

# Lamb Chambers short form CFA for use between solicitors and counsel on or after 1 April 2013

Csl's Ref: \_\_\_\_\_

Sol's Ref: \_\_\_\_\_

## Definitions

1. In this agreement:

“Counsel” means: \_\_\_\_\_ and any other counsel either from Lamb Chambers or recommended by counsel in accordance with clause 12 of the Standard Terms who signs this agreement at any time at the solicitor’s request.

“The solicitor” means the firm: \_\_\_\_\_

“The Client” means \_\_\_\_\_  
\*acting by his/her Litigation Friend \_\_\_\_\_, or the Client’s personal representatives (on death) or the Client’s litigation friend (on loss of capacity).

“Success” means that the Client’s claim is finally decided in his or her favour, whether by a court decision or an agreement to pay damages or in any way that the Client derives benefit from pursuing the Claim.

“Finally” means that the Opponent is not allowed to appeal against the court decision; or has not appealed in time; or has lost any appeal.

“Failure” means if the case is lost or on Counsel’s advice ends without success then Counsel is not entitled to any fees or expenses.

“The Opponent” means any Defendant or proposed Defendant in an action brought or contemplated by the Claimant in respect of his or her claim for damages for personal injury, death or disease.

The current Opponents are \_\_\_\_\_.

2. This agreement forms the basis on which instructions are accepted by Counsel from the Solicitor to act on a conditional fee basis for the Client in his/her claim for damages for personal injury, disease or death.

## Incorporation of APIL/PIBA Standard Terms

3. This Agreement forms the basis on which instructions are accepted by counsel from the solicitor to act under a conditional fee agreement and incorporates PIBA’s Standard Terms which are available on the Lamb Chambers website and are incorporated in, but not annexed to this agreement.

4. This agreement is a contract enforceable at law.

## Solicitor's obligation to pay

5.
  - (1) Upon success, subject as provided below, the Solicitor is liable to pay Counsel's normal and success fees.
  - (2) Subject to clauses 11 to 14 below the amounts of fees and expenses payable to Counsel under this agreement are payable whether or not the Solicitor is or will be paid by the Client or Opponent.
  - (3) Upon success the Solicitor will promptly conclude by agreement or assessment the question of costs and will pay Counsel promptly and in any event not later than one month after receipt of such costs as are recovered from the Opponent/s the full sum due under this agreement.
  - (4) Such part of Counsel's normal fees which is not recovered from the losing Opponent and any success fees may be capped or reduced pro rata in accordance with paragraphs 11 to 13 below.
  - (5) In the event of failure the solicitor's obligation to pay Counsel's normal and success fees is as set out in clause 9 of the Standard Terms.
  
6. This scope of this agreement is as follows:

### (1) What is covered by this agreement

This agreement relates to and covers \*all work already done and\* [delete as appropriate] all further work to be undertaken by Counsel in respect of the claim until the claim is won, lost or otherwise concluded, or this agreement is terminated\*, or is limited to part only of proceedings as set out below [delete as appropriate].

\*Part only of proceedings, specifically: \_\_\_\_\_

Work within the scope of this agreement specifically includes

Any appeal the client makes against an interim order advised by Counsel.

### (2) What is not covered by this agreement

- Any Part 20 claim against the client;
- Any appeal the client makes against the final judgment order;
- any counter claim or defence by way of set off which is still in existence after the claim has settled or been won, lost or otherwise concluded;
- any application under and award of provisional damages that might be obtained in these proceedings or to vary any order for periodical payments that might be made in these proceedings;
- enforcement of any judgment or order.

## Delivery of the brief by the solicitor

7. The Solicitor agrees to deliver the brief for trial not less than \_\_\_\_\_days before the trial of all issues or of any preliminary issue and the brief shall be deemed delivered \_\_\_days before the trial for the purpose of Counsel's entitlement to a brief fee.

## Counsel's normal fees

8. (a) **The 'normal rate'** for Counsel's fees upon which Counsel's success fee is to be applied will be as follows:-

**Advisory work and drafting:** in accordance with Counsel's hourly rate obtaining for such work in this field currently (hourly rate) £\_\_\_\_\_

**Brief fees and refreshers:** calculated in accordance with the hourly rate above and can be agreed nearer to the date of hearing.

*[Please contact Counsel's Clerk if you require an indication of likely brief fees]*

- (b) **Reasonableness of Counsel's fees**  
The fees set out above are considered by the Solicitor to be reasonable for Counsel's work in this claim.

- (c) **Inflation Review**

Counsel's normal fees will be subject to review with effect from each successive first day of February from the date of this agreement but Counsel will not increase the normal fees by more than any increase in the rate of inflation measured by the Retail Prices Index.

## Counsel's success fee

9. The rate of Counsel's success fee will be as follows:

**Either:**

- [1] NONE  
mark box with a tick: ✓ if chosen

**Or:**

- [2] 100%  
mark box with a tick: ✓ if chosen

**Or:**

- [3] a \*one-stage uplift, namely .....%; or  
a two-stage uplift, namely .....% where the claim concludes at trial or .....% where the claim concludes before a trial has commenced;  
or a three staged uplift, namely ... % where the claim concludes at trial, ... where the claim concludes \_\_\_ weeks before trial, and ...% where the claim concludes more than \_\_\_ weeks before the trial.  
[Delete as appropriate]

If no box has been chosen on the face of the document Counsel will be deemed to have chosen OPTION 1.

### Reason for the success fees:

10. The percentage increase reflects the prospects of success estimated in counsel's risk assessment which is\* /is not attached to this agreement.

No part of these percentages relates to the postponement of the payment of Counsel's fees.

### Payment of counsel's non recovered fees

#### 11. Counsel's normal fees

In the event that, after settlement or assessment of costs, some of Counsel's normal fees are not recovered from the Opponent, the following shall apply:

- [1] Subject to clause 14 below, the Solicitor **will be** liable for and will pay any of Counsel's normal fees which are not recovered from the Opponent.

mark box with a tick: ✓ if chosen

OR

- [2] The Solicitor **will NOT** be liable for any of Counsel's normal fees which are not recovered from the Opponent.

mark box with a tick: ✓ if chosen

If neither box is ticked then [2] will apply automatically.

#### 12. Counsel's Success fees

- [1] If the Client wins and Counsel has charged a success fee then the Solicitor is liable to pay Counsel's success fee.  
[2] The success fee is subject to a maximum limit as set out in the Conditional Fee Order 2013. The maximum limit of the success fee including VAT is 25% of the damages awarded to the Client for pain, suffering and loss of amenity and past pecuniary loss net of any sums recoverable from the CRU (the Cap).  
[3] In circumstances when the Cap applies Counsel's success fee will:

- [3(a)] be payable by the solicitor

mark box with a tick: ✓ if chosen

or

- [3(b)] be reduced pro rata in accordance with the proportion that Counsel's normal fees as assessed if not agreed bear to the Solicitor's normal fees as assessed if not agreed.

mark box with a tick: ✓ if chosen

If neither box is ticked [3(b)] will apply automatically.

### Unrecovered fees following an Opponent's Part 36 Offer

13. If the Opponent makes a Part 36 offer and the Client recovers damages and interest less than the offer and as a result also recovers no costs from some date after the Part 36 offer then:
- [1] if Counsel advised that the offer should be accepted and the Client rejected that advice and pressed on, Counsel is entitled to normal fees and success fee for the work done after the Part 36 offer was made.
  - [2] if Counsel advised that the Part 36 offer be rejected then Counsel is not entitled to recover any fees from the date after which the Client recovered no costs because of the effect of the Part 36 offer.

### Dispute between Counsel and Solicitor

14. In the event that the figure for past loss and general damages has (a) not been determined at trial or assessment; and (b) counsel and solicitor are unable to agree the appropriate level of general damages and past loss; and (c) Counsel's entitlement to fees is in dispute, the parties shall follow the procedure set out in 9(5) of the Standard Terms.

**Dated:** \_\_\_\_\_

**Signed by** \_\_\_\_\_

**or by his/her clerk [with Counsel's authority]** \_\_\_\_\_

**Additional Counsel** \_\_\_\_\_

**Additional Counsel** \_\_\_\_\_

**Signed by Solicitor:** \_\_\_\_\_