

**TERMS OF BUSINESS**

**OF**

**O'NEILL PATIENT SOLICITORS LLP**

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**TERMS OF BUSINESS**  
**Of**  
**O'Neill Patient Solicitors LLP**

**1. Introduction**

These terms of business set out the general terms on which O'Neill Patient Solicitors LLP will provide legal services and will apply to any matter on which you engage us until we notify you of any variations. When you engage us to provide legal services in relation to a new matter, we will normally send you an Engagement Letter which, together with these Terms, will set out the contractual terms on which we are engaged to act for you.

**These terms contain important provisions (see clause 16) that limit our liability to £6 million, unless otherwise agreed by us in writing.**

Certain words and phrases used in these Terms have been given specific meanings which are set out in paragraph 25.

**2. Entire agreement**

These Terms and the Engagement Letter form the entire agreement between us as to the terms of our appointment by you, to the exclusion of all other correspondence or discussion.

**3. Scope of engagement**

- 3.1. The scope of each engagement will usually be set out in the Engagement Letter or will otherwise be agreed with you. The scope of any engagement may be revised from time to time by agreement with you.
- 3.2. It is important to be clear that our role is to provide legal advice and not (unless otherwise agreed) to advise on commercial or financial matters or to question your commercial or financial objectives.
- 3.3. We are not authorised to offer discrete investment advice.
- 3.4. We are qualified to advise on matters of English law only.

**4. Commencement of the engagement**

- 4.1. We will not commence any work on your behalf until you have provided us with such evidence of your identity, (and, if relevant, the identity of connected persons), as we shall require from you.
- 4.2. Any work on a matter which has commenced before an Engagement Letter in respect of that matter has been issued will be governed by these Terms, and by the relevant Engagement Letter once issued.

**5. Responsibility for your affairs**

- 5.1. The people in the firm who will handle any matter on your behalf, and be responsible for it, will be identified in the relevant Engagement Letter. While every effort will be made to ensure continuity, sometimes changes in personnel cannot be avoided. Where such changes are required, we will notify you promptly of this.
- 5.2. Where we engage other professionals on your behalf (such as other lawyers, accountants, etc.), whether in the UK or abroad, we do so as your agent. When we engage other professionals, we will do so with care, but we cannot be held responsible for any act or omission of those professionals, unless otherwise agreed in writing. You will always be responsible for the fees and expenses incurred by them on our instructions.

**6. Regulations affecting your cancellation rights.**

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

If we have not met you either in person (because, for example, instructions and signing of the contract documentation is taking place by telephone/mail, e mail or on-line – i.e.: by way of a "distance" contract) or we have taken instructions and a contract has been concluded away from our business premises (because, for example, we have met with you at home – i.e.: by way of an "off-premises" contract) and the contract was entered into on or after 14 June 2014, you may have the right to cancel this contract within 14 calendar days of entering into the contract without giving any reason. The client care letter sent to you will confirm if this is applicable to your case.

The cancellation period will expire after 14 calendar days from the day of the conclusion of the contract.

To exercise your right to cancel, you must inform us 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 model cancellation form attached to your Client Care Letter, but it is not obligatory. We will communicate to you an acknowledgement of receipt of such a cancellation on a durable medium (e.g., by e mail) without delay. To meet the cancellation deadline, you must send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

Should you require the work to be commenced within the 14-calendar day cancellation period, you must provide your agreement to that in writing, by e mail, post or fax to enable us to do so. By signing and returning a copy of the client care letter / authority to act you are providing your agreement in writing to enable us to commence work within the 14-calendar day cancellation period. Where you have provided your consent for work to commence within the 14-calendar day cancellation period and you later exercise your right to cancel, you will be liable for any costs, VAT and disbursements incurred up to the point of cancellation. Unless you make an express request for us to commence work within the 14-day period (i.e., by signing and returning the signed copy of the client care letter / authority to act we will not be able to undertake any work during that period.

**7. The Money Laundering Regulations, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017**

- 7.1. We are required by law to obtain and retain satisfactory evidence of identity of all new clients and regularly to update that evidence in respect of existing clients. For these purposes clients include, for example, the persons having ownership of shares in a limited company, those who effectively control a limited company and the underlying beneficiaries of a trust. **We cannot act for you until these identification procedures have been completed.**
- 7.2. We will undertake electronic ID checks for all clients. In addition, if you are either a new client, or an existing client who has not previously supplied information, or an existing client where the information was supplied to us more than 6 months ago, you must supply a black and white photocopy of both of the following: one item from List A and one item from List B.

**LIST A – Proof of Identity**

1. Current fully signed Passport
2. Current UK Photocard Driving Licence.

**LIST B – Address Verification**

1. A bill for the supply of electricity, gas, water or telephone services (provided it is fewer than three (3) months old). Mobile phone bills are not acceptable.
2. Television Licence renewal notice.
3. Council Tax bill (provided it is fewer than three (3) months old).
4. Recent Tax Coding Notice.
5. Recent Mortgage Statement.
6. Credit Card/Bank Statement (provided it is fewer than three (3) months old) showing current address.

to comply with your obligation to provide evidence of identity or we suspect that you or any other party connected with you or with the Matter is involved in activities proscribed by POCA.

7.8. The Money Laundering Regulations require us to inform you that we, O'Neill Patient Solicitors LLP, are the data controller in relation to any personal data we may process under the requirements set out in the Regulations and that Mr Paul Churchill is the firm's Data Protection Manager.

7.9. We further confirm that we will only process any documentation or person data received from you in respect of client due diligence for the purposes of preventing money laundering and terrorist financing unless use of the data is permitted by or under any enactment or you give your express consent or the documentation or personal data to be used for other forms of processing.

7.10. The anti-money laundering guidance which UK banks and other finance services firms must adhere to is issued by the Joint Money Laundering Steering Group ("JMLSG"). The JMLSG considers all clients with funds deposited in a law firm's pooled client account to be beneficial owners of that account. The JMLSG does not require banks to routinely identify the beneficial owners of law firm's pooled accounts, as they do with most other accounts they issue. Pooled client accounts are granted this exemption on the proviso that this information is available upon request. In the event of Our bank requesting information about the beneficial owners of Our pooled client account, you agree to Us disclosing your details to them.

### **Bodies Corporate:**

If you are a new or existing body corporate client not listed on a regulated market who has not previously supplied information, we will require the following:

1. Company/organisation full name.
2. Company or other registration number.
3. Registered address and, if different, principal place of business address.
4. Articles of association or other governing documents.
5. Names of the Board of Directors or members of your management body and its senior management.
6. Documentation in accordance with lists A and B above for the officer of the corporate body giving us the instructions on behalf of the client together with written confirmation from that corporate body that the officer is authorised to act on its behalf.
7. Written confirmation of any individual who controls the management board of the corporate body or who owns or controls more than 25% of its share or voting rights.

**Please note that if you are a non-UK resident, we require one proof of identity and TWO forms of proof of address, certified by a Notary Public bearing the notarised seal.** Once we have received your identification, we will attempt to obtain electronic verification using the ID documents provided. If we are unable to obtain a satisfactory result, we will contact you to outline our further requirements.

7.3. The Money Laundering Regulations and the provisions of the Proceeds of Crime Act 2002 ("POCA") impose on us a duty to report to relevant authorities any facts which give rise to a suspicion that you may be involved, directly or indirectly, in handling the proceeds of a crime. This duty to report expressly overrides our duty of confidentiality to our clients. If we report a matter, there follows a period of time in which we are not permitted to take any further action on your behalf. If we report a matter, we are not permitted to alert you to that fact.

7.4. You represent to us and continue to represent to us throughout our engagement (and we are entitled to and do rely on the representation) that you know of no matter upon which you might ask us to advise which facilitates money laundering. We will treat your acceptance (whether express or implied) of these terms of business as such a representation.

7.5. We will be entitled to charge you for the time spent by us in discharging our duties under the Money Laundering Regulations, and for any disbursements incurred by us in that connection.

7.6. We are also required to retain all papers for a minimum period prescribed by law. We reserve the right to decline to deliver papers to you if that is necessary to ensure our compliance with the law. Alternatively, if we can comply with the law by retaining copies of all papers, we will be entitled to charge to you the cost of that copying as a precondition of release of the papers to you.

7.7. We may terminate the provision of any Services to you or be instructed to do so by the relevant authorities, if you fail

### **8. Communication**

8.1. The procedure for taking and confirming instructions will vary according to the urgency of the matter, the nature of the work and your preferences as to communications and working methods.

8.2. We may communicate with you and third parties by post, telephone, fax and, unless you advise us in writing that you do not wish us to do so, by email. Email will be treated as written correspondence, and we are entitled to assume that the purported sender of an email is the actual sender and that any express or implied approval or authority referred to in an email has been validly given. You consent to us monitoring and reading any email correspondence travelling between you and any email recipient at the firm.

8.3. You acknowledge that email may not be secure, and that the delivery of email is uncertain. You should not, therefore, assume that any email sent by you has reached its intended recipient. If you send instructions by email (those which vary previous instructions and/or those upon which action needs to be taken urgently) you must verify by telephone that the email has been received.

8.4. Incoming emails are subject to screening for spam, viruses and other undesirable content, and will be quarantined (and therefore not read) if any such content is detected.

8.5. You will be regularly kept up to date on the progress of your matter, normally through routine correspondence.

### **9. Mortgage Fraud**

If we are instructed on your purchase and we are also acting for your proposed lender, we have a duty to fully reveal to your lender all relevant facts about the purchase and the mortgage. This includes any differences between your mortgage application and information we receive during the transaction; any cash back payments or discount schemes that a seller is giving to you.

### **10. Confidentiality**

10.1. Information of a confidential nature that you provide to us

will be kept strictly confidential. However, if we are working on a matter in conjunction with your other advisers, we can, unless you notify us otherwise, disclose any such information to and discuss it with such other advisers as appropriate. Our obligation to preserve confidentiality is also subject to the overriding obligations imposed upon us by law and by our profession.

