

Terms of Business

01 November 2024



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1. Introduction

- 1.1 These Terms of Business dated 01 November 2024, together with your engagement letter, set out the basis on which we shall provide you with legal services. These Terms of Business may be varied from time to time in writing and will be published on our website.
- 1.2 In the event of any conflict between these Terms of Business and any provision set out in the engagement letter, the provisions of the engagement letter will take precedence.

2. Our general obligations

- 2.1 We will implement necessary checks and/or vetting procedures before any work is undertaken by any solicitor or other member of staff.
- 2.2 We will hold in strict confidence any confidential information obtained regarding you and your business and we will not disclose it to others without your permission except as set out in these Terms of Business. We will give our staff suitable training to ensure your information is kept confidential, your Personal Data secure and processed in accordance with our [Privacy Notice](#).
- 2.3 We will ensure that any work we do for you is properly supervised.
- 2.4 Our core hours of business are 8am – 6pm Monday to Friday. If you need to contact us outside of these hours or in an emergency, please use the mobile and out of hours numbers provided to you.
- 2.5 Our emergency on call/response team provide a 24/7 service.
- 2.6 When providing legal services to you, we will:
 - 2.6.1 seek to protect your interests;
 - 2.6.2 where reasonably possible, provide you with prior warning and information if any of your matters attract publicity;

- 2.6.3 supply our services with appropriate skill and care and in accordance with any applicable statutory and regulatory obligations; and
- 2.6.4 not provide you with tax advice, save in relation to providing material aid, assistance and advice as defined by the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.
- 2.7 We will not publish any external articles or other publications referring to you without your prior written consent.

3. Your obligations to us

- 3.1 You must:
 - 3.1.1 give us appropriate, timely and lawful instructions that allow us to do our work properly and within our statutory and regulatory obligations via email, post or telephone. We cannot accept instructions via text or messaging apps (e.g. WhatsApp, WeChat, Telegram);
 - 3.1.2 co-operate with us and any experts or third parties instructed/engaged by us on your behalf – this may include providing information and documents in agreed timeframes and to meet court/ tribunal/ other agreed timetables;
 - 3.1.3 upon request from us, provide evidence of identity of individuals, companies, partnerships or other entities relevant to our engagement with you, and provide information about source of funds or wealth and keep us updated on any changes;
 - 3.1.4 promptly alert us to any changes which alter the risk profile of the matter we are dealing with. At the outset of the matter we seek to check if a conflict of interests exists through our conflict checking processes but if a significant risk of or an actual conflict arises as the matter progresses, Capsticks may need to stop acting;

- 3.1.5 not share our advice with others, unless agreed by us, or you are required to do so by law or regulation.
- 3.2 You agree that if you receive a request from a third party under the Freedom of Information Act 2000 to disclose information about us or our engagement by you, then you will advise us of the request, the identity of the third party and the information you are intending to disclose as soon as possible, and in any event, prior to disclosure.
- We will then advise you promptly if we consider that the information you are intending to disclose is commercially sensitive, has been provided in confidence or that any other exemptions to disclosure under the Freedom of Information Act 2000 apply.
- 3.3 Where you instruct us jointly with others, we are entitled to assume (unless otherwise agreed) that the instructions, act(s) or omission(s) of one party are the instructions, act(s) or omission(s) of all.
- 3.4 We may advise you against taking a particular course of action or indicate that the costs of pursuing a particular course of action may be disproportionate. If you instruct us to take a particular course or pursue a course of action notwithstanding our advice, you will be responsible for any adverse consequences of pursuing any such course of action.
- 3.5 You shall keep confidential details of our charging rates, Terms of Business, engagement letters and methods and shall not copy or otherwise make these available to any third party.
- 4. Service provisions and delivery**
- 4.1 Timescales for the completion of all work will be agreed with you at the time you instruct us or as soon as reasonably possible thereafter. If when dealing with the matter there is any change to the agreed timescales, we will notify you.
- 4.2 We will ensure that staff with an appropriate level of experience are assigned to your work, having regard to the complexity, value and sensitivity of the matter.
- 4.3 An estimated price or range of prices will be provided at the outset of each matter. Unless stated otherwise in the engagement letter, we will update you when we are close to or likely to exceed the estimate.
- 4.4 If any of your staff (other than your Authorised Users, Gatekeeper, Board or Trustees) ask us to carry out work, then we will ask for confirmation that the Gatekeeper and/or Authorised User, Board or Trustees, has approved this work. You will use your reasonable endeavours to ensure that your Authorised Users, Gatekeepers, Board or Trustees (and other staff that engage with us) comply with any work protocols and other matters agreed in relation to our legal services. You will update us promptly if there is a change in Authorised Users, Gatekeepers, Board or Trustees.
- 4.5 We will not be required to comply with paragraphs 4.1 to 4.4 above if work is extremely urgent including any “emergency out of hours” requests (e.g. non-core hours).
- 4.6 Our written communication or correspondence to you will be in accordance with the following guidelines:
- 4.6.1 we will use e-mail as a standard default way of corresponding with you, unless you notify us that specific data protection issues apply to a particular matter, in which case we will adopt and agree appropriate measures with you;
- 4.6.2 we will, where possible and necessary, send hard copy documents, using a delivery mechanism that can be tracked;
- 4.6.3 all advice provided orally will be followed up with a confirmatory email; and

