 22. Cancellation Rights

22.1.If you are an individual consumer (and not a business entity) and if our contract with you is a 'distance contract' or an 'off premises contract', you have the right to cancel this Contract within 14 days of conclusion of this Contract (the 'cancellation period'). 'Conclusion of this contract' means 14 days from the 'Contract Date', defined at the beginning of this Contract. This right exists in accordance with The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. Please refer to the 'Cancellation Notice' at clause 23 below for further information about your right to cancel and the conditions attached to the same.

**22.2.Where clauses 22.1 and 23 apply, we will not start work on your file for 14 days from the Contract Date. If you would like our service to start within 14 days of the Contract Date, please sign the Client Declaration, mark the relevant box stating your wishes and return a copy to us.**

22.3.Where clauses 22.1, 23 and 22.2 apply, then once we have started work on your file within the cancellation period, on your instruction, you will be charged for any work done if you then cancel your instructions. You will have to pay us an amount which is proportionate to the work completed until we receive notice of cancellation from you, in comparison with the full coverage of this Contract. These charges will be applied on the same basis as set out in clause 8 of this

Contract and where a fixed fee has been agreed, the charges will not exceed that fixed fee.

## 23. Cancellation Notice

23.1.This Notice is applicable to you if you are an individual acting for purposes wholly or mainly outside your trade, business, craft or profession and this Contract between the Firm (as the trader) and you (as the consumer) is a 'distance contract' or an 'off-premises' contract.

23.2.A 'distance contract' means a contract concluded between a trader and a consumer under an organised distance sales or service provision scheme without the simultaneous physical presence of the trader and the consumer, with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded.

23.3.An 'off premises contract' means a contract between a trader and a consumer which is any of these:

- (a) A contract concluded in the simultaneous physical presence of the trader and the consumer, in a place which is not the business premises of the trader;
- (b) A contract for which an offer was made by the consumer in the simultaneous physical presence of the trader and the consumer, in a place which is not the business premises of the trader;
- (c) A contract concluded on the business premises of the trader or through any means of distance communication immediately after the consumer was personally and individually addressed in a place which is not the business premises of the trader in the simultaneous physical presence of the trader and the consumer;
- (d) A contract concluded during an excursion organised by the trader with the aim or effect of promoting or selling goods or services to the consumer.

23.4. If you are unsure whether cancellation rights apply to you, please contact us immediately upon receipt of these Terms of Business.

The following 'Instructions for Cancellation' are only applicable where clauses 22 and 23 apply:

**Contract Date:** *means the date you sign our Client Declaration*  
**Cancellation Period Ends:** *14 days from the Contract Date (if applicable)*

### **Instructions for Cancellation**

#### ***Right to cancel***

You have the right to cancel this contract within 14 days without giving any reason.

The cancellation period will expire after 14 days from the day of the conclusion of the contract (the 'Contract Date' at the beginning of this Contract).

To exercise the right to cancel, you must inform us, **Elmwoods Law and Mediation** at **206 Maling Exchange Hoult's Yard Walker Road Newcastle NE6 2HL** or at [Jonathon.stokes@elmwoodslaw.co.uk](mailto:Jonathon.stokes@elmwoodslaw.co.uk) of your decision to cancel this contract by a clear statement (e.g. a letter sent by post, fax or e-mail). You may use the attached 'Cancellation Form', but it is not obligatory.

To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

#### ***Effects of cancellation***

If you cancel this contract, we will reimburse to you all payments received from you, including the costs of delivery (except for the supplementary costs arising if you chose a type of delivery other than the least expensive type of standard delivery offered by us).

We will make the reimbursement without undue delay, and not later than –

- (a) 14 days after the day on which we are informed about your decision to cancel this Contract.

We will make the reimbursement using the same means of payment as

you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of the reimbursement.

If you requested to begin the performance of services during the cancellation period, you shall pay us an amount which is in proportion to what has been performed until you have communicated us your cancellation from this Contract, in comparison with the full coverage of the contract. -----  
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**Cancellation Form**

**COMPLETE, DETACH AND RETURN THIS FORM  
ONLY IF YOU WISH TO CANCEL THIS CONTRACT**

To **Elmwoods Law and Mediation** at 206 Maling Exchange Hoult's Yard Walker Road Newcastle NE6 2HL or at fax number **0191 691 3034** or at [Jonathon.stokes@elmwoodslaw.co.uk](mailto:Jonathon.stokes@elmwoodslaw.co.uk)

I/We [\*] hereby give notice that I/We [\*] cancel my/our [\*] contract for the supply of the following service [\*]: Matter Number (located at the top of the Client Care Letter)

.....

Ordered on [\*/ received on [\*]: .....

Name of consumer(s): .....  
.....

Address of consumer(s): .....  
.....

Signature of consumer(s) (only if this form is notified on paper):  
.....  
.....

Date: .....

[\*] Delete as appropriate.

## Data protection and confidentiality policy – Terms of Business addendum

1.1 The following terms shall have the meanings set out below:

(a) Data Protection legislation means applicable legislation protecting the personal data of natural persons, including the Data Protection Act 1998, the Data Protection Act 2018 and any amendment or replacement thereto and, from 25 May 2018, the GDPR, together with any guidance, code of practice or advisory note as may from time to time be issued by any relevant supervisory authority

(b) GDPR means Regulation (EU) 2016/679 of the European Parliament and Council of 27 April 2016 on the protection of natural persons with regard to the processing of “personal data” and on the free movement of such data including where applicable any relevant laws of England and Wales as may from time to time be varied or amended

(c) the terms “data processor”, “data controller”, “data subject”, “personal data”, “personal data breach” and “supervisory authority” shall have the meaning as ascribed in the Data Protection legislation

(d) parties means you as the client and Elmwoods Law and Mediation (“Elmwoods Law”)

(e) SRA means the Solicitors Regulation Authority

(f) data controller means Jonathon Stokes

1.2 The parties shall comply with the applicable requirements of the Data Protection legislation.

1.3 The parties acknowledge that, for the purposes of the Data Protection legislation, Elmwoods Law is the data processor of any personal data provided by you under this engagement.