- 10.2. As part of the SRA's supervision of solicitors it is necessary for us to make our files available for inspection by the SRA and by our accountants who must submit a certificate of compliance to the SRA. Our accountants have the same obligations of confidentiality to our clients as we do ourselves. We also have a legal obligation to disclose information to authorities where there is legislation in place requiring us to do so. If it becomes apparent that we are unable to continue to act for you as we are complying with that legislation, it may not be possible for us to disclose that information to you. We do not accept any losses arising directly/indirectly from meeting those legal obligations.
- 10.3. We record telephone calls for training and monitoring purposes. A copy of our telephone recording policy, as published by us from time to time, is available on request.
- 10.4. You agree (unless you advise to the contrary) that we may, for the purposes of general publicity of the firm, refer to the fact that we act for you, and may describe in general terms the nature of the matters which we are handling for you. If we wish to publicise any further details we will first seek your express authority. You also agree that we may use any comments or statements made by you in relation to the firm for the purposes of general marketing and publicity of the firm, including publishing those comments and statements.
- 10.5. Without detracting from our duty of confidentiality to you we may, without your consent, act for your competitors or other clients whose interests are or may be opposed to or in conflict with your general business interests. Unless prohibited by law we may act against you, including in litigation, for any other such client on any matter on which we have not already been engaged by you.
- 10.6. Sometimes we ask other companies or people subject to our GDPR regulated agreements to do typing/photocopying/file/storage/recycling/other administration duties on our files to ensure this is done promptly which may be done on or off site. As part of our Third Party Suppliers and Contractors due diligence procedures in line with legislation, we will always seek a confidentiality agreement with these outsourced providers.

## 11. Estimates

- 11.1. We will provide you with an estimate of the fees that you are likely to incur in respect of the matter and if necessary, will update that estimate as the matter progresses. Any estimate will be provided on the basis that the matter proceeds as described in the relevant Engagement Letter and that there are no material changes to its scope or unforeseen complexities. Often it is difficult to estimate at the outset the likely final cost of a matter, for there are many factors outside our control that can affect the level of fees. The initial estimate may, therefore, have to be revised as the matter progresses, and will be reviewed at intervals of not more than six months. It is often easier to estimate with greater accuracy the cost of a particular part of the matter, and you are invited to request such an estimate if you wish. If our estimate changes, we will inform you.
- 11.2. Unless expressly stated otherwise in the Engagement Letter, an estimate of fees is **not** intended to be a fixed fee quote.
- 11.3. If we agree with you a limit on the costs that may be

incurred, we will not exceed the limit without your prior approval. For the avoidance of doubt, any such limit must be notified by you to us in writing.

- 11.4. We will tell you, in advance, what other reasonably foreseeable payments you may have to make to third parties, and at what stages they are likely to be required.
- 11.5. We can request from you a reasonable payment on account of our fees and/or disbursements (either specific or general). We will be under no obligation to commence or continue working on any matter until you have put us in funds on account of our fees and/or disbursements as requested. In these circumstances we will not be liable for any loss which might arise because of no such action being taken. We will be under no obligation to make any payment in respect of disbursements (or property searches or other third party supplied services, if required) until you have put us in funds as requested.

## 12. Fees

- 12.1. Our fees are based primarily on the degree of responsibility and skill involved and the time necessarily taken up by the matter. Certain other factors may also be considered in calculating fees, and these include the complexity of the matter, the value of any money or property involved, and any special urgency of the matter.
- 12.2. The time taken up by the matter will include such things as meetings with you and others (and preparing for those meetings), dealing with papers, drafting and dictating letters and file notes, necessary research, correspondence, telephone calls, travelling and waiting time. All such time spent is recorded in minimum units of six minutes.
- 12.3. Where our fees are calculated by reference to hourly charging rates the rates, we will apply in calculating the cost of time spent on the matter are set out in the relevant Engagement Letter. The firm's rates are subject to review periodically, and at least once a year. We will advise you of any change in relevant charging rates during your matter. For the avoidance of doubt hourly rates quoted at the outset of a matter are not fixed for the duration of that matter.
- 12.4. All fees are quoted exclusive of VAT.
- 12.5. In addition to the firm's own professional charges, any bills delivered will include disbursements and out-of-pocket expenses incurred or to be incurred on your behalf during the conduct of the matter. All will be itemised separately in our bills.
- 12.6. In the case of photocopying of documents, we may have specialist copying carried out by an outside agency in which case we will pass on to you the cost of such copying as a disbursement.
- 12.7. Unless otherwise agreed by us, all bills will be rendered in pounds sterling.

## 13. Billing arrangements and payment of bills

- 13.1. All fees are your responsibility and payable in accordance with these Terms even though you may be entitled to have some, or all of those fees paid by a third party. You will remain responsible for discharging any indebtedness to this firm that the third party does not pay promptly. For award of costs in litigation and dispute resolution see also paragraph 23.
- 13.2. All bills are subject to VAT at the prevailing rate, where applicable. We will render a VAT invoice only to the client to whom we have delivered the service. Our VAT number is 991 2756 85.

