

## **MANNBENHAM ADVOCATES LIMITED**

### **TERMS AND CONDITIONS OF BUSINESS**

In appointing us to act for you we will provide our legal services in accordance with these terms and conditions of business.

#### **1. People responsible for your work**

Each time you instruct us we will advise you who has the day to day responsibility for the matter and any other persons it is envisaged will assist them at the commencement of the matter together with their contact details including direct telephone number and e-mail address.

At MannBenham we frequently operate a team system and if appropriate specific tasks relating to an individual matter may be allocated to other members of the team. In such cases we will advise you of the names of all those who become involved with your case, their status and charge out rate.

If, the person with day to day responsibility for your matter is unavailable, please ask for their secretary or for any other member of the team. Messages can be left on the persons individual voice mail.

#### **2. Instructions**

In addition to your general instructions on this matter, unless you instruct us to the contrary, you also authorise us to take all steps we consider necessary to protect your interests in this matter including the giving of reasonable undertakings and the incurring of reasonable disbursements on you behalf.

#### **3. Our charges**

Our charges are either:

##### **3.1 Based on the time spent in dealing with the matter. For example time may include:**

- Meeting with you and taking instructions
- Considering documents
- Correspondence by letter, fax or email
- Telephone calls
- Attendance at court

Details of our current hourly rates will be notified to you on taking instructions. We charge our time in units of 10 minutes. Our charge out rates are exclusive of

VAT and disbursements. These rates are subject to periodic review and we will notify you in advance of any changes.

When we give an estimate it is only an approximation and is on the basis that the matter does not become unusually urgent, complex or time consuming. An estimate is not a firm quotation unless we expressly agree in writing. You are welcome at any stage ask us to revise our estimate in light of the developments on the matter. We are always happy to discuss the issue of costs with you so that you have a realistic understanding of the costs involved which should help you to budget for the matter.

As part of our internal quality control procedures there is an element of 'four eyes' control of client files. This involves periodic inspections of the files relating to most larger matters and random inspection of files of smaller matters by senior members of staff who do not have day to day conduct of the matter. The time involved in this procedure is normally quite short and on occasion has yielded some unexpected benefits which has led us to incorporate this into our usual operating procedures. If your file is involved in this procedure we will charge you and by acceptance of these terms and conditions of business you agree to pay for the time of the fee earner involved.

- 3.2 Limited to a fixed fee, which will be quoted in our first letter/email to you.

If for any reason the matter does not proceed to completion we will charge you for the work done on a time spent basis together with any disbursements incurred.

Where appropriate we will add VAT to our charges at the rate that applies when the work is carried out.

4. **Disbursements**

In order to progress your matter we will on occasion need to incur disbursements on your behalf. For example, Government filing and search fees, third party copying costs. VAT is payable on certain disbursements.

Where appropriate we will ask you for the disbursements in advance so as to avoid any delay in the progress of your matter.

5. **Retainer on Account of Costs**

Where appropriate we will ask for a sum of money as a retainer on account of costs and disbursements. These monies will be held in our Advocates client's bank account. We will use these monies to discharge this firm's invoices and any disbursements we incur on your behalf as and when they arise. We will notify you when monies are applied from the retainer, other than for petty

disbursements.

From time to time we may request additional monies by way of a retainer. Should these monies not be paid after being requested then we reserve the right to immediately cease acting for you.

## 6. **Billing Arrangements**

We feel that it is important that our clients are kept aware of the costs that are being incurred in dealing with their matter. We will normally unless otherwise agreed raise invoices on a monthly or bi-monthly basis while the matter is in progress (unless the amount involved is less than £100) with a final invoice once the matter has completed. We find that this enables our clients to budget for the matter as it proceeds.

Payment is due to us forthwith from when we send the invoice to you. If our bill is not paid within 28 days interest will be charged on the invoice at the rate of 8% per year, compounded annually from the date of the bill. Interest will be charged on a daily basis.

If you have any query about your invoice you should promptly contact one of the Directors.

We accept payment by cheque drawn on a major clearing bank or bankers draft.

We accept payment by most forms of credit card. You may give us instructions to pay accounts by credit card over the telephone. Please note that to avoid misunderstandings with you while dealing with a junior member of staff over such a matter those instructions may be recorded.

We accept payment by bank transfer. If any deduction or commission is taken by any bank from the payment we will charge this amount onto you. This also applies in cases where payment is made in another currency (which in most cases we will accept) subject to the costs of any conversion into sterling being charged to your account.

We will not normally accept payment of invoices, unless of relatively small amounts, in cash.

