

Terms of Business

Updated May 2022

1. Introduction	1
2. Services	1
3. Fees and Expenses	1
4. Billing and Payment	2
5. Money Laundering, Sanctions and Beneficial Ownership	3
6. Financial Services	4
7. Other queries and concerns	4
8. Working electronically, and retaining and disposing of records	4
9. Confidentiality, data protection and information security	5
10. Employees	6
11. Terminating, cancelling or suspending the agreement	6
12. Conflicts of interest	7
13. Limitation of liability	7
14. Agreement	7
15. Interpretation	7

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1. Introduction

- 1.1 **About Us** - Browne Jacobson LLP is a limited liability partnership (registered number OC306448).

Our registered office is at Mowbray House, Castle Meadow Road, Nottingham, NG2 1BJ.

- 1.2 **Terms** - These terms apply to the services you have instructed us to provide.

We will carry out the work in line with our engagement letter and these terms (and any variations to these which we agree with you in writing).

If there is any difference between the engagement letter and these terms, the engagement letter will apply.

Your continuing instructions will confirm that you accept these terms and any engagement letter we have sent.

Unless we agree otherwise, these terms and the engagement letter will apply to any future instructions you give us.

We will review these terms from time to time, and we will notify you of any changes to them. The latest version will be available on our website.

If we need to give you notice under these terms, we will send it to you at your home, registered office or main place of business. If you need to give us notice, you should send it to us at our registered office.

2. Services

- 2.1 **Services** - We aim to provide a high-quality service and to make sure that the matters we handle for you are dealt with as smoothly as possible.

- 2.2 **Relying on our advice** - Our advice, both verbal and written, only applies to the particular matter it relates to, and you should not rely on it in any other matter.

You must not pass on the advice we give you to another person without first getting our written permission.

If we give permission, it will be on the basis that no one other than you may rely on the advice.

Apart from our partners, members, employees, consultants, subcontractors and agents who have the benefit of section 13

(limitations of liability), nothing in this agreement will entitle any third party to rely on or enforce any term of this agreement whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

- 2.3 **Acting for more than one party** - Where we are instructed by you and another person/entity to advise you both, we will inform you how this will work in practice in our engagement letter.

Please refer to Section 3.7 in regard to liability for fees and expenses on joint instructions.

- 2.4 **Dealing with other people on your behalf** - We are happy to deal with other people on your behalf as necessary. We will instruct these people on your behalf and they will not act as our agents. We take no responsibility or liability for the advice or services the other person provides to you.

Please refer to Section 3.3 in regard to payment of these people's fees and expenses.

3. Fees and Expenses

- 3.1 **How we calculate our fees** - Unless we agree otherwise in writing, we calculate our charges based on the time we spend dealing with your matter (based on units of one tenth of an hour) and the hourly rates of the people concerned. Unless we say otherwise any estimate we provide does not include VAT. We reserve the right to charge for time spent on additional issues related to your matter, including but not limited to responding to data subject access requests and external investigations that arise directly as a result of the work we are doing for you, to the extent permitted by law.

- 3.2 **Hourly rates** - We will give you details of our hourly rates at the start of our relationship and at any time you ask for these. We review, and reserve our right to increase, our charging rates periodically, and any such increase shall usually be at the beginning of our financial year, which is currently 1 May and we increase individuals' hourly rates when they are promoted.

- 3.3 **Expenses** - As well as our fees, we may charge for disbursements and other expenses if these apply. Examples of disbursements include counsels' and experts' fees, travel expenses and search fees. We describe and charge other expenses, which are not disbursements, as

'other service items', and these charges are based on the quantity of the service used. If you agree that we can instruct other people (for example, foreign lawyers, experts, barristers, accountants or other professionals) to help provide the service to you, we will discuss with you the selection of such professional advisors and will engage them as agent on your behalf. We will do this as your agent, and you are directly responsible for paying their fees and expenses and you will also be responsible for any fees and expenses that we pay on your behalf.

