

TERMS OF BUSINESS

1 Definitions

- 1.1 The terms **you, your** and **yours** shall be construed as referring to any person for whom we are instructed to act, including any associate of such person.
- 1.2 The term **associate** shall include, without limitation, any subsidiary or parent company, any subsidiary of any such parent company, any other entity in which any such subsidiary or parent company has a material economic interest, whether direct or indirect, and any directors of any such companies or entities.
- 1.3 The terms **we, us, our** and **ours** shall be construed as referring to Michael Simkins LLP and its successors and assignees, including any merged firm and any company or entity that is owned (legally or beneficially) by Michael Simkins LLP.
- 1.4 The terms **partner** or **partners** shall be construed as referring to a member or members of Michael Simkins LLP and the use of these terms shall not connote a partnership for the purposes of the Partnership Act 1890.

2 Application

This document sets out our terms of business which, together with our engagement letter, form the terms of engagement that apply to all work we do for you. We review our terms of business from time to time and will send to you revised terms of business as and when appropriate.

3 Payment terms

- 3.1 Our invoices are payable immediately on presentation. If our invoices are not paid within 30 days, we shall be entitled to charge you interest on a daily basis at 2 per cent over the base rate of HSBC Bank plc from the date of delivery of the invoice until payment. We also reserve the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998. If we are asked to advise any of your associates, you shall be liable for the payment of any fees and expenses invoiced to them.
- 3.2 In accordance with the Solicitors' Code of Conduct, you are entitled to complain about any bill we submit to you. As with other complaints (see paragraph 16 below), we shall endeavour to resolve any difficulty as quickly as possible. If the matter cannot be resolved between you and your client partner, please contact one of our client care partners, Paddy Grafton Green or Cyrus Fatemi. You also have the right to object to our bills by making a complaint to the Legal Ombudsman, and/or by applying to the court for an assessment under Part III of the Solicitors Act 1974. Please note that the firm may be entitled to charge interest on all or part of a bill that remains unpaid.

4 Value added tax and expenses

- 4.1 All of our fees are quoted exclusive of VAT which, where applicable, shall be charged at the appropriate rate, unless we are satisfied that the supply of legal services to you is zero-rated, exempt or outside the scope of VAT.
- 4.2 In addition to our fees, we make charges for photocopying, printing, faxes, electronic bank transfers and money laundering checks (see paragraph 15 below). All of these charges are subject to VAT. A list of our current charges is available on request.
- 4.3 We may also need to incur expenses on your behalf in connection with the work we do for you, such as court fees, travel costs, courier charges, stamp duty, Counsel's fees and expert's costs. Such expenses are known as disbursements and we shall seek reimbursement of the same from you. VAT is payable on some, but not all, disbursements. We shall not incur any disbursement over the value of £1,000 without your prior authorisation.
- 4.4 We shall normally only instruct Counsel, foreign lawyers or other professional advisers, or undertake foreign travel or pay stamp duty or other taxes or duties on your behalf, if we have been put in funds by you to pay such disbursements. To the extent that we do not ask to be put in funds, you undertake promptly to indemnify us for all disbursements reasonably incurred by us or agreed with you. If we act in conjunction with any other professional advisers in the United Kingdom or overseas, you shall remain responsible for paying their fees directly and you shall reimburse us if we settle their fees on your behalf.

5 Charges in relation to litigation and arbitration

- 5.1 Whilst you are primarily responsible to us for our fees in a litigation matter, it may be that a court or arbitrator shall order another party to the litigation or arbitration to pay your costs. Even if an order or award for costs is made in your favour, the party ordered to pay those costs may ask the court to adjudicate as to the amount which is to be paid. This process is called **assessment of costs**. In certain circumstances the court may summarily assess costs on the day of the hearing where the hearing lasts for less than one day. Historically, the effect of the assessment system means that no litigant shall ever recover all the costs expended by him from his opponents. In our experience, litigants who obtain an order or award for costs in their favour are likely to recover between 60% and 85% (assuming that the party

ordered to pay those costs has the funds to meet that liability). The result is that successful parties in litigation or arbitration shall be out of pocket for some costs.

- 5.2 For the avoidance of doubt, you are liable to pay our fees in full notwithstanding that a court or arbitrator has made an order or award that another party pay a lesser amount in relation to those costs or, if no order has been made, that the court may have awarded a lesser amount. Notwithstanding any order or award for costs made in your favour you remain liable to pay our invoices in accordance with our terms of engagement.

6 Money on account

Monies received by us for your account shall be placed on deposit through our client account, accruing interest in your favour. Following despatch of an invoice to you, we shall be entitled to apply all or part of this account (including interest) from time to time in payment of our fees, charges and disbursements and to account to you for any balance. We reserve the right at any time to ask for funds or additional funds to be placed on account with us to secure the payment of our fees and expenses. Monies held for you shall be placed with reputable bankers in England. Our bank is currently HSBC Bank plc. We shall not be responsible for any loss occurring out of any default on the part of our bankers. We have the right to decline to act or terminate our services with immediate effect if payment of the amount requested on account is not made.

7 Confidentiality, data protection and copyright

- 7.1 Except under compulsion of law or the Solicitors' Code of Conduct 2011, we shall keep your affairs confidential and shall not without your express or implied consent disclose to any third party the fact that we are advising you or the matters on which we are advising you or the content of our advice. We may however (a) disclose details of any particular matter in which you have instructed us to our insurers for the purposes of making or discussing with them any claim you make against us and (b) disclose to legal directories and otherwise in connection with the marketing of our services that you are a client of the firm. You may disclose our identity to any third party but you agree that you shall not, without our consent, use our name in any document intended to have legal effect or represent that we have agreed to its issue.
- 7.2 In the course of acting for you, we may collect and hold your personal information (which may include sensitive personal data). We shall use such information for the purpose of advising you and, unless you notify us otherwise in writing, for informing you about our own products and services. By instructing us to act, you consent to the processing, use and disclosure of personal information provided by you to us for these purposes. Depending upon the nature of the work carried out for you, your personal information may be transferred outside of the European Economic Area where the data protection regulations may not offer the same protection as within Europe. In any event, we shall at all times comply with all relevant laws and regulations.
- 7.3 You shall be entitled to use and copy all documentation created by us for you in connection with the work we undertake for you. However, all copyright and other intellectual property rights in the documentation created by us and relating to or connected with the work we undertake for you shall remain our property. We shall be free to use any such documentation to form the basis of any other work we do and to use our intellectual property to give any advice to other clients. This paragraph shall not affect our duty of confidentiality to you.
- 7.4 For legal advice privilege for clients which are companies or organisations, our client shall include without limitation any person who at a particular point in time reasonably appears to us to be authorised to communicate with us.

8 Storage of papers

After completing work for you, we are ordinarily entitled to keep all your papers and documents while money is owing to us. We shall keep our file of papers (except for any of your papers which you ask to be returned to you) for at least six years after sending you our final bill and on the understanding that we have your authority to destroy the file at any time after the expiry of this period (including any papers which are your property). We shall not destroy documents you ask us to deposit in safe custody.

9 Reliance

- 9.1 Our advice is given exclusively for the purpose of the matters on which we advise you and is for your benefit and, without our prior written consent, may not be used for any other purpose, or disclosed or distributed to any person other than your other advisers (who may not rely on such advice), or otherwise as may be required by law.
- 9.2 We advise only on the laws of England and Wales. If you require advice on the laws of other jurisdictions, we shall, with your prior agreement, instruct lawyers practising those laws to give that advice.

10 Proportionate liability

- 10.1 Where we and/or (without prejudice to paragraph 11.6 below) any of our partners, employees or consultants are liable to you and another person (such as another professional adviser) is also liable to you for the same matter or item, our liability (together with that of our partners employees and consultants) to you shall not be increased:

(a) by any limitation of liability you have agreed with that other person; or

- (b) because of your inability to recover from that other person;
- beyond what it would have been had no such limitation been agreed and if that other person had paid its share.
- 10.2 Without prejudice to paragraph 10.1, if, as a result of any exclusion or limitation of liability agreed by you with any other person, the amount for which we are able to claim contribution against such other person in connection with any claim by you against us arising out of or in connection with the engagement is reduced, our liability to you for such claim shall be reduced by the amount by which the amount for which you are entitled to claim from such other person is reduced.
- 10.3 Any partner, employee or consultant of ours (either individually or collectively), may enforce the terms of this paragraph 10 against you under the Contracts (Rights of Third Parties) Act 1999. The consent of such partners, employees and consultants is not necessary for any variation (including any release or compromise in whole or in part of any liability) or termination of this paragraph 10.
- 10.4 This paragraph 10 shall have effect only so far as it is not prohibited by law or under the rules of any regulatory body having jurisdiction over us and any relevant partner, employee or consultant.
- 11 Professional liability, limitation of liability and insurance**
- 11.1 We shall perform the engagements on which you contract us with reasonable care and skill and acknowledge that we shall be liable to you for losses, damages, costs and expenses (**losses**) caused by our negligence or default, subject to the following provisions.
- 11.2 We shall not be liable if losses are due to the provision of false, misleading or incomplete information or documentation, or due to any acts or omissions of any person other than any partner, employee or consultant of ours.
- 11.3 We shall not be liable for any indirect or consequential loss or damage, whether for costs expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with our contract with you.
- 11.4 Nothing in this paragraph 11 shall impose on us any liability additional (in amount or nature) to that which we would have if this paragraph 11 were not present. Furthermore, the presence of this paragraph 11 shall not preclude any defence which we would have if this paragraph 11 were not present.
- 11.5 Nothing in our terms of engagement shall exclude, restrict (or prevent suit in respect of) any liability arising from fraud or reckless disregard of professional obligations or other liabilities which cannot lawfully be limited or excluded.
- 11.6 Any advice given to, or other work done for, you by a partner, employee or consultant of ours shall be given by that person on behalf of us and not in his or her individual capacity and no such person shall have any personal responsibility to you for that advice or other work. If, as a matter of law, a duty of care would otherwise be owed to you by any partner, employee or consultant of ours, such duty is hereby excluded, and you shall not bring any action against any partner, employee or consultant of ours in connection with this engagement. Any partner, employee or consultant of ours (either individually or collectively) may enforce the terms of this paragraph 11 against you under the Contracts (Rights of Third Parties) Act 1999.
- 11.7 We maintain professional indemnity insurance cover in accordance with the Solicitors' Indemnity Insurance Rules, as set out by the Solicitors Regulation Authority. Minimum mandatory cover is provided by Underwriters at Lloyds' (Syndicate 1955), care of Libra Managers, Regis House, 45 King William Street, London, EC4R 9AS. Our professional indemnity insurance covers all territories.
- 12 Electronic communication**
- In the course of dealing with your matters, we may communicate with you and others by e-mail unless you notify us that you do not wish us to do so. There are risks in sending information electronically (including but not limited to the security risks of interception, unauthorised access and viruses). Accordingly, neither we nor our partners, employees or consultants shall be liable for any unauthorised interception, use or disclosure, or error, loss, damage or omission arising from or in connection with the electronic communication of information or our reliance on information received by e-mail except in the case of our wilful default or dishonesty.
- 13 Investment business**
- 13.1 We are not authorised by the Financial Services Authority. As a result, we can only provide certain limited services relating to regulated investment activities where these are closely linked with the legal work we are providing to you. We shall therefore assume that you have made the decision to enter into any transaction on which we are advising on the basis of your own evaluation and such investment, financial or commercial advice as you have taken or may decide to take. Nothing we may write, say or do should be taken as advice on the merits of any investment activity (whether under the Financial Services and Markets Act 2000 or otherwise). Further, it is not part of our role to communicate any invitation or inducement to engage in any investment activity either to you or on your behalf and nothing we may write, say or do should be taken as such an invitation or inducement. You are solely responsible for any decision you take to negotiate or enter into any proposed transaction in investments and should do so based on your own assessment of its merits and risks. If you are in doubt over any of these matters, you should seek advice from an appropriately qualified financial adviser.
- 13.2 Notwithstanding the previous paragraph, we are included on the register maintained by the Financial Services Authority so that we can carry on insurance mediation activity, which is broadly advising on, selling and administering insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated

by the Solicitors Regulation Authority. The register can be accessed via the Financial Services Authority website at <http://www.fsa.gov.uk/register>.

- 13.3 The Law Society is a designated professional body for the purposes of the Financial Services and Markets Act 2000, but responsibility for regulation and complaints handling has been separated from the Law Society's representative functions. The Solicitors Regulation Authority is the independent regulatory body for solicitors and the Legal Ombudsman is the independent complaints handling body for complaints made against solicitors.
- 14 Insider List**
- You must tell us if you need us to keep an insider list in line with your responsibilities under the Market Abuse Directive (2003/6/EC) or equivalent conditions. Any list we give you will contain personal and confidential information, so you must keep this confidential and use it only for the purposes of complying with your market abuse responsibilities.
- 15 Money laundering**
- In order to comply with the laws on money laundering and terrorist financing, we are required to take steps to verify the identity of all clients, understand who owns and controls any client that is not an individual (and, where appropriate, identify such persons), and obtain information on the purpose and intended nature of our clients' instructions. We therefore operate a money laundering compliance procedure that, amongst other things, requires us (a) to ask you for certain identification documents both at the beginning of your relationship with us and periodically during the course of our relationship, and (b) to ask questions relating to the purpose and intended nature of your instructions. We reserve the right to carry out third party checks on your identity (for which we make an administrative charge) and otherwise verify through third party sources any information you give to us, and by instructing us you consent to us carrying out such checks. If we know or suspect that you are involved in money laundering or terrorist financing, we shall (as we are obliged to do by law) make an immediate and confidential disclosure to the appropriate authorities and we shall not be able to inform you that such a disclosure has been made. In such circumstances, we may refuse any request to return files or documents and we shall have no liability for any delay or failure to carry out your instructions.
- 16 Complaints**
- 16.1 We are confident that we will provide a high quality service to you and that we will keep you informed of the progress of all matters which we are handling for you. If there is any aspect of our service with which you are not entirely satisfied, please contact one of our client care partners, Paddy Grafton Green or Cyrus Fatemi.
- 16.2 We shall endeavour to resolve any difficulty or disagreement as quickly as possible. If for any reason we are unable to resolve any problem, the Legal Ombudsman has formal powers to resolve complaints about lawyers. Information about the Legal Ombudsman and how to complain to the Legal Ombudsman can be found at www.legalombudsman.org.uk. Alternatively, we can provide you with all relevant details on request.
- 17 Termination**
- 17.1 You may terminate our engagement at any time by giving notice to us in writing.
- 17.2 We may cease to act as your solicitors if:
- (a) we are required to do so by law or by the Solicitors' Code of Conduct 2011;
 - (b) any of our invoices is not paid within 30 days of being rendered or we consider that payment of our fees and expenses may be at risk, provided always we give you reasonable notice; or
 - (c) in any other case where we have good reason, provided always we give you reasonable notice.
- 17.3 Following termination of our engagement (for whatever reason) you shall remain responsible to discharge our fees and charges, and any disbursements incurred by us, up to the date of termination together with VAT (where applicable). The provisions of these terms of business relating to confidentiality and copyright (paragraph 7), reliance (paragraph 9), proportionate liability (paragraph 10), professional liability and limitation of liability (paragraph 11), money laundering (paragraph 15) and governing law (paragraph 20) shall continue to apply.
- 18 Invalidity**
- If, at any time, any provision of our terms of engagement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the legality, validity or enforceability of any other provision of our terms of engagement shall not be affected.
- 19 Minimum requirements of the Solicitors Regulation Authority**
- If at any time our terms of engagement do not comply with the minimum requirements prescribed by the Solicitors' Regulation Authority or otherwise prescribed under English law, those minimum requirements shall apply notwithstanding any provision of our terms of engagement.
- 20 Governing Law**
- Our terms of engagement shall be governed by, and construed in accordance with, English law. Each of you and us irrevocably submits for all purposes in connection with our terms of engagement to the jurisdiction of the English courts.