

## Doing Business with Excello Law

### Standard Terms and Conditions

#### 1. INTRODUCTION

Some of our standard terms of engagement may not be immediately relevant to you. Our objective is to build a relationship with all of our clients which will last over years and we think it helpful if we provide you at the outset with a description of the terms on which we provide all our services. These terms are accompanied by a Letter of Engagement which includes the detailed terms of our engagement with you and expands on some of the terms which follow.

In order to avoid repeating your name and ours in this document, we have used the expressions “we”, “us” and “our” to refer to Excello Law and “you” and “your” to refer to you, our client. We have also used the expression “charges” to avoid repeating the expression “fees, disbursements and expenses” all of which are referred to on each occasion this word is used. Further, where we use the word “Director” we are referring to a Director of Excello Law.

#### 2. PERSONAL CLIENTS AND CONSUMER CONTRACTS REGULATIONS 2013

Your instructions to us will involve the creation of a contract which for personal clients is subject to The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. As such, you have the right to cancel your agreement with us within 14 days without giving any reason. The cancellation period will expire after 14 days from the day of the conclusion of the contract. You may cancel this contract by e-mail to [info@excellolaw.co.uk](mailto:info@excellolaw.co.uk) or by post addressed to 5 Chancery Lane, London, WC2A 1LG or by fax on +44 (0) 207 406 7403.

##### Effects of cancellation

If you cancel this contract within 14 days, we will reimburse to you all payments received from you. We will make the reimbursement without undue delay, and not later than 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.

##### Commencement of work within 14 days

Should you require us to commence work on your matter within the 14 day cancellation period because, for example, of the urgency of the case, you will need to confirm your agreement for us to proceed with your matter by signing and returning a copy of the Letter of Engagement. By signing and returning a copy of the Letter of Engagement 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 in accordance with this Condition 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 charges and VAT incurred up to the point of cancellation.

#### 3. CLIENT AND MATTER DIRECTOR

We operate a structured system to ensure that you have a single, senior lawyer who will be responsible for maintaining an over-view of your affairs. A Director will supervise those who carry out your work.

It is important that you are kept fully informed of progress and that in handling your work we always act in accordance with your instructions. We shall report to you at such intervals and by such means as you may reasonably require but in any event no less than once every six weeks.

## 4. INSTRUCTIONS AND SERVICE STANDARDS

We have set out the agreed scope and objectives of your instructions in the Letter of Engagement. Any subsequent change will be discussed with you and, where appropriate, a new Letter of Engagement will be issued.

We shall proceed on the basis of the instructions we have received from you and rely upon you to tell us as soon as possible if anything occurs which renders any information previously given to us incorrect, inaccurate or incomplete.

We shall not be responsible for any failure to advise or comment on any matter which falls outside the scope of your instructions. We cannot accept any responsibility for any event, loss or situation unless it is one against which it is the express purpose of those instructions to provide protection.

Advice given by us is provided in light of the instructions to which it relates and for your benefit only. It may not be used or relied upon for any other purpose or by any person other than you without our prior written consent.

We shall proceed on the basis of the following service standards:

- We will update you (orally (e.g. by telephone or in a meeting), email or in writing) with progress on your matter regularly but in no event less than every six weeks, unless otherwise agreed with you;
- We will communicate with you in plain language;
- We will explain to you (orally (e.g. by telephone or in a meeting), email or in writing) the legal work required as your matter progresses;
- We will update you on the cost of your matter as deemed reasonably appropriate by us but in any event, no less than every six months;
- We will update you on whether the likely outcomes still justify the likely costs and risks associated with your matter whenever there is a material change in circumstances;
- We will update you on the likely timescales for each stage of this matter and any important changes in those estimates;
- We will continue to review whether there are alternative methods by which your matter can be funded.

Conversely however, we would ask that you provide us with timely, accurate and clear instructions and provide all documentation required to complete your matter in a timely manner.

## 5. ANTI-MONEY LAUNDERING LEGISLATION

Our policy is one of strict compliance with the statutory regulations and therefore we shall not be able to act upon your instructions until we have completed those procedures we deem necessary to satisfy the legislation and regulations to which we are subject. We use third-party search agencies (Quill Pinpoint AML System and Searchpoint) to verify your identity and validate your address solely for the purposes of fulfilling our Anti-Money Laundering obligations. You give us permission to use these third party search agencies and to obtain information about you for these purposes only. We reserve the right to charge you at cost for the searches we are required to undertake with these third-party search agencies. We will not however charge you for our time arising from our obligation to comply with anti-money laundering regulations unless we request and obtain your approval in advance.

We shall communicate with you separately in respect of the procedures referred to.

## 6. STANDARD FEE BASIS

Our fees are calculated by taking into account a series of factors established by law. Unless otherwise agreed in writing, these include the amount of time we spend, the complexity of the matter and the level of skill and specialised knowledge involved. In addition, we take into account the value of the matter and its importance to you.

Time spent may include but will not necessarily be limited to:

- Perusing and working on papers and correspondence;
- Telephone calls to third parties;
- Time spent with you on the telephone or in face to face meetings;
- Time spent with others in preparing the case on your behalf (which may include witnesses, experts and counsel);
- Dealing with other parties involved in the matter;
- Travelling and waiting time.

Time is recorded and charged for on a task related basis in units of 1/10th of an hour.

As our time and expertise are the core elements of our service, our fees are normally calculated by reference to the current hourly rates of the lawyers concerned and applicable at the time that the work is carried out for you. The rates currently applicable are set out in the Letter of Engagement.

We do review our charge out rates from time to time. We shall however, notify you in writing of any alterations.

Our intention is that our fees should be fair and reasonable having regard to all the circumstances.

Our aim is to be as flexible as is commercially sensible in our approach to fees and we are prepared to consider alternatives to hourly rates including by way of example, fixed fees, blended rates, percentage fees based upon specific criteria or retainers. The Letter of Engagement sets out the agreement we have reached as to the basis of our fees.

All figures in our Letter of Engagement or any correspondence with you are exclusive of VAT.

## 7. ESTIMATES OF FEES

Any estimate provided as to fees is only a guide and must not be taken as a firm quotation, unless we have confirmed in writing that we shall charge a fixed fee.

Our estimate will aim to give you a breakdown between likely charges and VAT. Where time is a factor in assessing fees, we will explain clearly to you how we intend to use the time. It is likely that our estimate will be expressed as a range. Our estimate will include, where possible, details of any third parties to whom you will need to make payments and when those payments are likely to be needed.

Where, in our judgment, it is not possible to provide you with a fixed or realistic estimate of charges, we shall, at your request, give you the best information about the total cost of the next stage of the matter.

We shall review the original estimate regularly and provide you with revised estimates, where applicable, giving the reasons for any changes made.

## 8. CAP ON FEES

If a cap or limit is agreed on the level of our fees then our fees will not exceed the amount specified in the Letter of Engagement.

However, the application of the cap or limit is agreed on the basis of the instructions and information supplied to us and on any assumption set out in the Letter of Engagement.

Unless the Letter of Engagement states otherwise, expenses and disbursements shall be payable in addition to any cap or other limit on fees.

## 9. FIXED FEES

If we have agreed a fixed fee with you, then the Letter of Engagement includes a detailed description of what we have agreed to do for that fee and a summary of the information which you have given to us. In order to provide that description, on which the fixed fee is based, we must have as much information as possible about the work which you want us to do, so that we can estimate the time it will take us.

Expenses and disbursements shall be payable in addition to any fixed fee.

Provided:

- The scope of your instructions does not change; and
- The information in the summary is accurate; and
- There is no material delay in progressing or completing the matter beyond our control

we will complete your instructions for the fixed fee. If any one of the three provisos is not satisfied, we shall advise you that in our view the fixed fee agreement should cease to have effect. If you agree with our view, we shall seek a new agreement with you for a new/revised fixed fee or agree a different method of charging fees.

If you do not agree with our view, then the Complaints Handling Procedure referred to in Condition 19 will operate.

## EXPENSES AND DISBURSEMENTS

Your instructions authorise us, unless you instruct us to the contrary, to incur such disbursements and expenses as we consider necessary to comply with your instructions. You will be required to reimburse them to us on request either by payment on account or against submission of a bill.

Examples of common disbursements and expenses are expert's fees, court fees and counsel's fees. Disbursements and expenses are charged at cost.

We reserve the right to charge you for:

- Expenses of travel, accommodation and meals when travelling away from the office (and exceptional costs of in-house provision of food, subsistence items or other amenities) in fulfilling your instructions;
- Late night transport home or the cost of overnight accommodation where the work necessary to fulfil your instructions must necessarily be undertaken after 21:00;
- Photocopying and scanning expenses incurred on your behalf;
- CHAPS and Faster Payments transfers on your behalf by our bank;

These items will be shown by category on your bill. Current rates of charge are as follows:

- Photocopying and scanning – 25p per copy;
- A4 or smaller colour photocopying and scanning - £1.00 per copy;
- Larger colour photocopying and scanning – at such higher rate as may be reasonable in all the circumstances;
- Computerized legal research – at cost;
- Travel by car – 45p per mile;
- Taxis and other public transport – at cost;
- CHAPS payments – £25 plus VAT;

- Faster Payments (£1,000 and above) - £10 plus VAT;
- Faster Payments (less than £1,000) - £5 plus VAT
- Telegraphic Transfers (International Payments) - £30 plus VAT.

## 10. PAYMENT ON ACCOUNT

Our standard policy is to ask clients to provide sums in advance to cover charges.

If we do, any payment will be held generally on account of charges which we are likely to incur on your behalf.

We will discuss with you the amount which is appropriate at the outset of any new matter. It will be helpful if you could please meet any requests for payment promptly. However, if there is any difficulty in this respect please contact the person who is dealing with your matter.

Save for any advance payments for expenses and disbursements which may be applied when the expenses or disbursements are incurred, the money will be retained until completion of the matter although, at our discretion, some or all of it may be applied towards any bill which has remained unpaid for more than 28 days. If part or all of the money is used in this way or if for any reason it is reasonable to review the amount held by us, we may ask you to provide a further sum to cover future charges.

All client money is placed in a client account with our bank Coutts & Co ("Coutts & Co"). Coutts & Co is covered by the FSCS or the Financial Services Compensation Scheme. The FSCS is the UK's statutory fund of last resort for customers of financial services companies. The FSCS can pay compensation if a bank is unable (or likely to be unable) to pay claims against it. The compensation limit for eligible claimants is £85,000 with effect from 30 January 2017.

In the event of Coutts & Co being unable to meet any claim i.e. its collapse, it is unlikely that we will be held liable for any losses resulting from the bank's collapse but we can make disclosure on your behalf to the FSCS to assist in any claim you may wish to make against the fund of last resort.

You should however be aware of the following in relation to the £85,000 FSCS limit:

- The limit is applicable to each individual and so if you hold other personal monies in the same bank, the limit remains £85,000 in total; and
- a corporate body client may not be eligible for compensation from the FSCS if it is not considered a small company. In order to satisfy the "small company" test, a company must satisfy two of three thresholds which currently are: (i) annual turnover must not be more than £6.5m; (ii) the balance sheet total is less than £3.26m; (iii) the average number of employees must be not more than 50; and
- the limit applies per banking licence. Some deposit taking institutions have several brands i.e. where the same institution is trading under different names but under one licence. Therefore it may be possible to have money deposited with several deposit taking institution brands but for them to be covered by only one licence. In these circumstances only the first £85,000 is protected for each individual. You should therefore check with your bank, the FSA or a financial adviser for more information.

Money held in our client account will earn interest at the prevailing rate offered by Coutts & Co and unless agreed otherwise in writing this will normally be passed to you as a payment in lieu of interest without any tax deduction at source. You should therefore declare any such payment received on your tax return.

We are required to hold the money in an account which facilitates transactions and our client account is therefore an instant access account. For this reason, any interest that will be earned on the funds is likely to be less than the interest you could earn by depositing the funds elsewhere.

We normally calculate interest on money held in the client account on a monthly basis. The interest calculation will be made on cleared funds only and it is the firm's policy that cheques are only treated as cleared funds 6 working days after the cheque has been banked.

Payments in lieu of interest will only be made to you if the calculated interest exceeds the firm's de minimis limit of £25. The firm believes that any amount up to £25 is reasonably retained to cover the costs of administration.

Unless otherwise agreed, where we are conducting more than one matter for you, client account balances will not be aggregated and each of your matters will be treated separately for the calculation of interest earned and payment in lieu of interest if any.

## 11. INTERIM BILLING

We will bill charges on the basis set out in the Letter of Engagement. Payment of interim bills helps us to spread our charges fairly between clients for whom we are working over different periods of time.

## 12. GENERAL PROVISIONS ABOUT BILLS

Bills will contain a brief description of the work performed during each billable period but not a detailed narrative. If you require such a narrative or need any additional explanation, please let the person dealing with your matter know. Bills may be sent by post or by email.

Bills are due for payment within 14 days of delivery unless that period is extended, in writing, by a Director. Our bills will also, where appropriate, add a sum for VAT. Our VAT number is GB 309 7631 88.

If you wish to make payment by way of bank transfer, we will provide you with our bank details with each bill or at your request.

You may settle our bills (or place funds on account with us for fees to be incurred) by card online at <https://payments.excellolaw.co.uk>. There is no charge for paying by debit or credit card. Card payments normally take 2 to 5 working days to be credited to our account. Card payments are made subject to our Refunds Policy, which can be viewed on our website at the following location [www.excellolaw.co.uk/refunds-policy/](http://www.excellolaw.co.uk/refunds-policy/).

We reserve the right to charge interest (both before and after judgment) on any sum which remains outstanding for more than 28 days after delivery of the bill at the rate then payable in accordance with the Late Payment of Commercial Debts Regulations 2013, together with fixed sums and recovery costs as permitted by the Regulations, whether or not those Regulations would otherwise apply.

We may, in order to secure payment of our charges, have first call upon any money or other property recovered or preserved for you by our efforts pursuant to Section 73 of the Solicitors Act 1974.

If a third party undertakes responsibility for payment of some or all of our charges on your behalf, and payment is not made as set out above then you will be responsible for settling any outstanding amount.

If a bill remains unpaid for more than 14 days or if you decline or fail to meet a request for a payment on account of our charges, we may decline to act any further.

If our instructions are given by or on behalf of more than one person or company each person or company for whom we are acting will be responsible for the payment of the full amount of our charges regardless of whether our bills are addressed only to one or some of such parties.

## 13. TERMINATION OF INSTRUCTIONS

You may terminate our instructions at any time by giving us written notice.

In some circumstances, for good reason, we may decide to cease acting for you. Examples of circumstances where we might so decide include a failure on your part to provide us with adequate instructions or when we find ourselves unable to comply with your instructions or when our invoice remains unpaid outside an agreed payment timetable or when a payment on account is not made in accordance with these Standard Terms and Conditions and our Letter of Engagement.

We will give you reasonable prior written notice if we decide for whatever reason that we are no longer willing or able to act for you. If we are on the court record on your behalf you must, if we have given such notice, arrange for other solicitors to file a Notice of Acting on your behalf or file a Notice of Acting in Person. If you fail to do so we shall rely upon this Condition in applying to be removed from the record as acting for you and we reserve the right to claim from you the applicable court fee incurred.

In circumstances where our instructions are terminated or we cease to act for you, we will be entitled to receive payment for our reasonable charges. In the case of a fixed fee, please refer to the Letter of Engagement.

## **14. TRANSFER OR ASSIGNMENT OF INSTRUCTIONS**

We may transfer our rights under this contract to any organisation within which any part of our practice may continue in the future (and in such an instance you agree that our obligations under the contract will be assumed by such organisation). We will not otherwise transfer our rights unless we get your written permission first.

## **15. THIRD PARTIES**

Except as expressly provided in the Letter of Engagement and as set out above at Condition 14, no person other than a party to the agreement established by the Letter of Engagement may enforce any terms of such agreement by virtue of the Contracts (Rights of Third Parties) Act 1999 ("the Act"). Notwithstanding any benefits or rights conferred by such agreement on any third party by virtue of the Act, the parties to such agreement may agree to vary or rescind any of its terms without any third party's consent.

## **16. DATA PROTECTION AND GDPR**

Your privacy is important to Excello Law and we are committed to protecting and safeguarding your data privacy rights. The General Data Protection Regulation requires us to inform you that we hold personal data which you provide on our database.

The term "Personal Data" means any information relating to an individual and allows us to identify an individual, either directly or in combination with other information we hold. This may include for example your name, your contact details and information relating to the legal services we provide to you. We may hold information from the communications you exchange with us (such as your e-mails, letters or calls).

The Data Controller is Excello Law and our Privacy Officer is George Bisnought, Excello Law, 5 Chancery Lane, London, WC2A 1LG on telephone number 0845 257 9449/0345 257 9449 and e-mail address [info@excellolaw.co.uk](mailto:info@excellolaw.co.uk).

Further information on how we collect, manage, store and dispose of data relating to individuals is contained in our Privacy Notice which forms part of these Terms and Conditions and is available at [<https://excellolaw.co.uk/terms-and-conditions/>]. We may update our Privacy Notice from time to time and changes will apply immediately. The following is a summary of the key provisions applicable to these Terms and Conditions but reference should be made to our Privacy Notice for its full terms.

We use the data primarily for the provision of legal services for the performance of a contract and for related purposes including:

- Satisfying ourselves as to your identity and authority to instruct us;
- Communicating with you in connection with our advice;
- Updating and enhancing our client records;
- Analysis to help us manage our practice;
- Statutory returns; and
- Legal and regulatory compliance, including the obtaining of professional indemnity insurance and compliance with the requirements of our insurers.



Where you are an individual instructing us on behalf of an organisation, we process personal data in accordance with our legitimate interests in entering into and performing a contract with the organisation with which you are connected.

We may also from time to time send you information which we consider might be of interest to you. In doing so, we process personal data on the basis that it is necessary for the purposes of our legitimate interest in developing our business. We will note the rights of individuals to unsubscribe from mailings and/or manage their preferences in our mailings and requests to unsubscribe may be made by using a link in the e-mail or by contacting our Privacy Officer.

We may also instruct third parties to process personal data on our behalf but will only do so subject to contractual arrangements required by law. We may share your personal data where permitted by law and if required to do so by regulators, law enforcement or tax authorities.

We are committed to taking appropriate technical and organisational measures to protect personal data against unauthorised or unlawful processing and against accidental loss, destruction or damage. The information that you provide to us will be held in our systems, which may be located on our premises or those of an appointed third party. We may also allow access to your information by other third parties who act for us for the purposes described in our Privacy Notice or for other purposes approved by you.

We will usually retain your data for seven (7) years from the conclusion of the engagement. However, we will review the data we hold on a regular basis in order to determine the appropriate retention period subject to our regulatory, legal and risk management obligations.

You have a right of access under the data protection legislation to the personal data which we hold about you.

You have the right to lodge a complaint with the Information Commissioner. The relevant contact details are:

Phone: 0303 123 1113

Email: [casework@ico.org.uk](mailto:casework@ico.org.uk)

Post: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

## 17. STORAGE OF PAPER DEEDS

Upon completion of any matter for you or earlier termination of our instructions we are entitled to retain your papers, documents or other property held by us if there is any money owing to us in respect of our charges until you have paid any outstanding amount, including interest.

We shall keep our files of papers (except for any of your papers which you ask to be returned to you) in storage but in the understanding that we have your authority to destroy the file seven (7) years from the date of delivery of our final invoice in respect of the matter.

We shall not however, destroy documents which you specifically ask us to deposit in safe custody.

We do not normally make a charge for retrieving stored papers or deeds in respect of continuing or new instructions to act for you. However, we reserve the right to make a charge based upon the time we spend reading papers, writing letters and other work, cost and expenses incurred to comply with your instructions.

## 18. ELECTRONIC COMMUNICATION

We are able to communicate electronically with our clients and other parties using electronic mail (both direct and via the internet) and using computer disks. If we communicate electronically with or for you, you acknowledge and agree as follows:

- There are some delivery risks in using electronic mail and you accept the risk of interception by third parties or of non-receipt or delayed receipt of the message;



- Computer viruses and similar damaging items can be transmitted through e-mails and by introducing computer disks into your system; we use virus scanning software to reduce these risks and ask that you do the same; however, it is not possible to completely eliminate the risk of introducing viruses;
- You release us from all claims, losses, expenses and liabilities caused by any of the risks referred to above and arising directly or indirectly out of that communication.

## 19. SRA CODE OF CONDUCT & COMPLAINTS HANDLING PROCEDURE

The Solicitors Regulation Authority (SRA) regulates solicitors in England and Wales. The SRA issues the principles against which all solicitors in England and Wales must conduct themselves. These principles or rules are known as the SRA Code of Conduct and a copy can be found at <https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/>.

As a valued client, you should know that we take every care in providing the service that you are entitled to expect. We recognise however, that occasionally things can go wrong and you may wish to complain about the service you have received and/or about a bill. We have a formal Complaints Handling Procedure and we want you to understand how it works. The procedure will ensure that:

- Complaints are taken seriously and get a prompt response; and
- Any complainant knows as soon as possible whether or not we agree that the complaint is justified.

If you wish to make a complaint then you may do so by telephone, e-mail or letter. In our view, it is best if it is made in writing and addressed to a Director. A Director may be contacted by telephone on 0845 257 9449/0345 257 9449 or by e-mail on [info@excellolaw.co.uk](mailto:info@excellolaw.co.uk) or by post to our office.

The Director will then follow the Complaints Handling Procedure, a copy of which will be supplied on request. If your complaint relates to a bill, you do have the right to have such bill assessed under Part III of the Solicitors Act 1974. However, the Legal Ombudsman may not consider the complaint about a bill where you have applied to court for an assessment.

Although we would always hope to deal with and resolve any complaints satisfactorily, you should understand that if you are not satisfied with our handling of the matter, you may ask the Legal Ombudsman to consider the complaint if you are eligible under the Legal Ombudsman scheme. The address of the Legal Ombudsman is PO Box 6806, Wolverhampton, WV1 9WJ. The Legal Ombudsman expects complaints to be made to them within one year of the date of the act or omission about which you are concerned or within one year of you realising there was a concern.

You must also refer your concerns to the Legal Ombudsman within six months of our final response to you. For further information, you should contact the Legal Ombudsman on 0300 555 0333 or at [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)

## 20. RISK ASSESSMENT

Where a member of our dispute resolution team is instructed, we will always endeavour to resolve a dispute without reverting to litigation unless there are clear commercial or personal reasons for doing so. However, litigation is a risky and uncertain course of action.

Should litigation prove necessary, we shall discuss with you and keep under review, whether the likely outcome in the matter justifies the expense and risk involved including, where relevant, the potential liability for an opponent's costs. We shall explain to you in writing the cost consequences of pursuing litigation in the various courts, tribunal and arbitration proceedings.

We shall explain to you in writing the various approaches the court takes in assessing costs.

In any event, unless we have entered into a separate Conditional Fee Arrangement with you, you will be liable to pay our invoice(s) in full regardless of any costs award made against another party. Similarly, you will be liable for any costs of enforcing any order for costs against another party if enforcement measures prove necessary.

## 21. DOCUMENTS

It is likely that, as the matter progresses, we will need to review all of the documents which are relevant to it (please note “documents” includes electronic generated documents) as well as audio and video tapes and computer records. In any event, in the normal course of proceedings, the parties are obliged to disclose to each other all documents which they have or have had at any time, relating in any way to the issues between them. For those reasons, it is extremely important that any documents which you may already have are carefully preserved. This entails keeping them safe and ensuring they are not marked, altered or otherwise tampered with.

You should also note that some documents are “privileged” from production to the other party in an action. Broadly, this includes all documents created in anticipation of litigation or otherwise for the purposes of seeking legal advice. You should not assume that all documents created in connection with this matter will be privileged. We recommend that you seek advice from us before any document is created which might fall into this category. This will be particularly important if you are corresponding directly with the other party or parties on a “without prejudice” basis.

## 22. DISCLOSURE

Every party to litigation is under a duty to give disclosure. Disclosure is the process whereby documents which are, or have been, in a party’s “control” are disclosed to other parties in the litigation. We shall explain to you, in writing, your rights and obligations under “disclosure” including:

- What you will have to disclose;
- What is a “document” and when is it in your “control”;
- When your duty to disclose arises;
- What is the extent of your duties to search for documents;
- The meaning and status of “privileged” documents;
- The need to retain potentially disclosable documents;
- Your rights to inspect the other parties’ documents.

## 23. COSTS IN LITIGATION CASES

Should court or arbitration proceedings prove necessary then, at the conclusion of those proceedings, costs will normally be awarded to the successful party. The amount of payment will be assessed by the court or arbitrator. Even if you are successful in your claim it is unlikely that you will recover all of the costs you have paid or become liable to pay.

The court differentiates between costs which have been incurred simply to progress the case (which will generally be payable by the losing party to its opponent) and those costs which are incurred entirely for your benefit (for example regular updates, including telephone advice). You will be liable for any shortfall due to us. You are liable for our charges and expenses whether you win or lose the case and whether or not your opponent is ordered to pay your costs.

There may also be a shortfall if the court decides that the other party should not have to pay the hourly rate which you have contractually agreed with us.

It is equally important for you to note that, if you are ultimately unsuccessful, you may be responsible for the costs incurred by the other party to the action in addition to our costs.

## 24. ABILITY TO PAY

We shall, where appropriate, discuss with you whether you may be eligible and therefore should apply for public funding. Please note however, that we do not operate a legal aid practice.

You will advise us if you know of any arrangements available to you for the payment of our charges or to pay any costs which you might be ordered to pay to an opponent. You may, for example, have legal expenses insurance by virtue of your own personal or household insurance or membership of a trade or professional association.

## 25. OUR LIABILITY TO YOU

We do not in any circumstances seek to limit our liability below the minimum level of insurance cover required from time to time by the Solicitors Indemnity Insurance Rules. Subject to such minimum our liability to you is limited to losses, damages, costs and expenses ("Losses") caused by our negligence or wilful default. We will not be liable if such losses are due to the acts or omissions of any other person or due to the provision of incomplete, misleading or false information. The aggregate liability, whether to you or any third party and whether in contract, tort or otherwise, of Excello Law, its directors, solicitors and agents for any Losses in any way connected with any of the services provided to you under the terms of our Letter of Engagement (and Standard Terms and Conditions) (including interest) shall not exceed seven million pounds sterling (£7,000,000). Any director, solicitor or agent of Excello Law may rely upon and enforce this limitation in that person's own name for the person's own benefit.

Please note carefully the exclusion of liability (contained in Condition 4) in circumstances where matters fall outside our instructions. We will not be liable for any consequential, special, indirect or exemplary damages, costs or losses or any damages, costs or losses attributable to lost profits or opportunities. Nothing in these Standard Terms and Conditions shall be construed as purporting to exclude or restrict any liability arising from fraud or dishonesty or reckless disregard of our professional obligations or liabilities which cannot be limited or excluded by law or excludes, as opposed to limits, our liability for negligence. In particular, we cannot limit our liability for death or personal injury caused by our negligence.

You acknowledge that we are a limited liability company and that there is no contract between you and any of our individual solicitors or Directors. Any advice given to you by a solicitor or a Director is given by that person on behalf of us and that person does not assume any personal responsibility to you for that advice. Accordingly you will not bring any claim against any individual solicitor or a Director in respect of any losses which you suffer or incur, directly or indirectly, in connection with our services. None of the provisions of this Condition 25 will limit or exclude our liability for the acts or omissions of our solicitors or Directors.

In order to practice as a Company offering general legal services, Excello Law is required to hold Professional Indemnity Insurance. Our primary insurers are Travelers Insurance Company Limited and may be contacted at Exchequer Court, 33 St. Mary Axe, London, EC3A 8AG, (+44 (0)20 3207 6000), [www.travelers.co.uk](http://www.travelers.co.uk). Our policy with Travelers has worldwide territorial cover.

## 26. OUR USE OF THE TERM "PARTNER"

We use the word "partner" as a senior professional title only. Those we refer to as "partners" are solicitors, legal executives, barristers or other legal professionals. Partners are not liable for the debts, liabilities or obligations of Excello Law and in giving any advice or carrying out any action in connection with Excello Law's business, such persons are not acting in partnership with Excello Law or any other person.

## 27. INVESTMENT ADVICE

We are not authorised under the Financial Services and Markets Act 2000, but we are able in certain circumstances to offer a limited range of investment services to you because we are regulated by the Solicitors Regulation Authority. We can provide these investment services if they are an incidental part of the professional services we have been engaged to provide.

The Law Society is a designated professional body for the purposes of the Financial Services and Markets Act 2000. The Solicitors Regulation Authority is the independent regulatory arm of the Law Society.

Complaints and redress mechanisms are provided through the Solicitors Regulation Authority and the Legal Ombudsman.

## 28. INSURANCE DISTRIBUTION

This firm is an ancillary insurance intermediary.

We are not authorised by the Financial Conduct Authority. However, we are authorised and regulated by the Solicitors Regulation Authority and subject to certain prohibitions, can carry out insurance distribution activities and accordingly, we are included on the register maintained by the Financial Conduct Authority for these purposes, which is broadly the advising on, selling and administration of insurance contracts. The register can be accessed at <https://register.fca.org.uk/s/>. Note, we are not however an insurer and cannot manufacture insurance products.

## **29. EQUALITY AND DIVERSITY**

We are committed to promoting equality and 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.

## **30. VARIATIONS TO THESE STANDARD TERMS AND CONDITIONS**

These Standard Terms and Conditions shall apply to any instructions which you give us. We may change these Standard Terms and Conditions from time to time but if we do so we will notify you of any changes in writing. Together with the Letter of Engagement, they comprise the whole contract between you and us and no variation shall be binding on us unless in writing. In the event of any inconsistency between the provisions of these Standard Terms and Conditions and the Letter of Engagement the latter shall prevail.

## **31. SURVIVORSHIP AND SEVERABILITY OF CONDITIONS**

Any of these Conditions which expressly or impliedly have effect after termination or expiration will continue to be enforceable notwithstanding termination or expiration.

If any part of any of these Conditions is held by the court to be illegal or unenforceable, then the remainder of such Condition and the other Conditions of this contract shall be enforceable notwithstanding such illegality or unenforceability.

## **32. JURISDICTION AND APPLICABLE LAW**

These Standard Terms and Conditions shall be construed in accordance with the law of England and Wales and the parties submit to the exclusive jurisdiction of the English Courts.