

## **Terms & Conditions**

### **Our retainer**

These terms, together with any covering letter or e-mail setting out specific details of the basis on which we are instructed, comprises our retainer. Christodoulou & Mavrikis Inc is a limited company registered in South Africa under company number 2004/02511/21. The firm is authorised and regulated by the Law Society of South Africa. References to a partner of the firm are to a director of Christodoulou & Mavrikis Inc. A list of directors of Christodoulou & Mavrikis Inc is available for inspection at 50 Sixth Road Hyde Park Johannesburg, South Africa.

### **Conflicts of interest**

When you first consult us, we will check whether there is any connection between the firm and your opponent or other party involved in the case. If there is a connection and we believe this may give rise to a conflict of interest we will not be able to accept instructions from you. Should a conflict of interest arise as a case develops we will let you know. If this occurs we may not be able to continue to represent you.

### **Our hours of business**

The normal hours of opening at our offices are between 8.00 am and 5.00 pm on weekdays. The partners of the firm can be contacted outside office hours where urgently required on their mobiles or by e-mail, details of which are set out in all of our e-mail communications.

### **People responsible for your work**

When you instruct us, you will be advised in writing which partner will be responsible for dealing with your work. Partners at Christodoulou & Mavrikis Inc are heavily involved in all client matters on a day to day basis although work requiring less experience will be dealt with by more junior staff under partner supervision.

### **Charges and expenses**

In litigation matters, our charges are calculated mainly by reference to the time actually spent by the Attorneys and other staff in respect of any work which they do on your behalf. This may include meetings with you and perhaps others; reading, preparing and working on papers; making and receiving telephone calls, e-mails, faxes and text messages; preparation of any detailed costs estimates, schedules and bills; attending at court; and time necessarily spent travelling away from the office. From time to time we may arrange for some of this work to be carried out by persons not directly employed by us; such work will be charged to you at the hourly rate which would be charged if we had done the work ourselves.

Routine letters, e-mails and texts that we send and routine telephone calls that we make and receive are charged at one-tenth of the hourly rate. Other letters, e-mails and calls are charged on a time spent basis.

Our hourly rates are reviewed periodically to reflect increases in overhead costs and inflation. Normally the rates are reviewed with effect from 1 January each year. If a review is carried out before this matter has been concluded, we will inform you of any variation in the rate before it takes effect.

In addition to the time spent, we may take into account a number of factors including any need to carry out work outside our normal office hours, the complexity of the issues, the speed at which action has to be taken, any particular specialist expertise which the case may demand. An increase in the rates may be applied to reflect such factors.

We will provide you with a costs estimate of dealing with your matter at an early a stage in the matter as possible. Where circumstances change which have an impact on the cost estimate, we will advise you as soon as reasonably practicable of the change and the revised estimate.

In transactional matters, whilst time spent will be a factor in our charges, generally we will provide you with a fixed or capped fee quotation for carrying out your instructions. In such cases, the likely time involved will only be one a range of factors which may also include the complexity of the transaction, the value and importance of the transaction, the urgency of the matter, etc.

As with contentious matters, where circumstances change which significantly impact on the work required on a transaction, we reserve the right to increase the amount of our quotation accordingly and we will advise you of this change as soon as reasonably practicable following the change in circumstances.

Attorneys have to pay out various other expenses on behalf of clients ranging from court fees, Counsel, experts' fees, and so on. We have no obligation to make such payments unless you have provided us with the funds for that purpose. VAT is payable on certain expenses. We refer to such payments generally as 'disbursements'.

We will add charges for telephone calls, postage, photocopying, delivery charges and fares to our invoices.

If, for any reason, this matter does not proceed to completion, we will be entitled to charge you for work done and expenses incurred.

### **Payment arrangements**

Transactions: We will normally send you our bill on completion of the work although if the transaction is protracted, we reserve the right to issue an interim bill.

Litigation: It is normal practice to ask clients to pay interim bills and sums of money from time to time on account of the charges and expenses which are expected in the following weeks or months. We find that this helps clients in budgeting for costs as well as keeping them informed of the legal expenses which are being incurred. If such requests are not met with prompt payment, delay in the progress of a case may result. In the unlikely event of any bill or request for payment not being met, this firm must reserve the right to stop acting for you further.

Our practice is to ask for money on account of costs and disbursements prior to acting.

Payment is due to us within 30 days of our sending you a bill. Interest may be charged on a daily basis at 15.5% per annum from time to time from the date of the bill in cases where payment is not made within 30 days of delivery by us of the bill.

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.

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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.

We do not accept payments by credit card. We would ask that bills and payments on account are made by cheque or bank transfer.

### **Other parties charges and expenses**

It is important to understand that whatever the outcome of a case the liability for our costs remains with you.

If you succeed in your case it is usual for the losing party to be ordered (in what is known as a "final order") to pay your costs at the end of an action on what is known as the "party and party basis" and for the costs to be assessed by the court by a process called taxation. The law also allows you to claim interest on the costs payable from the date of the final order provided your costs are assessed on a taxed basis.

The detailed assessment process involves a taxing master looking at the file to determine how much the losing party should pay. The usual amount a taxing master will order to be paid is between 50 and 60% of the actual costs, and you remain liable for the shortfall. Also, if the losing party is not able to pay what the court has ordered it to pay, we will look to you to pay our costs.

We will put any monies we receive from your opponent, whether in damages, costs or interest on costs, towards any of our fees that are unpaid at the time of receipt.

If your opponent is legally aided, even if you win, you may not recover any of your costs and expenses.

You will be responsible for paying the costs of seeking to recover costs that the Court has ordered your opponent to pay.

If you lose your case (or if you decide to discontinue it) it is usual for you to be ordered to pay your opponent's costs on the same basis.

Interim hearings are hearings that take place on the way to trial. If you lose an interim hearing, you will be ordered usually to pay your opponent's costs of that hearing. If you do not pay you may not be able to continue with your case. Similarly, if you win, your opponent will be ordered usually to pay your costs of the hearing within the same period. Often, costs at interim hearings are assessed summarily (i.e. on the spot at the hearing) without the court looking at the papers in detail.

Therefore the amount the court might order to be paid may be difficult to predict. If you are at risk of an adverse costs order at an interim hearing we will give you the best information we can about your potential exposure to costs before the hearing takes place.

The courts are encouraging parties to resolve disputes by alternative dispute resolution. If you reject alternative dispute resolution and the matter proceeds to trial, at trial the court will require you to justify that decision and will take that decision into account when making a costs order

### **Interest payment**

Any money received on your behalf will be held in our Trust Account. Interest will not be paid on the deposited amount and is instead paid to the Law Society which takes out professional Indemnity Insurance to cover all monies held in trust by the Attorney. It is possible to mandate us to invest such deposit however it will require a separate written mandate and the deposit will not be covered by the professional indemnity insurance.

### **Storage of papers and documents**

After completing the work, we are entitled to keep all your papers and documents while there is money owing to us for our charges and

expenses. In addition, we will keep your file of papers for you in storage for not less than 5 years. After that, storage is on the clear understanding that we have the right to destroy it after such period as we consider reasonable or to make a charge for storage if we ask you to collect your papers and you fail to do so. We will not of course destroy any documents such as wills, deeds and other securities, which you ask us to hold in safe custody. No charge will be made to you for such storage unless prior notice in writing is given to you of a charge to be made from a future date which may be specified in that notice.

If we retrieve papers or documents from storage in relation to continuing or new instructions to act in connection with your affairs, we will not normally charge for such retrieval. However, we may make a charge based on time spent at the junior executive hourly rate for producing stored papers or documents to you or another at your request. We may also charge for reading, correspondence or other work necessary to comply with your instructions

### **Financial services and insurance contracts**

If, while we are acting for you, you need advice on investments, we will have to refer you to someone who is authorised by the Financial Services Board, as we are not.

### **Termination**

You may terminate your instructions to us in writing at any time but we will be entitled to keep all your papers and documents while there is money owing to us for our charges and expenses. If at any stage you do not wish us to continue doing work and/or incurring charges and expenses on your behalf, you must tell us this clearly in writing.

We may stop acting for you only if we have reasonable grounds to do so, for example if you do not pay an interim bill, comply with a request for a payment on account or if you fail to provide us with instructions or fail to do so on a prompt basis. If we decide to stop acting for you, we must provide you with reasonable notice. If we decide to stop acting for you, we will tell you the reason and give you notice in writing.

### **Limited companies**

When accepting instructions to act on behalf of a limited company, we may require a Director and/or controlling shareholder to sign a form of personal guarantee in respect of the charges and expenses of this firm. If such a request is refused, we will be entitled to stop acting and to require immediate payment of our charges on an hourly basis and expenses as set out earlier.

