

## Terms of Business - Legal Services

### 1. Interpretation

These Terms of Business apply to the Engagement and the following definitions shall apply:

- 1.1 the words "**Le Gallais & Luce**", "**the firm**", "**we**", "**our**" and "**us**" mean Le Gallais & Luce of PO Box 696, 6 Hill Street, St Helier, Jersey, Channel Islands, JE4 8YX.
- 1.2 "**Client**" or "**Clients**" mean the person who instructs us or on whose behalf we are instructed to provide Legal Services.
- 1.3 "**Code of Conduct**" means the terms in force at the relevant time adopted by the Law Society of Jersey.
- 1.4 "**Engagement**" means the scope of the Legal Services to be provided and the terms including these Terms of Business.
- 1.5 "**Legal Services**" means the services as specified and set out in the letter or communication of Engagement.
- 1.6 "**Partner**" means a partner or an employee having the title of partner in Le Gallais & Luce.
- 1.7 "**Relevant Jurisdiction**" means the Island of Jersey.
- 1.8 "**you**" or "**your**" refers to the Client or Clients.

### 2. Our General Responsibilities

- 2.1 We provide Legal Services on the following general terms. There are more specific terms set out in the other clauses in these Terms of Business.
- 2.2 We are not and do not hold ourselves out as being experts in or having knowledge of the laws or regulations of any jurisdiction other than the Relevant Jurisdiction and only advise on the laws of the Relevant Jurisdiction.
- 2.3 We will act in accordance with the Code of Conduct.
- 2.4 We may request payments on account of future fees and/or third party costs to be incurred.
- 2.5 We may rely on any instructions or requests made or notices given or information supplied; whether orally or in writing, by any person whom we know to be or reasonably believe to be authorised by you to communicate with us for such purposes.
- 2.6 We may receive information from you or from other sources in the course of delivering the Legal Services and we rely upon the accuracy and completeness of information provided to us by you and by others on your behalf.

- 2.7 We will not normally seek to verify or check any information provided to us by you or such others and you acknowledge that we shall be entitled to rely on such information and shall not be responsible for any loss, damage, costs and expenses that you may incur due to any incorrect, misleading, incomplete, or false information or instruction that is provided.
- 2.8 We may communicate electronically with you and other parties in relation to the Legal Services. However, the electronic submissions of information cannot be guaranteed to be secure, confidential or virus or error free and such information could be intercepted, corrupted, lost, blocked, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use and we accept no responsibility or liability for the same. You accept these risks and authorise electronic communication between us on this basis.
- 2.9 We may provide similar services to the Legal Services to other Clients at our discretion.
- 2.10 If we are instructed by more than one person or by more than one representative of a company or other body, which is our Client, we may act on the instructions of any one of such persons and correspond with any of such persons unless otherwise agreed.
- 2.11 We may decline to start work or terminate any Engagement until all such due diligence information as we request has been provided and we accept no responsibility or liability arising directly or indirectly as a result of our decision to do this; and any such termination will be without any liability and without prejudice of our ability to claim fees and disbursements incurred.
- 2.12 We may refuse to give any professional undertaking or do so upon such terms as we think fit.
- 2.13 We may refuse or cease to act in any case where we consider that there is or may be a conflict of interest, a significant risk of a conflict, or where to continue to act would place us in breach or would assist in a breach of the applicable laws, regulations and rules of the Relevant Jurisdiction or where professional embarrassment may arise even if no actual conflict exists, and our decision is final on the matter.
- 2.14 We will comply with the rules concerning conflicts of interest as set out in the Code of Conduct.
- 2.15 We shall neither do, nor be required to do, anything which in our opinion may conflict with the laws and regulations of the Relevant Jurisdiction or the terms of any permits, consents, licences or applicable codes of practice made thereunder by any competent authority in the Relevant Jurisdiction or which may give rise to any risk of criminal or civil liability or prosecution or sanction in any part of the world.

### **3. Your General Responsibilities**

- 3.1 These are general terms which apply to the Engagement. More specific terms are included in other clauses in these Terms of Business.
- 3.2 If you instruct us to undertake any additional work, whether or not related to the provision of Legal Services, and we do not issue further terms of engagement, the Terms of Business, and charge out rates in force at the time we undertake that additional work will apply.
- 3.3 You will keep us informed as to your contact details to enable us to communicate with you as may be required. We accept no liability for any loss damage costs and expenses that you may incur due to any incorrect, misleading, incomplete, outdated or false information or instruction that is provided.
- 3.4 You agree fully and immediately to indemnify us in respect of all claims, time costs, liabilities and disbursements incurred by us in complying with any professional undertaking(s) given on your behalf.

- 3.5 Notwithstanding our duties and responsibilities in relation to the Legal Services, you shall retain responsibility and accountability for:
- a) the management, conduct and operation of your business and your affairs;
  - b) providing us promptly in relation to the Engagement with complete and accurate information (including electronically held information and documents) and complete and accurate instructions, indicating any gaps and keeping us informed of any material changes in your instructions, knowledge or circumstances or any matter which has or might have a bearing on the matter, and you will keep us informed should there be any change in the ownership or control of the Client;
  - c) deciding on your use of, choosing to what extent you wish to rely on, or implementing advice or recommendations, or other products of the Legal Services supplied by us;
  - d) making any decisions affecting the Legal Services, your interests and your affairs;
  - e) the delivery, achievement or realisation of any benefits directly or indirectly related to the Legal Services which require implementation by you.

#### **4. Limitation of Liability**

- 4.1 Our aggregate liability (whether in contract or tort or under statute or otherwise) for any loss (including direct loss and indirect or consequential loss and including loss of business or profits), liability or damage suffered by you or any other person that may arise from or in connection with our Legal Services, shall be limited to the lowest of:
- a) that proportion of such loss, liability or damage suffered by you or any other person after taking into account any of your or any other person's contributory act or omission (including any contributory negligence) and any amount which you or any other person would have been entitled to recover from any other advisor or party in the absence of any exclusion of limitation of liability agreed with such advisor or party;
  - b) the amount specified by us in any additional terms of engagement from us to you or to any person acting on your behalf, in relation to those Legal Services; or
  - c) if no amount is specified, an amount not exceeding £7,500,000 or the equivalent.
- 4.2 Any claim made by you or any other person in respect of any loss, liability or damage arising from or in connection with our Legal Services, whether in contract or tort (including negligence) or under statute or otherwise, must be made:
- a) where those Legal Services have been delivered, within three years of the date on which the work giving rise to the claim was performed; and
  - b) if those Legal Services have been terminated, within three years of the date of termination (subject to the above), and in either of these cases that shall be the date when the earliest cause of action (in contract or tort (including negligence) or under statute or otherwise) shall be deemed to have accrued in respect of the relevant claim. For these purposes, a claim shall be made when court or other dispute resolution proceedings including but not limited to mediation/arbitration are commenced.
- 4.3 You agree that neither you nor any such other party will have recourse to the personal assets of any Partner, employee or consultant, their respective personal representatives or any related person and that you will neither cause nor permit any claim in respect of any loss, liability or damage arising from or in connection with our Legal Services against any of our employees or agents even where our employees or agents have been negligent. This restriction shall not operate to exclude our liability for the acts or omissions of any of our employees or agents.

- 4.4 Nothing in this paragraph shall limit or exclude any liability which cannot lawfully be limited or excluded.

## **5. Litigious or Contentious Matters**

- 5.1 Our primary duty is to the courts of Jersey and we have a fundamental duty not to mislead the court or to waste the court's time and to comply with the relevant Code of Conduct applicable.
- 5.2 Whatever the outcome of litigation, the court has a discretion to award legal costs as it thinks fit. If costs are awarded, they are likely to be taxed or assessed, and legal costs are typically 20-40% less than the true legal costs incurred. The successful party is not always assured of a full or favourable costs order and, in addition, there may be difficulty in enforcing such an order against the other party. The unsuccessful party may be required to pay the other party's costs as well as its own. Whatever the outcome or order, you will remain liable to us for the full extent of the costs incurred with us, and disbursements, including third party disbursements, which we have incurred in the course of acting for you.

## **6. Fees and Payment Terms**

- 6.1 In the absence of any agreement to the contrary, we will charge for the Legal Services on the basis of the time spent in providing the Legal Services.
- 6.2 Where the Client consists of more than one person each such person agrees that it shall be jointly and severally liable for all the liabilities of the Client pursuant to these Terms of Business.
- 6.3 Time based fees will be charged at varying rates depending on the nature of the work and the level of the Partner or other member(s) of the firm undertaking such work.
- 6.4 Where hourly rates are given these are exclusive of tax and disbursements, which will be billed in addition where applicable.
- 6.5 These rates may be changed from time to time and we will use reasonable efforts to draw such variation to your attention.
- 6.6 Full details of rates will be provided on request.
- 6.7 In addition, we reserve the right to levy a standard administration charge determined by us, for carrying out our due diligence in accordance with our regulatory obligations as well as printing, copying, and similar items.
- 6.8 We may ask for funds on account which shall be held on our client account, and will generally be applied to our final invoice, although we reserve the right to apply them to any invoice issued by us during the course of the matter at our discretion. As the matter proceeds further funds on account may be requested in order to ensure that at all times we maintain a sufficient fund to cover anticipated work to be done as well as work carried out to date, but as yet unbilled. If at any time the work in progress and or third party disbursements amount to more than the funds held on the client account we reserve the right to issue an interim invoice for immediate settlement.
- 6.9 We will bill on a monthly basis or such period as we deem appropriate. If you have any queries regarding your invoice please forward them in writing to our Accounts Department, to be received within 14 days from the date after the date of the queried invoice. Should you not notify us within this time period it will be part of the agreement that you accept and agree that the full amount is due and owing.
- 6.10 If an estimate is provided it is no more than a guide and the amount invoiced may differ. We will keep you informed if the estimate is likely to be exceeded as soon as reasonably practicable.

- 6.11 Where a third party has been instructed on the Engagement you will be responsible for the fees and expenses of that third party.
- 6.12 All fees and disbursements will be due in full (without any right of set-off) for settlement in sterling upon presentation of our invoice. Simple interest at the rate of 1% per month will be added to all fees and disbursements which remain outstanding for more than 14 days from the invoice date.
- 6.13 If we hold monies in a client account (for whatever reason) we may settle any invoice or invoices (on any matter or matters where we act or have acted for you) for fees and disbursements out of any such monies as soon as an invoice has been rendered.
- 6.14 Where any fees and disbursements remain outstanding for more than 14 days beyond their invoice date, we reserve the right to cease providing any Legal Services until all outstanding fees and interest thereon and disbursements have been settled in full and an amount has been received on account of future fees and disbursements.
- 6.15 On ceasing to provide any such Legal Services as a result of fees and disbursements being overdue we will not answer any correspondence or attend to any filings or other matters which may need to be attended to on your behalf in relation to the Legal Services and we shall not incur any liability as a result of our ceasing to provide Legal Services in these circumstances.
- 6.16 We reserve the right to charge for time spent and disbursements in collecting overdue fees, disbursements and third party charges.
- 6.17 Where we outsource debt recovery to an external agency in the event of late or non-payment, you will also be responsible for reimbursing us in respect of any fees or costs incurred in connection therewith.

## **7. Client Monies**

- 7.1 Monies paid to Le Gallais & Luce on your behalf in connection with the Legal Services will be collected and held by us in a client account on your behalf save for monies held on account of fees, disbursements and third party costs which may, subject to any professional rules applying, be held in our office account.
- 7.2 When any monies are transferred to our client account you agree that all monies held in our client account on your behalf:
  - a) will be held to your order or as instructed by you but will only be paid away on your express instructions and subject to our having satisfied all regulatory requirements and all taxation requirements in respect of monies so held and the payee;
  - b) save that those monies may be utilised to meet any outstanding fees and disbursements without the need for specific instruction;
  - c) all settlement funds and disbursements (whether interim or final) payable in relation to this matter will, if payable to you, be paid into our client account before the proceeds can be paid to you or at your directions and, if payable by you, will be routed through our client account.
  - d) will earn interest pursuant to applicable Jersey Law Society guidelines or rules applying from time to time.
- 7.3 Unless otherwise agreed in writing, it shall not be our responsibility to seek, obtain or undertake any due diligence on any bank's financial position or to comply with any reporting requirements which may arise in relation to the receipt of interest on monies held in the client account.

