

Terms of conditional fee agreement
between the Client and Marston Legal Services Limited
for the transfer up of judgment debt to the High Court for enforcement

This agreement is dated on the date on which you complete the webform for the transfer up of your judgment debt.

Parties

- (1) You (**the Client**)
- (2) Marston Legal Services Limited, registered under company number 05397925, of 12th Floor One America Square, London, United Kingdom, EC3N 2LS (**Marston**)

Recitals

- A. Marston is a subsidiary in the Marston Group, of which Marston Holdings Limited is another subsidiary (**MHL**).
- B. Marston is a legal services company in the business of carrying out, amongst other things, legal work to secure various writs and other orders from the court to enable the enforcement of unpaid debts owed to customers (**the Legal Work**). MHL is in the business of carrying out, amongst other things, High Court Enforcement work on behalf of various customers to whom debts are owed (**the HCE Work**).
- C. The Client has entered into arrangements with MHL for the HCE Work, pursuant to which MHL will seek to enforce debt owed to the Client. The Client wishes to enter into an agreement with Marston to record the basis of the parties' agreement as to the liability for and recoverability of legal fees charged by Marston for its Legal Work to enable enforcement action to be taken by MHL on behalf of the Client (the HCE Work).
- D. The parties understand that, upon MHL making a recovery of a debt as a result of its enforcement action for the Client, it shall pay over to Marston a sum equivalent to its legal fees for which the Client will be liable under this agreement.

Agreed terms

1. Interpretation

In this agreement, unless the context otherwise requires, the following words and expressions have the following meanings:

Claim: The Client's Claim against an Opponent for the transfer up of their debt to the High Court to enable enforcement action to be taken including but not limited to seeking of a liability order, writ of control, writ of possession, or such other enforcement as may be deemed necessary to recover the debt owed to the Client.

Conditional Fees: The fees that are conditional on the Client winning the case, made up of the Fees charged at the Normal Rates as set out in clause 4 below.

Disbursements: Expenses paid on behalf of the Client, such as court fees.

Enforcement Order: Any order which is granted by the court to enable enforcement action to be taken to recover the Claim from the Opponent, including but not limited to a liability order, writ of control and / or writ of possession.

Marston's Fees: The amounts which Marston charges for the work which it does on the Client's Claim, charged at the Normal Rates set out in clause 4 below.

Loses the Claim: Where the court dismisses the Client's Claim without making any Enforcement Order in its favour or where the Client discontinues the Claim on Marston's advice with no agreement or order for an Enforcement Order to be entered.

Normal Rates: The amounts which Marston charges for the work which it does on the Client's Claim, charged at the Normal Rates set out in clause 4 below, in the circumstances set out in this agreement.

Opponent: Any debtor or defendant against which a Claim is brought and any other party against whom the Client proceeds in this Claim or in claims heard with this Claim, or any one or more of them.

Recovery: The full or partial recovery of any sum which is the subject of an Enforcement Order.

Wins the Claim: Where the Client's Claim is finally decided in the Client's favour as a result of the court granting an Enforcement Order.

2. What is covered by this agreement

- 2.1 The Client's Claim.
- 2.2 Any court proceedings in the Claim.
- 2.3 Any steps taken to enforce an Enforcement Order.

3. What is not covered by this agreement

- 3.1 Any pre-action application in the Claim.
- 3.2 Any counterclaim against the Client.
- 3.3 Any application for permission to appeal or any appeal by the Opponent **OR** the Client.
- 3.4 Any appeal by the Opponent **OR** the Client against an interim order.

4. Fees and Disbursements

- 4.1 The provisions of the client care letter between the Client and Marston which may be issued from time to time will continue to apply save as varied by the terms of this agreement from the date stated at the beginning of this agreement.
- 4.2 Under this agreement, Marston's Fees (exclusive of VAT) are calculated by reference to the fixed legal costs recoverable under the Civil Procedure Rules for the pursuit of court proceedings relating to an Enforcement Order which, at the time of this agreement, are £51.75 plus VAT but may change from time to time at such time as the Civil Procedure Rules allow for an increase in fixed legal costs (the **Normal Rates**). Marston shall inform the Client in writing if any increase in the Normal Rates is permitted by the Civil Procedure Rules.
- 4.3 Marston's Fees shall be limited to those fixed legal costs which are recoverable.

5. What happens if the Client wins

- 5.1 If the Client Wins the Claim and a Recovery is made, the Client will be liable for Marston's Fees at the Normal Rates, together with Disbursements. In the event that a partial Recovery is made, any fees due to MHL will be deducted first before Marston's Fees and the principal debt which is the subject of the Enforcement Order shall be prorated as percentages of the total balance of the Recovery made and the Client will be liable for the prorated total of Marston's Fees.
- 5.2 The Client's liability for Marston's Fees pursuant to clause 5.1 above shall fall due immediately upon a Recovery being made and Marston shall be entitled to receive payment of such Fees directly from MHL before the balance of any Recovery is paid onto the Client by MHL.
- 5.3 Normally, the Client is entitled to seek recovery of Marston's Fees and Disbursements from the Opponent.
- 5.4 Marston shall receive all sums that the Opponent is ordered to pay which are the subject of a Recovery. Subject to clause 5.2 above, out of the Recovery, the Client agrees that Marston can take any Fees and Disbursements due to it under this agreement and pay the balance to the Client.
- 5.5 If the Opponent is ordered to pay some or all of the Client's costs, interest can be claimed on the amounts due from the Opponent from the date of the award. Marston is entitled to keep this interest to the extent that a Recovery of such interest is made from the Opponent.

5.6 If the Opponent does not pay all or any of the costs awarded to Marston in respect of any of Marston's Fees or Disbursements owed to the Client, Marston has the right to take recovery action in the name of the Client to enforce any judgment, order or agreement. The cost of doing this will be payable by the Client under the terms of this agreement. The Client agrees to cooperate fully with Marston in any such recovery action.

6. What happens if the Client loses

If the Client Loses the Claim or if it Wins the Claim but a Recovery is not made against the Opponent, the Client will not be liable for Marston's Fees but shall remain liable for Disbursements.

7. Value added tax (VAT)

VAT will be added at the rate which applies when the work is done to all of Marston's Fees. VAT is also payable on certain Disbursements.

8. Responsibilities

8.1 The Client's responsibilities include giving Marston full, honest and timely instructions, not asking Marston to work in an improper or unreasonable way, cooperating fully with Marston in the preparation of its Claim, and paying all amounts due to Marston within 14 days of receipt of an invoice unless Marston has already been paid via MHL pursuant to clause 5 above.

8.2 Marston's responsibilities include always acting in the Client's best interests, subject to Marston's overriding duty to the court, explaining to the Client the risks and benefits of taking legal action, and giving the Client the best information possible about the likely costs of the Claim and the different methods of funding those costs.

9. Termination

9.1 The Client can end this agreement in writing at any time. If the Client does not continue with the Claim, the Client must pay Disbursements. If the Client continues with the case and Wins the Claim, the Client will also have to pay the Conditional Fees for Marston's work.

9.2 Marston can end this agreement if the Client does not meet its responsibilities. If this happens, the Client will have to pay Marston's Fees at the Normal Rates for the work done to the termination date and Disbursements.

9.3 Marston can end this agreement in respect of any Claim(s) if it believes the Client no longer has a reasonable prospect of success. If this happens, the Client will only have to pay Disbursements.

9.4 Either Party can terminate this agreement upon giving one months' written notice in writing without cause. In the event of such termination, the terms of this agreement shall remain in full force and effect in respect of each Claim intimated prior to the date of termination unless either Party is entitled and so elects to terminate the agreement in respect of a particular Claim(s) pursuant to the terms of this agreement.

10. Severability

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 and 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 clause shall not affect the validity and enforceability of the rest of this agreement.

11. Conflict

If there is an inconsistency between any of the provisions of this agreement and the provisions of the client care letter, the provisions of this agreement shall prevail.

12. Governing law and jurisdiction

12.1 This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

13. Entire agreement

13.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances, and understandings between them, whether written or oral, relating to its subject matter, except for the client care letter which shall be entered into from time to time as varied by this agreement.

13.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement, save as aforesaid.

14. Contentious business agreement

Each party acknowledges and agrees that this agreement is not a contentious business agreement within the terms of the Solicitors Act 1974.

This agreement has been entered into on the date on which the Client completes the webform to instruct Marston and MHL to recover their debt. By completing the webform, the parties agree that they have contracted on the terms set out above.

