

**ELLIS-FERMOR & NEGUS**  
**COMMERCIAL CONVEYANCING DEPARTMENT**  
**TERMS OF BUSINESS**

**1. Introduction**

These Terms of Business together with our accompanying letter constitute the contract between us and the basis on which we will act on your behalf in the matter on which you have consulted us.

**2. People Responsible For Your Work**

The Directors of the Company are ultimately responsible for all work done for clients. The accompanying letter confirms the person who will have day to day supervision of your matter. In order to give an economical as well as an efficient service different tasks in your matter may sometimes be handled by lawyers within our Company other than the person with primary responsibility for the file. Complex points may need to be referred to someone more senior.

Where more than one area of law is involved the person dealing with the file may need to consult with a colleague who has different specialised knowledge.

**3. Our Charges**

Our charges are primarily based on the time spent dealing with the matter. This will include meetings with you and perhaps others, travelling and all time spent considering, preparing and working on papers, correspondence, making and receiving telephone calls. The normal hourly rate applicable to commercial conveyancing is £216 per hour where a Director/Consultant is acting. Where a staff solicitor is involved the rate is £187 per hour and the rate is £118 per hour for work done by a trainee solicitor or legal clerk. The time we spend on matters is recorded in our computer system so that we can know accurately what time has actually been spent on a matter, based on units of one tenth of an hour. All our charges are subject to VAT at the rate applicable when the work is done, which is currently 20%. Short routine letters that we write and short routine telephone conversations will be charged as units of one tenth of an hour. Other work will be charged on a timed basis.

These rates are reviewed annually on 1<sup>st</sup> April each year and if your matter is still continuing at the next review date we shall notify you subsequently of any increased rates. In addition to the time spent, we take into account a number of other factors which

include the complexity of the issues, the speed at which action must be taken, the expertise or specialist knowledge that the matter requires, and if appropriate, the value of the property or subject matter involved.

The additional charge we make for these matters is called "the value element" as it is normally calculated as a fixed amount or with reference to the value of the consideration. The accompanying letter will set out the value element. This is normally charged if the matter is completed. If the matter turns out to be more time demanding than at present we envisage, we shall notify you and indicate if this will result in our charging a higher value element in addition to the charge out rate referred to above or at a rate which is higher than our normal rates.

Our charges are subject to VAT being added at the rate applicable when the work is done. Currently VAT is 20%. You may set an upper limit on our charges for which you may be liable without further authority. We should not exceed an agreed amount without first obtaining your consent.

**4. Disbursements**

To complete your transaction we are likely to have to make payments on your behalf, for example Stamp Duty, Land Registry and Search fees. Sometimes we may pay small disbursements without having received advance payment from you. In the case of large disbursements we usually expect payment in advance from you. Please note that we are not obliged to make any payment for you, nor incur any liability, until you let us have the money to cover it. Some disbursements are subject to VAT. Please be aware that any payments you make to us can be utilised to pay such expenses and in such circumstances we would not as a matter of course give you separate notification of the application of the monies involved in this way.

**5. Estimates of time and cost**

Our accompanying letter sets out such estimate as we can give of the time that your matter is likely to take and the charges and expenses you are likely to have to pay us on the information available so far.

We shall endeavour to update our estimate approximately every 6 months. If you wish to have an up to date estimate please ask the lawyer

handling your matter - you are welcome to do this at any time.

We shall inform you if any unforeseen additional work becomes necessary e.g. due to any unexpected difficulties or if your requirements or the circumstances significantly change during the course of the matter.

## 6. Payment

Payment of our charges including VAT and any unpaid disbursements (as well of course as any monies required in connection with the transaction itself) is due in cleared funds before the contractual completion date. If for any reason we agree to complete a matter without prior payment of costs, VAT and disbursements, daily interest at the rate of 8% pa will be charged on bills that are not paid within 30 days after the date on the bill. Any regular monthly payments you make to us will be applied to your account to clear amounts billed to you. Outstanding accounts will attract interest from 30 days after the bill is delivered.

We will always use any amounts received to clear the oldest bill.

Unless there is specific written agreement to the contrary, our charges are payable whether or not a case is successfully concluded or a transaction completed. Even if your matter is not carried through to completion you must pay our charges for the work already carried out. VAT is payable on that amount and you will also be billed for any disbursements incurred.

If you prefer, or if the amount of work required on your case is substantial we may render interim bills periodically whilst the matter is in progress. Should an interim bill not be paid promptly, we reserve the right to suspend work until all amounts due are cleared.