You are responsible for the payment of these people's fees and expenses whether directly or by way of payment on presentation of our disbursement invoices. We will normally invoice you monthly for disbursements incurred on your behalf but may invoice you more frequently for larger disbursements.

- 3.4 **Taxes** - You will pay any tax, including VAT that is due in relation to our services and expenses at the appropriate rate.
- 3.5 **Payments on account** - If we ask you to pay money on account of our fees and expenses, we will use these payments to reduce any unpaid bills you have. But it is important that you understand that the total fees and expenses may be more than any payments you make.
- 3.6 **Client accounts** - Except for payments you make to cover our fees and expenses, all money we hold for you in a client account belongs to you. As such, these sums are a debt owed to you by the relevant bank and not by us. If the bank holding our client account funds fails, your claim is against the bank and not against us or any individual partner or member of the firm. We hold our client account funds with a range of authorised banks. If a bank fails and you are an individual or a small company, you may be entitled to help under the Financial Services Compensation Scheme. If you need further information about where your funds are held, please let us know.

We will only hold your money if this is necessary to carry out a transaction or other obligation, commit to spending on your behalf or make sure that there is enough money to cover our costs to an agreed stage. You should not pay money to us unless we ask you to. If we do ask you to pay money to us, we will hold it only for as long as is necessary to deal with the matter it relates to. If there is any money left over after dealing with the matter, we will return this to you as soon as possible.

We normally only make payment by way of an electronic banking transfer and you agree to provide us with the relevant details of your bank account and any confirmatory follow up we may reasonably require.

- 3.7 **Joint instructions** - If we are instructed jointly by more than one public body, company or individual, all such bodies, companies or individuals (as the case may be) will be jointly and individually responsible for the fees and expenses relating to the work we do under the joint instructions. This is known as joint and several liability.
- 3.8 **Interest on client money** - We have an interest rate policy that makes sure you are treated fairly, and this is fully in line with the SRA Accounts Rules. The policy is available on our website or you can ask us for a copy.

We may incur additional costs in holding client money on your behalf and we reserve the right to charge you for these costs.

4. Billing and Payment

- 4.1 **Billing and payment** - We normally invoice you each month for our fees and each month (or more frequently) for disbursements and other expenses. Unless we agree otherwise in writing in advance, you must pay all invoices in full immediately on receipt.

You must pay our invoices in the same currency the bill is raised in. Where you pay a bill in a different currency, we will charge you for any exchange difference.

Unless we tell you otherwise in writing, all of our interim invoices are interim statute bills and are final for work undertaken on your behalf for the period covered rather than requests for payment on account and must be paid in full immediately on receipt unless otherwise agreed in advance with you.

This means that we may sue you if you do not pay any interim invoice. You are entitled to ask the court to assess the amount of the invoice in line with section 4.6 (disputed invoices).

If an invoice is not paid, we reserve the right to terminate our engagement / retainer on giving reasonable notice to you. In addition, we reserve the right to decline to act on any other matters on which we are acting for you. In the event that we are required to take any action to enforce payment, our costs of doing so will be payable at the usual hourly rates of any staff engaged in such action.

We will produce a monthly statement showing outstanding bills as at the date of the statement.

4.2 **Security warning** - Please note that our bank account details will not change during the course of a transaction, and we will not inform you of changes to our bank details via email. If you ever have any concerns or queries about our bank account details, please contact us by telephone as we cannot be held responsible for any monies transferred to an incorrect bank account.

4.3 We use a third party debt collection agency for overdue debt and we reserve the right to charge you for the additional costs of debt recovery.

4.4 **Late payment and interest** - We may charge interest on overdue invoices at 2% above The Royal Bank of Scotland Plc base rate that applies from the date on which the payment was due.

4.5 **Set-off and lien** - Unless we are not allowed to do so under the SRA Accounts Rules, we may take the amount of any overdue invoice from any money we hold on your behalf. We may exercise a lien (a charge) over any property or papers in our possession until all fees, disbursements and other expenses are paid for all matters we have carried out on your behalf (for health matters, we will not exercise a lien over private medical records). This will apply to any property or papers we hold on behalf of any member of your group or anyone instructing us jointly with you.