1.4 The subject matter of the “personal data” being processed by Elmwoods Law will be that of clients or potential clients seeking employment related advice or parties or potential parties to litigation. You will fall into one of the following categories of data subjects: our clients, their servants or agents or employees, and those potentially or actually engaged in disputes with you, your servants or agents or employees.

1.5 Elmwoods Law will process “personal data” from the date upon which you provide us with that “personal data” in connection with the engagement until a date determined in accordance with clause 1.14 of this engagement.

1.6 The nature and purpose of the “personal data” being processed by Elmwoods Law are such as to enable us to provide you with legal services. It will only be used for this purpose. In order to do this the “personal data” will be uploaded onto our computer server database for word processing purposes, and into our accounts and case management system, Insight. Personal data may also be held in hardcopy on files dedicated to the engagement which files shall be held in secure storage in our office. The “personal data” may be viewed by our employees in order to validate and review the service provided. The “personal data” is backed up by Insight to a secure server to which it routinely has no access. This is to ensure that if our system fails your accounts and case management information can be restored from the backup.

1.7 It is anticipated that the “personal data” contained within your instructions to provide legal services may include the following categories of personal data: names, addresses, dates of birth, financial records, details of medical conditions and medical records, personal identity documents and contact details such as telephone numbers and email addresses.

1.8 Subject to clause 1.9 (d) (ii) of this engagement, you authorise ELMWOODS LAW, through this engagement, with a general written authorisation to engage experts, counsel, third-party advisers (with your prior agreement) and confidential waste collection agents as data processors or data sub processors. You further authorise us to allow Insight access to your personal data where such access is necessary for the purpose of addressing any query, repair or alteration within the operation of the Insight accounts and case management software. You also authorise us to allow access to your personal data for the purpose of any regulatory enquiry by the SRA and by our accountants in connection with the preparation of any statutory accounts and any SRA reporting process.

1.9 Elmwoods Law shall:

(a) process the “personal data” only on your documented instructions, including the transfer of personal data to a third country or an international organisation, unless we are required to do so by a law or regulation to which we are subject. Should this be necessary, we shall inform you of that legal requirement before transferring your personal data unless we are prohibited in law from so doing

(b) ensure the persons authorised to process your “personal data” have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality

(c) take all measures required by the GDPR and in particular Article 32 (measures for secure processing)

(d) (i) not engage other processors outside of the general written authorisation in clause 1.8 without your specific written authorisation and notify you of intended changes concerning the replacement of those other processors

(ii) ensure that, where we engage another processor to carry out processing activities on your behalf, the same data protection obligations as contained in this retainer are imposed on that processor by way of a contract or other legal act which shall provide sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing by them will meet the requirements of the GDPR

(e) assist you, where possible, in ensuring any processor or sub-processor within clause 1.8 shall respond to requests from you exercising your rights under the Data Protection legislation.

(f) complying with our obligations pursuant to articles 32 to 36 of the GDPR (responding to data privacy breaches)

(g) as directed by you, at the end of this engagement and to delete or destroy copies unless we are required to keep these. Please see clause 1.14.

(h) make available to you such information as may be necessary to demonstrate compliance with the obligations set out in the GDPR and to assist in such audits or inspections as may be required.

1.10 You consent to Elmwoods Law appointing or instructing those listed in clause 1.8 to process the “personal data” on your behalf provided that:

(a) Elmwoods Law permits them access to the “personal data” only to the extent necessary for them to assist in the provision of services under this engagement or for statutory or regulatory requirements and for no other purpose

(b) the conditions set out in Article 28 (4) of the GDPR are met; and

(c) Elmwoods Law agrees to indemnify you for any of their acts or omissions.

1.11 Elmwoods Law shall maintain a record of processing activities, in compliance with article 30 of the GDPR.

1.12 In the event of a breach of the Data Protection legislation in respect of the “personal data” supplied, Elmwoods Law shall:

(a) immediately notify you and provide you such further information as may reasonably be required

(b) immediately advise the ICO in accordance with the requirements of the GDPR and notify you of any further communication or communications with the ICO or any associated regulatory body

(c) as soon as practicable, take all reasonable steps to investigate, correct and remedy the breach.

1.13 Elmwoods Law will communicate with you by such method as you may request. These may include by Royal Mail, email to an email address provided by you, telephone, fax, SMS messages or by way of commercial courier service. You are reminded of the provisions in clause 12 of our retainer.

1.14 We Elmwoods Law will retain your file of papers for a period of not less than six years after your file has been closed. This is considered appropriate for the purpose of regulatory and statutory requirements. Thereafter we reserve the right (should you not wish to collect the file of papers) to destroy it and to irretrievably delete your information from our server. Please note, documents received from third parties are not routinely stored following completion of your matter and will, unless collected by you, be confidentially destroyed when your file is archived.

1.15 Following the termination of your engagement we will not, unless you expressly advise or request us to, update your “personal data” nor will we seek to verify that the “personal data” we hold for you is current or accurate.

1.16 Any enquiry relating to the operation of this policy, including any subject access request or request for correction or deletion of data, including the right to be forgotten should be addressed to our data controller at 206 Maling Exchange Hoult's Yard Walker Road Newcastle NE6 2HL.

I confirm I have received and read the enclosed policy and authorise the collection processing and retention of data in accordance with it.

Signed:

Date:

Print name:

