

## Terms of Engagement for Legal Services in the Cayman Islands

### **Our client(s): terms of present and future engagements.**

The person(s) named in our accompanying letter (the "**Letter**"), but not any other person, affiliates or other related entities, is/are our client(s). Each such person is jointly and severally responsible for all obligations due to us and each represents that she/he/it has full authority to instruct us.

Unless we otherwise agree in writing, the Letter and these terms and conditions set forth our entire agreement for rendering professional services for the current and any future engagements. We may at any time and from time to time change, alter, adapt, add or remove portions of these terms and conditions and, if we do so, will post any such changes on our website. Your continued use of our services following any such change shall be deemed and constitutes your acceptance of those changes and you acknowledge and agree to be bound to the current version of the relevant terms and conditions at all times and that unless stated in the current version of the terms and conditions, all previous versions shall be superseded by the current version.

**No General Retainer.** As a matter of policy we will not accept a general retainer to act for you and reserve the right not to accept instructions in respect of any matter, or to decline to continue to act further on the grounds of conflict of interest or otherwise (as to which our determination shall be final).

**Right to allocate work as appropriate.** We reserve the right at our absolute discretion to allocate and re-allocate work to such member(s) of staff as we deem appropriate due to the nature of the matter, business requirements or staff absences.

**Fees.** Unless otherwise agreed services will be rendered at our standard hourly rates for our lawyers and other personnel prevailing at the time the services are rendered. We reserve the right to add a weighting to our fees in cases involving urgency, novelty, unusual responsibility, complexity or where a formal legal opinion is required. We reserve the right to amend our charge out rates from time to time.

**Costs.** In addition to fees for professional and staff time, you will also pay for certain costs and expenses such as charges for messengers and couriers, faxes, computerised research, word processing, printing and photocopying, scanning, travel, transcripts, parking, filing fees, searches (e.g., court searches, insolvency searches, searches of the register of companies and other relevant searches), telephone charges, secretarial overtime (where attributable to your special needs), notary charges, barristers, experts and other consultants retained on your behalf and other similar costs and expenses. Further details of the rates and manner in which we charge for these costs is available on request. You are also responsible for all costs and expenses we advance on your behalf. Where significant or unusual third party payments are required (e.g., counsel fees, expert fees, special studies, extensive transcripts or filing fees) we will normally forward the charge to you for

direct payment or obtain advance funds from you to cover the cost. If we advance funds for you they will be added to our invoice.

**Monies on Account.** We may, at our discretion, request a retainer or a payment of monies on account before undertaking any specific legal work or if we have commenced legal work and, subsequently, we deem it appropriate to request a retainer or a payment of monies on account, we reserve the right to do so. If our request is refused, we reserve the right not to accept instructions in respect of the matter or not to act further for you, as the case may be. Any such monies on account are a deposit for payment of a portion of the legal fees and costs to be incurred. Except to the extent any legal fees or costs are incurred, any such monies on account are a refundable deposit. At the end of our engagement, our final charges will be applied against the monies on account and the balance of the monies, if any, will be refunded, or the balance due must be paid by you. You authorise us to apply such monies to pay your statements as billed on any matter for you and you grant us a lien for lawyers' fees and costs advanced on all or any monies on account, escrow accounts, client accounts, real and personal property, intangible property, claims and causes of action that are subject to our representation of you and on all proceeds of any recovery obtained (by settlement, arbitration, award, court judgment or otherwise). Interest is not payable by us to you on payments made by you on account of fees and disbursements.

**Billing statements.** We will send you periodic statements for services rendered and/or for fees on account and for costs incurred on your behalf, and you agree to pay on receipt any balance due. The statements may not include some disbursements falling within the period of the statement but which were notified to us late. In these circumstances, such costs will be held over to later statements. All bills are due in full forthwith upon receipt and will be specified in US dollars unless otherwise agreed in writing. If you have any questions about a statement, please call them to our attention promptly, but in any event no later than thirty (30) days after you receive the statement. You may have the billing statement in any reasonable format you choose, but we will select an initial format for the statement unless you otherwise request in writing. Where the billing statement is sent by e-mail, you consent to the use of an electronic signature on such statement or on the e-mail to which it is attached. Any funds received from you will be applied in the settlement of our outstanding billing statements in date order.

**Termination.** You or we may terminate our engagement at any time in writing with immediate effect. Our right to terminate this engagement shall be at our sole discretion. Circumstances in which we may terminate the engagement include but are not limited to any statements of account not being settled within 30 days of receipt by you. In addition, our engagement will end automatically upon the substantial completion of our substantive

work. In the event that our engagement is terminated, you will be responsible for the cost of all work completed up to the date of termination and any costs incurred by us in concluding or transferring the matter. No discount will be offered on the basis of a premature closing of a transaction or other matter.

**Complaints.** If you have any complaint about any aspect of the service being provided to you, you should contact the relevant partner.

**Waiver of certain conflicts.** As our representation is limited in scope, it is a condition of our undertaking this matter that you agree that we may represent, now and in the future, existing or new clients in any matters that are not substantially related to our work for you. We may represent such clients' interests in those other matters even if they are directly adverse to you or any of your affiliates. By accepting these terms and conditions you are agreeing to waive any conflict of interest that arises in such situations. Without your prior written consent, we cannot and will not represent any client adverse to you in a specific legal matter if we have obtained confidential information from you that is material to that matter. However, in instances in which we have no such material confidential information, you agree that we can represent other clients in legal matters, even those potentially or actually adverse to you or any of your affiliates, without your further consent.

In order to minimise the likelihood of a conflict arising, you must notify us as soon as you become aware of a potential conflict, or situation that may give rise to a conflict.

**Data Protection.** You acknowledge and agree that we may collect, process and store materials, data, information and content relating to you and/or your business, or its principals, affiliates, shareholders, directors, officers, employees and agents ("**Data**"). You also acknowledge and agree that such Data may be stored, processed and maintained by us on servers in a number of different jurisdictions and that it may be necessary for us to send all such Data from one jurisdiction to another. In this regard, you explicitly consent to the transfer of all Data into and out of any such jurisdictions.

**Confidentiality.** It is agreed between us (together, the "**Parties**") that neither Party shall, at any time, disclose to any other person and shall treat as confidential, any information relating to the business, finances or other matters of the other Party, which such Party has obtained as a result of its relationship with the other Party under these terms and conditions, save where the information is or was:

- (a) already known to the recipient;
- (b) in the public domain or becomes public knowledge otherwise than as a result of the unauthorised or improper conduct of the disclosing Party;
- (c) disclosed as required by any law or order of any court, tribunal or judicial equivalent, or pursuant to any direction, request or requirement (whether or not having the force of law) of any central bank, governmental, supervisory or other regulatory agency or taxation authority;

- (d) disclosed for business purposes to affiliates, professional advisors, service providers or agents, engaged by one of the Parties, who receive the same under a duty of confidentiality;
- (e) made available by a third party who is/was entitled to divulge such information and who is not under any obligation of confidentiality in respect of such information to the other Party; or
- (f) disclosed with the consent of the other Party.

The Parties shall ensure, and it is deemed to be understood and relied upon, that any confidential information provided to the other Party in relation to any principals, affiliates, shareholders, directors, officers, employees and agents ("**Third Parties**") of the disclosing Party is and has been provided with the consent and acceptance of the relevant Third Parties, which the disclosing Party will be responsible for obtaining.

**Record Retention.** You acknowledge and agree that Maples and Calder as an international law firm, by itself or through an affiliate or agent, may generate, receive, transfer, disclose, retain and process, Data in relation to your business, whether confidential or not, either in original format, hard copy or electronic format, within or outside of the Cayman Islands and/or in any other jurisdictions whether or not the Maples and Calder Group has a presence, including jurisdictions which may not have equivalent data protection requirements to the Cayman Islands. In this regard, you explicitly consent to the transfer of all Data into and out of any such jurisdictions. You further acknowledge and agree that the Maples and Calder Group may be obliged to retain such Data for a period of time after the termination of these terms and conditions and may be requested, required or compelled to disclose such Data to third parties.

**Document safekeeping and destruction.** All documentation (including original documentation) that we hold or are requested to hold for you in safekeeping will be held by us at your risk and we accept no responsibility or liability whatsoever or howsoever arising in relation to the storage or destruction or loss of any such documentation. We recommend that you retain a copy of all such documents for your own reference.

After the conclusion or termination of our engagement on any matter, you will be informed that the matter has been closed. We will keep (or store with a third party) all documents generated on the matter, whether held in paper or electronic form, for a period of at least six years from the date on which we close the relevant matter file. Unless you direct us otherwise in writing, you authorise and instruct us to destroy, without further reference to you, all documents in our possession relating to the matter after the expiration of the six year period referred to above.

**Intake procedures / Anti-money laundering.** Our engagement is subject to these terms and effective upon completion of our normal intake procedures, including but not limited to receipt of any monies on account requested by us, and completion of a check for potential conflicts of interest. You represent that you have disclosed and promptly will disclose to us all persons and entities who may have an interest in this matter so that we may avoid any conflict of interest. Further, we

may require certain information from you and/or your affiliates in order to comply with our obligations under applicable anti-money laundering regulations and legislation and our internal policies and you undertake to provide us promptly with true and accurate copies of all such information following our written request for same. Please note that if this information is not received by us in a format that is satisfactory to us, we will be obliged to discontinue acting for you. We are also obliged to report to the relevant authorities if we become aware of certain suspicious transactions.

**Electronic Communication.** We may communicate with you by e-mail. E-mail communication is not secure and can be subject to possible delay, data corruption, interception, amendment or loss. You are deemed to accept these risks if you communicate with us by e-mail and we shall not be responsible for the unauthorised interception, redirection, copying or reading of e-mails including any attachments, nor shall we be responsible for the effect on any computer system of any e-mails, attachments or viruses which may be transmitted by this means. As e-mail is an informal method of communication, it will normally be inappropriate to rely on advice contained in an e-mail without obtaining written confirmation of it. However, if we receive a request from you via e-mail we will treat that as authority to reply by e-mail.

We may monitor all e-mails sent to or from us for compliance with our internal policies and to protect our business. Anything sent by e-mail which does not relate to the official business of Maples and Calder is neither given nor endorsed by Maples and Calder. The terms of this clause will continue in force beyond the termination or expiry of our engagement.

**Barrister's Opinions.** If we instruct external barristers on your behalf to provide a legal opinion you agree that we have the right to store a copy (in hard copy and/or electronic form) of that opinion without time limit in such a way that it is accessible within the firm for the purpose of reference and legal research. If we store the opinion we will ensure that only partners and employees of the firm will be able to access it.

**No guarantee of success.** It is impossible to provide any promise or guarantee about the outcome of your matters. Nothing in the Letter or these terms and conditions or any statements by our staff or lawyers constitutes a promise or guarantee. Any comments about the outcome of your matter are expressions of opinion only.

**Our advice.** The expression "non legal matter" when used in this section and in the 'Standard of care and liability' section below includes, without prejudice to the generality of the foregoing, advice as to accounting, auditing, underwriting or insurance practice, management, valuation, whether in regard to real estate or otherwise, marketing, auctioneering, estate agency, business, commerce, banking, finance or investment.

As Cayman Islands lawyers we only advise on Cayman Islands law, and the terms upon which we give that advice are set out herein. No opinion, suggestion or comment written or oral given by us in relation to the laws of any jurisdiction other than the Cayman Islands or in relation to any non legal matter may be relied upon by you.

We rely on the strict understanding that you have obtained, or will obtain, proper professional advice as to the laws of every relevant jurisdiction other than the Cayman Islands and as to all non legal matters which may arise within or without the Cayman Islands and will act at all times in accordance therewith. It is your exclusive responsibility to determine when advice as to the laws of any jurisdiction other than the Cayman Islands or as to any non legal matter is prudent or required, and to obtain that advice.

The determination and the consequences of any commercial decision or course of action related to our legal advice are matters entirely to be determined by you. If you do not follow our advice we reserve the right, depending upon the particular circumstances, to determine not to act further for you in relation to the particular matter. If we nevertheless continue to act for you no consent to, or approval of, the course of action determined by you shall or may be implied on our behalf.

Our advice will depend on the particular circumstances specific to the matter for which we are engaged and we are not responsible for its use for a different purpose or in a different context. In relation to a particular transaction, specific advice on that transaction should always be sought and all material information provided to us. Our advice is confidential and is given solely for you to rely on. We accept no responsibility to any third party who seeks to rely upon such advice without our prior written consent being given.

Our advice will be solely contained in our final written documentation. Do not rely on any draft documentation that we provide as this will not constitute our definitive opinion.

**Changes in the Law.** Our advice is given on the basis of the laws in force in the Cayman Islands at the date of that advice. Unless you expressly instruct us in writing to do so we are under no obligation to advise, and accept no responsibility whatsoever for advising, in relation to subsequent changes in the laws of the Cayman Islands, and the effect, if any, on you. It is possible that changes may occur in the law and its interpretation before our advice is acted upon. We accept no responsibility for any changes in the law or its interpretation that occur subsequent to our advice being delivered to you.

**No independent investigation.** Our responsibility is limited to responding to specific instructions received from you, or on your behalf, by your professional advisers or agents, and we are under no obligation to investigate or verify independently the accuracy or completeness of such instructions. If we are obliged to make any assumptions as to matters of fact, or the laws of any jurisdiction other than the Cayman Islands, we may rely entirely upon those assumptions without independent verification.

**Standard of care and liability.** Subject to these terms and conditions, the standard of care which we shall exercise (to the exclusion of all other standards implied by law or otherwise, if any, to the utmost extent permitted by law) shall be that of a reasonably competent Cayman Islands lawyer practising in the Cayman Islands at the relevant time, and any arbitrator appointed pursuant to the 'Arbitration and waiver of legal proceedings' section below shall have regard only to such standard.

In circumstances where, because of urgency or otherwise, we are not given specific and comprehensive written instructions or adequate time properly to consider the matter prior to giving our advice, we proceed only on the understanding that you recognise and agree that the standard of care which we are obliged to exercise to you shall be only that which is reasonable and appropriate to such circumstances.

We accept no responsibility or liability in respect of our advice save in respect of a final determination of professional negligence, applying the standard of care referred to above, and made against us in an arbitration brought pursuant to the 'Arbitration and waiver of legal proceedings' section below or (subject to the 'Arbitration and waiver of legal proceedings' section below) made by a court of the Cayman Islands. Without prejudice to the generality of the foregoing we do not accept responsibility for:

- (a) advice you receive from any other professional adviser in relation to a non legal matter, the laws of any other jurisdiction or your failure to obtain that advice or to obtain that advice to a proper standard;
- (b) any loss or damage or costs or expenses that you may suffer or incur as a result of the inaccuracy or incomplete nature of instructions that you give us or that are purportedly given by or on your behalf, or in the documentation that we receive for review or as a result of any other professional adviser or agent failing properly, completely and promptly to convey our advice to you or for any dishonest, deliberate or reckless misstatements, concealment or other conduct on the part of any other person;
- (c) any loss or damage that you may suffer as a result of your, or your professional advisers or agents, failing promptly to respond to or act in accordance with advice given by us; or
- (d) the loss or delay in the mail, or in the case of a fax or e-mail of a failure or a delay in transmission, of any advice, letter or document sent to or received by us for the purpose of sending on to you.

**Force Majeure.** We shall not be held liable for any delay or failure to fulfil our obligations to you as a result of causes beyond our reasonable control. Such causes include, but are not limited to, fire, floods, hurricanes, tropical storms, typhoons, acts of god, acts and regulations of any governmental or supranational authority, wars, riots, strikes, lock-outs and industrial disputes.

**Obligations to us.** If any losses are incurred by us, or any claims are made by a third party against us, as a result of your failure, act or omission as detailed above, we reserve the right to recover the full amount of any subsequent losses from you on a full indemnity basis.

In certain situations, there may be a risk that we will be prejudiced as a result of your arrangements with other advisers to limit their liability to you. This might arise because we are one of several firms of professional advisers advising you and you have agreed a limitation of liability with one or more of your other advisers. If this occurs in circumstances where we would

otherwise be jointly and severally liable with those other advisers for a claim, you agree that our position will not be adversely affected by the limitation of that other adviser's potential liability.

**Miscellaneous.** These terms are governed by and construed in accordance with Cayman Islands law. Subject to the 'Arbitration and waiver of legal proceedings' section below by instructing us you irrevocably agree to submit to the exclusive jurisdiction of the courts of the Cayman Islands in respect of any claim or matter arising under or in connection with these terms or the advice that we give.

In the event of any dispute, the prevailing party shall be entitled to legal fees, expenses of litigation and/or arbitration (including expert witnesses) and costs, both in connection with obtaining and collecting any judgment and/or arbitration award, in addition to any other relief to which that party may be entitled.

We are not advising you with respect to these terms because we would have a conflict of interest in doing so. If you wish to receive such advice, you should consult independent legal advisors of your choice.

**Waiver.** Any delay in enforcing these terms of engagement will not affect or restrict any of the rights and powers arising hereunder. We will only be taken to have released our rights under these terms of engagement if we have confirmed such release in writing to you.

**ARBITRATION AND WAIVER OF LEGAL PROCEEDINGS.** ALL CLAIMS, DISPUTES AND CONTROVERSIES ARISING OUT OF OR IN CONNECTION WITH OUR ENGAGEMENT (INCLUDING, WITHOUT LIMITATION, CLAIMS OF PROFESSIONAL NEGLIGENCE) MAY, AT MAPLES AND CALDER'S OPTION, BE SUBJECT TO BINDING ARBITRATION TO BE HELD IN THE CAYMAN ISLANDS BEFORE A RETIRED JUDGE OR SENIOR LAWYER TO BE AGREED UPON BY YOU AND US OR IN THE ABSENCE OF SUCH AGREEMENT TO BE APPOINTED BY THE PRESIDENT OF THE CAYMAN ISLANDS LAW SOCIETY. THE ARBITRATION WILL BE CONDUCTED IN ENGLISH AND IN ACCORDANCE WITH THE LONDON COURT OF INTERNATIONAL ARBITRATION RULES ("LCIA RULES"). THE ARBITRATOR'S AWARD SHALL BE FINAL AND BINDING AND MAY BE ENTERED IN OR ENFORCED BY ANY COMPETENT COURT.