Disputed invoices - We make every effort to avoid disagreements over our invoices, but we accept that there may be occasions where disagreements will arise. These terms do not restrict your right to challenge our charges and there are a number of options open to you, including:

- raising the matter with the person dealing with your matter or the supervising partner;
- using our complaints procedure (see section 7);
- making a complaint to the Legal Ombudsman (see section 7) if we are unable to settle your complaint and as long as you meet certain conditions; or
- applying to the court for your invoice to be assessed under Part III of the Solicitors Act 1974.

(Please note, the Legal Ombudsman may not consider a complaint about an invoice if you have applied to the court for an assessment.)

5. Money Laundering, Sanctions and Beneficial Ownership

5.1 **Our obligations** - You wish to secure legal services and that is the purpose of your instructions to us. Under legislation relating to money laundering and terrorist financing, solicitors must obtain satisfactory evidence of the identity of their clients, and sometimes of people related to them including any beneficial owners. By law, we must get evidence of your and their identity before starting work and accepting any funds from you, and we must keep these records up to date and, further, by accepting these terms you agree to provide any such evidence as we may require for these checks. Anti money laundering is an ongoing process and we may need to ask further questions during the period we act for you.

5.2 **Verification** - We may carry out identity checks using databases kept by other organisations. These checks may be carried out electronically. By giving us personal information and accepting these terms, you agree to us using that information for this purpose.

5.3 **Source of funds and wealth** - Under legislation relating to money laundering we are required to carry out checks and gather evidence as to the source of any funds and the source of our client's wealth in the context of the matter upon which we are instructed. By accepting these terms, you agree to provide any such evidence as we may require for these checks. We would normally expect monies on account for fees to be transferred to our bank account following your formal instructions not those of a third party.

5.4 **Reporting** - While solicitors are under a professional and legal obligation to keep the affairs of their clients confidential, there is legislation including that relating to sanctions which, in certain circumstances, places us under a legal duty to give information to the authorities. If this happens, we may not be able to tell you that we have given information about you to others, or our reasons for doing this. We may have to stop working on your matter for a period of time and we may not be able to tell you why. It may mean we cannot act or continue to act for you. This may include an inability for us to comply with instructions in relation to monies we hold. We do not accept any liability for any loss arising directly or indirectly from meeting these legal duties.

5.5 **Cash and non-cash assets** - We do not accept cash or non-cash assets from clients. If you pay cash into our bank account, we will charge

for any extra checks that are needed to find out where the money has come from. In certain circumstances we may not be able to return the cash to you. We will not pay any amounts to you or to anyone else on your behalf in the form of cash.

- 5.6 **Credit cards** - We do not accept funds into our client account by way of a credit card payment.
- 5.7 **Payments on your behalf** - We will not pay any amounts to anyone else on your behalf unless directly relating to a matter we are fully instructed to undertake on your behalf.

6. Financial Services

- 6.1 **Financial Services** - 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 distribution 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.

7. Other queries and concerns

- 7.1 **Raising queries and concerns** - We are confident that we will provide you with a high-quality service. However, if you have any queries or concerns relating to the work we do for you, please make this clear to the person with day-to-day control of your matter, the partner responsible or the senior partner if you prefer.
- 7.2 **Complaints** - While we make every effort to fulfil our professional obligations to you, like in all business relationships, occasionally misunderstandings and differences of opinion may arise. In the unfortunate event of this taking place and should you feel the need to make a complaint in relation to any element of our service, we would ask that in the first instance you raise the issue with the person dealing with your matter.

Full details of our complaints procedure is available on our website or you can ask us for a copy. If you are not satisfied with the way we handle your complaint, you may be entitled to ask the Legal Ombudsman to consider the complaint. The Legal Ombudsman allows us eight weeks to deal with complaints before they will investigate the complaint. The Legal Ombudsman only accepts complaints from individuals and certain small businesses and organisations. Full details are

available at www.legalombudsman.org.uk. The Legal Ombudsman can investigate complaints up to six years from the date of the problem happening or within three years of when you found out about the problem. If you are entitled to ask the Ombudsman to look into your complaint, you must normally do this within six months of receiving a final written response from us about your complaint. While we in no way wish to interfere with your rights in this regard, we do request that you attempt to resolve matters directly with us in the first instance.

8. Working electronically, and retaining and disposing of records

- 8.1 **Working electronically** - Where possible we work electronically, which may include scanning any letters and other documents we receive, destroying the originals and replacing them with electronic files. We have your authority to work in this way unless you tell us otherwise in writing.
- 8.2 **Keeping records** - In accordance with our retention schedule which is published on our website [here](#), we will keep records relating to your matters, including records and documents relating to our anti money laundering and sanctions checks, for a minimum period of seven years (the retention period) from the date the matter is closed, unless our contract with you or relevant legislation says otherwise. We may destroy all of the records (electronic or paper) relating to your matter at the end of the retention period, unless you have contacted us before then, in writing, to ask us not to, in which case we will return them to you. However, we will return all original documents, such as title deeds and original signed agreements, to you when or before we finish working on your matter, unless we have agreed to keep them.

We strictly follow our data protection and retention and destruction policies when keeping your records and when processing any personal information we receive in the course of our business. Our data protection and retention and destruction policies are on our website (www.brownejacobson.com).

Our liability for any loss of, or damage to, your records will be limited to the cost of replacing or restoring your records. Any documents that we keep will be kept securely, either at our offices or in an external secure storage facility, which may be owned and operated by third parties. Any third parties who process personal information on our behalf are approved by us and must strictly follow the terms of their contract with us in line with data protection legislation.

8.3 **Retrieval charges** - We may charge you if we need to take paper documents out of storage, before or after the end of the retention period, in relation to continuing or new instructions to act for you. Any charge we make will be based on the amount of time spent producing archived records for you or any other person you ask us to give the records to. We may also charge for reading, correspondence or other work that is necessary to follow your instructions.

8.4 **Copyright** - We own all copyright and other intellectual property rights in material we create or develop while carrying out your instructions. We may keep copies of documents relating to any work which these terms apply to (including your documents and documents created by other people we instruct on your behalf, such as foreign lawyers, counsel, experts or other professionals), and may make the contents available within our organisation for training or 'know how' purposes. We may also use such material to help us to provide services to other clients, as long as we do not reveal your identity or confidential information relating to you.

9. Confidentiality, data protection and information security

9.1 **Our commitment** - We are committed to keeping your information secure. This means that we will keep your information electronically on our secure systems where possible and, as noted above, will keep documents and paper records securely, either within our offices or in external storage facilities. All devices we use when providing our services are encrypted and we regularly test our systems to make sure they are secure.

9.2 **Communications with you** - You authorise us to communicate with you and others in connection with your matters by email and other methods of electronic communication. If we communicate over the internet, you acknowledge that we are unable to guarantee that the information will remain secure and confidential. We will have no responsibility whatsoever (whether in contract, tort [see Note 1 below], negligence or otherwise and however it arises) if, due to circumstances beyond our reasonable control, you do not receive a communication, a communication is delayed or corrupted, or someone who is not authorised to do so sees a communication. If you want to discuss our procedures or you need particular communication or security arrangements to be put in place in relation to your matters, please let us know in writing. We will try to put in place any specific

requirements you ask for, but we may pass on to you any charges involved.

(Note: Tort is a legal term for which there is no precise legal definition. The reference above is intended to cover any interpretation the courts give to the term. For guidance only, a tort is often explained as a civil wrong or wrongful act (whether deliberate or accidental) which harms or causes loss to another.)

9.3 We will keep confidential all information you give to us (unless that information is in the public domain, or we have to reveal it by law) and all reports, advice and recommendations we produce while working on your affairs. While working for you we may need to give information on a confidential basis to other people such as other professional advisors and expert witnesses (the terms and conditions that apply when we do this are available on our website). Our accountants or other assessors may need access to our files as part of an audit or quality check, and our professional indemnity insurers or any relevant regulatory body may also need access to them. We may ask other organisations or people to do typing, photocopying, scanning or other work on our files. This work may be done on or off our premises. Any third parties who process personal information on our behalf are approved by us and must strictly follow the terms of their contract, which are in line with data protection legislation.