- 4.6.4 we will let you know (in advance, where possible) if there will be exception(s) to, or if we are or may be prohibited from complying with, the correspondence guidelines identified in paragraphs 4.6.1 or 4.6.3.
- 4.7 We will let you have details of the nominated solicitors and other staff who will be available to you (both by telephone and email) to discuss your matter. We will tell you who is responsible for supervising your matter.
- 4.8 We will inform you if we re-assign a matter to another nominated solicitor or staff member. There will be no additional charge to you for reading or handover of the matter should this occur.
- 4.9 We will undertake consistent and timely matter reviews to ensure that both the agreed strategy and resulting tactics are operational and progressing.
- 4.10 We will ensure that we give you regular and timely communication updates and will let you know of any significant changes to the agreed strategy and/or expected outcome.
- 4.11 We will not accept third party instructions on your behalf without your prior agreement.

5. Response times

Our response times will be governed by the relevant framework agreement and/or contract and any SLAs or KPIs agreed within those documents. Otherwise timescales will be set out in our engagement letter.

6. Client fees, payments on account and interest

Capsticks does not provide banking services and we will only accept and hold funds for clients that relate to the provision of our professional services to you. It is our policy not to accept cash payments.

6.1 Terminology

When we refer to the following words we mean:

- 6.1.1 fees: our charges (hourly rates, fixed or agreed fees) for carrying out your instructions;
- 6.1.2 disbursements: any costs or expenses paid or to be paid to a third party on your behalf (including any VAT element), save for office expenses such as postage and courier fees;
- 6.1.3 expenses: (see paragraph 6.5) internal costs or expenses incurred in providing our services to you;
- 6.1.4 costs: fees, disbursements and expenses, plus VAT as applicable.

6.2 Basis of charging fees

- 6.2.1 Except for certain types of transactional work, we usually charge for our services according to the time we spend on a matter and the scope agreed with you, and as varied from time to time. Where we charge on a time basis, we will provide you with our current hourly charging rates. These rates are reviewed annually in April and any change will be effective from 01 May. Our rates do not include VAT, disbursements or expenses, which will be added to our invoices as appropriate.
- 6.2.2 Time spent on a matter will include attendances in person, by video conference, email or telephone with you and others connected with your matter, drafting, reviewing, research and supervision. We record time in 6 minute units. Where a significant period of time is spent dealing with a matter, the entire time period will be charged without deduction for minor interruptions.
- 6.2.3 In certain cases, we may agree a fixed or capped fee with you (which will be exclusive of VAT, disbursements and expenses), in which case, we will set out in writing the scope and nature of the

work to be undertaken within the fixed or capped fee. We will set out our assumptions with regards to the matter and the fixed or capped fee in our engagement letter. We reserve the right to review the fixed or capped fee if the matter proceeds differently or becomes protracted for reasons beyond our control.

6.2.4 In relation to litigation matters, notwithstanding the outcome of any litigation and any third party's liability to pay your costs, you shall remain liable to pay our full costs if the third party does not. Where a third party is ordered to pay costs but the sum ordered does not cover our full costs, you will be liable to pay the difference between the sum paid by the third party and our costs.

6.2.5 **Abortive costs**

If a transaction becomes abortive, a charge will be made for the work already carried out, on a time basis unless otherwise agreed in writing. VAT will be payable on this amount and any disbursements and expenses incurred will also be charged to you as appropriate.

6.2.6 **Urgent, high value, risk or sensitive matters**

Where you ask us to act on an urgent, highly sensitive, high value or high risk matter and/or where you require particular levels of support, we may include an element to reflect these considerations in our fees.

6.3 **Other charges**

6.3.1 Where the work involves the use of our precedents, we may charge you a fixed fee for their use (which shall be lower than our fee for preparing a bespoke document). In addition, we may charge you for the time needed to make any such documents bespoke to your needs and/or to accommodate any further changes which may be required in your matter.

6.3.2 We will not charge you for visits to you as part of our client care programme.

6.3.3 We will make a charge for each bank transfer associated with your matter. This will be included in our invoice, where charged.

6.3.4 Where you ask us to transcribe written notes of more than 05 pages, or to transcribe digital or other forms of recording of any length, we will charge you for this time at the rate of £55 per hour, exclusive of VAT.

6.4 **Disclosure required by law**

In the event that we are compelled by law to disclose any information in any form we hold relating to your matter to any government agency or third party, you will be liable to pay us in respect of the time we spend and the expenses and disbursements we incur in complying with any Court order or statutory duty to disclose such information. This includes, but is not limited to, time we spend reviewing any information, copying information and seeking advice from counsel (if we judge this necessary) in respect of the scope of our duty to disclose.

6.5 **Expenses**

In respect of expenses we will:

6.5.1 ask you to reimburse our expenses at cost and without uplift;

6.5.2 agree, in advance, any expenses for barristers or other third party professional fees;

6.5.3 only charge the actual cost of any overnight accommodation and breakfast up to a maximum of £185 per night in London and £160 elsewhere, unless we agree otherwise in writing in advance with you;

6.5.4 charge our actual rail travel costs based on standard class travel unless we are working on your matters on the journey in which case we will be allowed to use (and charge for) first class travel;

- 6.5.5 charge car mileage allowance at the standard rate of 45 pence per mile or charge the equivalent public transport costs if they are lower;
- 6.5.6 charge photocopying at 25 pence per sheet;
- 6.5.7 charge taxi fares where public transport or use of a private car is unsuitable or inappropriate; and
- 6.5.8 where you ask us to store documents for you (e.g. deeds), we may charge you £50 (plus VAT) per annum, per item. We may choose to waive the cost.

7. Invoicing

- 7.1 Unless agreed otherwise in our engagement letter, we will invoice you on a monthly basis.
- 7.2 Unless agreed otherwise in our engagement letter, we will endeavour to send an invoice to you within 15 working days after the end of each month and invoice you for work up to that date including fees, expenses and disbursements and any applicable VAT.
- 7.3 You have the right to object to an invoice and apply to the court for assessment under Part III of the Solicitors Act 1974.

8. Payment

- 8.1 You must pay invoiced amounts within 30 days of the date of delivery of our invoice.
- 8.2 If you do not pay our invoiced amount in full within 30 days of the date of delivery of our invoice, then we may charge you interest from 30 days after the delivery of our invoice until we receive payment. The interest for late payment will be charged at an annual rate of 8% plus the Bank of England Base Rate, as set out

in the Late Payment of Commercial Debts (Interest) Act 1998.

- 8.3 Where we are holding money in our Client Account on your behalf, Capsticks shall only pay interest where it amounts to more than £50. The full policy is set out in the [Client Account Funds Policy](#).
- 8.4 If money is received and needs to be returned, we reserve the right to return the money to the same account from which it came after we have completed appropriate checks.

9. Confidentiality and use of Personal Data¹

- 9.1 We promise to keep your information and Personal Data confidential subject to our legal and regulatory obligations. We will process your Personal Data in accordance with the Data Protection Legislation in force from time to time².
- 9.2 We may where necessary share information with third parties such as experts, witnesses and other professional advisers.
- 9.3 We also reserve the right to disclose our files and those of our clients, whilst protecting legal professional privilege, to our:
 - 9.3.1 professional indemnity insurers and to provide information to our insurance brokers in relation to these communications with insurers. Both our professional indemnity insurers and brokers are regulated by the Financial Conduct Authority and take steps as necessary to protect our clients' confidentiality; and/or
 - 9.3.2 regulatory bodies; and/or
 - 9.3.3 external accounts auditors who will, at all times, respect client confidentiality, unless you object to the auditors having

¹ The terms in this section are defined in Appendix 1 of these Terms of Business

² (i) the UK General Data Protection Regulation (EU) 2016/679; (ii) the Data Protection Act 2018 to the extent that it relates to

processing of Personal Data and privacy; (iii) all other applicable law about the processing of Personal Data and privacy.

access to your matters in accordance with 9.9.

- 9.4 We may hold or obtain confidential information about another client or prospective client which might reasonably be expected to be material to the matter or matters upon which we are advising you. We will tell you if this happens and discuss with you if we can continue to act and ask for your consent to do so using information barriers to protect the information.
- 9.5 We may, unless you tell us in writing, use your name in any list of clients produced by us but shall otherwise keep your business confidential.
- 9.6 We use personal information in accordance with the provisions of our [Privacy Notice](#).
- 9.7 Generally as a firm of solicitors we are a Data Controller³ for the Personal Data that you provide to us, including information about third parties who may be concerned with, or be the subject of, the legal advice you require. Where we are a Data Processor⁴, it is necessary to have a written contract and this is set out at Appendix 1 of these Terms of Business.

You have the following rights under the Data Protection Legislation:

- a right of access to the Personal Data that we hold about you. The identifiable information that you provide to us about people who are involved in the work that we do for you is held by us on your behalf and we will process it in accordance with your instructions, for the purposes set out above and as necessary to carry out the work on which we are instructed;
- to question any information we have about you that you think is wrong or incomplete;

³ within the meaning given in the Data Protection Legislation

- to object to our use of your personal information, or to ask us to delete, remove, or stop using your personal information if there is no need for us to keep it. This is known as the 'right to object' and 'right to erasure', or the 'right to be forgotten'. There may be legal or other official reasons why we need to keep or use your data. But please tell us if you think that we should not be using it.

We may sometimes be able to restrict the use of your data. This means that it can only be used for certain things, such as legal claims or to exercise legal rights. In this situation, we would not use or share your information in other ways while it is restricted.

You can ask us to restrict the use of your personal information if:

- It is not accurate.
- It has been used unlawfully but you don't want us to delete it.
- It is not relevant any more, but you want us to keep it for use in legal claims.
- You have already asked us to stop using your data but you are waiting for us to tell you if we are allowed to keep on using it.

You can:

- withdraw your consent at any time;
- make a data subject access or right to be forgotten request by emailing us at: Dataprotection@capsticks.com; **and**
- make a complaint to the Information Commissioner's Office:
Website: <https://ico.org.uk>
Email: registration@ico.org.uk
Telephone: **0303 123 1113**

- 9.8 We will only send you marketing information which we think may be of interest to you where you have provided consent for us to do so. If you do not wish to receive that information you may

⁴ within the meaning given in the Data Protection Legislation

tell us that at any time. You can do this by emailing: dataprotection@capsticks.com or writing to Data Protection at Wellington House, 68 Wimbledon Hill Road, Wimbledon, SW19 7PA.

- 9.9 Unless you object, and if you wish to do this please contact dataprotection@capsticks.com, we may allow external assessors, who are themselves bound by a duty of confidentiality, to view a selection of files of work provided to you for the purposes of monitoring and maintaining our compliance with quality and information security standards such as ISO 9001 and ISO 27001.

10. Intellectual property rights

We retain all copyright and other intellectual property rights in all documents developed or created by us either before or in the course of carrying out any work for you. We grant you an unlimited licence to use those documents for your own purposes.

11. Raising queries or concerns with us

- 11.1 We are confident that we will give you a high quality service. However, if you have any queries or concerns about our work for you, including objecting to our invoices, please raise them with your named Client Account Lead. If the named Client Account Lead is unable to resolve your queries or concerns, you can escalate your queries or concerns to the Senior Partner.
- 11.2 Our Problem Handling Policy is available [here](#) and on request.
- 11.3 We hope to be able to resolve any concerns you have through our internal process.
- The Legal Ombudsman scheme deals with service complaints and is only available to the following clients:

- individuals,
- micro enterprises;
- charities and associations with an annual income of less than £1million pounds.

A full definition of those eligible to use the Legal Ombudsman scheme can be found in the Legal Ombudsman's [Scheme Rules](#). You may contact the Legal Ombudsman at: Enquiries@legalombudsman.org.uk or at PO Box 6806 Wolverhampton, WV1 9WJ.

If you are not eligible to refer your matter to the Legal Ombudsman, your concern will be dealt with under our Problem Handling Policy and the process ends once Capsticks' internal process is exhausted.

12. Consumer protection

This section applies only to instructions from an individual

- 12.1 Where a contract is deemed to be an off premises contract as defined by the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, you have the right to cancel without providing any reason or incurring any liability during the cancellation period.
- 12.2 The cancellation period is fourteen (14) days starting the day after the date that the contract is entered into – which will be the date we agree to act for you. You must inform us of your decision to cancel the contract, before the cancellation period expires, by way of a written statement (e.g. by post (addressed to Contract Cancellation at Capsticks' Wimbledon address), or email to Cancellation@capsticks.com) to confirm your decision.
- 12.3 If you have expressly requested that we start work within the cancellation period (and such a request must be made by post or by email) you will be responsible for paying any fees, expenses and disbursements incurred up to the date of cancellation.

13. Storage and ownership of papers, documents and information

- 13.1 After completing the work, we are entitled to keep all your papers, documents and information whether paper or electronic (exercise a lien) while there is money owing to us for our fees, disbursements and expenses.

We will keep the documents/data relating to your matter (except for any original paper documents which you ask to be returned to you) for up to 7 years; we will tell you if we need to retain the information for a longer period.

We will retain the electronic documents or paper documents on the understanding that we have the authority to destroy them 7 years after the date of the final bill on the matter.

Where we hold your data electronically, it will remain live data for 7 years and it is then deleted from our system. We hold a data backup for one (1) further year but this is offline data and this will be destroyed as we delete back-up copies.

We will not destroy documents you ask us to deposit in safe custody.

- 13.2 If you ask us to retrieve papers or documents from off-site storage in relation to continuing or new instructions, we will not normally charge a retrieval fee.

However, if to comply with your instructions we need to review the documents or only provide you with certain documents, we may charge for reading correspondence, collating documents or other work necessary to comply with your instructions.

- 13.3 On termination, subject to any lien, you shall be entitled to the following documents:
- a. Any pleadings and correspondence with the court/tribunal;

- b. Correspondence between us and other parties on your behalf (e.g. the Claimant/ Respondent/ buyer/ seller);
- c. Any final versions of documents; and
- d. Any advice received on your behalf (e.g. Counsel's advice/expert reports).

Not all documents on a file (paper or electronic) belong to a client and we are not obliged to provide you with copies of documents or emails we have already sent to you, any internal Capsticks documents such as notes made for Capsticks' benefit, internal notes, accounts documentation such as slips and ledgers. There will be a charge based on time spent for preparing documents to be sent to you or any newly appointed solicitor.

14. Outsourcing of non-legal services

Sometimes we ask other companies or people to do administrative and secretarial work on our files. We will always seek a confidentiality agreement with these outsourced providers and confirmation that they will comply with current Data Protection Legislation in force from time to time.

15. Artificial intelligence

- 15.1 Our firm may utilise artificial intelligence (AI) technologies to enhance the efficiency and accuracy of our legal services. AI tools may be used for such tasks as document review, legal research and drafting of legal documents.

- 15.2 All outputs generated by AI tools are reviewed by qualified legal professionals to ensure their accuracy and appropriateness for your specific legal needs.

We remain fully responsible for the legal services provided, including those enhanced by AI technologies.

16. Our liability to you

16.1 Your engagement is solely with Capsticks. No representative, member, officer, employee, agent or consultant of Capsticks will have any personal legal liability for any loss or claim, whether in contract, tort (including, without limitation, negligence) or otherwise. In particular, if a partner, employee or consultant of Capsticks signs in his or her own name any letter or other document in the course of carrying out work, this does not mean that he or she is assuming any personal legal liability for that letter or document.

Unless explicitly agreed in writing we do not:

- i. owe, nor do we accept, any duty to any person other than you; and
- ii. accept any liability or responsibility for any consequences arising from reliance on our advice by any person other than you.

16.2 We are not responsible for any failure to advise or comment on matters falling outside the scope of our instructions, as set out in these Terms of Business, our engagement letter or any other contractual agreement.

16.3 Subject to paragraph 16.6, our maximum liability to you (or any other party we have agreed may rely on our services) in relation to any single matter or any group of connected matters which may be aggregated by our insurers will be three million pounds sterling (£3,000,000) including interest and costs unless we expressly offer a different figure in our engagement letter or other contractual agreement.

16.4 Our primary professional indemnity insurer is Travelers, Travelers Insurance Company Limited, 61-63 London Road, Redhill, Surrey, RH1 1NA and further details are available from our Governance & Risk Team.

16.5 Subject to paragraph 16.6, we will not be liable for:

- i. losses that were not foreseeable to you and us when we accepted instructions from you;
- ii. losses not caused by any breach on the part of Capsticks; and
- iii. loss of profits, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of use or corruption of software, data or information, loss of or damage to goodwill, or any indirect or consequential loss;
- iv. acts or omissions of any other professionals instructed by you, or by us on your behalf, to assist with the work we do for you.

16.6 Nothing in these Terms of Business shall exclude or restrict our liability in respect of:

- i. death or personal injury caused by our negligence;
- ii. fraud or fraudulent misrepresentation;
- iii. any other losses which cannot be excluded or limited by applicable law.

17. Diversity and Inclusion

We are committed to promoting diversity and inclusion in all our dealings with clients, third parties and employees. Please contact your Client Account Lead if you would like more information about our diversity and inclusion policy.

18. Termination

18.1 You may terminate your instructions to us in writing at any time.

18.2 We may decide to stop acting for you only with good reason, for example, if you do not pay an interim bill, or comply with our request for payment on account or a conflict of interests arises. Where we decide to stop acting, we must give you reasonable notice.

18.3 If you or we decide that we will no longer act for you, you are liable to pay our fees, disbursements, expenses and VAT to the date of termination of the retainer. We are entitled to hold your file and other papers until full payment has been received.

18.4 On termination, the following provisions will still apply:

- i. Your obligation to pay outstanding invoices for fees, disbursements, expenses, and VAT where applicable;
- ii. confidentiality;
- iii. Data Protection;
- iv. liability; and
- v. storage of files/documents.

19. Anti-Money Laundering

19.1 Capsticks adheres to the obligations set out in the Proceeds of Crime Act 2002 (as amended), The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended), the Sanctions and Anti-Money Laundering Act 2018 and our regulatory obligations to protect both our clients, and ourselves from criminal liability and prosecution.

19.2 We may require company information and specific personal identification with proof of residence of client companies' directors and/or senior officers, beneficial owners and private clients. If you fail to provide the information requested, we will have to cease to act for you.

19.3 We may instruct a third party provider to undertake electronic checks to verify the information provided. By instructing us you consent to us using a third party to undertake such electronic checks. Your Personal Data will be held in accordance with our [Privacy Notice](#). Any costs incurred by us associated with verification in compliance with these regulations will be paid by you. The current cost is £25 for individuals and

£50 for companies and other entities. We may choose to waive the cost.

19.4 We may also require full information, including bank statements and other documentary evidence, from clients and any third party as regards the source of funds or source of wealth before we can accept funds into our Client Account. Failure to comply with requests for information may cause a delay to your transaction.

19.5 We are also required to check your details against the UK Sanctions List which lists individuals, organisations and entities designated under regulations made under the Sanctions and Anti-Money Laundering Act 2018.

19.6 To comply with our legal and regulatory obligations we are required to report any discrepancies to information held on public registers (e.g. Companies House) that become apparent during our due diligence and business relationship. We shall tell you if we do this.

19.7 To comply with our legal and regulatory obligations we must report to the National Crime Agency and other relevant authorities any suspicion or knowledge regarding money laundering or the proceeds of crime. Our duties to report to the National Crime Agency may take priority over any duty to keep your information and the detail of your transactions confidential. We are not permitted to tell you if we have to make such a disclosure. Capsticks will not accept any liability which may arise as a result of it complying with its Anti-Money Laundering obligations.

20. Criminal Finances Act 2017 and Bribery Act 2010

20.1 Capsticks is committed to promoting compliance with the Criminal Finances Act 2017 and the Bribery Act 2010 and does not tolerate nor will it assist in:

- i. facilitating tax evasion

- ii. bribery or attempts to improperly influence the decision of others.

20.2 To comply with our internal policies and controls as well as the legislation, we may need to ask for information as to the source of wealth of an individual or a company.

21. Insurance distribution

We are not authorised by the Financial Conduct Authority (FCA) to conduct financial services. However, we are included on the register maintained by the FCA so that we can carry on insurance distribution activity, which is advising on, selling and concluding of insurance contracts. This part of our business is regulated by the Solicitors Regulation Authority and arrangements for complaints or redress if something goes wrong, are subject to the jurisdiction of the Legal Ombudsman. The register can be accessed [here](#).

22. Agreement to Terms of Business

22.1 Unless otherwise agreed, these Terms of Business apply to any future instructions you give us. Your continuing instructions will amount to your acceptance of these Terms of Business.

22.2 We reserve the right to amend or replace these Terms of Business from time to time and the updated version will be made available to you.

23. Interpretation

23.1 Unless we have given a term an express definition, the words used in these Terms of Business will bear their natural meaning.

23.2 In these Terms of Business, the following words and expressions have the meanings given to them below:

Capsticks – Capsticks Solicitors LLP, a limited liability partnership, incorporated in England (number OC340360), whose registered office is at Wellington House,

68 Wimbledon Hill Road, Wimbledon, SW19 7PA.

Partner – a member of Capsticks or an employee or consultant of equivalent standing and qualifications, and this description does not mean that our business is (or that there is) a partnership under the Partnerships Act 1890.

Services – the services set out in the engagement letter and as otherwise varied in writing between us.

we, us, or our – Capsticks Solicitors LLP

you, your – the person or entity which uses our services.

23.3 Any reference to a statute or statutory provision shall include references to any statute or statutory provision which amends, extends, consolidates or replaces the same, and will also include any orders, regulations, codes of practice or other subordinate legislation made under the relevant statute or statutory provision.

23.4 If there is a reference in these Terms of Business to a list of items following the word “including” or “includes” then that list will not be interpreted as an exhaustive list or as excluding any item which might have been included having regard to the context of the provision in question.

23.5 In these Terms of Business, words importing the singular only shall include the plural (and vice versa), and “staff”, “officers” and “employees” shall have the same meaning.

23.6 All monetary amounts are expressed in pounds sterling.

24. Severability

If any provision or part-provision of these Terms of Business is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such a modification is not possible, the relevant provision or

part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this paragraph shall not affect the validity and enforceability of the rest of these Terms of Business.

25. Previous Terms of Business

These Terms of Business replace all previous representations and agreements between us. If you continue to instruct us after receiving these Terms of Business you will be deemed to have accepted them.

26. Force majeure

Neither party shall be in breach of the contract nor liable for delay in performing, or failure to perform, any of its obligations under the contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

27. Governing law

These Terms of Business are subject to the laws of England and subject to the exclusive jurisdiction of the courts of England and Wales.

28. Capsticks' Offices

Birmingham Office

1 Temple Row, Birmingham, B2 5LG
T +44 (0)121 230 1500
F +44 (0)121 230 1515
DX 13003 - Birmingham

Manchester Office

Clarence House, Clarence Street,
Manchester, M2 4DW
T +44 (0)161 507 8485

London Office

Wellington House, 68 Wimbledon Hill
Road, Wimbledon, SW19 7PA
T +44 (0)20 8780 2211
DX 300118 - Wimbledon Central

Leeds Office

Toronto Square, Toronto Street, Leeds
LS1 2HJ
T +44 (0)113 322 5560

F +44 (0)113 242 2722
DX 713112 - Leeds Park Square

Winchester Office

Staple House, Winchester, SO23 8SR
T +44 (0)1962 678 300
F +44 (0)1962 678 311
DX 2532 - Winchester

A list of members is open to inspection at our registered office, Wellington House, 68 Wimbledon Hill Road, Wimbledon, SW19 7PA

Appendix 1 To Capsticks' Terms of Business

Although We will generally be Data Controllers for the Personal Data provided to Us in connection with the Services we supply to You, we may also be Data Processors for some or all of that Personal Data. Where this is the case, this Appendix forms part of the Terms of Business.

Definitions

In this Appendix, unless the context otherwise requires:

“Data Controller”	means a data controller within the meaning given in the Data Protection Legislation;
“Data Loss Event”	means any event that results, or may result, in unauthorised access to or processing of Personal Data held by Us to provide you with our services under our Terms of Business, and/or actual or potential loss and/or destruction of Personal Data in breach of this Appendix, including any Personal Data Breach (as defined in the Data Protection Legislation);
“Data Processor”	means a data processor within the meaning given in the Data Protection Legislation;
“Data Protection Legislation”	means (i) the General Data Protection Regulation; (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (iii) all other applicable law about the processing of personal data and privacy;
“Legal Obligations”	means complying with legislative requirements;
“Personal Data”	means any personal data within the meaning given in the Data Protection Legislation and which is processed by the Supplier in connection with the provision of the Services;
“Professional Obligations”	means obligations to our regulator the Solicitors Regulation Authority;
“Protective Measures”	means appropriate technical and organisational measures to comply with the requirements of Data Protection Legislation, which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the measures adopted;
“Services”	means the services provided by Us to You under Our Terms of Business;
“Sub-processor”	means any third party appointed to process Personal Data on our behalf related to this Appendix;
“We, Us and Our”	means Capsticks;
“You and Your”	means the Client.

Obligations

1. We acknowledge that for the purposes of the Data Protection Legislation, in performing the Services, You may be the Data Controller for Personal Data and We may act as a Data Processor for such Personal Data.
2. Notwithstanding any further provision of this Appendix, both parties shall, at all times in processing Personal Data for the purposes of the Services, comply with the requirements of Data Protection Legislation.
3. We will immediately notify You if We consider that any of Your instructions infringe the Data Protection Legislation.
4. We will:
 - a. only process the Personal Data to the extent and in the manner necessary for the proper performance of the Services or as instructed in writing by You. The only processing that We are authorised to do is listed in the Schedule to this Appendix. The Schedule may be updated from time to time to reflect the processing of Personal Data being undertaken;
 - b. not carry out any other processing of the Personal Data unless We are required to do otherwise by Law. If it is so required to process the Personal Data, We shall promptly notify You before processing the Personal Data, unless prohibited by Law from notifying You;
 - c. promptly comply with any request You make requiring Us to amend, transfer or delete the Personal Data, subject to any Legal or Professional Obligations we may be bound by;
 - d. at Your request provide You with a copy of all Personal Data held by Us (in the format and on the media reasonably specified by You);
 - e. not disclose the Personal Data to any third party or allow any third party to process the Personal Data (unless at Your request under this Appendix or in order to supply the Services); and
 - f. not transfer any of the Data to any country or territory outside the European Economic Area without Your prior written consent and the following conditions being fulfilled:
 - i. We provide appropriate safeguards in relation to the transfer (in accordance with GDPR Article 46), as may be determined by You;
 - ii. Arrangements being made for the Data Subject to have enforceable rights and effective legal remedies;
 - iii. We comply with Our obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses Our best endeavours to assist You in meeting Your obligations); and

save for the circumstances when occasionally to provide You with the Services, a member of staff with conduct of Your matter is outside of the EEA (for example on business or on holiday) and You agree to this, unless You notify Us in writing to the contrary.

Security of Personal Data

5. We shall:
 - a. ensure that We have and maintain appropriate Protective Measures to comply with the requirements of Data Protection Legislation;

- b. in particular, ensure that We have in place and maintain appropriate Protective Measures (including any specific Protective Measures required on notice by You from time to time), to protect against a Data Loss Event, having taken account of the:
 - i. nature of the data to be protected;
 - ii. the harm(s) that might result from a Data Loss Event;
 - iii. the state of technological development; and
 - iv. the cost of implementing any particular measures;
 - c. comply with any reasonable requirements notified to Us by You from time to time in relation to the use of the Personal Data;
 - d. take all reasonable steps to ensure the reliability and integrity of any employees, contractors and sub-processors (where permitted under this Appendix) who have access to the Personal Data and ensure that they:
 - i. are aware of and comply with the Our duties under this Appendix;
 - ii. are subject to appropriate confidentiality undertakings (and/or any sub-processor as relevant);
 - iii. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by You or as otherwise permitted by this Appendix; and
 - iv. have undergone adequate training in the use, care, protection and handling of Personal Data.
6. We shall permit you (or Your representative) at reasonable intervals to inspect or audit the systems and facilities and review the procedures and documentation used by Us in processing the Personal Data, for the purpose of ensuring that We are complying with Our obligations under this Appendix. Any such inspection or audit will be: at Your expense; limited to those matters specific to You; agreed in advance and on reasonable notice; conducted in a way not to interfere with Our day-to-day business; and any third party instructed by You to conduct any audit or inspection shall be subject to agreed terms of confidentiality and non-disclosure.

Informing You and assisting You

7. Subject to clause 8 We shall notify You at the first possible opportunity if We:
- a. receive a Data Subject Access Request (or purported Data Subject Access Request);
 - b. receive a request to rectify, block or erase any Personal Data;
 - c. receive any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - d. receive any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Appendix;
 - e. receive a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - f. become aware of a Data Loss Event or other actual or potential failure of Protective Measures. Any such Data Loss Event or actual or potential failure of Protective Measures will be notified to You within 24 hours in any event or as soon as reasonably practicable.
8. Our obligation to notify You under clause 7 shall include the provision of further information to You in phases where necessary, as details become available.
9. Taking into account the nature of the processing, We shall assist You by appropriate technical and organisation measures, insofar as this is possible with either Party's obligations under the Data

Protection Legislation including a Data Protection Impact Assessment, and any complaint, communication or request (and insofar as possible within the timescales reasonably required by You) including by promptly providing:

- a. You with full details and copies of the complaint, communication or request;
- b. such assistance as is reasonably requested by You to enable You to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- c. to You, at Your request, any Personal Data We hold in relation to a Data Subject;
- d. full assistance, cooperation and information as requested by You following any Data Loss Event;
- e. such assistance as requested by You with respect to any request from the Information Commissioner's Office, or any consultation by You with the Information Commissioner's Office.

You will reimburse Us with all reasonable costs We incur as a result of any assistance provided by Us under this clause.

Sub-contracting

10. We have Your general authorisation for the engagement of sub-processors. However, before allowing any sub-processor to process any Personal Data related to this Appendix, 14 days in advance of any intended change of additional or replacement sub-processors We will:
 - a. notify You in writing of the intended sub-processor and processing;
 - b. give you an opportunity to object to such changes;
 - c. enter into a written agreement with the sub-processor which gives effect to the terms set out in this Appendix such that they apply to the sub-processor; and
 - d. provide You with such information regarding the sub-processor as You may reasonably require.

However, acceptance of these Terms of Business and this Appendix shall be deemed agreement to Us using the following suppliers, with whom we have supplier agreements, to enable Us to provide Services to You:

We have supplier agreements with the following service providers:

- Shred-it – confidential waste collection and destruction
- Restore – confidential archive storage and confidential waste collection and destruction
- E-fax Transfer data via fax
- Egress Secure email facilities
- Exponential E Data Centre to house IT infrastructure
- InfoTrack Search provider
- Mimecast Secure email facilities
- Sinerix E signature platform
- iTrain Legal IT Training Consultants
- Smartbox AI AI document searching
- Vuture Email mailing lists system
- Intapp Dealcloud CRM system
- Zoom Video conferencing
- Microsoft Teams Video conferencing

- Topdesk IT ticketing logging system used to log system issues
- Wasabi Backup as a service for immutable backups
- Microsoft Exchange Online Cloud based email

Further compliance with Data Protection Legislation

11. We will maintain complete and accurate records and information to demonstrate our compliance with this Appendix and demonstrable compliance with Data Protection Legislation.
12. We may, at any time on not less than 30 Working Days' notice, revise this Appendix by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to Our Terms of Business).
13. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. We may, on not less than 30 Working Days' notice to You, amend this Appendix to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Termination

14. The terms set out in this Appendix shall come to an end automatically on the date that the Services come to an end. To the extent that We are a Data Processor for any information We shall (unless notified otherwise by You or required by law or professional obligations):
 - a. immediately cease processing of the Personal Data;
 - b. at Your request destroy or return to You on suitable media all copies of the Personal Data held or controlled, in whatever form, by or on Your behalf by Us, save for information We are required to retain to comply with legislative or regulatory obligations.

Schedule to Appendix 1: Processing, Personal Data and Data Subjects

15. We shall comply with any further written instructions with respect to processing. Any such further instructions shall be deemed incorporated into this Schedule, which may otherwise be updated from time to time.

Description	Details
Subject matter of the processing	Any Personal Data supplied to Us by You or any third party that is necessarily processed to perform the Services.
Duration of the processing	The duration of the Services but subject to Clause 14 of Appendix 1.
Nature and purposes of the processing	The purpose of the processing is the delivery of the Services under the Terms of Business.
Type of Personal Data	Any Personal Data supplied by You to Us or by a third party of Us in connection with the Services where We act in the capacity as a Data Processor.
Categories of Data Subject	Including but not limited to: Your Staff or former staff, Your Patients, Complainants, other parties to litigation or potential litigation, Your Agents, Tenants, Suppliers, members of the public, Your relevant regulatory body and its staff and agents.

CAPSTICKS

capsticks.com

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