

Terms and Conditions

Fry Heath & Spence LLP is a limited liability partnership and under UK law has members, both designated and ordinary, rather than partners.

Fry Heath & Spence LLP will carry out all work under these standard terms of business. In the event of any agreed variation of these terms we will also provide you with a letter setting out the further terms agreed between us and in such circumstances that letter will take priority over these terms.

These Terms and Conditions do not affect statutory and common law rules that govern attorneys' business. However, if there is a conflict between the Terms and Conditions and such rules, the Terms and Conditions will prevail so far as it is possible for them to do so.

When we use the words 'we' and 'us' in these Terms and Conditions, they mean Fry Heath & Spence LLP. This partnership is a limited liability partnership registered in England and Wales with registration number OC302760 and having its registered office at Chart House, 2 Effingham Road, Reigate, Surrey, England RH2 7JN. A list of members is available for inspection at this address.

Our commitment to you

Our Members and qualified staff are members of the Chartered Institute of Patent Attorneys and/or The Chartered Institute of Trade Mark Attorneys and The Institute of Professional Representatives before the European Patent Office and will comply with their codes of professional conduct.

We will exercise all diligence, putting your interest foremost (whilst observing the law and our duty to any Court or Tribunal) and conscientiously and objectively pursue your instructions.

We will ensure we have no conflict of interest with any other client's instruction as we cannot act for two clients whose interests in the matter we are advising conflict, unless, (exceptionally) both clients consent to such an arrangement. Sometimes, conflicts arise later because, for example, our clients acquire new companies or diversify into new areas of business. In such circumstances we reserve the right to refuse to act further, at least in relation to the area of conflict, for one of the clients in question. Because of obligations of confidentiality it is often not possible for us to identify the other client or subject matter involved when we advise a client we can no longer act for them.

While acting for you, we are likely to receive information which relates to you as our client. We will keep such information confidential, except where disclosure is required by law or regulation, where required in accordance with your instructions or in other exceptional circumstances.

We believe it is an essential part of our service to our clients to ensure that at all times our clients are aware of the extent of their commitment in respect of our fees. Clients should feel free to raise the question of costs at any time and if not satisfied with the information given, should ask to speak to one of our members to discuss the matter further.

Instructions and information provided by you

We rely on you to give us timely, complete and accurate information and instructions. Unless we are advised otherwise, we will assume that any person within your organisation, with whom we have regular contact, has the appropriate authority to instruct us on your behalf. Where we are instructed by a number of individuals or by different entities on the same matter, each instructing party will be liable on a joint and several basis. Where more than one individual or entity forms our client, for the purposes of an instruction, each party is deemed to provide their irrevocable authority for us to disclose all information relevant to the instruction to each instructing party.

We also rely on you to notify us promptly of any change of personnel or address, or of any change in ownership or licensing of rights, in order to avoid loss of rights. Patent Offices normally set time limits for dealing with various procedural steps and failure to meet these time limits may lead to your rights being lost irrevocably. Whilst it is our responsibility to inform you of any relevant time limits we do not accept any liability for loss of rights if you have not provided clear and complete instructions early enough for us to act within an official time limit.

Do note that if a patent or design application lapses due to a failure to respond to a deadline, or is abandoned, it may be lost irrevocably and it is generally not possible to re-file. (Although in some very limited circumstances, in some countries, it may be possible to seek restoration.)

Notifying us of a change of email or postal address is important at all times as the registration of patents, trade marks and designs can take years and there may be little activity for long periods followed by a situation which requires urgent action. This is particularly so if we are handling the renewals on your behalf.

As part of our efforts to reduce our carbon footprint we will communicate to you only by email. As with your postal address it is vital you advise us of changes to your email address. We will assume that we have your agreement to communicating by email unless you tell us otherwise.

It is often necessary for us to instruct external specialists to provide expertise we cannot ourselves provide directly and/or when it is more cost effective to do so, for example, searchers, translators or technical draughtsmen. In addition, the local laws in most countries require that local attorneys deal directly with the national patent office, and therefore we routinely instruct foreign attorneys. Where we do this, it will mean that contents of your file (including information about you) must be provided to them in order to perform the tasks. Where we instruct an external specialist on your behalf in good faith we are not liable for any failure on their part and we will, where possible, always try to have a confidentiality agreement in place with such specialists or foreign attorneys.

