



NOEL O'GORMAN  
s o l i c i t o r s

## TERMS AND CONDITIONS

circumstances. As you will appreciate, in the same way we must respect the confidence in information and documents which we hold for our other clients. We cannot, without their express written permission, disclose any of that material to you.

- 5.2.2 Unless we hear from you to the contrary, we may use internet email to communicate with you and others in relation to any matter. This carries certain risks. We do not accept responsibility for any loss that you suffer as a result of our use of internet email. Unless you indicate otherwise, we will deem your instructions in this matter to constitute an appropriate consent for the maintenance and processing of your personal data under the Provisions of the Data Protection Act 1988 and the Data Protection (Amendment) Act 2003.
- 5.2.3 It is our normal practice to destroy our correspondence files, draft documents and other papers that are more than 6 years old. Original signed documents and deeds are not destroyed and can be stored in our strong room if you wish for as long as you would like. In the absence of contrary instructions, we will assume that you are content with this arrangement.
- 5.2.4 Notwithstanding the provisions of clause 5.2 above as part of our continuing objective to improve the quality of our services for the benefit of our clients we may apply for certification in relation to risk management. The accreditation body needs to inspect some of our files from time to time to ensure that we are adhering to our quality procedures. We therefore request your consent to the inspection of your files by the accreditation body. In making your decision you should know firstly, that refusal to give consent will not affect the conduct of the matter of the quality of our service; secondly, your consent can be withdrawn at any time; and thirdly, that the assessors themselves have given an undertaking of confidentiality to us. You can indicate whether or not you give your consent at the foot of this letter.

### 5.3 Complaints

- 5.3.1 We always aim to give our clients the highest level of service. If there is anything you are not happy about, we would rather you let us know straight away. We have a complaints policy, available on request, and a complaints procedure that means all complaints are reported to and reviewed by our management. If there are any causes for concern or problems then please contact the person dealing with your matter or in the alternative the Principal of our office, Mr Noel O'Gorman.
- 5.4 In any case where it is intended that legal proceedings should be issued against the Firm (or any person or entity for which the Firm is or is alleged to be responsible), the Firm may at its election require the relevant dispute, difference or claim to be referred to arbitration by notice in writing to that effect. If the claimant issues any legal proceedings, the Firm may still elect for arbitration by notice to that effect given to the claimant and to the claimants lawyers named in the proceedings (if any) within 21 days of service of the proceedings on the Firm, in which event the claimant will take no further steps in the proceedings other than to procure the dismissal or stay of the proceedings. Where the Firm has given notice that it has elected for the dispute, difference or claim to be referred to arbitration, it will be referred to and resolved by a single arbitrator in accordance with the Arbitration Acts 1954 to 1998 such arbitrator to be appointed by agreement within 14 days of the parties or, failing agreement within 14 days as may be nominated on the request of either party by the president of the time being of the Law Society of Ireland. The laws of Ireland shall apply. The place of the arbitration shall be Dublin.

5.5 Our advice will relate to the law and procedure which operate in Ireland only.

### 6. Limitation of Liability

- 6.1 S. 44 Civil Law (Miscellaneous Provisions) Act 2008 allows solicitors to limit their liability. Our liability (and that of our present and former partners and employees) to you arising out of, or in connection with, our engagement whether for breach of contract or of statutory duty, negligence, or otherwise will be limited to €1,500,000.
- 6.2 We confirm that we hold Professional Indemnity Insurance in the sum of €1,500,000.00 and a copy of this is available on request.

### 7. Termination

- 7.1 At any stage during the course of this transaction, either you or this firm may terminate this contract of retainer by giving fourteen days notice in writing. If you wish to terminate this contract all outstanding fees and disbursements must be paid within 30 days of invoice. We will retain your file until all outstanding fees and disbursements are paid. If we do not receive any further instructions from you we will retain your file in storage until the shred date of your file. This shred date is determined by Law Society Regulations.
- 7.2 We retain the right to terminate this contract if certain events arise, including:
- A conflict of interest arises
  - Failure to give instructions
  - Failure to pay fees/disbursements within 30 days of invoice
  - The relationship has irretrievably broken down
  - Criminal or fraudulent activity is suspected
- 7.3 We will write to you explaining that we are terminating this contract of retainer within 14 days of any of the above events occurring. If we do not receive instructions from you where we have represented you in a litigation transaction we may be obliged to come off court record. There will be a charge for this process and this will form part of your final bill.

*Please return the enclosed acceptance form signed by you by way of acceptance of our standard terms and conditions. Your continuing instructions in this matter will amount to an acceptance of the business terms in any case.*

### Acceptance of Terms and Conditions

I have been provided with a leaflet containing the standard terms and conditions of Noel O'Gorman Solicitors. I have been given the opportunity to review these terms and I confirm that I accept them.

I understand that I will receive a Letter of Engagement which will deal with the specifics of my case including the estimated legal fees involved. I confirm that if I have any queries in relation to such fees I will immediately contact Noel O'Gorman Solicitors to review same. I confirm that if no such queries are raised Noel O'Gorman Solicitors can assume that I have agreed to the fee estimate set out therein.

I consent to the external assessors inspecting your file relating to this matter for the purposes of Risk Management Certification (please delete this sentence if you do not wish to give consent).

Signed: \_\_\_\_\_

7 Farnham Street, Cavan, Co. Cavan, Ireland  
Tel 00353 (0)49 433 1411  
info@noelogorman.ie www.noelogorman.ie

We have set out below the terms and conditions which will apply to the work which we have agreed to carry out for you, and to any further matters in which you instruct us in the future. We are also required by law to set out in writing the basis upon which we will charge you and the fees and expenses likely to arise. This will be set out in our Letter of Engagement which we will send to you dealing with the specifics of your particular case.

This firm's policy is to review files regularly, in order to ensure that the matter progresses efficiently. As other parties are involved in your transaction we cannot control how they will deal with the matter. However, we will do all in our power to look after your interests and keep things progressing.

## 1. Personnel

- 1.1 Your Letter of Engagement will set out who will be responsible for your case and which additional staff members will assist them.
- 1.2 Specific tasks may be assigned to other fee earners and support staff (including trainee solicitors, legal executives, and legal assistants):
  - 1.2.1 where work can be carried out efficiently and cost-effectively by them;
  - 1.2.2 where specialist skills are required from others within the firm (for example tax or employment or competition issues);
  - 1.2.3 where other special circumstances justify it, such as the temporary absence of one of the team due to illness or holiday.
- 1.3 We will try to avoid changing the people involved in your work as much as possible. We will let you know if we think it becomes advisable to involve anyone else on more than a temporary basis and will only make a significant change of personnel after discussion with you.

## 2. Charges and Expenses

- 2.1 Our charges are based principally on the time spent dealing with a matter. Time spent on your affairs will include meetings with you and perhaps others, any time spent travelling, considering, preparing and working on papers, research, correspondence, and making and receiving telephone calls, faxes and emails. Other factors may also be taken into account including the complexity of the issues, the speed at which action must be taken, the priority we must give your work at the expense of other clients, the expertise or specialist knowledge which the case requires and, if appropriate, the value of property or subject matter involved. If, as a result of these or other factors, our charging rates are higher than those estimated, we will notify you of this as soon as practicable.
- 2.2 You will be responsible for any expenses incurred by us on your behalf and these will be itemised separately when we bill you.
- 2.3 You are our client in this matter. You have asked us to deliver our services to you and we have no obligation to deliver them to anyone else. You will be responsible for paying our fees. Every client is individually (as well as collectively) liable to pay the whole of our fees.
- 2.4 Insofar as we are being instructed by a Company and as a condition for taking on the matter we require the Directors to guarantee payment of all sums due to us. Please note that the Directors are requested to sign an acknowledgment of this letter to confirm the giving of such guarantee.
- 2.5 It may be necessary during the course of a matter to instruct one or more experts outside the firm, such as accountants, consultants or specialist counsel. We will discuss this with you at the appropriate time, including who might be suitable and the costs likely to be involved. You will be their client and you will be responsible for paying their costs and expenses.

- 2.6 We are required, as soon as is practicable after taking instructions, to set out an estimate of charges which we intend charging. In our Letter of Engagement we will therefore set out an estimate of the charges for the work which we have agreed to do for you.
- 2.7 We will either bill you at the completion of the matter or on a quarterly basis depending on the nature of the work. We will discuss this further with you based on your specific case and will discuss with you whether it would be appropriate for us to submit an interim invoice at that time. Our charges are calculated on the same basis whether or not the matter is completed.
- 2.8 Our invoices are payable 30 days from the date of issue. Interest is payable from the due date until the date of actual payment at the rate specified in the EC (Late Payment in Commercial Transactions) Regulations 2002.
- 2.9 If you would like to set an upper limit on the costs which may be incurred without prior reference to you then please let us know.
- 2.10 Where we are holding money for you, on account or otherwise, we may use this money toward payment or part payment of our bills outstanding from you, unless otherwise agreed. We will always advise you when this is being done.
- 2.11 Under Section 68 of the Solicitors (Amendment) Act, 1994, you are entitled to have any bill submitted by any solicitor taxed (ie assessed by an independent court official known as the Taxing Master). We can give you information about this process on request including the cost of the service. You also have the right to refer any conflicts in this regard to the Incorporated Law Society of Ireland.

## 3. Conflicts

- 3.1 We will not act for any other client on any matter on which we are acting for you unless we have your express agreement that we may do so, or where we are involved in transactional work for you expressly on a non-exclusive basis.
- 3.2 The interests of another client of the firm and your own may conflict in any number of circumstances. When this arises we will, to the extent that we are legally able to do so, consult with you as to the appropriate course of action.
3. If you are aware of any reason why we should not act for you then it is your responsibility to tell us. In particular you must inform us of the names of all persons who may be involved in or connected to your matter so that we may carry out a conflict of interest search.

## 4. Dispute Resolution – Applicable to Litigation Matters

- 4.1 Where you instruct us in respect of a dispute in which you may be involved, you should ascertain whether you are covered by any relevant insurance policy in respect of either liability or legal expenses. If so, you should inform us and notify the insurers of a possible action/claim, and of our involvement, as soon as possible.
- 4.2 Costs in matters where Court proceedings are issued are normally calculated by reference to a number of factors, which include the following:
  - (a) The skill, labour and responsibility involved in the matter.
  - (b) Any specialised knowledge given or applied by us.
  - (c) The complexity, difficulty or rarity of the questions raised.
  - (d) The urgency of the matter.
  - (e) The importance and value of the matter.
  - (f) The time reasonably expended by us on the claim.
  - (g) The place where, and the circumstances in which, the matter is pursued.

- 4.3 Any estimate given in relation to costs is given as a guideline only on the basis of information known to us at the time our instructions are received. As further information becomes available estimates given may be required to be reviewed.
- 4.4 Where an action/claim is successful, it would be normal for the court to make an order for the payment of costs against the losing party ("Party and Party Costs"). Whether payment can be recovered on foot of such an order naturally depends on the financial status of the losing party. Where such Party and Party costs are discharged by the losing party, it should be noted that such costs are unlikely to discharge the full amount of costs payable by you i.e. the Solicitor and Client Costs.
- 4.5 You should note that even if you are successful in the proceedings and the court awards Party and Party costs to you, you remain primarily liable to pay our costs irrespective of whether you recover any costs ultimately from the losing party. Our invoices must be paid before steps are taken to recover Party and Party Costs from the losing party. If you are awarded the costs of an action by the court, interest, pursuant to the Courts Act, on those Party and Party costs becomes payable from the date the court order for costs is made.
- 4.6 Where the outcome of your action is unsuccessful, it is likely that the court will order the Party and Party costs of the winning party to the action, be paid by you. You will in addition, be responsible for your own Solicitor and Client costs incurred in the running of the action.
- 4.7 It is agreed that any sums of money recovered from another party in an action, may be applied in discharge of the Solicitor and Client costs incurred by you and any interest thereon.
- 4.8 To the extent that any of our solicitor and client invoices have not been paid in full, it is agreed that we can apply Party and Party costs and interest recovered from the losing party against such invoices and any interest on them.
- 4.9 If all or part of your costs or the other party's costs cannot be agreed with the other party, costs will have to be assessed by the court, ("taxation of costs") and during this process we will incur further costs on your account which you will be required to pay. This will include work undertaken by a costs draftsman instructed by us (whether in-house or independent). These costs may not be recoverable from the other party.

## 5.1 Other Matters

### Client Identity Checks

- 5.1.1 As you may already be aware, certain statutory provisions on the prevention of money laundering are extended to include additional designate bodies. Specific requirements are imposed on solicitors in the conduct of most types of legal matters.
- 5.1.2 As a result of these legal requirements we are obliged to have procedures for the proper identification of new clients. The identification procedures will require you to provide us with sight of certain identification documents (e.g. Certificates of Incorporation of a Company, original passport and or utility bills). We are required to obtain copies of these documents to satisfy the provisions of the Act. This procedure is necessary to meet our legal obligations and all information supplied will be treated confidentially. If you require any further details on our procedures under the legislation, please do not hesitate to contact us.

### Confidentiality and Data Protection

- 5.2.1 While acting for you, we shall gather information and documents which relate to your business and affairs. We shall keep the information and documents confidential, except where disclosure is required by law or regulation or in other exceptional