



Terms and Conditions

Version 1.3

Revision Date: 01/11/2022



07815 292 754



info@pforensic.com

TERMS AND CONDITIONS

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1. DEFINITIONS

1.1. Unless the context otherwise requires –

- a) 'The Appointor' means the lawyer, insurer, Government department, local authority, firm, or other body or persons instructing The Expert.
- b) 'The Expert' means the person appointed here-under to render expert advice and services, including the giving of evidence, but not formal advocacy.
- c) 'The Client' means the person(s), Government department, local authority, firm, or company to whom The Expert has been instructed to provide such advice and services.
- d) 'The Company' means pForensic Limited.
- e) 'Fees' means (in the absence of written agreement to the contrary) the reasonable charges of The Expert based on The Expert's normal hourly rate for work of the type instructed. A daily rate shall be applied to any day or part of any day of a hearing, including preparatory work and waiting time. Unless otherwise agreed, time spent travelling may be charged at the full hourly rate. The Company is registered for Value Added Tax (VAT) and VAT or the equivalent tax will be charged where applicable.
- f) 'Disbursements' means all reasonable expenses necessarily incurred in rendering expert advice and services, including the giving of evidence. By way of example, they include the costs of relevant equipment hire (including vehicle hire where appropriate), computer software costs, the cost of obtaining published documents, including those withdrawn, as well as all appropriate out of pocket expenses including car mileage, rail travel, air fares, reasonable refreshments and hotel accommodation where an overnight stay is necessary. VAT or the equivalent tax will be charged where applicable.

- g) References to the masculine gender shall be deemed to include the feminine.

2. INTRODUCTION

- 2.1. When The Company is instructed, we nominate an expert (The Expert) to take responsibility for The Appointer's case and we will advise which expert has been nominated, their contact details, and their approximate lead time. If The Expert is unavailable at any time, our office staff should be able to assist or take a message. The general office email address is: info@pforensic.com.

3. RECITAL OF APPOINTMENT

- 3.1. The Appointer has appointed The Expert to provide advice and services in accordance with these Terms of Engagement.

4. THE APPOINTER

- 4.1. The Appointer will –
- 4.1.1. Provide full instructions in writing (electronically via email or file sharing website) supported by legible digital copies of all relevant documents.
 - 4.1.2. Deal promptly with every reasonable request by The Expert for authority, information and documents.
 - 4.1.3. Not alter, or permit others to alter, the reports of The Expert.
 - 4.1.4. Ascertain the availability of The Expert for every hearing, meeting or other appointment at which The Expert's attendance will or may be required and give The Expert immediate written notification together with adequate notice.
 - 4.1.5. Unless otherwise agreed, pay in full The Expert's fees and disbursements irrespective of the outcome of any taxation of costs. All fees are subject to strict 30 days payment terms (see Section 7 – FEES AND DISBURSEMENTS).

4.1.6. In Legal Aid cases –

- a) Inform The Expert at the outset if the case is, or is expected to be, legally aided;
- b) Provide The Expert with sufficient details of the case and promptly answer any queries that will enable The Expert to prepare any required estimate of charges;
- c) Not require The Expert to provide any services before the grant of authority by the Legal Aid Board for his fees and disbursements;
- d) Apply to the Legal Aid Board for prior approval of The Expert's anticipated fees and promptly inform The Expert accurately of the outcome of the application;
- e) Apply as above for additional fees required by any further work not originally authorised;
- f) Make timely application to the Legal Aid Board or to the Court for interim and final payments for The Expert's fees and disbursements as invoiced and promptly remit to The Expert all such payments upon receipt;
- g) Use his best endeavours to ensure that The Expert's fees and disbursements are recovered in full by way of the Legal Aid Fund and in the case of the Crown Court from the Lord Chancellor's Department;
- h) So advise The Expert if he is a Legal Aid Franchise with devolved powers in the relevant category of work and ensure the prompt remittance of interim and final payments as invoiced;
- i) Use his best endeavours to ensure that The Expert's fees and disbursements are promptly remitted in full in the event of termination or suspension of a Franchise Agreement or of a Legal Aid Certificate. Where a taxation of costs is necessary, it will be applied for, pursued or defended (as applicable) in a timely manner.

- 4.1.7. In privately funded cases ensure that he is at all times in funds to discharge and promptly discharge the fees and disbursements of The Expert.

5. THE EXPERT

- 5.1. The Expert will –

- 5.1.1. Undertake only those parts of a case in respect of which The Expert considers that he has adequate qualifications and experience.
- 5.1.2. Use reasonable skill and care in the performance of the instructions received.
- 5.1.3. Act with objectivity and independence with regard to his instructions and, in the event of a conflict between his duties to the Client and to the Court or Tribunal, will hold his duties to the Court or Tribunal paramount.
- 5.1.4. Promptly notify The Appointor of any matter including a conflict of interest, or lack of suitable qualifications and experience which could disqualify The Expert or render it undesirable for him to have continued involvement in the case.
- 5.1.5. Endeavour to make himself available for all hearings, meetings and other appointments of which he has received adequate written notice.
- 5.1.6. Not without good cause, discharge himself from the appointment as Expert.
- 5.1.7. Preserve confidentiality save as expressly or by necessary implication authorised to the contrary.
- 5.1.8. Not negotiate with an opposing party or adviser unless specifically instructed by The Appointor so to do. For avoidance of doubt, this clause does not apply to any Order of a Court or Tribunal.
- 5.1.9. Attend such Meetings of Experts as Ordered by the Court or Tribunal or as required by The Appointor. At any such Meeting adhere strictly to the terms of reference set down in writing.
- 5.1.10. Provide all relevant information to allow The Appointor to defend The Expert's fees or disbursements at any taxation of costs.

- 5.1.11. Promptly respond to any complaint of The Appointor and within a reasonable time provide a statement of explanation or a means of rectification.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1. The Intellectual property rights of all original work created by The Expert shall remain vested in The Expert unless otherwise agreed in writing. The Expert asserts all his Moral Rights.

7. FEES AND DISBURSEMENTS

- 7.1. Expert hourly rates are viewed annually and are available upon request.
- 7.2. Fees are charged for time spent dealing with a case and for time spent at Court. Fees are calculated based on the time spent by The Expert dealing with the case, including (inter alia): telephone discussions, meetings online and in person, interviewing involved parties, reading and considering documents, visiting incident sites and inspecting vehicles, conducting calculations and computer modelling, conducting research, report writing and proof reading.
- 7.3. The Expert may present invoices at such intervals as he considers fit. Payment of each invoice is due on presentation, subject to any written waiver or indulgence granted by The Expert.
- 7.4. All fees are subject to strict 30 days payment terms (unless a prior agreement is in place).
- 7.5. Note: The Judicial Committee's Guidelines make a) payment upon a contingency fee basis unacceptable and b) the placing of pressure upon The Expert by The Appointor to provide extended credit terms or any other arrangement for inclusion in The Appointor's approved list of Experts improper, as they compromise the Expert's independence and impartiality.
- 7.6. For the avoidance of doubt in the following circumstances The Expert shall be entitled to charge fees on such basis as he considers appropriate:
- a) Where The Expert's time has been reserved by subpoena or otherwise for a specific hearing, meeting or other engagement, or,

b) Where specific instructions have been given to The Expert for an inspection/examination and report, and where, due to settlement of the dispute or any other reason not being the default of The Expert, the reservation of time has been cancelled and / or instructions have been withdrawn.

7.7. The Appointor and the Client shall be jointly and severally liable for payment of The Expert's fees and disbursements.

7.8. The Expert shall at his discretion be entitled to invoice and recover interest at 1.5% per month on all unpaid invoices after 30 days. The full amount of his administrative, legal and other costs of recovering unpaid invoices is chargeable. Unpaid invoices *will* be subject to interest at 1.5% per month over 90 days. Should an invoice remain unpaid after 180 days, we will take steps to recover the debt through the Courts. While an account remains unpaid, we may decline to accept additional instructions from The Appointer.

8. DISPUTES

8.1. In the event of a dispute over the amount of The Expert's fees such sum as is not disputed shall be paid forthwith irrespective of any set off or counterclaim which may be alleged.

8.2. Any dispute arising between The Appointor or The Client and The Expert shall be referred to Mediation in accordance with The Academy of Experts' Mediation Guidelines. Upon the application of any party, the Faculty of Mediation of the Academy of Experts will appoint a Mediator.

8.3. Any dispute or difference not resolved by Mediation as in (8.2) above within 30 days of the appointment of the Mediator shall be referred to a single arbitrator who, if not agreed upon by the parties within 14 days thereafter, shall be appointed upon the application of either party by the President of the Chartered Institute of Arbitrators.

9. INDEMNITY & INSURANCE

- 9.1. The Company maintains insurance to protect ourselves and our clients in the unlikely event of negligence. We are insured to a limit of £5 million (for professional indemnity).
- 9.2. The Company maintains public and products liability insurance with a claim limit of £5 million.
- 9.3. As an employer The Company maintains employers liability insurance with a claim limit of £10 million.
- 9.4. If you believe that these limits may be insufficient, please discuss it with us as soon as possible.

10. STORAGE OF DOCUMENTS

- 10.1. Documents are stored and/or archived entirely using cloud-based systems. The Company will securely store any electronic documents from The Appointer for the duration of the matter and for a period of 6 years from the date the matter is closed (the Retention Period).
- 10.2. We operate as a paper-free company, so we insist on documents being sent by secure electronic means (for example, secure file sharing websites). Where physical documents are handled (for example, photographs), we will securely store the documents for the shortest time period necessary and then return them to The Appointer by post (tracked delivery). Wherever appropriate, The Company will utilise a Professional Shredding Service Provider to dispose of all paper materials.