We may want to refer to you and, in general terms, to the services we have carried out for you when marketing our services, including in proposals or other similar documents to prospective clients and in legal directories. We will not process any personal information you give us for these purposes without your permission.

9.4 We will use any personal data you provide to us in our working relationship with you. This includes:

- updating and improving client records;
- carrying out identity, credit, anti- money laundering and fraud prevention checks against your name using databases kept by other organisations and watch lists (which may involve giving your details to registered credit reference or fraud prevention agencies who may keep and use these); and
- analysing the information to help us manage our practice and statutory returns and to meet legal and regulatory requirements.

We strictly follow data protection legislation. There is information about this on our website. For more information about how we process your personal data and rights you may have please see our privacy notice. Our privacy notice is available on our website, or you can ask us for a copy.

9.5 In the event that a transfer of personal data between you and us is a transfer which would be prohibited under data protection legislation in the absence of appropriate safeguards under Article 46 GDPR: or (ii), the following shall apply:

(a) In relation to personal data that is protected by EU GDPR, the European Commission approved standard contractual clauses ('EU SCCs') shall apply between you and us completed as follows:

- (i) Module One will apply;
- (ii) in clause 7, the optional docking clause will apply;
- (iii) in clause 11, the optional language will not apply;
- (iv) in clause 17, Option 1 will apply, and the EU SCCs will be governed by Irish law;
- (v) in clause 18(b), disputes shall be resolved before the courts of Ireland;
- (vi) Annex I of the EU SCCs shall be deemed completed with the information set out at: [Your information & data | Browne Jacobson](#);
- (vii) Annex II of the EU SCCs shall be deemed completed with the information set out at: [Your information & data | Browne Jacobson](#);

(b) In relation to personal data that is protected by UK GDPR, the EU SCCs completed as set out at clause 9.5(a) above and a UK Addendum to the EU SCCs ('UK Addendum') issued by the Information Commissioner's Office under s119A(1) of the Data Protection Act 2018 shall be deemed completed between you and us and the EU SCCs shall be deemed amended as specified by the UK Addendum in respect of the transfer of such personal data ('UK SCCs').

For the purposes of those standard contractual clauses, the party transferring personal data shall be the data exporter, and the party receiving that personal data shall be the data importer.

In the event that a provision of these terms contradicts, directly or indirectly, the UK SCCs or the EU SCCs, as applicable, the UK SCCs or the EU SCCs, as applicable shall prevail.

In the event that the current UK SCCs or EU SCCs are superseded or replaced by new standard contractual clauses, the parties agree that such new standard contractual clauses shall automatically apply to the transfer of personal data between you and us and shall be deemed completed on a mutatis mutandis basis as described above (as applicable).

9.6 **Trade monitoring** - We will monitor and record information relating to your trade performance and we will make these details available to credit reference and fraud prevention agencies, who may keep that information and share it with other businesses when assessing applications for credit and for fraud prevention purpose.

10. Employees

10.1 **Employees** - Our employees are very valuable to us and you agree that, unless you have our permission in writing, you will not offer employment to, or use the services of, either independently or through a third party, any member of our staff who has been working on your matter for a period of six months following the end of their involvement in the matter.

11. Terminating, cancelling or suspending the agreement

11.1 **When you can terminate the agreement** - You may terminate your instructions to us in writing at any time, but we may keep all your papers and documents (except for private medical records in health matters) until you have paid all our fees and expenses.

11.2 **When we can terminate or suspend the agreement** - We will only suspend acting for you or stop acting for you altogether if we have a good reason (for example, if you do not pay an invoice in full within 14 days of its due date, if you do not make a payment on account when we ask you to, if a conflict of interest arises, if following your instructions may mean we would break our professional duties or go beyond an agreed value of work). Where appropriate, we will give you reasonable notice that we will stop acting for you and explain the reasons why.

