

Lawyers' Standard Terms of Engagement

1 Introduction

- 1.1 These Terms of Engagement shall be known as the Lawyers' Standard Terms of Engagement 2019 ("LSTOE 2019") and shall be the terms applicable to the contract between Instructing Insurers and the Law Firm in respect of the Services to be provided by the Law Firm, where the appointment of the Law Firm has been made or accepted upon the basis of LSTOE 2019.
- 1.2 The purpose of LSTOE 2019 is to define the Services which shall be provided by the Law Firm to the Instructing Insurers and the Service Standards applicable to those Services.
- 1.3 LSTOE 2019 sets forth the terms and conditions under which the Instructing Insurers agree to pay for the Services. The Law Firm providing the Services for or on behalf of the Instructing Insurers agree to provide the Services in accordance with the terms and conditions of these Terms of Engagement.
- 1.4 To the extent any of the terms and conditions of LSTOE 2019 conflict with any other contract, terms of business or other agreement with the Law Firm, the terms and conditions of LSTOE 2019 shall govern.

2 Definitions

In these Terms of Engagement the following words and expressions shall bear the following meanings:

"**Agreement**" shall mean these Terms of Engagement between Insurers (as defined below) and the Law Firm (as defined below);

"**Instructing Insurers**" shall mean the solvent underwriters, insurers or reinsurers on the Policy(ies) making the appointment and those who are accepted by the Law Firm as set out in paragraph 3.1.3 below.

"**Instruction**" shall mean the individual instruction by Insurers as outlined in the Declaration appended below;

"**Insured**" shall mean the party or parties identified as such in the relevant Policy(ies);

"**Insurers**" shall mean all insurers subscribing to the Policy(ies);

"**Law Firm**" shall mean the law firm that is instructed to carry out the Services;

"**Lead Insurer**" shall mean the Lead of the primary Policy(ies);

"**Policy(ies)**" shall mean the contract of insurance under which the Insured is seeking an indemnity, or as otherwise specified by the Instructing Insurers.

"**Services**" shall mean those duties and obligations to be undertaken by the Law Firm as set out at paragraph 3 below, in the Schedules to the Agreement and/or as agreed between the Instructing Insurers and notified in writing to the Law Firm;

3 Provision of Services

The Law Firm shall provide to Insurers the Services contained in this Agreement together with any services outlined in the Schedule(s) and any additional services or deliverables, as required on an ad

hoc basis as confirmed in writing. This Agreement should not be taken as any form of instruction to limit or reduce the quality of the representation provided, but rather as a reasonable template. Specific services outlined hereunder include:

3.1 Appointment:

3.1.1 The Law Firm shall acknowledge receipt of an Instruction within 24 hours of receipt.

3.1.2 The Law Firm shall undertake a conflict check and confirm whether or not it may act within 48 hours of receipt of regular Instructions, or within 24 hours of receipt of urgent Instructions. If the Law Firm has any doubt concerning any potential conflict, they should immediately refer the matter to Instructing Insurers.

3.1.3 Any detailed instructions from the Instructing Insurers shall be provided to the Law Firm in writing and the Law Firm should identify the instructing parties and, where necessary, clarify the scope of its Instruction with the Instructing Insurers.

3.1.4 The Law Firm is to be mindful of and abide by all applicable procedural rules, statutes and/or regulations, particularly (but not limited to) time limits or deadlines.

3.2 Staffing:

3.2.1 Upon receipt of an Instruction, the Law Firm should address the issue of deployment of staff with the Instructing Insurers. Only the number of people necessary and appropriate to fulfil the Instruction should be deployed. The Law Firm must provide a preliminary assessment of staffing requirements for the matter, to include:

- (i) As referred to above, and after discussion with Instructing Insurers and the Insured's broker, provide details of those it considers itself to be acting for and, where appropriate, those whom it does not consider itself to be acting for;
- (ii) Confirmation of the lead/supervising partner;
- (iii) Anticipated staffing levels, to include details of the actual partners, associates, paralegals, legal assistants and law clerks assigned to the matter and their respective experience levels;
- (iv) Hourly rates for all personnel according to previously agreed rates, where relevant;
- (v) The work each fee earner will undertake, and why it is necessary that the identified fee earner undertakes the work identified;
- (vi) An assessment of anticipated research and travel costs.