Within three months of receipt of an invoice from this practice you may be entitled to request that our fees are assessed by either the Chief Registrar or an independent assessor appointed by the Isle of Man Law Society. The Chief Registrar will charge a fee of 10% of the assessed bill and the Law Society will charge an administration fee of £100 plus between 5% and 10% of the bill for which you may be responsible. Each invoice we issue is a final request for payment.

You agree that we may retain all of your papers and documents irrespective of which matter they relate to until all of our invoices and disbursements owed by you to us have been paid.

7. **Costs in Litigation cases**

Under the provisions of the Rules of Court you may be entitled to recover costs from another party or you may be under a liability to pay costs to another party. A brief explanation of these provisions is set out in the litigation costs note attached to these terms and conditions of business. The fact that you may be entitled to recover costs from another party does not affect your primary responsibility to pay our costs. In addition there may be considerable delay in obtaining payment of any costs from another party and that does not affect your primary responsibility to pay costs due to us in a timely manner. We are not in a position to agree a delay in payment of our costs by yourself while efforts are made to recover some part of those costs from a third party.

8. **Interest on Monies**

We will if requested by you pay you interest in accordance with the Isle of Man Law Society Accounts Rules on monies held on your behalf. If you request us to pay interest you agree that we may retain a sum of £30 in respect of each monthly calculation of interest to reflect the administrative expenses we incur in making these calculations and crediting the payments to you.

9. **Storage of Papers and Documents**

After completing a matter, we are entitled to keep all of your papers and documents while there is money owing to us for our invoices and disbursements. We will keep our file of papers, apart from any papers that you ask us to return to you, for up to 6 years on the understanding that we have your authority to destroy it six years after the final invoice without notice to you.

If you request us to keep documents for you in safe custody in our fire proof cabinet then we will not destroy those documents but we reserve the right to impose a reasonable storage charge.

We will not normally charge you if we retrieve papers or documents from storage in relation to continuing or new instructions to act in connection with your affairs. If, however you request us to produce stored papers or documents relating to a closed matter, we may charge you for the time spent.

10. **Prevention of Money Laundering**

As a result of legislation by the government to combat money laundering we are

required to obtain from you proof of your identity. We attach a sheet entitled “anti money laundering identification” which sets out the documents we require. For example, if you are an individual you can prove your identity and address with your passport and a recent utility bill (a mobile phone bill is not acceptable for this purpose). We will require certified copies of these identity papers for our records. We will explain to you how this obligation can be satisfied.

#### 11. **Termination and Suspension**

You may terminate your instructions to us in writing at any time. We are entitled to keep all of your papers and documents while there is money owing to us for our charges and disbursements. This is a contractual term in addition to our lien.

Where we have reasonable grounds for doing so, we may decide to stop acting for you either permanently or temporarily. For example:

- If a conflict of interest arises
- We are unable to obtain instructions from you
- If you do not pay promptly an interim invoice or comply with our request for a retainer or for payment of anticipated disbursements

In such a case we will give you written notice. Our charges and disbursements will be payable to the date of termination.

#### 12. **Communication**

We are confident of providing you with a high quality service. If, however you have any queries or concerns about our work please in the first instance either raise them with the person dealing with your case or one of the directors. If that does not resolve the problem to your satisfaction please contact Timothy Mann. We value your business and would ask that you promptly raise any concerns you may have with us so that we can deal with them immediately.

Our ‘e’ mail communications are unencrypted. While we take all reasonable security measures there is always a risk of our communications being intercepted by third parties. MannBenham Advocates Limited will not be liable for any loss to you arising out of a third party gaining access to email communications between us.

The use of ‘e’ mail communication carries with it the risk of infection from viruses. While we use anti virus software to protect our computer system we cannot guarantee that all email communication will be free from infection by viruses. MannBenham Advocates Limited will not be liable for any loss to you arising out of an infection of your computer system from a virus emanating from our office or computer systems.

We accept instructions by 'e' mail and are happy to use 'e' mail as the prime method of communication. Please note however that we do not guarantee that 'e' mails are read immediately on receipt into our computer system, the addressee may be engaged in a meeting or engaged on other client business. Further more 'e' mail communication is so commonplace that the fact that a message is sent by 'e' mail does not imply particular urgency and we attempt to limit the extent to which non urgent 'e' mail communication impedes other more urgent client work.

13. **Intellectual Property**

You will have the full right and licence to distribute copies of materials we create for you within your own organisation in relation to the particular matter for which they were drawn up. However, all copyright and other intellectual property rights in all documents, reports, written advice or other materials provided by us to you remains with us. If you wish to distribute copies of these materials outside your own organisation this will require our permission.

14. **Quality Standards**

We operate a internal office procedures quality control system to ensure appropriate levels of service are maintained. As part of this system your file may be inspected by an independent agency. The agency will not examine the detailed contents of your file but will check to ensure our internal management and quality procedures have been followed. We are of course bound as your Advocates by strict rules of confidentiality. If you do not wish for your file to be inspected please advise us.

15. **Exclusions**

For the purposes of the Contracts (Rights of Third Parties) Act 2001 unless specifically agreed between us in writing or in this contract you and MannBenham Advocates Limited do not intend this contract to be enforceable by any third party.

16. **Associates**

These terms of business apply to you and your associates, which for these purposes includes all companies trusts or equivalent entities or persons which you control or which control you or which are in common ownership or control with you. Ownership and control includes both direct and indirect control and the ability (whether legally binding or not) to significantly influence the decisions of any person company trust or equivalent entity or person.

17. **Limitation of Liability**

The potential extent of any loss or damage to you and your associates arising out of our negligence is likely to be disproportionate to the amount that can reasonably be charged by us for work carried out for you.

We are not able to obtain insurance giving unlimited cover for our full potential liability to our clients for negligence and in any case even insurance giving limited cover for such liability is becoming increasingly difficult and expensive to obtain.

In the circumstances we intend to limit our liability for any damage caused to you or your associate arising from our negligence to an amount that is not out of proportion to our charges for carrying out work on your behalf.

By accepting these terms and conditions of business you and your associates agree that in the event of our negligence the amount of your claim is limited to £1,000,000 or £10,000,000 in the event that any claim is notified to us whilst we retain our status as a recognised body within the meaning of section 26(5) the Advocates Act 1995.

Insurance costs have in recent years escalated and we are not in a position to know whether those cost increases will continue. As a result we do not know whether it will be possible to maintain current levels of insurance into the indefinite future.

In the circumstances we intend to limit the length of time in which in the event of our negligence you may bring a claim against us to a period in which at this time it appears likely that we can be indemnified by a policy of insurance.

By accepting these terms and conditions of business you agree that in the event of our negligence you or your associate will not bring a claim against us after the expiry of a period of six years from the event which gave rise to your cause of action. This period is without prejudice to any other period of limitation to which we may be able to avail ourselves by statute or otherwise.

In the event that any third party becomes entitled to rely on any advice, material or other work carried out by this practice it is on the understanding that the same is subject to the limitation of liability contained in this clause.

18. **Agreement**

We reserve the right to amend these terms and conditions of business from time to time and on reasonable notice to you. Unless otherwise agreed these terms and conditions of business as may be amended from time to time will apply to any future instructions you give us.

Your continuing instructions will amount to your acceptance of these terms and conditions of business.

19. **Severability**

If any provision of these terms and conditions of business shall be prohibited by law or adjudged by a court to be unlawful, void or unenforceable such provision shall to the extent required be severed from this agreement and rendered ineffective as far as possible without modifying the remaining provisions of these terms and conditions of business and shall not in any way affect any other circumstances of or the validity or enforcement of these terms and conditions of business.

20. **Law**

These terms and conditions of business between you and MannBenham Advocates Limited are governed by the laws of the Isle of Man. We both agree to submit to the exclusive jurisdiction of the Courts of the Isle of Man in relation to any matter arising out of the work you instruct us to do.

### **Litigation Costs Note**

At the conclusion of a court case, and in the event that you are successful, it may be that you will be entitled to the payment of your costs by another party. It is unlikely that you will be able to recover the full amount of the costs that have been invoiced by us which are calculated on a commercial basis. The costs recoverable from a party who insists on assessment will be limited to the amount granted on assessment of the costs by the court office. This will vary depending on the circumstances of the case but recent experience suggests that you may recover a substantial contribution if not all the costs involved in large scale complicated cases and a somewhat smaller proportion in summary cases. If the costs are subject to assessment you will be required to pay the costs of assessment, currently ten percent of the assessed bill, before the assessed bill is released for enforcement even though it is usually the case that the costs of assessment are ultimately payable by an unsuccessful party.

If you are unsuccessful in the outcome of your case, or some part of it, you are likely to be required to pay the costs of opposing parties. It can be quite difficult to assess the level of these costs in advance but assuming that there are no unusual features in the case very often the costs incurred by each opposing party will be roughly the same as the costs incurred by you. The factors influencing the amount you are likely to be found liable to pay are similar to those influencing a cost recovery by yourself.

The foregoing should be treated as outline advice only and is included in these terms and conditions so that you are aware in broad outline of the issues involved in costs in court proceedings at an early stage. Costs in court proceedings can be very high and it is important that you seek advice from us on the matter of costs at every stage in the court process.