In addition the common law entitles us to retain any money, papers or other property belonging to you which properly come into our possession pending payment of our costs, whether or not the property is acquired in connection with the matter for which the costs were incurred. This is known as a "general lien". We are not entitled to sell property held under a lien but we are entitled to hold property, other than money, even if the value of it greatly exceeds the amount due to us in respect of costs.

If we are conducting litigation for you, we have additional rights. In any property recovered or preserved for you whether it is in our possession or not and in respect of all costs incurred, whether

billed or unbilled. We also have a right to ask the court to make a charging order in our favour for any assessed costs.

### If there is a problem with your bill

You are, of course, entitled to complain about your bill if you think there is something wrong. There may also be a right to object to the bill by making a complaint to the Legal Ombudsman and/or by applying to the court for an assessment of the bill under Part III of the Solicitors Act 1974.

### Late Payments

In addition to the sum payable under our account you will be charged daily interest at 8% p.a. thereon from thirty days after the date of a bill.

**Credit Card** payments are charged in line with the charges passed on to us by the Bank. These charges are available on request. There are no charges for Debit Card payments.

**Cash** the maximum payment we will accept in cash is £2,000.

**Bank Transfers** if you want to remit money to us through the banking system or on-line our bank details are:- Barclays Bank Plc, Sort Code 20-63-25 Account No: 10072982

## 7. Terminating instructions

Normally you may terminate your instructions to us in writing at any time. We are entitled to keep all your papers and documents while money is owing to us.

If you are borrowing money we are commonly instructed by your institutional Lenders to act on their behalf. If so, we will have to pass to them information you give us that might be relevant to their decision whether to finance your transaction. If you tell us things that you do not want the Lenders to know and they are relevant to the Lenders, we may have to stop acting for the Lenders and possibly also for you.

We will only withdraw from acting for you with good reason and on giving you what notice we reasonably can.

If instructions are terminated by either of us you must pay our charges and disbursements up to the date of termination as set out above.

## 8. Identification

To enable us to comply with the relevant legislation and professional rules we may request you to provide us with appropriate evidence of personal

identity. Should you fail to provide this we may have to stop acting for you.

## **9. Money Laundering Regulations**

The Proceeds of Crime Act 2002 (“the Act”) creates a number of offences relating to the proceeds of crime. The proceeds of crime include, for example, monies (however low in value) saved as a result of tax evasion or benefit fraud whether that money has been saved or spent.

If your Solicitor becomes aware of or suspects the existence of the proceeds of crime in your case (whether from you or any other person), then in order to enable the Solicitor (or any other Solicitor) to continue with your case without you and s/he committing an offence under the Act, your Solicitor must report the irregularity to the National Crime Agency (NCA). NCA will then give or withhold permission for your Solicitor to continue with the case. Even if NCA gives permission for the case to continue, it can pass the information received to any relevant body such as the Inland Revenue and an investigation may take place at any time in the future.

It follows from the above that, if you have any concerns about irregularities in your financial position, or that of other parties involved in the matter, you may wish to seek specialist accountancy advice to correct those irregularities before proceeding with your case. Be aware that accountants are also required to comply with the provisions of the Act.

If financial irregularities are not corrected before you consult a Solicitor and/or you do not tell your Solicitor the correct position about your financial affairs, then if your Solicitor becomes aware of such irregularities during the course of the case, it is a requirement of the Act that the irregularities are disclosed to the NCA.

The obligations which your Solicitor has under the Act can in certain circumstances override the duty of Solicitor/client confidentiality. Please be aware that if we proceed with your matter these Terms of Business will result in you foregoing your right to client confidentiality in relation to any information we give to the NCA

If any fee earners engaged in your case spend time in addressing issues arising for you from the Act, that time will be charged in the same manner as any other work undertaken in relation to your case.

## **10. Environmental Searches**

We have no expertise in understanding or in the interpretation of the results of environmental searches. These often contain technical and/or scientific information and you may need to consult a surveyor, engineer or appropriately qualified firm or individual concerning anything which is unclear to you from such a search.

## **11. Storage of papers and deeds**

Once our charges are paid you are entitled to have all the papers relating to your case if you wish. If we are also acting for your lender or another client in the same matter, for example your business partner, we may not be able to release the file without the consent of such organisation or person. Otherwise we shall keep your file for a suitable period (at least 6 years). Then it will be destroyed. We do not normally make a charge for retrieving stored papers or deeds in response to continuing new instructions to act for you. If you require us to retrieve documents for some other purpose we reserve the right to make a charge.

We may in future transfer paper files held in storage to electronic or digital form. If this happens and we are subsequently asked to retrieve it we will supply you with a reconstituted paper file or in electronic/digital form if you prefer.

## **12. Electronic Communication**

We communicate with you by e-mail, fax or telephone. If you do not wish us to communicate by e-mail please let us know. As with all communications email cannot be guaranteed to be secure and may be lost or delayed. Email communications will be dealt with in the same timeframe as post unless the Lawyer assesses the nature of the e-mail to be urgent. We are not responsible for and cannot accept liability for any damage of any nature caused by or resulting from the use of email or other electronic communications.

## **13. Limit of Liability**

The Company is covered by Professional Indemnity Insurance for claims up to £5,000,000. It is an express term of our contract with you that our liability to you or any other person entitled to claim against us for any reason arising out of our acting for you in this matter is limited to £5,000,000. By signing the accompanying letter of engagement you are accepting (for yourself and on behalf of any other person whose interests you are representing) that our liability is limited to this figure. Further information with regard to Professional Indemnity

Insurance can be made available to you upon request at any of our offices.

#### **14. Undertakings**

Nothing is to be regarded as an undertaking by us unless we have expressly stated that it is an undertaking and the undertaking has been signed by a Solicitor of the Company.

#### **15. Consumer Protection (Distance Selling) Regulations 2000**

For the purposes of compliance with these regulations, where your instructions to us have not been given at a face to face meeting, we would inform you that your matter may not be completed within 30 days, unless otherwise agreed.

#### **16. Complaints**

We are committed to high quality legal advice and client care. If you are unhappy about any aspect of the service you have received or about the bill, please raise them in the first place with the lawyer dealing with your matter. If that does not resolve the problem to your satisfaction please contact the Client Care Director, Simon Hale, who is based at our Beeston Office. We have a procedure in place which details how we handle complaints which is available at: <http://www.ellis-fermor.co.uk/contact-us/our-complaints-policy/> or on request. If you are not satisfied with our handling of your complaint you can ask the Legal Ombudsman at PO Box 6806, Wolverhampton, WV1 9WJ to consider the complaint. Normally, you will need to bring a complaint to the Legal Ombudsman within six months of receiving a final written response from us about your complaint.

#### **17. Data Protection**

The collection and use of your personal data is only to enable us to comply with legislative requirements or for the purpose of dealing with your matter e.g. in connection with your Lenders' or Insurers' requirements. By instructing us you are deemed to authorize us to disclose personal data for such purposes. We shall comply with the Data Protection Act and will not make any unauthorized or illegal disclosure of personal data.

#### **18. Consumer Protection**

For the purposes of compliance with these regulations, where your instructions to us have not been given at a face to face meeting, we would inform you that completion of your matter will not be completed within 30 days, unless otherwise agreed.

#### **19. If we carry out any Financial Services or Insurance Activities**

##### **Financial Services -**

The Company is 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 clients because we are members of the Law Society. We can provide these investment services if they are an incidental part of the professional services we have been engaged to provide. If we think it is appropriate we may recommend you obtain advice from a third party financial planner or advisor, however we are not in anyway liable for any advice they may give you.

##### **General Insurance -**

We are not authorised by the Financial Conduct Authority. However, we are included on the register maintained by the Financial Conduct Authority so that we can carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by The Solicitors Regulation Authority. The register can be accessed via the Financial Conduct Authority website at [www.fca.org.uk](http://www.fca.org.uk). We must advise you, however, that if we arrange any insurance we do not do so on the basis of making a full assessment of needs and benefits.

#### **20. Money held on your behalf**

We will account for a fair sum in lieu of interest on money held in a general client account. This will not necessarily reflect the highest interest obtainable. Our full policy on the payment of interest is available on request.

##### **Financial Services Compensation Scheme –**

If we hold money for you in our General Client Account it is currently placed with Barclays Bank. It is important that you are aware that the £75,000 Financial Services Compensation Scheme indemnity applies to each individual. So, if you hold other money in the same bank, then the limit will remain £75,000 in total (ie your money will be aggregated with the money we hold for you in the same bank). Remember that some deposit-taking institutions have several brands, but the £75,000 limit applies per institution (not to each brand). You should check with your bank, or with the FSA, for more information.

#### **21. Insurance**

If it is necessary during the course of your conveyancing transaction for any defective title

insurance to be put in place we inform you that we only arrange such insurance through either Norwich Union or Countrywide Legal Indemnities unless otherwise stated. We are not contractually obliged to arrange an individual policy with any particular company and we receive no commission for doing so.

Ellis-Fermor & Negus Limited is a company registered in England and Wales trading as Ellis-Fermor & Negus.  
Reg No: 07853015

A list of Directors is available for inspection at our registered office:  
5 Market Place, Ripley, Derbyshire, DE5 3BS.

Authorised and regulated by the Solicitors Regulation Authority Reg No: 567496