3.2.2 The professional staff working on an assigned matter should not be changed without notice to the Instructing Insurers. Where a member of staff leaves the Law Firm, any reading in cost of their replacement will not be passed to Insurers and is to be undertaken on a *gratis* basis.

3.3 Reporting:

(a) Reporting timescales:

3.3.1 Reports should be issued within the following timescales, unless circumstances dictate the need for a report in the intervening period. If for any reason the Law Firm is unable to comply with the below timescales and format they are requested to contact the Instructing Insurers.

- (i) Opening report: The opening report should be issued within 30 days of confirming the Instruction

unless circumstances require earlier reporting; and

- (ii) Preliminary report: The first substantive report should be issued within 3 months of confirming the Instruction, and subsequent updating reports issued at 3 month intervals (known as “Updating Reports”). Subject to Insurers’ prior agreement, the interval may be increased to every 6 months or every 12 months for long running cases that are inactive. Alternatively in particularly active cases, reporting may need to be more frequent.

3.3.2 The above reporting requirements may vary at the request of the Instructing Insurers.

3.3.3 Draft reports may be requested on complex matters in exceptional circumstances and any particular concerns or queries highlighted.

(b) Reporting formats:

3.3.4 All reports should include:

- (i) A heading stating that the information contained in the report is privileged and confidential solicitor/client work product.
- (ii) Policy(ies) information, to include (as applicable):
- Name of Insured / Reinsured;
 - Policy(ies) reference(s);
 - Unique Claim Reference (“UCR”);
 - Instructing Insurers' reference(s) / Individual claims adjuster(s)' reference(s);
 - Bureau Primary Record (“BPR”);
 - Broker name and reference;
 - Type of coverage afforded;
 - Policy(ies) period;
 - Limits of liability (including details for multiple layered programmes);
 - Retention/Deductible.

Claim information, to include (as applicable):

- Claimant(s)' details;
- Date of discovery;
- Date claim made;
- Date of loss (if applicable);
- A précis of the case, including current developments and reserves. This should not normally be more than 5 lines in all or, in exceptional circumstances, not more than 10 lines;
- Defence and/or coverage/monitoring cost reserve (as applicable)
- Medicare Status (US Citizens/claimants):
The report must confirm whether or not the Claimant is receiving Medicare benefits. If the Claimant or their Counsel have not confirmed the Claimant's status in this regard then this should also be made clear in the report. In the event that a Claimant is receiving Medicare benefits, then the Law Firm should obtain and supply to the Instructing Insurers the information required to satisfy its obligations under Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007; and
- CRU status (if relevant).

3.3.5 It should be stressed that early and appropriate reserving is essential for Insurers. It is, however, appreciated that reserving, particularly on liability classes, can be a difficult task, so to ensure that Insurers reserve as early and accurately as possible Law Firms should contact the Instructing Insurers if they are unsure about what assumptions to make when considering the reserve recommendation.

(b)(i) Opening Report:

- 3.3.6 In addition to the information outlined at paragraph 3.3.4 above, the opening report should include:
- (i) A summary of the underlying claim, with details of the loss and the factual background (this should include the issues identified to date, the parties potentially involved, and any known factors concerning the various parties which may control or influence development of the claim);
 - (ii) The Law Firm's initial assessment of the liability of the Insured, including the Insured's own view on liability, to the extent it is known;
 - (iii) Recommendations for substantive action and requests for further instructions;
 - (iv) The Law Firm's comments and specific recommendations on coverage issues, to ensure that appropriate action can be taken promptly; and
- 3.3.7 A preliminary evaluation of your staffing requirements to include:
- (a) Details of who you believe you are representing and who you believe you are not representing when the market extends beyond Lloyd's;
 - (b) The name of the Partner in charge of the file;
 - (c) Anticipated staff required, including Partners, Associates, Paralegal, Legal Assistants, Legal Support Staff and Trainees, and the names of specific lawyers assigned to the case;
 - (d) Hourly rates for all assigned staff;
 - (e) Anticipated research and who will carry out the research (costs analysis);
 - (f) Travel requirements (costs analysis).
- 3.3.8 If a 'reservation of rights' or 'denial letter' is necessary, a draft letter should accompany the report.
- 3.3.9 If the Law Firm is not able to report on any of these points it should explain why, and outline when it expects to be in a position to report.