### **Tax advice**

Any work that we do for you may involve tax implications or necessitate the consideration of tax planning strategies. We do not provide tax advice and are not qualified to do so. We strongly advise you to take separate advice on the tax implications of a transaction that you instruct us to carry out, or the likelihood of them arising. If you have any concerns in this respect, please raise them with us immediately as we may be able to identify a source of assistance for you

### **Identity, disclosure and confidentiality requirements**

We are entitled to refuse to act for you if you fail to supply appropriate proof of identity for yourself or for any principal whom you may represent. We may arrange to carry out an electronic verification of your identity if we consider that a saving of time and cost will be achieved by doing so. The cost of any such search will be charged to you.

Attorneys are under a professional and legal obligation to keep the affairs of the client confidential. This obligation, however, is subject to a statutory exception: legislation on money laundering and terrorist financing has placed Attorneys under a legal duty in certain circumstances to disclose information to the Financial Intelligence Centre. In addition any cash deposits in excess of R 25 000 must be

reported.

Where an Attorney knows or suspects that a transaction on behalf of a client involves money laundering, the Attorney may be required to make a disclosure. If, while we are acting for you, it becomes necessary to make such a disclosure, we may not be able to inform you that it has been made, or of the reasons for it, because the law prohibits 'tipping-off'. Where the law permits us, we will tell you about any potential money laundering problem and explain what action we may need to take.

Our firm may be subject to audit or quality checks by external firms or organisations. We may also outsource work. This might be for example typing or photocopying or costings, or research and preparation to assist with your matter. Information from your file may therefore be made available in such circumstances. We will always aim to obtain a confidentiality agreement with the third party

In order to comply with court rules, all documentation relevant to any issues in litigation, however potentially damaging to your case, have to be preserved and may be required to be made available to the other side. This aspect of proceedings is known as 'discovery'. Subject to this, we will not reveal confidential information about your case except as provided by these terms of business and where, for example, your opponent is ordered to pay your costs, we have to meet obligations to reveal details of the case to them and to the court.

#### **Communication between you and us**

We will aim to communicate with you by such method as you may request. We may need to virus check discs or email. Unless you withdraw consent, we will communicate with others when appropriate by e-mail or fax but we cannot be responsible for the security of correspondence and documents sent by e-mail or fax.

The Electronic Communications Act requires us to advise you that your particulars are held on our database. We may, from time to time, use these details to send you information which we think might be of interest to you.

Where we act for two or more clients jointly it is on the clear understanding that we are authorised to act on instructions from either, both or any of them.

We will update you by telephone or in writing with progress on your matter regularly.

We will communicate with you in plain language.

We will update you on whether the likely outcomes still justify the likely costs and risks associated with your matter whenever there is a material change in circumstances.

We will update you on the likely timescales for each stage of this matter and any important changes in those estimates.

We will continue to review whether there are alternative methods by which your matter can be funded.

If you are a company, we will assume that all of your employees, directors, officers and representatives who give us instructions are authorised to do so and that we may follow their oral instructions. If you instruct us as an agent for a third party, you warrant that you have the actual authority of that third party to do so.

#### **Liability**

Our liability to you for a breach of your instructions shall be limited to twice the fees charged or payable by you, to a maximum of R 1 million. We will not be liable for any consequential, special, indirect or exemplary damages, costs or losses, or any damages, costs or losses attributable to lost profits or opportunities.

We can only limit our liability to the extent the law allows. In particular, we cannot limit our liability for death or personal injury caused by our negligence.

Please ask if you would like us to explain any of the terms above

#### **Complaints**

Christodoulou & Mavrikis Inc is 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 contact Chris Christodoulou on +27 (0) 11 3254201 or by e-mail at [chris@oraclelegalservices.com](mailto:chris@oraclelegalservices.com).

#### **Governing law and jurisdiction**

These terms and conditions are governed by and fall to be interpreted under South African law. The South African courts shall have exclusive jurisdiction over any dispute arising under or out of these terms and conditions

#### **Terms and conditions of business**

Unless otherwise agreed, and subject to the application of then current hourly rates, these Terms and Conditions of Business shall apply to any future instructions given by you to this firm. Although your continuing instructions in this matter will amount to an acceptance of these Terms and Conditions of Business, it may not be possible for us to start work on your behalf until one copy of them has been signed and returned to us for us to keep on our file.