Searches

Any searches you request may be carried out by ourselves, by Patent Offices or by an independent specialist searching firm. Due to the limitations and occasional errors in classification, indices, computer databases and official records, no search can be guaranteed as fully comprehensive or completely accurate. We will endeavour to point out any particular limitations when reporting search results and may recommend possible extensions of the search

Charges and expenses

As a firm we try to ensure as far as possible that our clients are fully aware from the outset of the costs involved with an item of work. Our charges are based on:

- (i) The time spent in carrying out substantive professional work on the case, including, but not limited to, reviewing and preparing documents, preparing letters and e-mail correspondence, and telephone conversations. This is charged on the basis of an hourly rate, details on which are set out in our letter of engagement.
- (ii) Our standard fixed service charges for various administrative tasks.
- (iii) Costs incurred on your behalf, such as official fees and charges made by foreign attorneys, translators and other external specialists.
- (iv) Minor disbursements.

As part of the process of applying for patent, trade mark and registered design protection in the UK and overseas, we will receive communications from Intellectual Property Offices and/or overseas attorneys reporting on the progress of such applications. It is our professional responsibility to report such communications to our clients and thus charges will be incurred in relation thereto.

We will, whenever asked to do so, provide estimates of future costs (as far as possible) and keep you informed at all times of any additional unanticipated costs. These will be given in good faith based on the available information, fee scales and exchange rates at the time of the estimate, but any estimate provided is to be regarded as a guideline and is not binding on us. Actual costs incurred on your behalf may be affected by matters beyond our control, and, in particular, where costs are to be based on time charges, the amount of work involved cannot always be forecast accurately.

In addition to the time that we spend on the matter, we will also take into account the complexity of the professional work required on the case, the speed at which action must be taken as well as other circumstances which may make it necessary for us to raise additional charges to that initial quoted. We will inform you of and agree any additional charges with you as soon as is necessary.

We reserve the right to review our rates in April of each year and we will advise you of any new charging rates if they are to apply to your case as it progresses.

Where applicable, we will add VAT to our charges at the rate that applies when we carry out the work on your case. Currently this is 20%. VAT may also be payable on all costs incurred on your behalf as well as all minor disbursements. Our VAT registration number is GB367519030.

If your matter is not concluded or goes abortive at any stage, we reserve the right to charge for the time that we have spent and the disbursements and expenses that we have incurred on your behalf. You must still pay our charges and expenses.

We believe that it is an essential part of our service to our clients that they are aware at all times of the extent of their commitment in respect of our fees. You should feel free to raise the question of costs at any time and if you are not satisfied with the information you are given, please ask to speak to one of our members to discuss the matter further.

Payment Terms - Invoices

We will send by email our invoice for our charges and any official fees and other expenses on the completion of each stage of the case. If work is carried out but there is a delay in its completion due to factors beyond our control, we will send our invoice for the work carried out to date, before completion of the work. In the normal course of events any interim invoice shall not limit our overall charges for the matter and if further work is required, we are entitled to raise a further invoice for such work.

We may, in limited circumstances, require payment on account as a pre-condition of work to be undertaken on your behalf. In particular, we may require funds to cover payments we make on your behalf, such as Patent Office fees and expenses arising from work carried out by overseas attorneys and other external specialists.

Our invoices have a settlement term of 30 days from the date of the invoice. Fry Heath & Spence LLP reserves the right:

- to charge interest at 8% above the base rate on invoices not settled within the agreed time; and
- to suspend all work on your behalf. This is without prejudice to our right to invoice for work undertaken before such suspension and to take legal action for the payment of our costs. You will be responsible for the consequences of the suspension of work, which may include the irrevocable loss of, or failure to obtain, rights.

In the event that one of our invoices remains unpaid after the expiry of the settlement term, you shall indemnify Fry Heath & Spence LLP for all costs and expenses incurred in recovering the outstanding invoice from you. We reserve the right to raise a further invoice payable to Fry Heath & Spence LLP for any such costs and expenses incurred.

If you have a query on one of our invoices this query should be raised within the 30 day settlement period with the person dealing with your matters or who has raised the invoice in question. If you are not happy

with the response to your query any further query should be sent within 14 days of receipt of our reply and sent to one of our designated members in accordance with our grievance procedures.

We encourage all our clients to advise us of any problems they may have in settling our fees and, if appropriate, we will discuss with them the possibility of an agreed repayment scheme. Any such agreed repayment scheme will be in writing. Do note that should it prove necessary for us to instigate proceedings for the recovery of our fees we reserve the right to suspend forthwith all work on your cases until such time as the debt has been settled, or a repayment scheme has been agreed and to place you on a "money up front" basis for future work. Failure to adhere strictly to any agreed repayment scheme will result in the instigation of recovery proceedings.

Unless some other arrangement has been agreed in advance and confirmed to us in writing by the party concerned, the organisation or individual who instructs us on a particular matter will be regarded as responsible for settling invoices arising from that matter.

Our regulators have decided not to be a supervisory body as defined in the regulations around holding client money, and as such we are unable to open a separate client account. In view of this, we will not hold client money unless it relates to fixed fees and/or disbursements in advance, you have given consent and to the extent that professional work paid for in advance is not carried out, fees or disbursements advanced by you are returned.

Limitation of liability

In relation to your instructions our liability is limited to losses, damages, costs and expenses ("losses") caused by our negligence or wilful default. We will not be so liable if such losses are due to the acts or omissions of any other person or due to the provision of incomplete, misleading or false information.

We shall not be liable for indirect or consequential economic loss or damage (including loss of profits) suffered by the client. The aggregate liability, whether to the client or any third party and whether in contract, tort or otherwise of this firm, its members, employees and agents for any losses in any way connected with any of the services provided to a client under these Terms and Conditions (and including interest) is £2 million (two million pounds sterling).

Nothing in these Terms & Conditions excludes or restricts any liability arising from fraud or dishonesty or reckless disregard of our professional obligations or liabilities which cannot be limited or excluded by law.

Any member, employee or agent of this firm may rely upon and enforce this limitation in that person's own name for that person's own benefit.

You agree and acknowledge that these limitations of our liability are fair and reasonable in relation to your instructions to us.

Except as expressly provided in this letter no person other than a party to the agreement may enforce any terms of such agreement by virtue of the Contracts (Rights of Third Parties) Act 1999 ("the Act"). Notwithstanding any benefits or rights conferred by such agreement on any third party by virtue of the Act, the parties to such agreement may agree to vary or rescind any of its terms without any third party's consent.

We have professional indemnity insurance. The indemnity insurer is PAMIA Limited of 90 Fenchurch Street, London EC3M 4ST.

Termination

You may terminate your relationship with Fry Heath & Spence LLP at any time and if you do so decide, such termination shall be in writing. At such time, we will be entitled to keep any documents, that you may otherwise be entitled to, in our files until you pay us any outstanding charges (including any charges required to carry out the termination of your instructions).

We will only stop acting for you when we have a good reason to do so, such as, but not limited to:

- If there is a breakdown of trust between us;
- If you provide us with instructions that are unreasonable or would require us to breach a professional rule or a duty to the court or involve the commission of a criminal offence;
- If you do not provide us with clear instructions;
- If you do not pay one or more of our invoices promptly or in accordance with these Terms and Conditions or if you do not make an advance payment promptly when it has been requested; or
- If there is a conflict of interest.

If we decide to stop acting for you, we will give you reasonable notice that this is our intention. The precise length of the notice will depend on the circumstances at hand. You will be required to pay any and all outstanding charges incurred up until the date we decide to stop acting for you.

Transfer and file ownership

Fry Heath & Spence LLP shall retain ownership of all files and the contents therein, save that, subject to the terms of the termination section above, you are entitled to ownership and to request copies of:

- all documents sent to us by you, except where ownership of the document intended to pass to us;
- all documents sent or received by us as agent for you, including correspondence with third parties;
- final versions of documents and agreements; and
- final versions of documents prepared by third parties, save for specialist's reports and counsel's advice.

For the avoidance of doubt, all remaining elements of our file and the contents therein shall be retained and shall remain in the ownership of Fry Heath & Spence LLP. We will have the sole discretion as to whether any further contents of our file(s) are provided to you.

In the event of you instructing us to transfer your work to other professional advisors we will copy or scan such of the files relating to your work as you request (at your expense) and release the copy or electronic file(s) subject to all outstanding charges and costs having been settled.

Queries, concerns or complaints

Fry Heath & Spence LLP is committed to providing you with a high quality of service, and we are confident that you will receive this from us. However, if you have any queries, concerns or complaints regarding any aspect of our work or our charges, please raise them in the first instance with the person who is your normal point of contact. If that does not resolve the problem to your satisfaction, or you would prefer to speak to another attorney, then please take the matter up with one of our members. It is important that you immediately raise any concerns with us so that they may be resolved. Fry Heath & Spence LLP values your business highly, and we would not wish you to be dissatisfied with the service provided to you.

As recommended by the Chartered Institute of Patent Attorneys and Trade Mark Attorneys, we have an established procedure for dealing with complaints. Written details of this procedure are available from us on request.

If, having followed our complaints procedure, your query, concern or complaint remains unresolved, then you have the right to make a complaint to the Legal Ombudsman. Their full contact details are:

- The Legal Ombudsman
PO Box 6806
Wolverhampton
WV1 9WJ

0300 555 0333
enquiries@legalombudsman.org.uk
www.legalombudsman.org.uk

Please note, that where it does apply, there are time limits for making a complaint to the Legal Ombudsman. The Legal Ombudsman will not usually accept your complaint if:

- More than six years have elapsed from the date of the act or omission giving rise to the complaint;
- More than three years have elapsed from the time when you should have known about the complaint; or
- The date of the alleged act or omission giving rise to the complaint was before 6 October 2010.

You should make any complaint to the Legal Ombudsman within the period of six months from when you receive a final response from us.

Data Protection

We use the information you provide primarily for the provision of attorney services to you and for related purposes including:

- addressing correspondence and related documents to other parties as well as other agencies where relevant to the work we are doing for you; and
- maintaining the financial and other personal information we are required to keep under the professional rules we are subject to and by law, including our obligations to HM Land Revenue and Customs.

Our use of that information is subject to your instructions, all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((*EU*) 2016/679); the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI2003/24/26*) as amended, the Information Commissioner's Office and our professional duty of confidentiality. Where appropriate, we will obtain confidentiality agreements for any relevant external sources when dealing with or performing any contract in relation to your case.

We do not envisage sending any of your personal data outside of the UK or the EU, unless we are specifically required and permitted to do so as part of your case.

You have a number of rights as a data subject including the rights to:

- be informed of the data we hold on you;
- have any incorrect or out of date data rectified;
- cease to receive certain forms of communication or to restrict processing; and
- object to our use of data.

If you are unhappy about the way that we are managing your data you have a right to object to the Information Commissioner at:

- Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Storage of papers, file archiving and destruction

We are entitled to keep all of the papers and documents generated by us or received from you or other persons (including original documents) if some or any sums that you owe us have not been paid at the end of our work on the matter or after the termination of our retainer.

We continually work to reduce our carbon footprint and we now operate on the basis of having a full electronic copy of all our files saved on our servers. At the end of a matter, Fry Heath & Spence LLP reserves the right to destroy any paper files that we may hold, save that we will not destroy any original documents, assignments, licences or certificates that may be held. Our files are saved and archived electronically and these will be stored by us for as long as reasonably necessary, including for the purposes of satisfying any legal and regulatory requirements. For the avoidance of doubt, Fry Heath & Spence reserves the right to destroy all archived matters held in paper form or held on electronic servers, on any date not less than 7 years after the matter was archived.

We do not usually charge for retrieving papers or documents held in storage (either in electronic or paper form), however, we may charge for producing them to you or another person at your request, based on the time that we spend in retrieving or obtaining stored papers or documents.

If you do not wish our paper file to be destroyed in accordance with the above you must advise us in writing.

Governing Law and Jurisdiction

English law shall apply to the construction and interpretation of our relationship and the English courts shall have exclusive jurisdiction to resolve any disputes arising in relation to it.

These Terms and conditions will apply until varied or replaced with alternative Terms and Conditions agreed with you in writing. Any variation of these terms and conditions will be valid only if agreed in writing by a member of Fry Heath & Spence LLP.

Future communication

We may from time to time wish to send you information which we think might be of interest to you. This might be information about developments to the law that might be important to you and/or information about our practice. When we send any information to you, we will always give you the ability and option to stop receiving further communications. You may also contact us directly at any time if you do not want to receive information from us in the future.