(b)(ii) Preliminary Report and subsequent Updating Reports:

- 3.3.10 In addition to the information outlined at paragraph 3.3.4 above, Preliminary/Updating reports should always include:
- (i) A refined analysis of the facts of the loss, policy coverage and the parties involved, and an evaluation of any legal issues arising since the previous report;
 - (ii) Discussion of any significant changes to the previous facts, analysis, evaluation, budgets or proposed strategy to include developments with underlying /overlying carriers, co-insurers, brokers / intermediaries etc.;
 - (iii) Details and an assessment, if appropriate, of the claimant's / Insured's / other parties' representation
 - (iv) Key dates (e.g. disclosure deadlines etc.);
 - (iii) Coverage;
 - (iv) An assessment of the applicable law, jurisdiction and forum;
 - (v) Liability;
 - (vi) Quantum;

- (vii) Potential recovery rights against third parties and other insurers;
- (viii) Proposed resolution strategy / next steps;
- (ix) Recommendations;
- (x) Recommended reserve split, to include:
 - Loss Reserve (including a best estimate of the final settlement value of the case), calculated in accordance with the Lead Insurer's reserving philosophy;
 - Defence costs reserve, if applicable;
 - Coverage/monitoring costs and expenses (budget) (if applicable); and
 - An explanation of the basis for the reserve rationale, together with an estimated timescale for each stage of the case. All fees/costs estimates must identify the applicable VAT or equivalent and who is responsible for the payment of it, at the point of providing the fees/costs reserve
- (xi) Copies of any communications from the Insured specific to coverage and any draft letters addressing coverage to the Insured and/or the broker (as appendices).

(b)(iii) Coverage litigation:

3.3.11 In addition to the above, for cases involving actual or threatened litigation against Insurers, information must always be sent directly to the Instructing Insurers. It is important to note that in such cases the Law Firm's reports and bills should never be sent to the broker.

3.3.12 In such cases Insurers require Law Firms to focus on the following:

- (i) Detailed discussion of potential coverage defences, quoting applicable relevant law;
- (ii) Identification of suitable Counsel and experts;
- (iii) Proposed resolution strategy;
- (iv) Identify any outstanding information that the Law Firm may require to advise;
- (v) A detailed coverage budget; and
- (vi) Analysis of the most appropriate jurisdiction (if not England/Wales) if Insurers are to bring an action, together with a supporting rationale.

3.3.13 Furthermore in such cases the following additional documents will need to be pre-approved (unless agreed to the contrary):

- (i) Draft Pleadings;
- (ii) Copies of draft disclosure requests and responses to the extent that these exist in the applicable jurisdiction;
- (iii) Copies of inwards interlocutory applications and draft responses; and
- (iv) Draft outwards interlocutory applications.

(b)(iv) Closing Report:

3.3.14 Where the Law Firm recommends settlement of a given matter, in whole or in part, or requests settlement authority, Insurers will require a closing report setting forth the legal and factual

analysis leading up to the recommendation or request that includes:

- (i) Liability analysis (where appropriate); damages analysis; and details of the settlement terms proposed. Insurers also would expect Law Firms to discuss its settlement analysis and recommendations with the individual claims handler(s) at the Instructing Insurers in advance;
- (ii) Coverage conclusion to the extent one has not already been provided;
- (iii) A draft release/interim funding request for consideration, where appropriate; and
- (iv) Where Insurers control the defence of an Insured, or where the Insured itself, either directly, or through its legal representatives, makes demand upon its carriers, all settlement demands or overtures should be communicated to Insurers and the Instructing Insurers immediately.

