

**CFA for use BETWEEN SOLICITORS AND COUNSEL on or after 1 November 2005**

This agreement forms the basis on which instructions are accepted by counsel from the solicitor to act under a conditional fee agreement and incorporates the standard terms agreed between APIL and PIBA on 31.10.05, which is available on both the APIL and PIBA websites and is incorporated in, but not annexed to this agreement . \*Paragraphs ... of the standard terms and conditions have been amended as shown and underlined on the copy annexed hereto.

This agreement is not a contract enforceable at law. The relationship of counsel and solicitor shall be governed by the Terms of Work under which barristers offer their services to solicitors and the Withdrawal of Credit Scheme as authorised by the General Council of the Bar as from time to time amended and set out in the Code of Conduct of the Bar of England and Wales, save that where such terms of work are inconsistent with the terms of this agreement the latter shall prevail.

Csl's Ref: ..... Sol's Ref .....

In this agreement "Counsel" means: \_\_\_\_\_ and any other counsel either from Chambers or recommended by counsel in accordance with clause 20 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. \_\_\_\_\_]

"Chambers" means members of chambers at \_\_\_\_\_

The solicitor provided Counsel with instructions, see copy attached, date stamped \_\_\_/\_\_\_/\_\_\_ and the documents listed there.

**What is covered by this agreement**

- The client's claim for damages for personal injuries against \_\_\_\_\_ suffered on \_\_\_\_\_ until the claim is won, lost or otherwise concluded, or this agreement is terminated,\* or part only of proceedings as set out below.  
*[If either the name of the opponent or the date of the incident are unclear then set out here as much detail as possible to give sufficient information for the client and solicitor to understand the basis of the claim pursued.]*
- Part only of proceedings, specifically: \_\_\_\_\_;
- Any appeal by the opponent(s);
- Any appeal the client makes against an interim order advised by Counsel;
- Negotiations about and/or a court assessment of the costs of this claim.

**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 application under any award of provisional damages that might be obtained in these proceedings or to vary any order for periodical payments that might be obtained in the proceedings.

**[NOTE: delete those parts of the proceedings to which the agreement relates or does not relate as appropriate]**

The case is likely to be allocated to the \*multi-track \*fast track and damages are likely to be in excess of \*£500,000\* £250,000, disregarding any possible reduction for contributory negligence.

**DELIVERY OF BRIEF FOR TRIAL:** The solicitor agrees to deliver the brief for trial of any issue including the assessment of damages not less than ..... weeks\*days before the date fixed for hearing.

**COUNSEL'S NORMAL FEES are as follows:**

Advisory work and drafting: in accordance with counsel's hourly rate obtaining for such work in this field currently: (hourly rate) £100.00

Court appearances:- [insert hourly rate]

**Brief fees** for a trial (allowing 5 hours per day in court) whose duration and hours of preparation are estimated as follows:

<u>Time estimate for trial</u>	<u>Hours of preparation</u>	<u>Estimated fee</u>
Up to 2 days	6	£1,600.00
3 to 5 days	12	£3,200.00
6 to 8 days	18	£5,050.00
9 to 12 days	24	£7,650.00
13 to 20 days	30	£11,400.00

**Brief fees** for interlocutory hearings whose duration and hours of preparation are estimated as follows:

<u>Estimated duration</u>	<u>Hours of preparation</u>	<u>Estimated fee</u>
Up to one hour	2	£300.00
One hour to half a day	3	£450.00
Half a day to one day	4	£650.00

Over one day will be charged as if it were a trial.

**Refreshers**, estimated at 5 hours in court at counsel's hourly rate currently obtaining for such work in this field: £500.00

**Renegotiating Counsel's fees:** to the extent that the hours of preparation set out above are reasonably exceeded then counsel's hourly rate will apply to each additional hour of preparation. If the case is settled or goes short, counsel will consider the solicitor's reasonable requests to reduce his/her brief fee set out above.

Counsels Success Fees:		Case Concludes:			
		at trial:	14 or 21 days before date fixed for trial	more than 14 or 21 days before date fixed for trial	Applicable row marked with a tick: ✓
CPR	Track	%	%	%	
<b>Road Traffic Accident Claims (for accident after 6.10.03)</b>					
45.17	Multi Track:	100	75	12.5	
	Fast Tack:	100	50	12.5	
45.18(2); 45. 19 (over £500,000)		100	75	More than 20 or less than 7.5	
<b>Employers Liability Claims (for injury sustained after 1.10.04)</b>					
45.21	Multi Track:	100	75	25	
	Fast Tack:	100	50	25	
45.22 (over £ 500, 000)		100	75	More than 40 or less than 15	
<b>Employers Liability Disease Claims (when letter of claim sent after 1.10.05)</b>					
45.23 (3)(a) Asbestos	Multi Track:	100	75	27.5	
	Fast Tack:	100	50	27.5	
45.26 Asbestos Over £ 250, 000		100	75	More than 40/ less than 15	
45.23(3)(d) RSI & Stress	Multi Track:	100	100	100	
	Fast Tack:	100	100	100	
45.26 RSI & Stress Over £ 250, 000		100	100	Less than 75	
45.23(e) Other disease claim	Multi Track	100	75	62.5	
	Fast Track	100	62.5	62.5	
45.26 Other disease claim Over £250,000		100	...	More than 75 or less than 50	
<b>Other Type of PI Claim</b>					
	Multi Track:	100	...	...	
	Fast Track:	100	...	...	

The reasons, briefly stated, for counsel's success fee are that at the time of entry into this agreement:

- the percentage increase is fixed by CPR 45.....[specify];
- the percentage increase is fixed by CPR 45.....[specify] but CPR 45.18\*, CPR 45.22\*, or CPR 45.26\* applies to this claim;
- the percentage increase sought is consistent with an industry-wide agreement dated \_\_/\_\_/\_\_ reached by representatives of both Claimants and Defendants under the supervision of the Civil Justice Council and there is no special reason to apply a different uplift in this case;
- the percentage increase reflects the prospects of success estimated in counsel's risk assessment which is\* not attached to this agreement
- the length of postponement of the payment of counsel's fees and expenses is estimated at \_\_ year(s), and a further increase of .....% relates to that postponement and cannot be recovered from the opponent.

The success fee inclusive of any additional % relating to postponement cannot be more than 100% of counsel's normal fees in total.

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

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

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

**[Additional counsel\* ]** \_\_\_\_\_

**Date signed** \_\_\_\_\_

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

**Solicitor/employee in Messrs:** \_\_\_\_\_

**The solicitors firm acting for the client**

By signing and today returning to counsel the last page of this agreement the solicitor agrees to instruct counsel under the terms of this agreement and confirms that the Conditional Fee Agreement between the solicitor and client complies with ss. 58 and 58A of the Courts and Legal Services Act 1990 as amended.

**DISCLAIMER:** Counsel is not bound to act on a conditional fee basis until both parties have signed this agreement.

## READY RECKONER

Prospects of "Success"	% Increase
100%	0%
95%	5%
90%	11%
80%	25%
75%	33%
70%	43%
67%	50%
60%	67%
55%	82%
50%	100%

**COUNSEL’S RISK ASSESSEMENT**

**[To help counsel make a Risk Assessment and give a Statement of Reasons for Conditional Fees in Personal Injury Cases]**

- 1 The Solicitor has agreed with the client 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. The solicitor has\*not included an element relating to the postponement of payment of basic charges.
- 2 The following stages of the proceedings have been completed: \*pre-action protocol, statements of case, disclosure, exchange of evidence as to fact, exchange of expert evidence, case management conference(s), other (please specify)..... Attempts to settle the claim have failed; the defendant’s latest offer (if any) was .....; the client’s latest offer (if any) was ..... (see letter(s) dated ..... & .....).
- 3 Counsel estimates the overall **prospects of success**, taking all risk factors into account, in the region of ..... %. This overall assessment is made irrespective of the date for delivery of the brief.
- 4 Csl’s reasons for setting the % increase at the level(s) stated in the agreement are:

*[N.B. The ordinary risks of litigation and facts set out elsewhere in this form are deemed to be incorporated into this statement of reasons and do not need to be repeated here.]*

**5 Further considerations:**

- Current APIL/PIBA 5 Agreement? √/x
- Case requiring screening? √/x
- Csl has reason to believe the client is/may be, a child or patient √/x
- A leader is likely to be needed √/x
- This Statement of Reasons is to be attached to the CFA? √/x

6. Csl’s **decision**: \*Accepted; Rejected &/or advised alternative funding / ADR

7. Csl’s note of the **next step** due to be taken (if instructed on conditional fees) & any comment:  
.....

Screened by ..... on ..... Signed by screener  
.....

**Signed by Csl..... Dated .....**