11.3 **When either of us can terminate this agreement** - Either of us may terminate this agreement immediately by giving written notice to the other if:

- the other is or appears to be unlikely to be able to pay its debts; or
- the other becomes insolvent; or
- the other has significantly broken any of these terms and this cannot be put right or, if it can be put right, is not put right within 14 days of the notice.

11.4 Consequences of terminating this agreement

- If you or we terminate this agreement, we will send a final invoice for the work we have already done, for any disbursements and other expenses we have paid on your behalf, and any fees and disbursements necessarily associated with our ceasing to act and the transfer of the work to another advisor of your choice. Unless we agree otherwise with you, neither you nor we will have any further obligation to the other after the agreement ends. However, terminating this agreement will not affect our or your rights, remedies, obligations or liabilities that exist at the time the agreement ends. Any term which is intended to come into force, or to continue, when or after this agreement ends will remain in full force and effect, including, but not limited to, section 13 (limitations of liability).

12. Conflicts of interest

Solicitors are under a professional duty to avoid conflicts of interest. Before beginning any work for you, we will ask you to provide information so that we can identify any possible conflict of interest. We may be unable to act for you, or we may stop acting for you, if we become aware of a conflict of interest which we are unable to settle. We are free to act for other clients unless this would lead to a conflict of interest.

13. Limitation of liability

Unless forbidden by law our maximum total liability (including that of our partners, members, employees, consultants, subcontractors or agents) relating to any and all claims made by you (under contract, tort (see note 1 above), statute, negligence or otherwise) arising out of or in connection with our engagement to act in connection with any individual matter will be limited to £3,000,000 (including interest and costs) or, if greater, 20 times the value of our total fees billed (not including VAT, disbursements or other expenses). We (and our partners, members, employees, consultants, subcontractors or agents) will not (under contract or tort (see note 1 above), statute, negligence or otherwise) be liable for:

- 13.1 any indirect or consequential loss;
- 13.2 any of the following types of loss, whether the loss is direct, indirect or consequential: loss of profit; loss of sales or business; loss of chance; loss of or damage to goodwill; loss of use or

corruption of software, data or information; loss of agreements or contracts; loss of revenue; or loss of any anticipated saving or benefit that you or any other person suffers as a result of or in connection with our agreement to act in connection with this matter.

We shall not be in breach of our obligations to you nor liable for any delay in performing or failure to perform any of our obligations if such delay or failure result from events, circumstances or causes beyond our reasonable control.

Our liability to you will be limited to an amount which represents our proportionate share of responsibility for any loss that you suffer, taking into account any contribution to, or responsibility for, the loss by you, your agents and employees and any other person liable to you.

These limitations of liability will apply regardless of any express or implied term or condition contained in any other agreement between us, or any warranty or representation we make, as long as nothing in this agreement will exclude any liability for death or personal injury or any other liability which we are not allowed to exclude or restrict by law or any liability arising as a result of fraud or dishonesty. We accept the benefit of this agreement as agent and trustee of each of our partners, members, employees, consultants, subcontractors or agents who will be entitled to rely on this clause 13.

As far as is allowed by law, our partners, members, employees, consultants and agents will not have any separate or individual responsibility or liability whatsoever for any loss or damage you or anyone else suffers. Anyone carrying out work for you will be entitled to the protection of all the limitations, exclusions, qualifications and defences that are available to us under our agreement with you.

14. Agreement

These terms will be governed and interpreted in line with English law, and any disputes will be dealt with exclusively in the English courts under English law. If a court or administrative body (for example, a tribunal or ombudsman) decides that any of these terms is not valid or cannot be enforced, this will not affect the other terms which will continue to apply. If a court or administrative body decides that any of these terms is not valid or cannot be enforced but would be valid or could be enforced if some part of the terms were deleted, the term (or terms) in question will apply with any changes that are necessary to make it valid.

15. Interpretation

We or us or our - refers to Browne Jacobson LLP.
You or your - refers to our instructing client or clients in any particular matter.