3.4 Communication methods:

- 3.4.1 Cases involving any coverage issues should be reported on a direct basis to the Instructing Insurers and not via the broker.
- 3.4.2 If in doubt about appropriate circulation channels the Law Firm should contact the Instructing Insurers for clarification.
- 3.4.3 The use of email for communication and for the submission of reports and bills is encouraged provided that the Law Firm is satisfied that this is no less secure than transmission by post. Where a report or bill is sent electronically, a hard copy should not be sent as well unless this has been expressly requested. Law Firms must ensure the electronic reports are on the Law Firm's appropriate letterhead, and are appropriately signed.

4 **Case Management**

4.1 Instructions to Counsel, local counsel, Experts, Mediators and Arbitrators

- 4.1.1 Prior to retention, engagement or instruction, Instructing Insurers must approve the selection and use of any of the above mentioned professionals. Prior to the retention, engagement or instruction, the hourly rates and estimated total cost of such instruction must be provided to the Instructing Insurers. The contractual relationship for the above mentioned professionals will be between Instructing Insurers and the professional(s).
- 4.1.2 Management of the fees and expenses of Counsel, local counsel, Experts, Mediators and Arbitrators is the responsibility of the supervising partner, whose formal approval of all such fees and expenses (taking into account the reasonableness of the amounts billed, the necessity of the work, and compliance with the terms of the retention) should be provided with the submission of fees and expenses to the Instructing Insurers for payment. Any such costs should substantially comply with these guidelines and must be agreed by the Instructing Insurers.
- 4.1.3 Charges for the use of Counsel, local counsel, Experts, Mediators and Arbitrators deemed inappropriate by the Instructing Insurers and incurred without the Instructing Insurers' prior consent shall not be payable by Insurers.

4.2 Research

- 4.2.1 Routine legal research is non-billable. Review of basic procedural rules, research of basic elements of a cause of action, or other matters of common knowledge among reasonably experienced lawyers should not be charged. The use of legal databases, computerised legal-research programs, web-enabled search databases or CD-ROM programs, while encouraged, is considered part of the Law Firm's overhead expenses and will not be reimbursed.

4.2.2 Research should, where possible, be carried out by more junior litigation assistants, law clerks, trainees, paralegals or library staff, avoiding extensive research time by partners or senior assistants.

4.2.3 Prior approval must be obtained before conducting any non-routine legal research likely to exceed four (4) hours work.

4.3 Interlocutory applications

4.3.1 The Law Firm must obtain prior approval from the Instructing Insurers before issuing, initiating or defending any interlocutory process that is not mandatory. When requesting such approval, the Law Firm must address the purpose of the interlocutory process, the chances of success (if relevant), how the process will advance or otherwise benefit the case, the time to be spent and the fee earner(s) or sub-contractors involved.

4.4 Items requiring specific approval

4.4.1 The Law Firm must obtain the Instructing Insurers' prior approval for the following items:

- Overseas travel;
- Pursuant to paragraph 6.8.3 below, significant photocopying (i.e. for disclosure/trial bundles etc.) over £500 (or equivalent rate of exchange);
- Instruction of Counsel, local counsel, Experts, Mediators and Arbitrators;
- Commencement of proceedings, engaging in Pre-Action Protocols, filing of Admissions, filing of Defence/Reply/other pleadings, service of documents, responding to Complaints, and providing a representative name for Lloyd's Insurers;
- Undertaking substantial discovery work exceeding ten hours;
- Initiating or taking part in formal settlement discussions;
- Proceeding to trial, or pre-trial mediation/conferences;
- Entering into cost sharing or joint defence agreements;
- Selection of litigation support;
- Initiating proceedings against other parties
- Obtaining or increasing settlement authority;
- Making an appeal (although these may be on a 'no objection' basis if time is very short);
- Proceeding with any form of alternate dispute resolution (including the appointment of a Mediator);
- Issuing a reservation of rights or denial letter;
- Demanding that an Insured take some action (e.g. to settle the case within their deductible);
- Demanding that another insurer (e.g. underlying or excess) settle within their limits or take some action; and
- Individual research tasks likely to exceed 4 hours.

5 **Coverage and conflicts of interest**

5.1 As stated above, the Law Firm must undertake a conflict search and confirm its ability to act within 48 hours of receipt of regular Instructions, or within 24 hours of receipt of urgent Instructions. If a conflict or potential conflict arises at a later date, Insurers must be informed immediately so that an appropriate course of action can be undertaken.

5.2 Unless Insurers provide instructions to the contrary, no action should be taken that might give rise to an impression that Insurers have affirmed or waived coverage under the terms of the Policy(ies) or at law. If the Law Firm is specifically instructed to advise upon coverage it must review the full Policy(ies) documentation and request any additional Policy(ies) documentation that is clearly missing. Coverage should be determined as expeditiously as possible, taking into consideration all the facts of the matter. Instructing Insurers shall provide Law Firm with all necessary documents and information within its control to allow Law Firm to evaluate coverage.

6 **Billing and disbursements**

6.1 Intervals

6.1.1 If no specific arrangements have been made with Insurers to the contrary, then invoices are to be submitted on a quarterly basis within 14 days of the end of the relevant quarter or when any pre-agreed limit (to be inserted here) has been exhausted, whichever occurs first.

6.1.2 The Law Firm must ensure that the final invoice / payment request is submitted within 6 weeks of the Closing Report or settlement date, whichever is later. Any late invoices may not be submitted and will not be paid by Insurers.

6.2 Charging method and time recording

6.2.1 Legal services are to be billed on a time and expense basis, unless an alternative arrangement has been agreed. Pre-agreed hourly rates are to be applied, which shall be reviewed annually.

6.2.2 A fee earner's time is to be charged in units of 6 minutes (a tenth of an hour) and time sheets shall be maintained for each fee earner to support the work conducted on a file and shall be available for client review upon request without charge. The time entered for a task must be the actual time expended on any activity, function or work as specifically described.

6.2.3 Invoices are to include the following information

- The Law Firm's name and address and the partner responsible for the file;
- Insurers at interest and address (including name of claims adjuster(s) responsible for the claim);
- References: UCR, UMR, Xchanging claims reference, the Law Firm's reference, and the invoice reference;
- Insured's name and Claimant's name or name of claim;
- Date of invoice;
- Status of fee earners and their respective hourly rates;
- A breakdown and accompanying narrative of all work undertaken by individual fee earners (descriptions of all tasks performed plus the time taken to perform each task), detailing the total hours of work charged and time written off for duplication, excessive review or other non-chargeable items;
- An itemised description of all disbursements must be provided accompanied by the underlying invoices; and
- The applicable tax payable (both on the invoice and in relation to underlying disbursements, where applicable).

6.3 File management/number of partners/resourcing

6.3.1 The Law Firm is to have the requisite skill and experience appropriate for a given claim and/or legal task. Time billed on a claim shall only be that which is reasonable and necessary for the task in hand.

6.3.2 Unless agreed to the contrary, only one partner shall be involved in a claim, who shall receive the appropriate support agreed by Insurers.

6.3.3 The number of fee earners who attend conferences, meetings or hearings should be kept to a minimum, and more than one person should only attend where this is justified.

6.3.4 Where there is unnecessary duplication, only the time of the most junior fee earner shall be recoverable. It is for the Supervising partner to justify any duplication.

6.4 Travel

6.4.1 Travel time is to be charged at 50% of the usual hourly rate unless the fee earner concerned is actually working on the file in question.

6.4.2 Travel expenses are to be reasonable. Flights are to be taken in economy class unless the journey/flight is over 7 hours and then it shall be at the Insurers' discretion.

6.4.3 Hotel accommodation costs are to be kept at a reasonable level.

6.4.4 Meals whilst travelling in connection with the file in question may be charged, but should be kept to a reasonable cost. Entertainment or client development should never be charged.

6.5 Excluded items

6.5.1 The Law Firm is not to charge for the following:

Clerical duties such as creating/organising a file; stationary, routine postage and internal routine photocopying; word processing, data entry, secretarial support; time spent preparing and issuing invoices; basic legal research and training; where a solicitor would be expected to have the necessary expertise but has to spend time bridging any shortfall he or she may have; duplication and excessive review time; reading in time for new and/or replacement fee earners; abortive telephone calls; cost of entertainment or client development; time or costs attending professional/industry conferences and/or professional/industry subscriptions or time spent reading such literature; time incurred that produces work product which is useful for more than one client.

6.5.2 Invoices are not accepted where tasks have been block billed into a single narrative/time and charge.

6.6 Items requiring the Instructing Insurers' prior approval

6.6.1 All disbursements over £500 should be referred to Insurers before they are incurred;

6.6.2 Instructing Counsel, local counsel or any experts; Instructing Insurers agree to pay experts, arbitrators, mediators and vendors in a timely fashion.

6.6.3 Overseas travel and, if a flight exceeds 7 hours, permission for a lawyer to travel in business class or the equivalent;

6.6.4 Issuing any Proceedings or entering into any costs share agreements; and

6.6.5 Committing to any case management/litigation support software.

6.7 Disbursements

6.7.1 All internal disbursements are to be charged at cost with no additional mark-up.

6.7.2 Photocopying: internal routine photocopying is non chargeable, however significant photocopying (i.e. for disclosure/trial bundles etc.) is chargeable and is to be charged at cost, but at no more than 5p per page and is not to include the time spent.

6.7.3 Long distance telephone/express mail: these should be charged at cost. Express mail/use of couriers is to be used only when absolutely necessary. Deliveries by hand should not be charged.

6.7.4 Routine disbursements are to be funded and included in the next invoice.

6.7.5 If VAT or any applicable tax is payable, it is to be clearly identified.

6.8 Other

6.8.1 In some cases it may not be possible to process payment through brokers for Lloyd's matters. Alternatively fees can be submitted via, for example, Xchanging Verometrix or a suitable agent. If any fee is to be incurred by Insurers then prior agreement must be sought.

7 **Insurance**

7.1 The Law Firm shall maintain adequate professional Errors and Omissions, Cyber and Crime insurance to satisfy any claim that Insurers may have against them throughout the term of the engagement. The Law Firm shall promptly inform Insurers of any material changes to the insurance providing coverage in connection with this Agreement.

8 **Business Continuity and Disaster Recovery**

8.1 The Law Firm shall at all times ensure that an appropriate business continuity and disaster recovery plan is in place, which enables the continued performance of services by means of IT back-up and recovery facilities. The Law Firm agrees to test, develop and update the plan as may be necessary, and in any event, annually, in accordance with industry best practice. The Law Firm may be asked for details of this plan from time to time by the Instructing Insurers as part of an expert review process.

9 **Compliance, regulatory and legal**

9.1 The Law Firm warrants, represents and agrees that it shall:

9.1.1 Comply with all applicable laws for the Services, and use its best endeavours to ensure that any other parties with whom it deals in carrying out its duties under the Agreement comply with such laws where applicable.

9.1.2 Not undertake any activity that would in any way constitute a criminal act in the jurisdiction in which it is located or doing business, or which would expose Insurers to any criminal sanction.

9.1.3 Conduct its business in accordance with all applicable legislation relating to the handling of data, anti-money laundering and applicable international economic or financial sanctions. In addition, the Law Firm will not act contrary to any data protection, anti-money laundering or international economic or financial sanctions requirements set by Insurers and/or a Regulator other than where compliance with those requirements would be contrary to local law. Where any local law prevents the Law Firm from complying with this provision the Law Firm will inform Instructing Insurers as soon as, and to the extent, possible.

9.1.4 The Law Firm shall at all times ensure that appropriate data handling, cyber security, anti-money laundering and applicable international economic or financial sanctions plans/policies are in place, which enable compliance with the obligations in paragraph 9.1.3 and/or industry best practice. The Law Firm agrees to review and update the plans/policies as may be necessary, and in any event, annually, in accordance with applicable legislation/industry best practice. The Law Firm may be asked for, and shall provide, details of the plans/policies from time to time by the Instructing Insurers.

- 9.1.5 Instructing Insurers shall be entitled at any time to access and inspect the Law Firm's premises, computer systems and records to audit the Law Firm's compliance with its obligations under this paragraph. Each party shall bear its own costs of any such inspection, which shall be carried out with the minimum disruption to the business of the Law Firm and in any event without material adverse impact on the Law Firm's ability to deliver the Services.
- 9.2 Insurers have a zero tolerance policy on bribery and corruption. The Law Firm warrants and undertakes not to accept, offer or facilitate payment, consideration, or any other benefit, which constitutes an illegal or corrupt practice contrary to any applicable anti-bribery legislation.
- 9.3 In the event that the Law Firm breaches paragraph 9.1 or 9.2 the Law Firm will have acted independently and not as Insurers' agents and Insurers reserve the right to terminate this Agreement with immediate effect and without liability.
- 9.4 The Law Firm shall maintain appropriate systems, procedures and controls designed to prevent any breach of this paragraph.

