

TERMS OF BUSINESS

1 Application

- 1.1 These terms and conditions will apply, except where other terms are specifically agreed in writing, to all advice and other services which we provide to persons for whom we are instructed to act, including any associate or associates of such persons. The terms **you, your** and **yours** shall be construed as referring to any and all such persons and associates.
- 1.2 An **associate** will include without limitation any subsidiary or parent company of you and any subsidiary of any such parent company and 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 expressions **we, us, our** and **ours** mean 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 expressions **partner** or **partners** mean a member or members of Michael Simkins LLP and use of these expressions shall not connote a partnership for the purposes of the Partnership Act 1890.

2 Money on Account

Monies received by us for your account will 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 and expenses 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 will be placed with reputable bankers in England. Our bank is currently HSBC Bank plc. We will 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.

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 will be liable for the payment of any fees and expenses invoiced to them.
- 3.2 If you have any query about an invoice, please contact us straight away. Your rights to challenge the amount of fees charged will be subject to the Solicitors Act 1974.

4 Value Added Tax and Expenses

- 4.1 Please note that all of our fees are quoted exclusive of VAT and VAT (where applicable) will be charged at the rate (currently 17.5%) that applies when the work is undertaken, unless we are satisfied that the supply of legal services to you should be zero-rated or exempt.
- 4.2 Expenses (also known as disbursements) may also need to be incurred in connection with the work we do for you, such as court fees, photocopying and printing costs, travel costs, courier charges, stamp duty, Counsel's fees and expert's costs and you will have to pay these expenses. VAT is payable on some of these expenses. We will 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 expenses. To the extent that we do not ask to be put in funds, you undertake promptly to indemnify us for all such expenses 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 will remain responsible for paying their fees directly and to reimburse us if we settle their fees on your behalf.
- 4.3 We will not incur any expense over the value of £1,000 without your prior authorisation.

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 will 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 will 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 will 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 these terms and conditions.

6 Confidentiality and Ownership of Information

- 6.1 Except under compulsion of law or the Solicitors' Code of Conduct 2007, we shall keep your affairs confidential and will 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 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 will not, without our consent, use our name in any document intended to have legal effect or represent that we have agreed to its issue.
- 6.2 You will 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 and all original ideas created by us and relating to or connected with the work we undertake for you remain the property of Michael Simkins LLP. We will be free to use any of the documentation to form the basis of any other work which we do and to use the intellectual property and original ideas to give any advice to other clients, provided that we do not breach our duty of confidentiality to you.
- 6.3 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 tasked with communicating with us.

7 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 will 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 will not destroy documents you ask us to deposit in safe custody.

8 Proportionate Liability

- 8.1 Where we and/or (without prejudice to paragraph 10.6 below) any of our partners, employees or consultants are liable to you and another person (such as a 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 will 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.

- 8.2 Without prejudice to paragraph 8.1, 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.
- 8.3 Any partner, employee or consultant of ours (either individually or collectively), may enforce the terms of this paragraph 8 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.

- 8.4 This paragraph 8 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.

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 will, with your prior agreement, instruct lawyers practising those laws to give that advice.

10 Professional Liability and Limitation of Liability

- 10.1 We will perform the engagements on which you contract us with reasonable care and skill and acknowledge that we will be liable to you for losses, damages, costs and expenses (**losses**) caused by our negligence or default, subject to the following provisions.
- 10.2 We will 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.
- 10.3 We will 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.
- 10.4 Nothing in this paragraph 10 shall impose on us any liability additional (in amount or nature) to that which we would have if this paragraph 10 were not present. Furthermore, the presence of this paragraph 10 will not preclude any defence which we would have if this paragraph were not present.
- 10.5 Nothing in our agreement with you 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.
- 10.6 Any advice given to, or other work done for you by a partner, or employee or consultant of ours will be given by that person on behalf of us and not in his or her individual capacity and no such person will 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 will 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 10 against you under the Contracts (Rights of Third Parties) Act 1999.

11 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, unauthorized access and viruses). Accordingly, neither we nor our partners, employees and consultants will 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 between us or our reliance on information received by e-mail except in the case of our wilful default or dishonesty.

12 Investment Business

- 12.1 We are regulated by the Solicitors' Regulation Authority. Where we provide services to you, we are acting as your legal adviser. We are not authorised by the Financial Services Authority under the Financial Services and Markets Act 2000 and, 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.
- 12.2 We will assume that you (or any associate) have made or (will make) the decision to enter into any transaction on which we are advising on the basis of your (or their) own evaluation and such investment, financial or commercial advice as you (or they) 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).
- 12.3 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 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 and otherwise verify through third party sources any information you give to us. If we know or suspect that you are involved in money laundering or terrorist financing, we will (as we are obliged to do by law) make an immediate and confidential disclosure to the appropriate authorities and we will 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.

14 Your Satisfaction

- 14.1 We are confident that we will be able to provide a high quality service and will try to keep you informed of the progress of the matters which we are handling. If there is any aspect of our service with which you are not entirely satisfied, please contact us. If you prefer you may raise the matter with either Paddy Grafton Green or Cyrus Fatemi.
- 14.2 We will endeavour to resolve any difficulty or disagreement as quickly as possible. If for any reason we are unable to resolve any problem, the Law Society provides a complaints and redress scheme, details of which will be supplied to you upon request.

15 Termination

- 15.1 You may terminate our engagement at any time by giving notice to us in writing.
- 15.2 We may give written notice at any time that we shall cease to act as your solicitors if:
- (a) it becomes required or advisable by law or by our professional ethics for us to cease acting for you;
 - (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; or
 - (c) in any other case we give you reasonable notice.
- 15.3 Following termination of our engagement (for whatever reason) you will remain responsible to discharge our fees, and expenses incurred by us, up to the date of termination, together with VAT (where applicable), and the provisions of these terms and conditions relating to confidentiality and ownership of information (paragraph 6), proportionate liability (paragraph 8), reliance (paragraph 9), professional liability and limitation of liability (paragraph 10), money laundering (paragraph 13) and nature of our agreement (paragraph 18), shall continue to apply.

16 Invalidity

If at any time any provision of our agreement with you is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this agreement; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this agreement.

17 Minimum requirements of the Solicitors Regulation Authority

If at any time our agreement with you or any of its provisions does not comply with a minimum requirement prescribed by the Solicitors' Regulation Authority or otherwise prescribed under English law that minimum requirement shall apply, notwithstanding any provision of our agreement.

18 Nature of our Agreement

Our terms of engagement, comprising the above terms and conditions and any other document incorporating them by reference shall comprise our contract with you which shall be binding on you and us and shall be interpreted and governed by English Law and shall be subject to the exclusive jurisdiction of the courts of England and Wales.

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