- 13.3. We will be entitled to render interim bills on account of our fees prior to the conclusion of the matter. Such interim bills for work done in a stated period are not intended to be a detailed calculation of the costs incurred in the period, but a request for a payment towards costs incurred. We can also deliver disbursement-only bills on an interim basis, as disbursements and third-party service payments arise.
- 13.4. Bills are due for payment immediately on presentation. We reserve the right to add an interest charge at 5% per year above the base rate of Royal Bank of Scotland plc, compounded quarterly from the date of the bill, on any bill remaining unpaid.
- 13.5. If, after we have sent you what we believe is our final bill, we are or become liable to a third party for fees or expenses incurred on your behalf not yet billed to you, then we can render a further bill or bills to you in respect of these sums.
- 13.6. If at any time you believe that you will have difficulty in meeting the future costs of any matter, you should immediately inform us so that together we may consider and decide your best course of action. We will be entitled to cease to represent you (in all matters) if you fail to pay any bill unless we have agreed otherwise, or you fail to put us in funds in respect of reasonable sums on account of fees and/or disbursements that we have requested.
- 13.7. Any monies that we receive from you on account of future fees and disbursements will be placed in our client account until such time as the fees or disbursements are due to be paid.
- 13.8. Whenever we hold funds that are due to you, we can deduct any amounts due to us from those funds and make an appropriate transfer from our client account to our office account.
- 13.9. We will not accept payment of our bills (or payment for any other purpose) by cash or by cheque drawn on an account that is not your own. All payments must be by bankers' draft or building society cheque or BACS or CHAPS.
- 13.10. From 12th January 2018 it has been our policy to no longer accept payments of our bills and payments on account of disbursements by credit card.
- 13.11. You should investigate and disclose to us immediately the existence of any relevant legal expenses insurance policy in force in relation to the work being undertaken by us for you.

#### **14. Client Money**

- 14.1. When we receive money from you or from a third party that is to be applied on your behalf, it will be held (subject only to any conditions imposed on us by that third party and to our rights under paragraph 13.8 above) in a separate client's bank account which is governed by the provisions of the Rules.
- 14.2. A payment in lieu of interest on money that we hold on your behalf in our client account will be made in accordance with the Rules and our Client Account Interest Rate Policy as published from time to time. (It can be found on our website, or a printed copy will be sent to you on request). Payment will (unless otherwise required) be made without deduction of tax. It will be your responsibility to declare sums so received for tax purposes. If however we receive a charge from our Bank for holding your money we reserve the right to pass this charge on to you subject to giving you the appropriate notice.
- 14.3. We will account to you for any commission that we receive

for any business undertaken on your behalf, unless you agree that we may retain it. We will not account to you if the amount of commission is less than £20 or such greater sum as is prescribed by the Rules.

- 14.4. We hold our client account funds with banks or building societies regulated by the Financial Conduct Authority and Prudential Regulation Authority. We will indicate from time to time on our website which institutions we hold client account funds with. The £85,000 Financial Services Compensation Scheme (FSCS) limit should apply to each individual client so if you hold other personal monies yourself in the same bank as our client account and that account is eligible under the scheme, the limit remains £85,000 in total, so it may be advisable to check with your own bank as some banks now trade under different trading names. In the event of a bank failure, you agree to us disclosing details to the FSCS. Please note that if a corporate body client is not considered a small company by FSCS, then they will not be eligible for compensation. You should also note that in the event of a banking failure it is unlikely that the firm would be held liable for any losses of client account money (please also see clause 16.16). However, with effect from 3rd July 2015, the FSCS will provide a £1 million protection limit for temporary high balances held with a bank, building society or credit union if it fails. Further details relating to what constitutes a temporary high balance and the rules relating to the protection can be found at [www.fscs.org.uk](http://www.fscs.org.uk).
- 14.5. We shall not be liable for any loss which you or any third party may suffer in connection with the insolvency of any bank or financial institution or 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 14.1.
- 14.6. When sending any funds on your instructions to a foreign bank to an account in any currency other than GBP sterling, you should be aware that we do not and will not participate or engage in any speculation or negotiate FX rates with our bank or any other financial institution on your behalf. We will send any such payment as a prescribed amount in GBP sterling with instructions for the conversion to the required foreign currency to be affected using the prevailing FX rate offered by whichever of our primary clearing Banks, (either The Royal Bank of Scotland plc, or Barclays Bank Plc) we select to use to effect the transaction in accordance with your instructions at the relevant time. We will not be responsible for any currency fluctuations or any losses which may result from such fluctuations, no matter how such losses arise, in respect of funds we send out on your instructions, or which may be returned to us by the recipient bank. You will also be responsible for bearing all bank charges and fees that may be levied as part of the payment and or refund/return process by our bank, the recipient bank and/or any intermediate bank.

#### **15. Papers and Documents**

- 15.1. After completing the transaction, we are entitled to keep all your papers and documents while there is money owing to us. Subject to that lien and to the provisions of paragraph 13.5 we will return to you, if you so request, any documents provided to us for the purposes of dealing with any matter. Our working papers, draft documents, letters sent to us by you and copies of letters sent by us will remain our property. We will be entitled to retain a copy of any papers or documents that you require us to deliver to you.
- 15.2. We will keep your file of papers (except for any of your papers that you ask to be returned to you) for no more than six years, save where specifically required by the court or otherwise to keep them for longer. We keep the file on the understanding that we have your authority, without further reference to you, to destroy all papers six years after the

date of the final bill we send to you for the matter. We will not destroy documents you ask us to deposit in safe custody.

- 15.3. We do not normally make a charge for retrieving stored papers or deeds in response to continuing or new instructions to act for you. However, we reserve the right to make a charge based on the time we spend on reading papers, correspondence or other work necessary to comply with the instructions given by you or on your behalf and where you request the file be retrieved for your own purposes, we will charge an administration fee to reflect the time and costs we incur to comply with your request.
- 15.4. Copyright in any document created by us will be and remain vested in us and will not be transferred to you. We assert the right to be identified as the author of and to object to the misuse of any such document.
- 15.5. If for any reason at any time (whether during or after termination of your engagement of us) we are required compulsorily to disclose documentation or give information orally or in writing relating to any of your matters or affairs pursuant to a court order or a notice or demand served by any person who has the authority to compel disclosure by law, then we shall comply with such requirement and be entitled to be paid the cost of doing so by you at our then prevailing hourly rates. If any such documentation or information is subject to legal professional privilege, we will inform you of the requirement made upon us and give you the opportunity to waive privilege. If you do not do so, then we will be entitled to be paid by you for any time spent and expenses incurred in preserving privilege on your behalf.

## **16. Exclusions and Limitation of Liability**

- 16.1. Save as expressly otherwise agreed in a relevant Engagement Letter our liability in respect of any matters arising in relation to our engagement shall be limited to the sum of **£6,000,000** per claim. This limitation shall apply to our aggregate liability to you and any connected person or persons in respect of any one claim.
- 16.2. We will not be liable for any loss arising out of any act or omission on our part unless notice in writing of the alleged loss is given to us not later than three years following the act or omission in question. Three years shall be the period of limitation for all purposes of the Limitation Act 1980 (as amended).
- 16.3. We will not be liable for any loss arising directly or indirectly out of our failure to take any action that falls outside the scope of work defined in any relevant Engagement Letter.
- 16.4. We will not be liable for any loss arising directly or indirectly out of any events or circumstances beyond our control.
- 16.5. We will not be liable for any loss arising directly or indirectly out of our failure to take any action in circumstances where you have failed to pay to us any monies properly requested by us.
- 16.6. We will not be liable for any loss arising directly or indirectly out of our compliance with the overriding obligations imposed upon us by law and by our profession, whether by way of the bona fide disclosure of information by us to relevant authorities or otherwise.
- 16.7. We will not be liable for any loss arising directly or indirectly out of your failure to act entirely in accordance with our advice, or your omission to take any action properly required of you during the matter.
- 16.8. We will not be liable for any loss arising directly or indirectly out of any act or omission of other parties engaged by us on your behalf.

16.9. We will not be liable for any loss arising directly or indirectly out of the quarantining (and thus omission to read) of any email communication containing a virus or other undesirable content.

16.10. We will not be liable for any loss caused directly or indirectly by the contamination by virus of any email sent by us to you.

16.11. We will not be liable for any loss arising directly or indirectly out of your failure to agree to a form of alternative dispute resolution.

16.12. We will not be liable for any indirect or consequential losses.

16.13. We will not be liable to you for any increased amount payable by us, or for any amount which we would have been able to recover from another of your advisers or other third party by way of indemnity, contribution or otherwise but are unable to recover, because you agreed or are treated as having agreed with that third party any exclusion or limitation of his liability.

16.14. If there is another adviser or person who is liable (or potentially liable) to you in respect of the same loss that you claim from us, then you will at our request join that person in any proceedings brought against us as soon as reasonably practicable following such request. This is subject to any legal prohibition against your joining them in that way.

16.15. You acknowledge that we have an interest in limiting the personal liability and exposure to litigation of employees, consultants and members. Having regard to that interest you agree that you will not bring any claim personally against any individual employees, consultants or members in respect of any loss which you suffer or incur, directly or indirectly, in connection with our services. This will not limit or exclude our liability as a firm for the acts or omissions of our employees, consultants or members.

16.16. Any monies that we hold or are received by us on your behalf will be held in a separate client account in accordance with the Solicitors Accounts Rules (or any superseding rules). In the event of any bank with whom we have placed client monies failing to honour its commitments in relation to such monies, whilst we will use all of our reasonable endeavours to procure the return to you of any monies that may be due to you, we shall not be liable to you for any loss, direct, indirect or consequential, that you may suffer as a result of the bank's failure to honour its commitments.

16.17. The exclusions and limitations in this paragraph 16 will not operate to exclude or limit any liability for fraud or reckless disregard of professional obligations or liabilities which cannot be lawfully excluded or limited.

## **17. Insurance**

We maintain a level of insurance at least sufficient to cover our potential liability to you in accordance with these Terms. No warranty is given or to be implied that we will maintain insurance above the minimum level required. Details of our insurance providers are available for inspection at our offices.

## **18. Assignment and third-party rights**

18.1. No person other than a contracting party may enforce any provisions of our engagement by virtue of the Contracts (Rights of Third Parties) Act 1999. Nothing in that engagement shall confer on any third party any benefit or the right to enforce any term of it.

18.2. We may assign the benefit and burden of our agreement with you to any firm or corporate entity which carries on all,

or substantially all, of the business of the firm in succession to us.