- 7.4 In the event of any bank at which a client account is held being subject to or undergoing any form of "insolvency" (such as désastre, liquidation, administration or any similar process), we shall not be liable for any losses, damages, liabilities, claims, costs and expenses howsoever arising from the insolvency, including without limitation, the loss of any or all of the monies held by the client account bank as referred to above.

## **8. Confidentiality**

- 8.1 We shall keep confidential all information and documents relating to the Legal Services unless:
- a) we are authorised to disclose any information by you;
  - b) we are working with other advisers on your behalf and the disclosure is, in our view, appropriate to facilitate the provision of the Legal Services;
  - c) it is necessary or desirable to disclose such information to any auditor or legal or other adviser of ours;
  - d) it is necessary or desirable to disclose the same to defend any claim or action against us;
  - e) we are required to disclose information under the laws and regulations of the Relevant Jurisdiction, or by order of any other courts or tribunals of competent jurisdiction or the failure to make such disclosure would, in our opinion, be prejudicial to us, our staff or any agents;
  - f) the information concerned is already in the public domain and, to the extent required, you hereby waive your rights to privilege in respect of any disclosure of information as set out above; or
  - g) such disclosure is otherwise permitted by these Terms of Business.
- 8.2 We shall not be required or under a duty to disclose to you any information we may have or be deemed to have about any matter affecting you which we may have acquired in the course of acting for or providing services to any other Client in any other way.
- 8.3 From time to time we may wish to refer to you as a client of Le Gallais & Luce in publications or other marketing material. We may also wish to refer to matters on which we have acted for you where we reasonably consider that such matters are in the public domain or are otherwise not of a confidential nature. Unless you advise us otherwise in writing (either generally or in relation to any particular matter), you will be deemed to have consented to this.

## **9. Copyright and intellectual property**

- 9.1 We retain all copyright and other intellectual property rights in all material developed, designed or created by us in the course of acting for you at any time.
- 9.2 You agree only to use and copy material created by us for you at any time, or which we have developed independently of our work for you and used in the course of any matter, for the purposes of the matter in relation to which such material has been provided to you by us, or otherwise in accordance with our advice or any specific licence terms.
- 9.3 All material created in the course of acting for you at any time must be kept confidential by you unless we agree otherwise. You agree not to make our work available to third parties without our prior written permission.

- 9.4 We may use all material created and/or modified by us in the course of any matter for legal training, forms, service development and research purposes, without reference to you.

## **10. Retention of documents**

- 10.1 After termination of the provision of the Legal Services, we are entitled to retain and exercise a lien over all papers and documents which have come into existence in the course of our providing the Legal Services until all fees and disbursements in connection with the provision of the Legal Services and any associated services provided by any third parties have been settled in full.
- 10.2 Where, as part of providing Legal Services, we have created internal memoranda, attendance notes and other documents for our own purposes then, in accordance with accepted principles, such documents shall belong to us and we shall not be obliged to hand over originals or copies of any such documents to you or to any other adviser appointed by you unless ordered to do so by a court of competent jurisdiction.
- 10.3 Subject to payment in full of all fees, charges and disbursements, we will, on your instructions, provide originals (or, if so requested, copies) of any documents belonging to you which we are holding or which we have under our control and which have come into existence while we provided Legal Services.

## **11. Destruction of documents**

- 11.1 We may retain all documents belonging to you for a period of not less than eleven years from the date of termination of our instructions in relation to a particular matter in such format (and whether as originals or copies) as we, in our absolute discretion, think fit and we may charge for the provision of any copies of such documents.
- 11.2 After eleven years, we may destroy all such documents at such time as we consider appropriate. In drawing this matter to your attention we will treat you as having so consented to the destruction of such files as set out above. If we are requested and agree to retain files beyond such eleven year period, we reserve the right to charge for so doing.

## **12. Bribery and corruption**

- 12.1 We comply with all relevant laws and regulations applicable to the Relevant Jurisdiction concerning bribery and corruption and if we are aware of or suspect that such an act has occurred then we may, at our discretion, cease to act and immediately terminate the Engagement.

## **13. Data protection**

- 13.1 We collect personal information about our Clients and (where our Clients are legal entities, such as a company) their owners, controllers and personnel.
- 13.2 We use that information in order to be able to provide our services to our Clients. We also use it for other legitimate purposes, such as raising our invoices, complying with our anti-money laundering obligations and marketing our business.
- 13.3 Where appropriate, we share the information collected with other Le Gallais & Luce company or companies. We might also need to share this information with our auditors, insurers or bankers or with official authorities and regulators.

#### **14. Termination of instructions**

- 14.1 We reserve the right to terminate the provision of Legal Services for just cause and, save for exceptional circumstances, on reasonable notice.
- 14.2 You may terminate the retainer at any time.
- 14.3 Regardless of who terminates the instructions, you will be responsible for payment of all billed and unbilled fees and disbursements up to the date of termination of our instructions and any fees and disbursements reasonably incurred in connection with the transfer of the work to another person chosen by you.
- 14.4 We reserve the right to retain all papers and documents which relate to all matters in which we have been instructed until fees and disbursements have been paid, as set out under our payment terms.

#### **15. Variation and publication of these Terms of Business**

- 15.1 We reserve the right to vary these Terms of Business from time to time including during the course of the provision of Legal Services in any particular matter.
- 15.2 Where we do vary these Terms of Business in the course of our providing Legal Services to you, we shall use reasonable efforts to draw such variation to your attention as required.
- 15.3 By taking this action you shall be deemed to have agreed to be bound by the Terms of Business and all such variations.

#### **16. Enforceability**

- 16.1 If any term or provision in these Terms of Business shall be held to be unlawful, void or unenforceable, in whole or in part, under any enactment or rule of law, such term or provision or part shall, to that extent, be deemed not to form part of these Terms of Business but the validity and enforceability of the remainder of these Terms of Business shall not be affected.

#### **17. Complaint procedure**

- 17.1 Should you have any complaints about the Legal Services we provide, you may raise it with the Partner of Le Gallais & Luce who is responsible for your affairs or the Managing Partner in the Relevant Jurisdiction. We will attempt to answer all complaints fully and promptly.
- 17.2 If the complaint cannot be resolved by these means, then either party may refer it to the relevant person or body under the rules applicable.
- 17.3 Any claim, dispute and controversy arising out of or in connection with our Engagement (including without limitation, any question regarding this Engagement's existence, validity or termination or any claims of professional negligence) may, at Le Gallais & Luce's sole option, be referred to and finally resolved by arbitration under the London Court of International Arbitration Rules, which Rules are deemed to be incorporated by reference into this clause. Judgment on the award(s) rendered by the arbitrator may be entered in any court having jurisdiction thereof. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be Jersey. The language to be used in the arbitral proceedings shall be English. If a court action has been initiated by you at the time that Le Gallais & Luce chooses to submit the matter to arbitration, then it is agreed that such court action is to be discontinued, unless the arbitrator finds that Le Gallais & Luce has waived such right by substantially participating in the court action without having raised its right under this clause.



## **18. Governing law**

- 18.1 These Terms of Business regarding our Legal Services shall constitute the contract for the provision of Legal Services (subject to any other terms agreed between us in writing).
- 18.2 This contract shall be governed by and construed in accordance with Jersey law.

## **19. Exclusive jurisdiction**

- 19.1 Subject to 17.3 herein above, you irrevocably agree to submit to the exclusive jurisdiction of the courts of Jersey to settle any dispute that arises from the provision of Legal Services by Le Gallais & Luce.

## **20. Force majeure**

- 20.1 We shall bear no liability for loss, damage or delay, howsoever arising, caused by circumstances outside our control of whatsoever kind, including, without limitation, fire, flood, storm, earthquake, wars, riots, cyber-attack or illness.