**Terms and Conditions**

Effective from 30th June 2014 (date of posting on [www.midasfides.co.uk](http://www.midasfides.co.uk))

It is hereby declared that any person or organisation having dealings with David Gunnersen either in his personal capacity or professional capacity trading as “Midas Fides” shall be bound by the following terms and conditions by virtue of having been notified of the existence of these terms and the fact that they are posted on this website in the public domain, (in accordance with Judge Devlin’s ruling in *David Gunnersen v BTplc, Slough County Court, 19th May 2014, case 3YM06482, Unfair Contract Terms Act 1977)*:

**– Imposition on Time**

1. David Gunnersen’s time is worth £200.00 per hour, until such figure be amended at a future date and notified in these Terms and Conditions.
2. Imposition by a supplier of goods/services of a “time-slot” during which David Gunnersen is expected to attend, whilst refusing to make and keep a fixed time appointment and shall be considered an unfair practice under the Unfair Contract Terms Act 1977, and shall incur a charge on the supplier at the rate of £200.00 per hour payable to David Gunnersen in person.
3. Failing to keep a pre-agreed fixed time appointment shall incur the charge of £200.00 per hour (apportioned in ten minute periods) for time imposed kept waiting, and prior travelling and preparation, with a maximum period of five hours per late/missed appointment, and minimum two hours’ time charge
4. Serving upon a supplier of goods/services of a notification of the existence of these terms on [www.midasfides.co.uk](http://www.midasfides.co.uk) in writing by Royal Mail first class post, five working days in advance of said time-slot or appointment shall bind the supplier to these terms if the supplier fails to cancel the proposed service delivery and time slot in writing to David Gunnersen to be received by David Gunnersen before the intended time-slot
5. Attendance by the supplier during the imposed time slot, rather than at a pre-specified fixed time appointment shall not absolve the supplier of liability to pay £200.00 per hour for the whole period of the imposed time-slot for attendance
6. Time spent by David Gunnersen trading as “Midas Fides” shall only be charged to professional clients at the pre-agreed rate of £200.00 per hour to the extent that this has been specifically agreed in Midas Fides’ Client Agreement and subsequent Letter of Engagement except that it shall nevertheless be charged at this rate for all activities associated with defending an accusation or unfounded complaint in relation to Midas Fides’ professional services subsequently found upon investigation by the Financial Ombudsman Service or other appropriate authorised professional body to have been unfounded and resulting in rejection of a claim for compensation.
7. All time spent enforcing liability for the time-spent charge at £200.00 per hour will also be charged at the rate of £200.00 per hour, and the liable party will also be fully liable for all other direct, indirect and associated costs of enforcement.

**Financial Risk, Nanny State, Compensation, and Presumption of Innocence**

Any person, organisation or entity having dealings with David Gunnersen either in a private capacity or professionally as “Midas Fides” understands and is bound to accept that:

1. No investment or financial planning strategy is free of risk.

There are different types of risk as well as different levels.

(A fuller explanation can be gleaned from my a paper “Risk/Reward in Investment” available on request)

It is not the case that any person, client or entity can be presumed to have previously existed in a “risk-free state” and that acceptance and implementation of a recommended financial plan inherently represents a deviation from that risk-free state, deserving of compensation if aspirations are not fulfilled.

All personal and financial client situations and strategies, including inaction, involve elements and different levels of risk.

1. By taking advice, clients accept the inherent unpredictability of many, if not all, of the variables in a financial plan, relating to rates of return, inflation, future taxation, future means-testing (deprival of benefit), legislative changes, personal circumstances.
2. The fact that an investment, which is subject to a level of risk, into which an investor knowingly entered on my recommendation, subsequently may fall in value is not in itself a basis for a complaint or compensation. It is only a basis for a complaint if the level and type of risk was not adequately explained and understood, and was self-evidently unsuitable for a client’s personal circumstances and objectives, and the client was pro-actively encouraged and persuaded to enter into a self-evidently inappropriate plan of action.
3. I reject and abhor the notion that if an undesirable event happens to one individual, it must necessarily be considered the fault of another person or entity, deserving of compensation, either imposed on that entity or on Society at large through, for example, taxpayer-funded State compensation.

If a workman falls off a ladder while on my property, it is nobody’s fault but his.

End of story.

The obsession with imagined “corporate liability” for accidents, setbacks, undesirable outcomes etc. fuelled by the hated “Health and Safety” Nanny-State, and the complicity of the insurance industry and lawyers in claims compensation liability cover, has seriously disrupted the normal operation of individual responsibility for risk-assessment and behaviour, as well as depriving many children of the opportunity to “learn through mistakes”.

A similar process is evident in the misapplication of compensation culture and misdirected/misapplied investor protection in the financial services sector.

1. It is not possible to give a completely numerically objective assessment of the quantum of risk or volatility in any investment or financial planning strategy, so any shortfall (or excess return) in a long term planning assumption is not the “failure” of a plan or recommendation, warranting “compensation”, but is an inescapable consequence of the inherent unpredictability of the financial markets and environment. Consequently, numerical deviation of an actual financial plan’s outcome from an assumed measure of risk and volatility cannot alone be accepted as the basis for a complaint and compensation.
2. Midas Fides welcomes the valuable role that proper financial services regulation plays and has played in maintaining high standards of professionalism and particularly in excluding unsuitable people from acting in a professional advisory capacity. Investors and financial planning clients are entitled to full legal and regulatory protection in relation to my activities and I will deal with any complaint openly and honestly, but I will not accept the hijacking of the “Nanny State compensation culture” by those making unfounded unsubstantiated complaints on the off-chance that the balance of probabilities may be weighted in favour of the “consumer” due to the erosion of the “presumption of innocence” in the way that the Regulator and Financial Services Ombudsman handles complaints.

Unfounded “frivolous and vexatious” complaints will be taken seriously and may have serious consequences if found to be vindictive.

1. It is not accepted that a Regulator and/or Ombudsman may impose a penalty on the basis that a proposed and recommended financial plan “might have” exposed a client to an unidentified level of risk/volatility even though it actually didn’t, the client didn’t complain, and no money was lost. I will not accept such abuse of regulatory powers, and will expose any person acting for a Regulator in such an abusive fashion to a level of risk to themselves.
2. My professional advisory fees, which are always agreed in advance, are not refundable in the event that the client does not accept or implement the recommendations.

They are payable for the delivery of the advice and recommendation, not contingent upon implementation.

They are also not refundable in the event that reasonable long term planning assumptions made at the time of the recommendation may not materialise due to the inherent unpredictability of investment markets and the financial environment.

They are not refundable if the client relationship is terminated by either party.

1. I will not accept “tarring with the same brush” in relation to reputational damage incurred by other sectors of and practitioners in the financial sector.

I will only accept being judged on the basis of my own delivery of professional services, integrity and ethics.

Defamation of my personal reputation or that of my profession will be treated seriously and may have legal consequences.

David Gunnersen

Midas Fides.

**NB:** In accordance with Judge Devlin’s ruling in *David Gunnersen v BTplc, Slough County Court, 19th May 2014, case 3YM06482, Unfair Contract Terms Act 1977)* in which I successfully sued BT plc, an organisation’s terms and conditions are binding upon any customer having dealings with it if:

* The Terms and Conditions are posted on a website in the public domain

and

* Attention was drawn to them in writing referring to them, to the customer

regardless of whether:

* The customer received the letter
* The customer read and understood the letter
* The customer read and understood the Terms and Conditions
* The customer agreed to the Terms and Conditions
* The Terms and Conditions were fair

provided the customer does not object to the Terms, and continues to have dealings.