18.3. Subject to paragraph 18.2 neither you nor we have the right to assign the benefit or burden of the agreement between us without the written consent of the other.

## 19. Professional Indemnity

We have a legal duty to tell you about our professional indemnity insurance. We have an obligation to carry such insurance and our qualifying insurers are: Am Trust Europe Limited whose address is Number 2 Minster Court, Mincing Lane, London EC3M 7HA and Axis Speciality Europe SE of 4th Floor Plantation Place South, 60 Great Tower Street, London EC3R 5AZ, W.R. Berkley Underwriting, 14<sup>th</sup> Floor, 52 Lime Street, London EC3M 7AF and QBE UK Limited, 30 Fenchurch Street, London, EC3M 3BD. Our insurance policy number is P18A295278P. The insurance covers our practice carried on from our offices in England and Wales and will extend to acts or omissions wherever in the world they occur. We draw your attention to the limitation of our liability which is £6,000,000.00 for advice given under English Law.

## 20. Termination

20.1. We expect to continue to act in any matter on which we have accepted instructions from you until the matter is completed. However, either of us can bring the engagement to an end at any time. We will not terminate our engagement except for good reason and upon giving you reasonable notice. Such good reason may include (but is not limited to) the following:

- (a) where a conflict of interest arises.
- (b) where we consider that it would not be in your best interest for us to continue to represent you.
- (c) where there is a breakdown in trust and confidence between us.
- (d) where you fail to provide us with the instructions or documentation, we need to represent you properly, including in respect of a matter proceeding under the CPR;
- (e) where the costs limit, if any, has been reached.
- (f) where a statement of truth for which you are directly or indirectly responsible is found to be erroneous, where you fail to meet a third party order for costs within the stipulated period (usually 14 days);
- (g) where your instructions conflict with our rules of professional conduct or our ethical policy from time to time, or might otherwise in our opinion bring us into disrepute.
- (h) where we are unable to agree a revised fee for our work in accordance with these terms; or
- (i) where our bills are not settled promptly, or you have failed to make payments on account of anticipated costs and/or disbursements despite a request that you do so.

20.2. If the engagement is terminated, you will be liable for fees and disbursements to the date of termination and for those to which we may already be committed, plus any fees and disbursements for work necessary in connection with the transfer of the matter to another adviser of your choice and/or removing ourselves from the court record, as applicable.

20.3. Unless we agree otherwise, we will not, once a transaction or matter is completed, be responsible for monitoring or notifying you of any relevant post-completion dates or deadlines or for otherwise monitoring compliance by you or any other party with the terms of any contract or other arrangement on which we have advised you.

20.4. You agree not to offer employment to any personnel of the firm working on any matter for you or to induce or solicit any such person to take up employment with you; nor will you use the services of any such person, either

independently or via any third party, for a period of six months following the end of any involvement by that person in any engagement of us by you.

## 21. Conflict of Interest

Solicitors must endeavour to avoid situations of conflict and ensure that a client's interests are not compromised. By way of example, solicitors may not normally act on both sides of a transaction and only then, subject to strict guidelines.

We will advise you if we become aware that an issue of conflict exists. If you should be concerned about such an issue, then please immediately refer your concern to the fee earner attending to your case. We assure you that we will always act independently and in your best interests as our client.

In conveyancing cases please note that we may be asked to act for you as a buyer and for your lender. We have a duty to both, and those duties could possibly conflict in limited circumstances and exceptionally this could lead to us being unable to continue acting for either party.

Anti - Money Laundering Regulations can also give rise to matters of conflict and leads to us being unable to continue acting in some exceptional circumstances.

## 22. General Data Protection Regulations (GDPR)

22.1. You have a series of rights outlined under Data Protection legislation over how your personal data is used, including erasure in specific circumstances. However, we may not always be able to agree with the exercise of such rights, as often your personal data remains necessary in relation to the purpose for which it was originally collected and processed. Further information is available in our Privacy Policy, which can be viewed on our website at any time.

22.2. What personal information we process

The categories of personal data we process include general personal data (which includes normal personal data, personal identity, email addresses and personal financial data) and special categories of personal data if these have been voluntarily provided to us (which includes ethnicity, nationality and medical history).

22.3. How we use your personal information

When your file is open, the personal data is necessary in relation to the purpose for which it was originally intended. We process your personal information to fulfil our contract with you, or where you or we have a legitimate interest in doing so, where otherwise permitted by law, or to comply with applicable law and regulation.

We use your personal information for:

- Service provision and internal processing (i.e., to assess and/or provide and to service your matter).
- Management of relationship (e.g., to develop your relationship with us).
- Resolving queries.
- Training and service review (e.g., to help us enhance our services and the quality of those services).
- Statistical analysis (e.g., to help us enhance our products and services or delivery channels to keep costs down).
- Complying with legal obligations (e.g., to prevent, investigate and prosecute crime, including fraud and money laundering).

When your matter is completed and / or your file is closed, we may still process your personal information where we have a legitimate interest in doing so, where we are permitted by law, or to comply with applicable laws and regulation.



Examples of such instances will include:

- Complying with legal obligations for statutory and regulatory requirements including for example, HMRC Returns, complaint handling, anti-money laundering, reporting to our regulatory body – the Solicitors Regulation Authority.
- Storage of your papers and documents for the periods outlined in section 15.2 of these Terms of Business. (Storage of personal data is still classed as a processing activity even though it is not being regularly accessed and remains securely locked away); and
- Our legitimate interests to conduct conflict of interest checks, statistical analysis and research to help us enhance our products and services.

#### 22.4. How We Share Your Information:

We may share your personal data with a range of organisations which enable us to fulfil our contract with you, or where we have legitimate interests to do so, or otherwise are required by applicable law and regulation. We can provide more details specific to your personal data on request. For further information on how we use your data please see our Privacy Policy which is available on request or on our website.

22.5. You have a right to complain to the Information Commissioner's Office (<https://www.ico.org.uk>), which regulates the processing of personal data. You may also seek a judicial remedy.

### 23. Knowledge Management

It is an important part of developing and improving the service that we offer to clients that knowledge gained by any member of the firm is shared with others within the firm. You authorise us to retain and distribute (including electronic retention and distribution) within the firm the contents of all papers (including but not limited to draft documents and counsels' opinions) relating to those matters which we have dealt with on your behalf. Such contents will be always kept confidential within the firm in accordance with paragraph 10.1 above.

### 24. Service Standards

24.1. If you have any problem with the service, we have provided for you, including any bill we may have issued to you, then please let us know. We will try to resolve any problem quickly and operate an internal complaint handling system (a copy of which is available on our website) to help us to resolve the problem between ourselves. If you are not satisfied with our handling of your complaint, you can ask The Legal Ombudsman at Legal Ombudsman, PO Box 6167, Slough, SL1 0EH, [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk) to consider the complaint. Normally, you will need to bring your complaint to the Legal Ombudsman within six months of receiving a final written response from us about your complaint. As from 1.04.2023 the time limits for referring a complaint to the Legal Ombudsman with not be later than one year of the act or omission being complained about or, if the act or omission happened more than one year ago, the complaint must be brought within one year of the you becoming aware of the act or omission. You can also apply to the court for an assessment of a disputed bill under Part III of the Solicitors Act 1974. Please note however, that in all or part of a bill remains unpaid we may be entitled to charge interest.

24.2. We as Solicitors have to adhere to a strict set of rules and guidelines called the SRA Standards and Regulations (effective from 25th November 2019). The Standards and Regulations can be accessed at [www.sra.org.uk](http://www.sra.org.uk).

24.3. To maintain our own internal and external quality

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standards, (we currently hold CQS status), we are subject to periodic checks by outside assessors. This could mean that your file may be selected for checking, all inspections are, of course, conducted in confidence. Any outside assessor would be subject to our GDPR regulated agreements and due diligence process. If you prefer to withhold consent, work on your file will not be affected in any way. You will need to inform us at the time of engagement by reading and accepting these terms... Please contact us if we can explain this further or to advise us if you do not want your file to be reviewed.

### 25. Variation

No variation of these Terms (other than by way of a general revision or as a result of the content of any relevant Engagement Letter) will be effective unless recorded in writing and signed on behalf of this firm.

### 26. Severance of Terms

If all or any part or any individual provision of the agreement between us and you is or becomes illegal, invalid or unenforceable in any respect then the remainder of the terms of that agreement will remain valid and enforceable.

### 27. Insurance Distribution and Exempt Regulated Activities (Investment Business).

This firm is 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/firms/financial-services-register](http://www.fca.org.uk/firms/financial-services-register).

If during this transaction you need advice on investments, we may have to refer you to someone who is authorised by the Financial Conduct Authority, as we are not. However, as we are regulated by the Solicitors Regulation Authority, we may be able to provide certain limited investment services where these are closely linked to the legal work, we are doing for you.

Please note the contact details of the Legal Ombudsman at Legal Ombudsman, PO Box 6167, Slough, SL1 0EH [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk).

### 28. Legal Aid

We don't undertake legal aid work and it is important that you are aware of Legal Aid. Legal Aid is useful to a litigant because if he loses, his liability is limited to his means-tested contribution, and it is unlikely the Court will allow the victor to recover any costs against him. Legal Aid is not free. In most cases it is only a loan repaid from the fruits of the action. If the assisted party succeeds and recovers or preserves any asset (except for some exemptions for maintenance and family proceedings), it is subject to the statutory charge. The statutory charge operates to put the recovery or the preserved asset first towards payment of the assisted party's legal costs, and the assisted party only gets the net balance (if any) – often much later because of the time taken in quantifying the final costs. If money is recovered, it must be paid to the assisted party's solicitor who has to pay it into the Legal Aid Fund who carry out the accounting and pay out the balance. The Legal Aid Agency has no power to reduce or waive the effect of the statutory charge. If a home is involved, it is sometimes possible to delay payment, but the statutory charge then operates like a mortgage and attracts interest until everything is repaid on sale. For more information please discuss this with the person attending to your case (they will be able to confirm if Legal Aid will be relevant to your type of case and if you may qualify) / alternatively go to the LAA website [www.justice.gov.uk/legal-aid](http://www.justice.gov.uk/legal-aid) or telephone them directly on 0300 200 2020.

## 29. The Law Society and the Solicitors Regulation Authority

The Law Society is a designated professional body for the purposes of the Financial Services and Markets Act 2000, but responsibility for regulation and complaints handling has been separated from the Law Society's representative functions. The Solicitors Regulation Authority is the independent regulatory body of the Law Society, and the Legal Ombudsman at Legal Ombudsman, PO Box 6167, Slough, SL1 0EH www.legalombudsman.org.uk is the independent complaints-handling body of the Law Society.

## 30. Equality and Diversity

Consistent with our internal policies and procedures, we will not discriminate in the way we provide our Services on the grounds of race, colour, religion, nationality, ethnic origin, sexual orientation, gender, age, disability or marital status.

## 31. Definitions

In these Terms and, unless the contrary is indicated, in any Engagement Letter:

'**Anti-money Laundering Regulations**' include but are not limited to the Terrorism Act 2000, the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2017

'**claim**' means all claims arising from (i) one act or omission (ii) one series of related acts or omissions (iii) the same act or omission in a series of related matters or transactions and (iv) similar acts or omissions in a series of related matters or transactions.

'**CPR**' means the Civil Procedural Rules 1999 as from time to time amended.

'**Engagement Letter**' means a letter sent by us to you at the outset of any matter setting out the scope of the legal services to be provided in relation to that matter and any special terms, and shall include any subsequent letter sent by us to you expressly revising the terms of an original Engagement Letter.

a reference to '**firm**' or '**we**' or '**us**' or any similar term means the firm of English solicitors practising under the name O'Neill Patient Solicitors LLP;

'**Law Society**' means The Law Society of England and Wales.

'**loss**' means loss or damage, direct or indirect, including pure economic loss, loss of property, loss of profit, loss of business and depletion of goodwill.

a reference to a '**matter**' is to a transaction, case or other matter upon which at any time you engage us to advise you and any reference to '**our services**' is to the legal services to be provided by us to you as described in an Engagement Letter and any other legal services provided to you at any time in relation to a matter.

'**Rules**' mean the Solicitors' Accounts Rules.

'**SRA**' means the Solicitors Regulation Authority.

'**These Terms**' means in their entirety the terms and conditions set out above;

'**VAT**' means value added tax or other tax of a similar nature replacing it.

**This is an important document. Please keep it in a safe place for future reference.**

## 32. Severability

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

## 33. The Green Deal

The Green Deal Scheme is a government driven initiative to allow for a loan to be provided on a property for the improvement of its energy efficiency. The loan is repayable monthly, in conjunction with the power bills on the property. The loan will run with the property unless it is repaid on the sale or transfer of the property. The seller(s) of the property are required, by law, to disclose the existence of any Green Deal loan on the property they are selling, or they may become liable for repaying the outstanding debt, even after they have sold the property. The Estate Agent/Seller must disclose the existence of a Green Deal loan agreement prior to a sale being agreed. If the property is being sold at auction, the existence of a Green Deal loan agreement should be disclosed before the winning bid is made.

The purchaser on a normal sale should be given an EPC showing the Green Deal improvement or an EPC and a disclosure document showing details of the work carried out under the Green Deal Scheme. This disclosure document will be provided by the energy provider on completion of the work as well as details of the repayment amount, the unexpired term of the loan and details of the loan provider.

Disclosure of the Green Deal loan must be made at least 7 days prior to exchange of contracts and the Transfer Deed must contain the Purchaser's acknowledgement that they have received notice that the property is a Green Deal property.

Whilst there are no charges, restrictions, notices or cautions registered when a property is a Green Deal property, the mortgage lender must be notified of the existence of the Green Deal loan because the borrower / new property owner is taking on another loan which runs with the property.

If this applies to you, the client care letter/questionnaire sent to you with this Terms of Business or referring you to this Terms of Business will have confirmed further instructions.

Please note that we offer no guarantees/warranties in relation to the extent and nature of any works undertaken under the Green Deal Scheme. It is your responsibility to ensure that you have satisfied yourself as to the extent, nature and repayment provision of any such works undertaken in accordance with the Green Deal Scheme.

We would recommend that all Green Deal loans be repaid by the seller on completion of the property transaction, as the value of the property will undoubtedly have already taken into account the work undertaken under the Green Deal loan.

## 34. Consumer Protection Regulations (CPR)

The Consumer Protection from Unfair Trading Regulations (as amended) regulate transactions between traders and consumers and prohibit trading practices that amount to unfair commercial practices and misleading acts and omissions. Neither You, the client, or Us, your legal representative, must mislead a buyer or tenant either by providing incorrect or ambiguous information, or by omitting to provide material information about the property You are selling.

Certain information will be revealed through searches and other enquiries of public databases, surveys and valuation reports. However, you must disclose to Us any known defects and other material adverse matters relating to the property known to You and failure to do so may mean that, in certain circumstances, the buyer or tenant would have rights of redress against You.

We encourage you to make all known disclosures as early in the transaction as possible to prevent delays.

If we become aware of any such existence of material information, and You decline to authorise disclosure to the buyer or tenant, then We would have to consider whether it was possible to continue to act for You as the CPR's impose a duty to act fairly towards You as Our client and towards third parties, especially those that are unrepresented.