10 **Termination**

- 10.1 The decision to terminate the Law Firm's appointment or the Instruction, to transfer a matter to another law firm, or otherwise to restrict the handling of a particular matter, shall be entirely at the discretion of the Instructing Insurers. In the event of such termination, subject to Insurers' agreement to discharge the Law Firm's reasonable costs, the Law Firm agrees not to exercise a lien over Insurers' documentation relevant to the Instruction. The Law Firm shall assist in the immediate transfer of the files to Insurers, or their designated agent. The Law Firm retains the right to withdraw from a matter upon written notice to Insurer as prescribed by the local rules and regulations wherein the matter is pending.

11 **Audit**

- 11.1 At Insurers' discretion, a periodic audit of any and all documentation relating to the Instruction will be conducted. Insurers expect the Law Firm to provide any assistance required without charge, including making staff available and producing files and other documentation to Insurers' representatives or a professional auditor(s). Payment of any charges or disbursements will not constitute a waiver of Insurers' rights to be reimbursed for any overpayment discovered during an audit or at any other time.

12 **Complaints or proceedings**

- 12.1 Subject to any specific procedures agreed under paragraph 12.2, the Law Firm shall promptly notify the Instructing Insurers of all complaints made by any third party in relation to the Services or any part of the Instruction.
- 12.2 The Law Firm shall implement and maintain such procedures as may be required by Insurers to ensure that complaints can be dealt with in a prompt and reasonable way in compliance with all applicable law and regulations.
- 12.3 In all cases the Law Firm shall notify the Instructing Insurers promptly upon becoming aware of any matter arising out of the operation of or in connection with the Instruction which:
- 12.3.1 Is likely to adversely affect the reputation of Insurers; or
- 12.3.2 May result in litigation or other legal or regulatory proceedings or action being commenced against Insurers or the Law Firm.

12.4 Where the Law Firm is aware of any legal or regulatory proceedings or actions commenced against Insurers or the Law Firm arising out of the operation of or in connection with the Instruction the Law Firm shall promptly provide the Instructing Insurers with full details of the same in writing.

13 **General**

13.1 Each party warrants that it has the capacity to enter into this Agreement.

13.2 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal or enforceable. If such 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 this Agreement. If any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid or enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision. If any provision of this Agreement, not being of a fundamental nature, is held by any competent authority to be invalid or unenforceable, in whole or in part, the validity of the other provisions of this Agreement and the remainder of the provision in question shall not be affected.

13.3 Nothing in this Agreement shall be construed as constituting a partnership between the parties to this Agreement or creating a relationship of employer and employee.

13.4 A person who is not a party to this Agreement has no right to enforce any terms of this Agreement (including under the Contracts (Rights of Third Parties) Act 1999) but this paragraph does not affect a right or remedy of a third party that exists or is available apart from this Agreement.

13.5 Notwithstanding any rights any third party might have under this Agreement the Instructing Insurers and the Law Firm hereby agree that variations to this Agreement may be made by them without reference to any third party.

13.6 All legal privilege that attaches to work product documents is expressly preserved and the Law Firm has no authority to waive such or any legal privilege without express written instructions from the party to whom such or any privilege attaches.

14 **Governing Law and Jurisdiction**

14.1 The validity, construction and performance of this Agreement (and any claim, dispute or matter arising under or in connection with it or its enforceability) and any non-contractual dispute or obligation arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and Wales. Each party irrevocably submits to the exclusive jurisdiction of the courts of England and Wales over any claim, dispute or matter arising under or in connection with this Agreement or its enforceability.

Declaration:

Parties:

Insurers:

The Law Firm:

Insured:

Nature of Instruction:

Specific Instructions: