



DAMAGES BASED AGREEMENT (DBA)

This Agreement is dated: [REDACTED]

PARTIES

We, Avita Legal, Caroline House, 115-125 Bradshawgate, Bolton, BL2 1BJ "the solicitors" You, [REDACTED], the Client, of [REDACTED]

1. Definitions

"The Act" means the Courts and Legal Services Act 1990;

"You", "Client", "Your" - means you, the person(s) entering into this agreement who has instructed the representative to provide advocacy services, litigation services (within section 119 of the Act and is liable to make payment for those services);

"Representative" "Us" "We" "Our" - means Avita Legal Ltd, the person/business providing the advocacy services, litigation services to which the damages-based agreement relates;

"Costs" means the total of the representative's time reasonably spent, in respect of the claim or proceedings, multiplied by the reasonable hourly rate of remuneration of the representative;

"Expenses" means disbursements incurred by the representative;

"Payment" means that part of the sum recovered in respect of the claim of compensation/damages awarded that the client agrees to pay the representative, and excludes expenses but includes, in respect of any claim or proceedings to which these regulations apply, any disbursements incurred by the representative in respect of counsel's fees;

"Court" The County Court

"Lender" - A company that has provided you with credit.

"Broker" - The company that spoke with you / sold you the credit and/or insurance

"The FOS" - The Financial Ombudsman Service

"The FSCS" - The Financial Services Compensation Scheme

"Success" The claim is successful where the Lender, Broker, FOS or FSCS and/or any other party, whether or not contacted by us, grants a final award or makes an offer either in full or part settlement of your claim relating to the commissions, policy or policies which form the subject matter of your instructions to us.

"Compensation" Any offer or payment. Such an offer and/or award can include an amount of money and/or a reduction and/or set-off an outstanding balance(s) owed to your Lender and/or Broker. This list is not exhaustive and relates to any financial benefit accruing to you, or accruing to any accounts you hold, as a result of your complaint;

2. What work is covered

Your instructions and/or the scope of our services extend to: -

STAGE 1

- Writing a letter of complaint on your behalf, setting out the basis of your financial mis-selling/unfair relationship/undisclosed commission/unaffordable lending case, including establishing the alleged breaches and quantification of losses;
- Liaising with your Lender, Broker, FOS or FSCS on your behalf as is necessary in order to progress your case;
- Making a Data Protection Act 2018 and/or other such type requests for disclosure of personal information on your behalf;
- Providing you with all necessary advice regarding your complaint.

STAGE 2

- All the services in "Stage 1" as above, subject to our discretion in deciding to accept your instructions and us thereon providing you with our written advice to progress a civil claim should your complaint be rejected;
- PLUS:
 - Any advice or representation in respect of litigation in the civil courts; (Except any advice, representation or work relating to any application made by your opponent or any application required to be made by you, under Parts 23 & 24 of the Civil Procedure Rules 1998)
 - There will be a time limit (limitation period) in which you can bring any civil claim;

3. Funding

This agreement is a Damages Based Agreement constituted in accordance with the Damages Based Agreements Regulation 2013. The funding of your complaint/claim is related to the two stages of work referred to in section 2 above.

You hereby confirm that should your claim be successful and you are awarded compensation, you agree to pay us:

a) STAGE 1

Redress awarded for a claim(s)	The maximum percentage rate of charge	The maximum total charge (£)
1 - £1,499	30 %	£420
£1,500 - £9,999	28 %	£2,500
£10,000.00- £24,999	25 %	£5,000
£25,000.00-£49,999	20 %	£7,500
£50,000 or above	15 %	£10,000

All figures above are subject to VAT.

Our fees are also payable in the event a lender negotiates and/or pays your compensation directly to you. In the event the lender pays your compensation directly to you, our fees are due within 14 days of you receiving any such payment.

b) STAGE 2

- The sum of 50% of any compensation awarded including VAT; plus
- Travel Expenses (only where a court hearing is necessary) calculated at £0.45 per mile or where applicable the cost of a train ticket;
- Any costs (including fixed costs under Part 45 of the Civil Procedure Rules 1998) paid or payable by the Lender/Broker;
- Any sum in respect of disbursements incurred by us in respect of court fees or counsel's fees.

If you are unsuccessful with your case, you will not have to pay any costs to this firm unless this agreement has ended pursuant to section 8, as a result of your breach of this agreement upon which you will be liable to pay for: -

- Any expenses, costs and disbursements incurred on your behalf as set out in this section; and
- The work which we have done. This will be calculated by reference to the time actually spent on your claim at guideline hourly rates;
- For all such work, reasonable charges will apply to cover the work completed to date;

4. Payments

Upon execution of this Agreement, you irrevocably direct any and all third-parties, including but not limited to lenders and their representatives, to remit all compensation payments otherwise payable to you directly to us.

Out of that money, you agree to let us deduct our appropriate success fee in accordance with section 3 of this agreement. We will then pay the balance to you subject to the deduction of disbursements incurred on your behalf.

Our fees are also payable in the event a lender negotiates and/or pays your compensation directly to you.

If you have an outstanding balance with your Lender they may use all, or part of, your compensation to pay this outstanding balance meaning that you may not receive any payment. In this event, our Success Fee will still be calculated against the full compensation amount

As an outcome of their review of the motor finance industry the Financial Conduct Authority may impose an industry-wide or specific consumer redress scheme. If such a scheme is put in place our Success Fee will still be payable to us on consideration of the work we have completed on your behalf.

If You or We receive an interim payment in respect of damages, you agree that we may take an appropriate pro-rata payment in respect of the Success Fee together with a reasonable amount in respect of expenses already incurred or anticipated.

In the event the lender pays your compensation directly to you, our fees are due within 14 days of you receiving any such payment.

After The Event (ATE) Legal Expenses Insurance

Furthermore, and in addition, if you win your claim at either stage, you will be liable to pay any After The Event (ATE) insurance premium for any policy of insurance you may have taken out with an insurer. ATE insurance premiums, along with Success Fees, are unfortunately no longer recoverable from your opponent for your type of claim in the event your claim is successful. Your liability to pay any premium is a liability to the insurer, not this firm. However, you agree that we may retain sufficient monies from any compensation you receive to pay that premium directly to the insurer on your behalf. Accordingly, if you win, you must pay that premium out of your compensation in addition to any unrecovered Basic Charges, Success Fee and VAT.

We have advised you to take out ATE insurance with CLAIMPROTECT SP an insurer based in the Cayman Islands, at a cost of £200 inclusive of Insurance Premium Tax (IPT) at the current prevailing rate as this is a reasonably priced policy with good cover. CLAIMPROTECT SP is not FCA regulated so neither the Financial Services Compensation Scheme nor the Financial Ombudsman Scheme apply to this cover. We are not specialist insurance brokers and therefore if you wish you can review the ATE insurance market and choose another product. If you do not then we will assume that you are happy with our choice. Please note if Insurance Premium Tax increases your policy will increase accordingly. For example:

1. If the claim succeeds: You will have to pay for the ATE insurance out of your compensation. You do not have to pay for it now.
2. If the claim fails: The ATE insurers will pay for your expenses, such as a specialist report and court fees, and for any Defendant costs and the cost of the insurance policy itself. Therefore, if the case fails and you have followed our advice and the claim was not fraudulently or unreasonably brought, there will be no charge to you.

If you have before the event legal expense insurance, they may be able to provide similar cover without any deductions from your compensation. It is therefore vital that you look to see if you have any such cover and advise us if you have so that we can obtain cover. Please forward evidence of such cover within the next 7 days.

5. Reasons for setting the amount payable by you

In contemplation of the level of amount payable by you, we have had regard to a number of factors. The reason why we have set the amount of the payment at the level agreed (as stated above) is as follows: -

- The likelihood that litigation will be a requirement;
- The level of expertise and experience needed to advance and navigate litigation in this area;
- The likelihood that your opponent will be legally represented by solicitor(s) or an internal legal department(s);
- The complexity of the legal issues that an insurance mis-selling/non-disclosure of commissions claim encompasses;
- The requirement for legal documents and court documents to be drafted by us on your behalf;
- The likelihood of the requirement of counsel experienced in these types of matters at hearings;
- The usual level and extent of disclosure of documentation provided by your Lender and/or Broker;

6. Responsibility for work

The person(s) responsible for dealing with your case will vary, however your case will always be supervised by Hazra Akuji of Avita Legal Limited, who is a qualified solicitor. We will try to avoid changing the people who handle your

work but if this cannot be avoided, we will tell you promptly of any change and why it may be necessary.

7. Client information

- i. Your objective is to obtain a fair award with the least hassle in the shortest time possible;
- ii. The issues involved in your particular case include: obtaining a settlement in respect of establishing the upholding of a complaint and obtaining compensation against your Lender, Broker, FOS or FSCS and/or obtaining a compensation award in respect of your financial mis-selling case, agreeing quantum with your Lender, Broker, FOS or FSCS and/or their agents and following all lines of enquiry related to your Customer Agreement;
- iii. The next steps to be taken will be completing this 'No Win No Fee' agreement and preparing the letter of complaint for submission to your opponent(s);
- iv. The options available to you are that we will attempt first to have all documents disclosed and then negotiate settlement with your opponent; if that is unsuccessful, we will consider progressing your claim through the FOS or the FSCS;
- v. Our level of service: we will aim to reply to letters and other communications from you and others promptly, but it will not always be practical to do so the same day. We will not report to you for the sake of doing so, but normally only when there has been some development;
- vi. Timescale: a case of this sort, if settled, may be concluded within 3-6 months and occasionally much sooner. It may take around 12-18 months to resolve the dispute finally.

8. Our & Your responsibilities

Our responsibilities

We must:

- explain to you the risks and benefits of taking legal action in the form of making a complaint to your Lender, Broker, FOS or FSCS;
- give you our best advice about whether to accept any offer of settlement;
- give you the best information possible about the likely costs of your case;
- provide you with a good standard of service.

Your responsibilities

You must:

- give us instructions that allow us to do our work properly;
- not ask us to work in an improper or unreasonable way;
- not deliberately mislead us;
- co-operate with us;
- attend as necessary on any expert and at any court hearing
- preserve documents relevant to your case, even where harmful to it.

9. Potential breaches of this agreement

- i. If you fail to cooperate with us in the conduct of your case or provide us with misleading information.
- ii. If you cancel this contract either expressly, or by ceasing to provide us with instructions. For the purposes of this clause, you shall have ceased providing us with instructions if you fail to respond, within 28 days, to any correspondence from us, whether written, by telephone or any other means, which requests a response. Please note: you have a legal right under The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 ('the CCR') to cancel this contract within 14 days of entering into it, by informing us of the decision to cancel (a form is enclosed with this document for this purpose, although the form is not necessary so long as you make a clear statement to us setting out the decision to cancel). This clause will not apply if you choose to exercise your right to cancel under the CCR.
- iii. If you instruct other solicitors or another claims management company (or other such similar organisation), before our work on the case is finished.
- iv. If you die before your case for compensation/damages is concluded.
- v. If you reject our opinion about making a settlement with your Lender, Broker, FOS or FSCS.

10. Termination

This agreement will come to an end and we shall be under no obligation to undertake any further work on your behalf in the following circumstances:

- The claim is successful and you have paid to us the fees and expenses referred to at section 3 (Stage 1(a) to (b)) or Stage 2 (a) to (e)) of this agreement.
- The claim is unsuccessful.
- Both parties agree to end the agreement by mutual consent.
- Whether your claim is successful or not, you commit a breach of one or more of the potential breaches of this agreement set out at section 8. (i-iv) and we

exercise our right to treat this agreement as at an end and bill our costs to you in accordance with section 3 of this agreement.

- We consider that there are insufficient prospects of success or the risks in continuing with your claim further are too great.

11. What risk of legal costs do you face?

If you have read this Agreement carefully, you will appreciate that, except in the circumstances set out at section 3 (Stage 1(a) to (b)) or Stage 2 (a) to (e)) of this agreement, you will not end up with any responsibility for fees and expenses to this firm.

12. Agent Appointment

12.1 You acknowledge and accept that if we are found to be in breach of our funding agreements with Omax International (OI) resulting in an "Event of Default" under the funding agreements, OI shall be appointed to act as your agent such that OI shall be authorised to do all such things as OI considers necessary or desirable in connection with the Claim(s).

Your authorisation for OI to act on your behalf in respect of clause 12.1 shall include, amongst other things:

a) dis-instructing the solicitors and appointing of another firm of solicitors as agreed between you and OI in writing (the "Appointed Solicitors") to pursue the claim(s); and
b) executing all such notices, instructions, documents or otherwise as may be required to give effect to the dis-instruction of the Solicitors and the appointment of the Appointed Solicitors which, for the avoidance of doubt, shall include terminating this Agreement and entering a new damages-based agreement (DBA) with the Appointed Solicitors.

12.2 Should you require any further information in relation to our funding arrangement you may contact our office

12.3 By signing this Agreement, you agree to do all such acts necessary to assist OI and to give effect to the matters listed in this clause 12.

13. Identity disclosure and confidentiality requirements

We are entitled to refuse to act for you if you fail to supply appropriate proof of identity for yourself or for any principal whom you may represent. We may arrange to carry out an electronic verification of your identity if we consider that a saving of time and cost will be achieved by doing so. The cost of any such search will be charged to you. If the amount is in excess of £10 including VAT, we will seek your prior agreement. Solicitors are under a professional and legal obligation to keep the affairs of the client confidential. This obligation, however, is subject to a statutory exception: Legislation on money laundering and terrorist financing has placed solicitors under a legal duty in certain circumstances to disclose information to the Serious and Organised Crime Agency. Where a solicitor knows or suspects that a transaction on behalf of a client involves money laundering, the solicitor may be required to make a disclosure. If, while we are acting for you, it becomes necessary to make such a disclosure, we may not be able to inform you that it has been made, or of the reasons for it, because the law prohibits 'tipping-off'. Where the law permits us, we will tell you about any potential money laundering problem and explain what action we may need to take. Our firm may be subject to audit or quality checks by external firms or organisations. We may also outsource work. This might be for example typing or photocopying or costings, or research and preparation to assist with your matter. Information from your file may therefore be made available in such circumstances. We will always aim to obtain a confidentiality agreement with

the third party.

We may have to disclose documents in order to progress the case and that subject to this you will not reveal any confidential information relevant to your case.

14. Client care

Our aim is to offer all our clients an efficient and effective service at all times. We hope that you will be pleased with the work we do for you and the result that we achieve. However, should there be any aspect of our service with which you are unhappy, please raise your concern in the first place with the assistant dealing with your matter on a day-to-day basis. If you still have queries or concerns, please contact Hazra Akuji at this address; Avita Legal, Caroline House, 115-125 Bradshawgate, Bolton, BL2 1BJ or at ha@avitalegal.co.uk.

The firm has a Complaints Procedure document, which is enclosed herewith. Your right to complain might relate to the way in which your matter is being handled, or the fee we are seeking from you. However, we would point out that if all or part of such a fee remains unpaid, we may be entitled to charge interest - any such entitlement would be set out in our Terms and Conditions of Business and/or on the reverse side of the bill.

If you remain dissatisfied at the end of our case process, you would then be at liberty to contact the Legal Ombudsman, whose address is PO Box 15870, Birmingham, B30 9EB. Their telephone number is 0300 555 0333. Their e-mail address is enquiries@legalombudsman.org.uk. Their website is www.legalombudsman.org.uk. That organisation is the statutory body to whom you may refer your case, once we have concluded our professional obligation to try to resolve it. The time limits for you to make a case to the Legal Ombudsman are one year from you becoming aware of your right to complain and twelve months from our final response to the case.

We hold professional indemnity insurance and, should you so request, we would provide you with the name and contact details of our professional indemnity insurer, and details of the territorial coverage of the insurance.

The Law Society is a designated professional body for the purposes of the Financial Services and Markets Act 2000, but responsibility for regulation and case handling has been separated from the Law Society's representative functions. The Solicitors Regulation Authority is the independent regulatory body of the Law Society, and the Legal Cases Service is the independent case handling body of the Law Society.

15. Cancellation

You may cancel the contract within 14 days of entering into the contract. We must stress that any cancellation will need to be made within 14 days of entering into the contract to avoid paying any fees or costs to Avita Legal Limited. A form for you to cancel the contract has been provided to you (please note you may cancel the contract by notifying us by any other means).


16. Acceptance of Terms

We look forward to acting for you on your case(s). We are unable to accept you formally as a client of the firm until you have signed and returned the copy of this letter to us in the enclosed self-addressed envelope or via E-Signature

Please sign and return

I/We can confirm that I/we have read, understood and accept the terms of this agreement

Signature(s)	Date: []
[Client full name] [Address]	

Signed for Avita Legal Limited 	Date: []
Avita Legal Limited Caroline House 115-125 Bradshawgate Bolton BL2 1BJ	



Please **tick** if you would like us to commence working on your case immediately – otherwise we will wait 14 days to begin working on your case.

Complaints Procedure

We are committed to providing a quality legal service to all our clients. Consequently, it is essential, when something goes wrong or any client believes they have reason to complain, that we have effective procedures to assist complete and early resolution of the problem. Only by doing so can we hope to maintain the quality standards we have set, and improve them by learning from what may have gone wrong and what our clients tell us.

The Procedure

Although not essential, in making your complaint it would be helpful to us if you could provide details of your concerns in writing (if you have not already done so). If you would prefer not to have to do this, please arrange to see us and we will be pleased to take details from you.

What will happen next

1. We will register your complaint on our Register (for monitoring and management information purposes).
Timescale: Within 2 days of receipt of complaint.
2. We will acknowledge receipt of your complaint, set out our understanding of it and request your confirmation or seek any necessary clarification. We will also confirm who will deal with your complaint.
Timescale: Within 3 days of receipt of complaint.
3. We will then commence investigation of your complaint. This may involve one or more of the following steps:
 - a) We will ask the case worker who acted for you to provide us with a response to your complaint within 5 days.
Timescale: Within 1 day;
 - b) We will then examine the response and the file against your complaint and, if necessary, speak to the case worker.
Timescale: Within 3 days of receipt of the response and file;
 - c) The firm's client care director will consider your complaint in the light of what the file reveals and the case worker's response.
Timescale: Within 7 days
4. The firm's client care director will then write to you with a detailed response and invite you to meet with us to discuss and hopefully resolve your complaint.
Timescale: Within a further 3 days
5. If a meeting between us take place we will write to you to confirm what took place and detailing any agreed solution that was reached.
Timescale: Within 2 days of the meeting
6. If a meeting is declined or is for some reason impractical, we will write to you again in an endeavour to resolve the complaint to our mutual satisfaction.
Timescale: Within 5 days of the meeting being declined
7. If, at a meeting or from your written reply to our detailed written

response, you remain dissatisfied with what we have said and how we propose resolving your complaint, we will arrange for our decision to be reviewed. This may happen in one of the following ways: -

- a) Our own review of our handling of your complaint and why you are dissatisfied with our decision
Timescale: Within 5 days
 - b) By arranging for someone else in the firm who is entirely unconnected with the complaint to review how it was handled and the decision taken.
Timescale: Within 10 days
 - c) By asking our local law society or another local firm of solicitors to review our handling of, and the decision on, your complaint (if they are willing to do this). This might take the form of mediation or some other type of alternative dispute resolution.
Timescale: Within 10 days
8. After the review has taken place, you will be informed of the outcome.
Timescale: Within 5 days of the conclusion of the review.
 9. If you still remain dissatisfied with how your complaint has been handled and the decision on it, we will write to you confirming our final position on your complaint and explaining why we consider our handling of it, and our decision (and the result of any review), were reasonable. If you remain dissatisfied at the end of our complaints process, you would then be at liberty to contact the Legal Ombudsman, whose address is PO Box 6806, Wolverhampton, WV1 9WJ. Their telephone number is 0300 555 0333. Their e-mail address is enquiries@legalombudsman.org.uk. Their website is www.legalombudsman.org.uk. That organisation is the statutory body to whom you may refer your complaint, once we have concluded our professional obligation to try to resolve it. The time limits for you to make a complaint to the Legal Ombudsman are one year from you becoming aware of your right to complain and twelve months from our final response to the complaint.



Cancellation Form

RIGHT TO CANCEL

14 Day Cooling-Off Period: You have the right to cancel your Claim(s) free of charge within the 14 days following the date that you provide your signature to us without giving any reason.

If you cancel your Claim(s) within the Cooling-Off Period, then you will owe Avita Legal nothing, unless your lender has approved a Refund within this period. In this case, Avita Legal shall be entitled to charge you the Success Fee as outlined in the Damage Based Agreement and Terms of Engagement that you entered into with Avita Legal.

If you cancel your Claim(s) outside the Cooling-Off Period, our Success Fee will remain payable for any Refund that has been approved by your lender up to the date of your cancellation, or that is approved by your lender after your cancellation.

Please refer to the Damage Based Agreement full details of our Success Fee.

Copies of the Damage Based Agreement and Terms of Business by post or email (contact details are at the bottom of this Form).

Avita Legal, Caroline House, 115-125 Bradshawgate, Bolton, BL2 1BJ

I hereby give notice of my intention to cancel my contract for the supply of services provided by Avita Legal as set out in the Terms of Engagement provided to me.

Name of Claimant:

Address of Claimant:

Claim Reference(s): (Please give the Claim Reference(s) of the Claim(s) you wish to cancel/terminate)

Signature of Claimant:

Date: