

OUR STANDARD TERMS AND CONDITIONS

1 Interpretation

- 1.1 These are the Terms and Conditions which apply to legal professional services supplied by *Hackett & Dabbs LLP* of 7 Stratfield Park, Elettra Avenue, Waterlooville PO7 7XN.
- 1.2 They will apply in all cases for professional work done unless any additional or other terms are agreed with you in writing.
- 1.3 These terms of service apply in addition to the provisions of the Legal Services Act 2007 [“the 2007 Act”] and regulations made by the Bar Standards Board (“BSB”) under that Act from time to time.
- 1.4 The “Escrow Service” referred to below is a reference to “BARCO”: Bar Services Company Limited, trading as BARCO, registered with the Financial Conduct Authority (FCA) in the United Kingdom (Firm Reference Number [FRN]: 589580) to carry on payment services activities under the Payment Services Regulations 2009. It is also registered with HM Revenue and Customs under the Money Laundering Regulations (MLR), MLR Registration Number: 12697968.

The opening, administration and closing of an account held with BARCO is subject to the latter’s own terms and conditions (copies of which will be supplied to you).

2. Estimates of Fees

- 2.1 The BSB requires us to give the best information possible regarding the likely overall cost of a matter at the outset and at other appropriate times. A list of our relevant staff and their current hourly charge rates (excluding VAT) is included in the Client Care Notice.
- 2.2 Where the work is likely to involve court proceedings or negotiations to settle a dispute we will tell you the hourly charge rate(s) used to calculate the final bill and provide an estimate of the range of likely overall cost. You may ask us to limit the number of hours spent unless and until we obtain your authority to exceed that limitation.
- 2.3 If the work done for you does not consist of work in court or in negotiations to settle a dispute, an estimate of the likely level of fees will be given at the outset. This will either be a global sum or based on an hourly charge rate or as a percentage of a value or a combination of any of these methods.
- 2.4 In appropriate cases, account will also be taken of special considerations specified by the BSB in regulations or guidelines issued to the barristers’ profession from time to time, to justify our charging any premium over the above-mentioned hourly charge rates.
- 2.5 Whenever there is likely to be any variation over the original estimate we will tell you, except where to do so would cause a delay which might prejudice you.
- 2.6 We reserve the right to increase the hourly charge rate applicable periodically and at least annually and shall notify you in advance of any such increase.
- 2.7 All estimates are given excluding Value Added Tax and office disbursements such as copying. Value Added Tax will be charged at the rate at the time of the invoice. We will, if required, apportion the Value Added Tax if there has been a change during the time the work was carried out. We reserve the right to charge as a separate item in our bills any office disbursements to the extent that due account has not been taken of them in our charge rate.
- 2.8 There may be certain other expenses – such as search fees, court fees, personal service, couriers, expert fees or medical reports and external Barrister’s fees – which you will have to pay in the course of our retainer to act on your behalf. VAT is payable on certain of these expenses.
- 2.9 We will inform you if any unforeseen additional work becomes necessary (eg. due to unexpected difficulties or if your requirements or the circumstances significantly change during the matter for which you have engaged us to act). We will also inform you of the estimated cost in writing before any extra charges and expenses are incurred.
- 2.10 In some cases it is impossible to predict at the outset the total costs which will be incurred. In those cases we will tell you and you may authorise us to carry out work to a pre-set limit and then to seek your instructions to extend it if necessary.
- 2.11 In all cases estimates are subject to review if the work done exceeds the initial brief.

- 2.12 In cases where we have agreed a fixed fee in advance, your right to have the costs assessed by the Court is limited.
- 2.13 If, for any reason, a matter does not proceed to completion, we will charge you for work done and expenses incurred.
- 2.14 In certain categories of case, we may at our discretion, be prepared to act on your behalf under a "Conditional Fee" or "Damages Based" Agreement. In these circumstances, full details of the Agreement will be provided to you.

### 3. Interim Billing

- 3.1 We have a policy of prompt payment for work actually carried out, and *disbursements* (that is, payments made by us on your behalf and on which we make no profit) incurred on your behalf. In certain circumstances in respect of court issue fees and attendances at hearings we may at our discretion require payment in advance to be made by you in respect of disbursements, our fees and/or the fees of any external counsel. We do not hold your money in a client account; and therefore it may be necessary from time to time for you to place funds – intended to meet future fees and/or disbursements – with the Escrow Service [and see clause 4, below].
- 3.2 We have a policy of rendering regular interim invoices for fees for work actually done which also helps you to judge the level of expenditure being incurred. Those interim invoices will never exceed the actual value of fees earned for work actually done by the date shown on the invoice: we will never hold a credit in your favour, as both the Solicitors Act 1974 and regulations made under the 2007 Act forbid barristers from holding Client Money.
- 3.3 The conditions for payment of invoices for disbursements and interim invoices are the same as for payment of the final invoice.

### 4. Payments on Account

- 4.1 In respect of our preparation for and attendance at a hearing in court, you may be asked to make a payment on account in advance. This may be in addition to or in substitution for an interim invoice.
- 4.2 Any such sums are to be paid by you into the nominated third-party account held and run by the Escrow Service and will be treated as payment in full or in part-payment for any invoice under which payment is or becomes due from you to us.
- 4.3 Should we require you to make such payment on account, you promise to cooperate with us in the completion and submission to the Escrow Service of any paperwork necessary for opening the nominated account; and whenever lawfully requested by us, to issue the necessary authority to the Escrow Service so that payment out of the nominated account can be made in respect of payments and payees previously notified to you in writing.
- 4.3 In the event of non-payment by you after 7 days following a request by us for a payment on account; or in event of a refusal or failure by you to authorise the Escrow Service to make the payments lawfully requested of you; then we reserve the right to cease work for you (including, refusing to attend the court hearing for which payment in advance was required); and to render an invoice for any uninvoiced work done to that time.

### 5. Cheque Clearance

When we request monies on account from you in respect of disbursements and you intend to pay into the Escrow Service account by cheque, please ensure that the Escrow Service receives your cheque in good time so that cleared funds are available at the time the disbursements are required. Your bank or building society can advise you if you are uncertain of the time it will take your cheque to clear.

### 6. Monies On Account

Where monies are held to your benefit in the Escrow Service account, and interest becomes payable on those monies, this will be added to those funds by the Escrow Service on a gross basis. It will be your responsibility to declare these monies to the HMRC for any tax assessment purposes. Please refer to the specific terms of the Escrow Service account.

### 7. Settlement Terms

- 7.1 Invoices (whether interim or final) are due for payment within 14 days from their date of issue. We may in our sole discretion choose to extend the period for payment up to 30 days, which will be confirmed in writing.

- 7.2 Payment of any bills must be made within 14 days of the date of our invoice; unless we have chosen to extend the period for payment, in which case payment must be made before the expiry of that extended period.
- 7.3 If all or part of the bill is not paid within this time, we reserve the right to charge interest daily thereafter at the equivalent rate of 8% per annum. If we are forced to sue for payment of our fees, we shall seek interest and charges in accordance with the provisions of the Late Payment of Commercial Debts (Interest) Act 1998 as amended. If you have any query about the bill you should contact us immediately.
- 7.4 If a third party has agreed to pay our fees incurred on your instructions then if the third party fails to pay us you will still be liable to pay our fees. We will be under no obligation to sue that third party for recovery of our fees, and if you are registered for VAT then we will invoice you (not the third party) for the VAT on the fees and disbursements.
- 7.5 Where the work done for you involves court proceedings and the court orders your opponent to pay your legal costs we will account to you for that amount when received by the Escrow Service. However, by entering into a retainer with us you acknowledge that the amount ordered by the court may be less than the amount which you have agreed to pay us for the work done; and we will not be bound to accept the amount ordered by the court and/or paid by and/or recovered from your opponent in settlement of our fees.
- 7.6 Our fees are payable by you even if, when the court has awarded you costs, your opponent cannot or does not pay.
- 7.7 We reserve the right to ask your consent to take our fees and disbursements by deduction from any balance of your monies held by the Escrow Service from time to time and whether these balances represent payments on account made by you, transaction monies or any other sum which is held to our joint order. This right will only arise after we have delivered to you the relevant invoice and will not prejudice your rights under condition 15 below.
- 7.8 A final bill will cover our costs for work done during the period covered, however it may not include all our expense and disbursements for that period since third parties may not have sent their invoices or charges to us in time to be included in the bill. In that event, the relevant expenses and disbursements will be invoiced after we have received the third-party invoice demand.

#### 8. No Investment Business

Please note that this firm is **not** authorised by the Financial Conduct Authority to engage in any form of private client investment business. If, during this matter, you need advice on investments or the placing of Insurance, we shall have to refer you to someone who is authorised by the Financial Conduct Authority.

#### 9. No Tax Advice

We do **not** generally provide advice on the tax implications of a transaction that you instruct us to carry out or the likelihood of them arising. You should therefore seek the advice of your Accountant. If you do not have an Accountant, we can help you find one. If we find that we are able to provide tax advice on particular matters, we will confirm this in writing to you. If you have any concerns, please raise them with us immediately.

#### 10. Securities, storage of paper and documentation

- 10.1 You may terminate your instructions to us at any time, but we will be entitled to keep all your papers and documents while there is money owed to us for our fees, disbursements, including interest and court costs where applicable and other charges. The law entitles us to retain any papers or other property belonging to you which properly comes into our possession pending payment of our costs, whether or not the property is acquired in connection with the matter for which the costs were incurred. This is known as a "general lien". We are *not* entitled to sell property held under a lien, but we are entitled to *hold* property, other than money, even if the value of it greatly exceeds the amount due to us in respect of costs.
- 10.2 If we are conducting litigation for you, we have additional rights. We may exercise our lien in relation to any property recovered or preserved for you whether it is in our possession or not and in respect of all costs incurred, whether billed or unbilled. We may have the right to ask the Court to make a charging order in our favour in respect of any assessed costs awarded to you.
- 10.3 We have a policy of storing our client's papers, files, deeds, securities and other such documents without charge but reserve the right to make a charge for future storage on reasonable notice.

- 10.4 We accept no liability for the storage of any such papers, files, deeds and securities on your behalf (other than for our proven negligence), and such documents are retained by us at your risk.
- 10.5 We reserve the right to charge for the production and/or copying of any deeds, documents, files, or papers retained on your behalf and for the delivery thereof.
- 10.6 Any documents, files, deeds or other securities will be delivered to you by post or courier at your request and at your risk.
- 10.7 Files will be retained for a maximum of six years from the conclusion of the matter. In addition, we will keep your file of papers for you in storage for not less than 6 years. After that period, further storage is retained on the clear understanding that we have the right to destroy it after such period as we consider reasonable. We will not (of course) destroy any papers, files, deeds, securities or other such documents which you have asked us specifically to hold to your order; but we reserve the right to levy an administrative charge for any time spent reviewing or sorting the papers in order to comply with your instructions.

#### 11. Court Record

- 11.1 If the work done involves court proceedings we will appear as your legal representative on the court record. All correspondence and legal documents relating to your case will be sent to our office rather than to your address.
- 11.2 If, during the course of such proceedings an interim bill for disbursements is not paid or an invoice on account of fees is not paid within the due time, we reserve the right to terminate our retainer, remove our name from the court record, and advise the court of the reason for the removal. In that case we shall cease to represent you in that matter.

#### 12. Court Cases

- 12.1 If you lose your case you may be ordered to pay your opponent's costs as well as having to pay your own legal costs.
- 12.2 Even if you win your case, your opponent may not be ordered to pay all our fees and your costs and/or may not be capable of paying our fees and your costs which he or she has been ordered to pay. You will be responsible for the cost of recovering any costs that the court orders the other party to pay.
- 12.3 If you are successful and the court orders the other party to pay some or all of your costs, interest may be claimed on them from the other party from the date of the court order. We will account to you for such interest to the extent that you have paid our fees.
- 12.4 If your opponent is publicly funded you will not normally be able to recover our fees and your costs from him even if you are successful in the case.
- 12.5 If we have instructed an external barrister for you, every effort will be made to secure the help of that person throughout your case. If that barrister is not available a substitute will be instructed if possible.

#### 13. Dispute over Fees

- 13.1 If you dispute the amount of our fees (whether in respect of an interim or a final bill) you should refer the matter to us in writing setting out the reason for your complaint.
- 13.2 If we cannot agree what is the fair amount of costs then you have the following rights: (a) to complain to the Legal Ombudsman at PO Box 6806, Wolverhampton, WV1 9WJ. Any complaint to the Legal Ombudsman must normally be made within six months of receiving a final written response from us about your complaint or (b) to ask the court to assess the amount of our costs (if it has not already done so) and to do this you should apply to the appropriate court for an order for detailed assessment.

#### 14. Disputes other than about Fees

- 14.1 If you have any cause to complain about our services in the first instance you should raise your concerns with the person who is normally dealing with your matter. If you are dissatisfied with their response you should set out, in writing, the nature of your complaint. The other partner of *Hackett and Dabbs LLP* will acknowledge receipt of your complaint in writing within 14 days of receipt.
- 14.2 This partner will then consider your complaint and carry out an investigation and will provide a proposed solution within ten business days. If the matter is complex and it takes longer to deal with your complaint, we will contact you within ten business days to give you an approximate

timescale of when you can expect a response. If we believe it would be helpful, we may suggest a meeting. We will then provide you with a substantive written response.

- 14.3 If you remain dissatisfied with the written response you have the right to go to the Legal Ombudsman, our supervisory complaints body. The contact details for the Legal Ombudsman are PO Box 6806, Wolverhampton WV1 9WJ (Address)
- 0300 555 0333 (Telephone)
  - +44 121 245 3050 (Calling from overseas)
  - 0300 555 1777 (Minicom)
  - enquiries@legalombudsman.org.uk (E-mail)
  - <http://www.legalombudsman.org.uk> (Website)

## 15. Confidentiality

### 15.1 Professional obligations

- 15.1.1 Barristers are under a professional and legal obligation to keep the affairs of clients confidential. This obligation, however, is subject to a statutory exception: recent legislation on money laundering and terrorist financing has placed lawyers under a legal duty in certain circumstances to disclose information to the National Crime Intelligence Service (NCIS). Where a barrister knows or suspects that a transaction on behalf of a client involves money laundering, the barrister may be required to make a money laundering disclosure.
- 15.1.2 If, while we are acting for you, it becomes necessary to make a money laundering disclosure, we may not be able to inform you that a disclosure has been made or of the reasons for it. Where the law permits, we will tell you about any potential money laundering problem and explain what action we may need to take.

### 15.2 Data Protection

- 15.2.1 All personal information relating to individual clients of *Hackett & Dabbs LLP* and anyone else with whom we have professional dealings will, where applicable, be kept confidential and processed in accordance with the Data Protection Act 1998 and in accordance with the policies and directives of the Information Commissioner's Office ["the ICO"].
- 15.2.2 We use the information you provide primarily for the provision of legal services to you and for related purposes including:
- Updating and enhancing client records
  - Analysis to help us manage and improve our practice
  - Statutory returns
  - Legal and regulatory compliance
- 15.2.3 Our use of that information is subject to your instructions, the Data Protection Act 1998 and our duty of confidentiality to you. Please note that our work for you may require us to give information to third parties such as expert witnesses and other professional advisers. You have a right of access under data protection legislation to the personal data that we hold about you.
- 15.2.4 We may from time to time send you information which we think might be of interest to you. If you do not wish to receive that information please notify us in writing.

### 15.3 Review of files

Our practice is subject to statutory or regulatory audit or quality checks conducted by external organisations such as the BSB, the ICO, HMRC and NCIS. These external organisations are required to maintain confidentiality in relation to your files.

### 15.4 Documentation

You will be entitled to use and copy all documentation created by us for you in the scope of our work. All copyright and other intellectual property rights in the documentation created by us and relating to or connected with the scope of our work remains our property. We will be free to use any of the documentation and to use the intellectual property of any advice to other clients provided always that we do not breach our duty of confidentiality to you.

### 15.5 Electronic communications

- 15.5.1 We will aim to communicate with you by such a method as you may request. We may need to check electronic media or e-mail messages for viruses. Unless you withdraw consent, we will communicate with others when appropriate by e-mail but we cannot be responsible for the security of correspondence and documents sent by e-mail.

15.5.2 In addition, if you are a client and we have made a contract with you by electronic means you may be entitled to use an EU online dispute resolution service to assist with any contractual dispute you may have with us: see <http://ec.europa.eu/odr>.

#### 16. Professional Indemnity Insurance

Our insurance provider is Bar Mutual Indemnity Fund Limited of 90 Fenchurch Street London EC3M 4ST United Kingdom; telephone +44 (0)20 7621 0405; fax +44 (0) 20 7283 5988; e-mail to [info@barmutual.co.uk](mailto:info@barmutual.co.uk).

The territorial coverage of our insurance is worldwide.

#### 17. Limitation of Liability

17.1 Our liability to you for breach of your instructions or negligence shall be limited to £1,000,000 (one million pounds sterling), unless we expressly state a higher amount in the Client Care Notice or other letter accompanying these terms of business. We will not be liable for any consequential, special, indirect or exemplary damages, costs or losses or any damages, costs or losses attributable to lost profits or opportunities.

17.2 We can only limit our liability to the extent the law allows. In particular we cannot limit our liability for death, or personal injury caused by our negligence.

Please ask if you would like us to explain any of the terms above.

#### 18. Equality and Diversity

*Hackett & Dabbs LLP* is committed to promoting equality and diversity in all of its dealings with clients, third parties and employees. Please contact us if you would like a copy of our equality and diversity policy.

#### 19. Termination

19.1 You may terminate your instructions to us in writing at any time but we will be entitled to keep all your papers and documents whilst there is money owing to us for our charges and expenses.

19.2 We may decide to stop acting for you only with good reason, for example, if you do not pay an interim bill or comply with our request for a payment on account. We must give you reasonable notice that we will stop acting for you.

19.3 If you or we decide that we will no longer act for you, you will pay our charges on an hourly basis and expenses as set out earlier.

#### 20. Miscellaneous

20.1 *Hours of Business*: Our normal hours of business are Monday to Friday 1000hrs – 1730hrs. Appointments outside of these hours may be available by arrangement.

20.2 We reserve the right to amend these Terms and Conditions by reasonable written notice delivered to you at your address last known to us.

20.3 These Terms and Conditions shall be deemed to apply to any matter with effect from the time when we shall have first commenced performing professional services for you.

20.4 In the event that you shall instruct us jointly with, or as agent for, another person, you and that other person shall be deemed to be jointly and severally responsible for our costs and disbursements in the matter except to the extent that we agree with either of you in writing to the contrary.

20.5 These Terms and Conditions do not apply to services performed by us or our agents in relation to court proceedings outside the English jurisdiction.

20.6 Your continued instructions in this matter will amount to your acceptance of these Terms and Conditions of business.

20.7 These Terms and Conditions are to be read in conjunction with your Client Care Notice.

20.8 In the event of conflict between the Client Care Notice and these Conditions, the Client Care Notice shall prevail.

*Hackett & Dabbs LLP*

January 2017