
Conditions of Business

kiddyandpartners.com

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Introduction

At Kiddy & Partners we value our reputation for high professional standards. We are committed to providing you with the highest quality of service and handling your instructions with professional skill, care and attention.

We believe it is important to establish a clear understanding of the basis upon which we provide our services. These Conditions of Business and the accompanying Letter of Engagement aim to do that and form the basis of the contract between you and us.

There may be parts of these Conditions of Business which are not immediately relevant to the work we are doing for you but, as our objective is to build a lasting relationship with our clients, we believe it is appropriate to provide you at the outset with a comprehensive description of the terms upon which we do business.

Communications

We believe it is essential that you are kept fully informed of progress in carrying out your instructions.

In addition to any specific methods of communication and reporting agreed with you, we operate a "Relationship Manager" system.

If you have any questions and/or queries concerning our service then please raise them with your Relationship Manager. The Relationship Manager will not necessarily undertake all or even the majority of your work. However, the Relationship Manager will maintain an overview of your affairs and will also have ultimate responsibility for ensuring that Kiddy & Partners satisfies your requirements.

We are happy to establish a method of reporting suited to your needs (for example monthly or quarterly reports, or face to face reviews).

Instructions

In appointing Kiddy & Partners to provide services to you, you are also authorising us to incur reasonable expenses on your behalf.

We shall not be responsible for any failure to advise or comment on any matter which falls outside the scope of your instructions or the services we have agreed to provide. We shall not be responsible for reviewing advice given to you under previous retainers unless we expressly agree with you to keep previous advice under review. Where we receive or could be given instructions in relation to the same matter from more than one client, those clients will be jointly and individually responsible for our fees unless we agree differently. Where we receive instructions from an agent, the agent and principal will be jointly and individually responsible for our fees unless we agree differently. A client can be an individual, firm, company and/or any other entity.

Charges

Cost is a central consideration in any business decision. Our charging practices therefore focus on providing a professional service, charging our clients a rate for the services which is demonstrably fair and reasonable.

We attempt to be flexible in our charging approach and are happy to consider with you a variety of alternatives including for example fixed fees, estimated fees, percentage fees based on specific criteria and daily rates. Which of these is appropriate will depend on the type of work and/or your preference.

As our time and expertise is the core element of our service, time spent is the predominant factor in determining our charges. Our aim always is to carry out your instructions at the level of seniority appropriate for the provision of an efficient and economic service.

We try to ensure that you are kept fully up to date with fees as they are incurred and we advise of any change in circumstances that has a bearing upon previous information given to you about fees. Unless we agree otherwise with you, we will update you on the level of fees at least every six months and at any time upon request.

As time devoted to your work cannot be reallocated elsewhere, unless specifically agreed in writing, we will generally charge for work even where the work you have instructed us on does not proceed to completion.

Cancellation and postponement

You may cancel the contract formed by our Letter of Engagement and these Conditions of Business by giving notice of such cancellation to Kiddy & Partners.

In the event of such cancellation, the following shall apply:

- where notice of cancellation or postponement is received by Kiddy & Partners more than 14 calendar days prior to the Commencement Date of any confirmed activity, you shall pay Kiddy & Partners a fee equal to a percentage of the Total Fees as set out in the following table:

No of calendar days' notice	Cancellation fee
More than 90	10% of the Total Fees
61 to 90	33% of the Total Fees
31 to 60	50% of the Total Fees
15 to 30	70% of the Total Fees

- where notice of cancellation or postponement is received by Kiddy & Partners less than 15 calendar days prior to the Commencement Date or any confirmed activity, you shall indemnify Kiddy & Partners in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Kiddy & Partners as a result of cancellation or postponement.

The parties acknowledge and agree that the cancellation fees referred to above are each a reasonable estimation of the losses which would be incurred by Kiddy & Partners as a result of cancellation or postponement of the provision of the Services or any confirmed activity.

Where a meeting is cancelled or postponed less than 14 calendar days in advance, you shall pay Kiddy & Partners the consultant's day rate for each consultant attending if the meeting was to be a full day meeting, or half of the consultant's day rate for each consultant attending if the meeting was to be half a day in duration or less.

Where a project that has been confirmed in writing by you is cancelled by you before service provision dates have been agreed a sum equivalent to one third of the Total Fees will be payable by you to Kiddy & Partners. Where a project that has been confirmed in writing by you is postponed for more than one month by you before service provision dates have been agreed, a sum equivalent to one tenth of the Total Fees will be payable by you to Kiddy & Partners.

Unless stated otherwise, the fee will be payable in total within 12 months of the date of this contract.

Expenses

Unless you instruct us to the contrary, we will take it that we have your authority to incur such expenses as we consider necessary in respect of the provision of the Services.

We may charge photocopying, document production and printing, faxes, travelling expenses (including mileage at £0.45 per mile), accommodation and subsistence costs, and psychometrics costs as separate expenses.

Our charges for certain expenses include an element of profit costs. These will be billed as such. A list of these expenses is available on request.

We may also charge you for postal and telephone costs incurred on your behalf in appropriate cases. This will usually be where they are international rather than domestic or where we arrange a telephone conference to accommodate two callers or more.

Value added tax

Any amounts are net of value added tax.

Value added tax will be charged at the appropriate rate on our fees and on those expenses that are subject to value added tax. Value added tax may not be payable if you are based outside the European Union.

Invoices

Every business appreciates the importance of regular cash flow.

We are no different and our cash flow is important to enable us to provide a professional service and to invest for the future. It is equally important for you to be aware on a regular basis of the fees and expenses which you have incurred. That being so, it is our general policy to render regular interim invoices.

This may not be appropriate for some types of work. For example, in some matters, work is undertaken over a short period and our invoice will normally be rendered on completion. However, we reserve the right to render interim invoices as and when we think necessary. Alternatively, we may agree with you regular periodic invoicing.

Your Relationship Manager is always willing to discuss with you the most appropriate invoicing procedures for any particular matter.

Payments

Our terms of business require payment to be made immediately upon commencement of the specified Services unless a different arrangement is made.

Otherwise, payment is required no later than 30 days from the date of invoice.

If any invoice is overdue for payment, we shall be entitled to refrain from continuing to do work for you. This applies to the matter to which the invoice relates and any other matter on which we may be working for you. We shall also be entitled to retain any documents and papers belonging to you and our papers, until all sums outstanding to us for any work are paid.

We may charge interest on unpaid bills (both before and after judgment) and will do so at the rate prescribed in the Late Payment of Commercial Debts (Interest) Act 1998 or if this Act does not apply, at 4% above Bank of Scotland plc base rate from time to time.

Complaints and termination of relationship

Our aim is to provide an excellent quality of service which matches your expectations and instructions.

If you are dissatisfied with any aspect of our service, please let us know as soon as possible.

To resolve swiftly any client dissatisfaction, we operate complaints handling procedures. If you want to discuss any aspect of the way in which your instructions are being undertaken and you do not wish to do so with the individual involved, please speak to your Relationship Manager, their details can be found in the Letter of Engagement.

If you remain dissatisfied or your complaint relates to your Relationship Manager then please speak directly with the **Chief Executive Officer, Michael Ward, who can be contacted at One Eleven, Edmund Street, Birmingham, B3 2HJ** or michael.ward@gateleyplc.com. Any complaint will be investigated promptly and thoroughly and an explanation of the investigation will be given to you. This will be in writing if required.

Where our engagement with you is entered into via email, you may be able to bring a complaint about our services via the European Online Dispute Resolution platform which can be found at <http://ec.europa.eu/odr>.

Our relationship is based on mutual trust and confidence. In the event of that coming to an end, it would be undesirable for us to continue to act. Accordingly, we believe it is right that you should be entitled at any time to cease instructing us and similarly we should be entitled at any time to cease to act for you (subject in our case to any overriding professional requirement on us to continue acting).

We may decide to stop acting for you only with good reason. For example, this may be if you do not pay an interim bill, if you do not make any payment on account when requested, if you do not pay any invoice of ours or we are subject to a conflict of interest. We will, where possible, give you advance notice of our ceasing to act for you.

You will be liable to pay us for all expenses and work carried out up to the time when we cease acting for you.

We reserve the right to keep all papers and documents, irrespective of the matter to which they relate, until all fees and expenses owed by you to us in relation to any matter are paid in full.

In the event that it becomes necessary for us to commence proceedings against you for non-payment of fees, expenses or other sums, you will be liable to pay our costs of doing so on a full indemnity basis.

Insurance, liability and third parties

We carry professional indemnity insurance for the services we provide. Contact details of our insurers are available on request.

Unless otherwise stated in the accompanying Letter of Engagement, our liability to you for the provision of services by, or any advice given or failed to be given by, Kiddy & Partners or any of its shareholders, officers, employees, agents or consultants (including, without limitation, any act or omission by or for Kiddy & Partners and any default in carrying out your instructions) is limited to £1,000,000. This amount:

- applies to all liabilities whether in contract, tort (including negligence), breach of statutory duty, breach of fiduciary duty, breach of retainer or otherwise;
- applies per act, omission, matter or transaction (or per series of related acts, omissions, matters or transactions); and
- includes all damages, claims, actions, proceedings, demands, awards, compensation, costs (other than defence costs), expenses and all other losses or liabilities.

Our liability to you in respect of the matters referred to above is also limited so as to be in proportion to our contribution to the overall fault for such matter, taking into account any contributory negligence by you, your other advisers or any other third party responsible to you and/or liable in respect of that matter. We shall not be responsible for any increased liability falling on us as a result of any limit which you have agreed with any third party or which otherwise falls on us as a result of the contributory negligence of any third party against whom you do not make recovery for any reason.

We exclude, to the extent permitted by law, any and all liability for any damages, claims, actions, proceedings, awards, compensation, costs, expenses and all other losses and/or liabilities to third parties who are not a client of ours in relation to the relevant matter.

No use may be made of any advice we give to you where such use would expose you or us to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America. We exclude any and all liability for damages, claims, actions, proceedings, demands, awards, compensation, costs, expenses and all other losses and/or liabilities arising out of or in connection with any such use of any advice we give to you.

You agree not to bring any claim in respect of loss and/or damage suffered by you arising out of and/or in connection with the services provided by us (including but not limited to negligence or non-performance of the services by us) against any individual shareholder, officer, employee, agent and/or consultant of Kiddy & Partners.

This restriction will not operate to limit or exclude the liability of Kiddy & Partners for the acts and/or omissions of any individual shareholder, officer, employee, agent and/or consultant of Kiddy & Partners. It is agreed that any individual shareholder, officer, employee, agent and/or consultant of Kiddy & Partners will have the right to enforce this clause under the Contracts (Rights of Third Parties) Act 1999.

You agree to indemnify us and keep us indemnified against any damages, claims, actions, proceedings, awards, compensation, costs and expenses and other losses and/or liabilities which arise from a third party obtaining from you any aspect of the advice provided by us, unless we have agreed in writing to accept liability to such third party or the third party was a client of ours in relation to that advice.

All third party rights are excluded and no third party may enforce the contract between you and us unless we expressly agree in writing to the contrary or as stated in these Conditions of Business.

We may accept liability to third parties in appropriate cases. We do this only where we expressly agree to do so in writing and in any event it is subject to these Conditions of Business to the extent that they refer to our liability. Our fees may be adjusted to reflect this additional risk.

If you wish to extend the limit of our liability for any particular matter then we may agree a revised limit in writing with you. Our fees may be adjusted to reflect this additional risk.

In acting for a company, we do not assume a separate legal responsibility for advising shareholders and/or directors and/or employees of the company unless specifically requested by such individuals to do so and the giving of such advice is the subject of a separate Letter of Engagement.

Each of the limitations and/or exclusions contained in these Conditions of Business is deemed to be repeated and apply as a separate provision for each of liability in contract (including material/ fundamental breach), liability in tort (including negligence), liability for breach of statutory duty and liability for breach of common law except our cap on liability which applies once to cover all of these bases of liability.

The above limitations do not limit and/or exclude our liability for death or personal injury due to our negligence, liability for our fraud or fraudulent misrepresentation and/or any other liability of ours which it is not permitted to limit and/or exclude as a matter of applicable law.

Confidentiality and conflicts of interest

All information regarding your business and affairs will be regarded as and kept confidential at all times unless you instruct us to disclose information or we are compelled by law to disclose it (for example, in certain criminal proceedings or money laundering cases).

In order to protect your interests, we cannot act or continue to act in circumstances where there is a conflict of interest, except in limited circumstances. If a conflict of interest arises during our dealings with you we will discuss the position with you and determine the appropriate course of action.

File storage

We will store details and other papers relating to your matters for such time as we judge reasonable or for such time as we are required by law to do so.

This is usually at least six years. Files or papers may be preserved by means of image processing or digital means. We shall dispose of files or papers at the expiry of the relevant storage period in accordance with our office procedures.

We do not normally make a charge for retrieving stored papers in response to new or continuing instructions to act for you. However, we reserve the right to make a charge based on our current hourly rates for the time we spend reading papers, writing correspondence and/or carrying out other work necessary to comply with your instructions. In all other circumstances, if you request the return of stored files or papers, we reserve the right to charge a fixed amount of £250 to retrieve and review the papers.

Fax transmissions and post

Communication by fax and post is a part of business but you must accept that transmission via fax and/ or post is not an entirely confidential method of communication.

You are responsible for ensuring that, when fax and/or post are used as a method of communication, the necessary safeguards are in place at the receiving point to maintain the confidentiality of the items sent to you.

Email and internet

We may communicate with you in relation to the work being carried out by us by email unless you specifically request that we must not do so.

Please note that emails and any attachments sent to you will not have been encrypted. They may therefore be liable to be compromised. Please also note that it is your responsibility to scan an email and attachments for viruses. Viruses and compromises of security are inherent risks in relation to email.

We do not, to the extent permitted by law, accept any liability (whether in contract, negligence or otherwise) for any virus infection and/or external compromise of security and/or confidentiality in relation to transmissions sent by email.

If you use any online internet service provided by us you agree and accept that it will be provided, in addition to the terms of these Conditions of Business, subject to the conditions of business relevant to that service which will be available to be accessed at the relevant website.

Data protection

We and you agree that we shall both comply with all applicable laws relating to the protection of personal data in effect from time to time (together, Data Protection Laws), in each case to the extent it applies to each of you and us.

In this section, the expressions 'process', 'personal data', 'data processor' and 'data subject' have the meanings given in Data Protection Laws. Where you supply us with personal data or instruct us to obtain personal data (Supplied Personal Data), you agree that we may process that personal data as data controller or as data processor depending on which processing activities we are undertaking as part of your instructions.

The types of Supplied Personal Data that we may process on your behalf as data processor include the names, email addresses and telephone numbers of your employees, your customers and potential customers (and their employees), your suppliers and potential suppliers (and their employees) and natural persons who have caused you, or to whom you may have caused, loss or damage together with details of any dispute or query you may have with any of those people. Any additional types of Supplied Personal Data may be identified in the Letter of Engagement. You warrant that:

- all Supplied Personal Data provided by you or on your behalf has been lawfully obtained;
- all necessary consents and data processing notices have been provided in relation to the processing of the Supplied Personal Data;
- you will not do or omit to do anything which will place us in breach of any Data Protection Laws; and
- you are lawfully entitled to provide, ensure the provision of or authorise us to obtain (as the case may be) the Supplied Personal Data for the purposes envisaged by your instructions to us (if necessary we can provide additional advice to you about this).

To the extent that we are processing the Supplied Personal Data as your data processor, the purpose of that processing is so that we provide services to you in accordance with your instructions. We shall:

- process the Supplied Personal Data only in accordance with your instructions (provided those instructions are within the scope of our Letter of Engagement) unless otherwise required by law or any regulatory body (in which case we shall, where permitted, inform you of that legal requirement before processing)
- not transfer or allow the transfer of the Supplied Personal Data outside the European Economic Area other than as permitted by Data Protection Laws, as required in order to carry out your instructions or as authorised by you;

- ensure that persons authorised to process the Supplied Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- implement such security measures as required to enable the Supplied Personal Data to be processed in compliance with Data Protection Laws, including:
 - (a) ensuring that access to the Supplied Personal Data is limited to our personnel who have a reasonable need to access it to enable us to perform our obligations and limit that access to those parts of the Supplied Personal Data necessary for those purposes; and
 - (b) taking reasonable steps to ensure the reliability of any of our personnel who we allow to have access to the Supplied Personal Data and to ensure that all those personnel are informed of the confidential nature of the Supplied Personal Data and are aware of our obligations relating to it;
- notify you without undue delay on becoming aware of a loss, or unauthorised access, disclosure or alteration, of any of the Supplied Personal Data and cooperate with you to resolve that issue; and
- at your expense, provide the assistance that you may reasonably require to help you to comply with your obligations to keep the Supplied Personal Data secure, allow you to inform a regulatory authority or data subject of a personal data breach, conduct a data protection impact assessment, consult with a regulatory authority regarding the processing of Supplied Personal Data or respond to requests made by data subjects under Data Protection Laws.

You authorise us to appoint sub-processors from time to time provided that we notify you of any intended changes concerning the addition or replacement of other sub-processors and we impose on any sub-processor (and ensure any sub-processor's compliance with) the terms in this section as if the processing being carried out by the sub-processor was being carried out by us (and we will be responsible for the acts and omissions of those sub-processors as if they were our own acts and omissions).

Whilst we are carrying out your instructions we will (on your written request): provide written details of our data processing activities in respect of Processed Personal Data; and on reasonable notice allow you to audit our compliance with the terms in this section (subject to any reasonable requirements or restrictions that we may impose to safeguard the personal data we hold on behalf of other clients or to avoid unreasonable disruption to our business).

At the end, or on termination, of your instructions we will return or delete all Supplied Personal Data (and delete any copies, except to the extent retention is required by law, for our reasonable record keeping requirements or to perform post termination obligations). The terms in this section will continue to apply for so long as we retain and process any Supplied Personal Data after termination.

We would like to send you and people within your organisation information that is relevant and of interest. You can share your preferences with us online at [\[insert link to relevant website page\]](#). You can change your preferences at any time.

Use of file sharing services

We acknowledge that we may from time to time be required by you to take information from file sharing sites.

Whilst these sites are a useful means of disseminating information, the confidentiality of data held in them is commonly not guaranteed or not backed by sufficient guarantees. We are therefore of the view that whilst we may download data from these sites, we should not upload any documentation or communication regarding your matter to any of these sites. If, nonetheless, we are specifically required by you to use file sharing sites to upload any documentation or communication, you waive your rights to the confidentiality of client communications in respect of that documentation or communication.

Money laundering

We are required by United Kingdom legislation and the law of the European Union to report to the relevant government agencies and authorities any evidence or suspicion of money laundering, the use of the proceeds of crime or terrorist financing.

We are prohibited from notifying you of the fact that a report has been made. This legislation also requires us to carry out customer due diligence by obtaining certain information which verifies your identity and any beneficial owners. Our Letter of Engagement contains details of the customer due diligence information that we may require but additional information may be required from time to time to comply with the relevant legislation and approved guidelines. Kiddy & Partners employ the services of electronic verification providers for these purposes. If we cannot carry out the customer due diligence verification measures required of us by law we are required to terminate our contract and relationship with you. If we have to terminate the contract with you for these reasons, you will be liable to pay us for all expenses and work carried out up to the time we terminate the contract.

Other businesses

Our holding company, Gateley (Holdings) Plc, also owns other businesses some, but not all, of which are regulated by the Solicitors Regulation Authority.

Where appropriate, we may refer you to one of those other businesses. However, other providers of similar services are available and you are not obliged to use a Gateley group business for those services.

General

Kiddy & Partners Limited is a private company limited by shares, incorporated in England and Wales under the Companies Act 2006.

All contracts entered into and/or advice provided in relation to our business by individuals who are shareholders, officers, employees, agents or consultants of Kiddy & Partners are entered into and/or provided on behalf of Kiddy & Partners and not such individuals personally. It is a condition of our engagement (subject to any relevant statutory provision limiting our ability to do so) that you will not bring any claim in respect of any loss, liability or damage against any of the shareholders, officers, employees, agents and/or consultants of Kiddy & Partners.

We reserve the right to assign our rights and/or obligations under our agreement with you to any business which is a successor to our current business.

Unless otherwise agreed, these Conditions of Business apply to any future instructions you give to us.

Your continuing instructions in this matter will amount to your acceptance of these Conditions of Business and any accompanying Letter of Engagement. Even so, we ask you to sign, date and return to us the Letter of Engagement which accompanies these Conditions of Business.

Jurisdiction

The arrangements between us (whether contractual or non-contractual) are governed by the laws of England and Wales.

We both agree to submit to the non-exclusive jurisdiction of the English courts in the event of any claim or dispute (whether contractual or non-contractual).

These Conditions of Business are important. Please keep them in a safe place for future reference.

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