

TERMS OF BUSINESS



1. GENERAL

1.1

Capitalise Business Solutions Ltd ("CBSL") is a company formed to manage and administer Escalate, a commercial dispute resolution solution designed for SME businesses. All services that are provided through the Escalate process are supplied either by CBSL itself or for and on behalf of CBSL via sub-contracts with chosen professional service firms as more specifically defined in the Escalate Team Sheet that forms part of your engagement pack (collectively referred to as the "Collaborating Parties") such that specific legal or corporate recovery or insurance services are supplied by the respective professionals in their specialist fields and invoiced for by them or by CBSL or by them for and on behalf of CBSL depending on the specific circumstances of each Claim.

1.2

These terms of business are to be read in conjunction with the Conditional Fee Agreement (the "CFA") and any terms of the engagement letter (the "Engagement Letter") (collectively the "Engagement"). The Engagement shall form the basis on which we will provide our professional services to you. We are not responsible for advising on tax or accounting issues. No variation shall be effective unless agreed in writing and signed by an authorised representative of CBSL. These terms of business supersede any terms and conditions previously discussed or agreed with you in relation to the services provided under the Engagement and apply to any future instructions you give us and unless or until we notify you to the contrary. In these terms, "we", "us" and "our" means either individually or collectively the Collaborating Parties.

1.3

Our advice will be based upon and dependent upon the instructions, information and documentation supplied by you or on your behalf. We need to be advised of any matters of which you are aware which may affect our ability to perform the Services. We would therefore ask that you advise us as soon as reasonably practicable of any developments that may affect any matter on which we are working for you. In particular, please let us know immediately of any change of name, address or country of residence and, in the case of a corporate client, any change in the details of owners or managers. We will not be responsible for any consequences which may arise from a delay or failure by you or any other person to give us the instructions, information or documentation which we require.

1.4

We cannot advise you upon the merits of any transaction that you may be entering into and you will be responsible for any commercial decisions you make. Any failure, delay or omission by us to exercise any of our rights or remedies pursuant to these terms and conditions of business or provided by law will not affect that right or remedy or act as a waiver of it.

1.5

We will endeavor to record all advice on important matters in writing. It may not be possible for you to demonstrate that you have relied on advice that is only given orally. Therefore, if we provide oral advice (for example during the course of a meeting or a telephone conversation) and you wish to be certain that you can demonstrate that you have received such advice, you must ask for the advice to be confirmed by us in writing.

1.6

If any provision of the Engagement shall be prohibited by law or adjudged by a court to be unlawful, void or unenforceable, such provision shall to the extent required to be severed from these terms and conditions of business and rendered ineffective as far as possible without modifying the remaining provisions of these terms and conditions of business and shall not in any way affect any other circumstances of or the validity or enforcement of these terms and conditions of business.

1.7

We may vary these terms of business at any time. We shall, however, give you written notice before we do so. Your continuing instructions and acceptance of our continued Services after such notice will confirm your acceptance of the amended terms and conditions of business.

1.8

In signing the engagement letter, the person or persons so doing confirm that they have authority to bind the entity to which the letter is addressed to the terms of the engagement. Where that is not the case, we reserve the right to seek payment from the person or persons signing the letter, and you agree that we shall be entitled to enforce any such sums due against the individual or entity nominated to act for you.

1.9

No party to this engagement shall assign, transfer, sub- contract or in any way make over to a third party the benefit and/or burden of this Contract without prior written consent of all other parties. However, this does not prevent us from sub- contracting our services in accordance with section 7 of these terms of business.

1.10

In connection with this engagement, each party is an independent contractor and as such will not have any authority to bind or commit the other. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between us and you for any purpose, except as agreed in writing.

1.11

Our employees are allocated to work on your affairs on the understanding that you will not offer employment to, nor employ, any of our employees who have either been involved during our assignment, or with whom you have been dealing in any other capacity, unless our written consent is obtained. If such consent is given, we reserve the right to invoice you 30% (plus VAT) of the annual salary of the employee.

1.12

This is an important document: please keep it in a safe place for future reference.

2. CHARGES AND EXPENSES

2.1

Subject to the overriding terms of the CFA our charges are based on the time we spend in dealing with a case. Time spent will include meetings, travel, considering and working on papers, correspondence, making and receiving telephone calls, regulatory compliance and preparing invoices. We maintain detailed records of the time spent.

2.2

Routine letters and telephone calls (incoming and outgoing) will be charged at six minute units each. Lengthier letters and calls will be charged on an actual time basis.

2.3

In addition to the time spent, we may take into account a number of factors which include the complexity, difficulty or novelty of the issues, the speed at which action must be taken, the expertise or specialist knowledge which the case requires and, if appropriate, the value of the property or subject matter involved. Unless we expect these factors to be adequately covered by the hourly rates mentioned, this will be dealt with specifically in the Engagement Letter and any fee proposal. Those rates may subsequently be higher if, for example, the matter becomes more complex than expected but in that event we will notify you.

2.4

Unless we have agreed a fixed fee or unless otherwise agreed with you, we charge an additional sum of 10% of our time charges to cover the cost of routine photocopying, postage, telephone calls, electronic mail and other incidental administration expenses. We must also reserve the right to make a further charge for large volumes of

photocopying should that not be recoverable from any other party. Copying and scanning of large volume documents and preparation of DVD or CD-ROM "bibles" of copy documents, whether prepared in-house or through our supplier, will in either case, be itemised and invoiced separately.

2.5

If urgent work has to be undertaken outside normal working hours, we reserve the right to make an additional charge or increase hourly rates. You will be notified in writing should we do so.

2.6

Where we quote a fixed or capped fee on any particular case this will not be varied without your agreement. Hourly rates and fixed fees in general will be capable of variation as provided in paragraph 2.8 below.

2.7

There may be certain other expenses, including payments we make on your behalf, such as Court fees, Land Registry Fees, fees for Enquiry Agents and Barristers' or Solicitor Agent's fees, which you will have to pay. Expenses may include, where appropriate, reasonable travel and accommodation expenses and subsistence incurred by our people when working for you. Details of these will appear in our invoice under the heading "Disbursements. We will also make a charge for CHAPS and other special bank payments. The amount of charge varies depending upon the destination of the payment. Further information can be provided on request.

2.8

To avoid having to consult with you in advance of incurring each item of expenditure, we take your initial instructions to us in any matter as authority for us to incur reasonable out of pocket expenses in the conduct of that matter, including instructing Counsel or experts where appropriate.

2.9

We will review our hourly rates and fixed costs (to take account of changes in overhead costs and Court costs) each year and will notify you in writing of any increased rate or costs to take effect normally from 1 January of the following year.

If you have a query about the level of any revised rates notified to you, please contact us straight away.

2.10

If, for any reason, instructions are withdrawn, or a matter fails to proceed, we will charge you for work done and expenses incurred.

2.11

Unless otherwise agreed, we will advise you at regular intervals of the level of our costs and disbursements incurred to date or when it becomes apparent that any original estimate is likely to be exceeded.

2.12

It is important that you understand that you will be responsible for paying our bills. In litigation matters you are unlikely to recover all your costs from your opponent if you win, and may have to pay your opponent's costs if you lose. This is set out in more detail in condition 4 below.

2.13

Any figure given by way of estimate, quotation, hourly rate or other cost or charge is exclusive of VAT. We will generally be obliged to charge VAT on our fees and most of our disbursements at the prevailing rate.

2.14

You may be entitled to have the Lawyers' charges assessed by the Court. This procedure is set out in sections 70 to 72 of the Solicitors Act 1974. In respect of the CRS' charges, if you do not accept that a fee is fair and reasonable, you must notify the CRS in writing within 21 days of receipt, failing which you will be deemed to accept that the fee is fair and payment is due.

3. BILLS AND PAYMENTS

3.1

If we give you credit in respect of disbursements, we will be entitled to invoice you for reimbursement at any time. We may also require you to provide adequate funds to enable us to make payment of disbursements at any time, or on account of charges and disbursements to be incurred in the future. We will offset any such payments against your final bill but it is important that you understand that your total charges and disbursements may be greater than any advance payments.

3.2

Unless otherwise agreed, we will send you regular interim invoices for our charges and expenses while the work is in progress. These invoices unless stated to the contrary will be the only and final bill for the charges and expenses incurred for the period for which the bill relates. This enables you to budget as the matter progresses.

3.3

All bills, where possible unless otherwise expressly agreed in writing by us, will be sent to you in electronic format. Otherwise, they will be sent by post.

3.4

Payment is due in sterling on the day you receive our bill. We reserve the right to charge you interest on the bill at 3% above Lloyds Bank Base Rate or 10% per annum whichever is greater from the date on which payment is due if you do not pay our bill on time under the Late Payment of Commercial Debts (Interest) Act 1998. Interest will be charged on a daily basis. If payment is not made in sterling or because you do not pay on time we suffer exchange rate losses you must indemnify us for those losses and the charges incurred in the conversion.

3.5

If any payment from you is overdue we have the right to suspend work in relation to any matter, and to retain documents and papers belonging to you, whether or not it is related to the unpaid amount.

3.6

Regardless of whether we agree to seek payment or contribution from any third party (including marking invoices as "payable by" a third party), or where your costs may be covered by an insurer, it is ultimately your responsibility to discharge our invoice. Where we are instructed by more than one person or entity jointly, liability for payment of our charges is joint and several, which means either or both persons may be held liable for the whole amount.

3.7

You must transfer money to us through the banking system, cash payments are not accepted, except by prior agreement in writing. Your attention is drawn to condition 7.3.

3.8

If you have a query about your bill you should contact the Lawyer or CRS who carried out the specific work for you straightaway.

4. LITIGATION

4.1

You need to be aware when involved in litigation in England and Wales, of the following matters:

4.1.1

You are subject to the overriding terms of the CFA responsible for paying our invoices in accordance with these Terms, even if the court eventually orders another party to contribute towards your legal costs. You should be aware that such contributions are not always recoverable or recovered from the other party. There are many reasons for this including the other party may disappear or become insolvent.

4.1.2

The court has wide ranging discretion to determine which party or parties should bear the costs of the proceedings and in what proportion.

4.1.3

Only in exceptional cases will the court make an award which gives the successful litigant a right to full reimbursement of the costs of the proceedings. In relation to certain matters, there are court rules which either limit the amount of costs that may be recovered from your opponent or remove the ability to recover costs entirely. We will advise you separately should this be the case in relation to the work which we are carrying out for you. However, you should assume that, even if your action is successful, there will be additional costs payable to us over and above anything recovered from your opponent. In cases where another party is in receipt of Legal Aid, it is most unlikely that you will be able to recover any costs from that party.

4.1.4

If you lose an action, in addition to being responsible for our invoices in accordance with these terms, you are likely to be ordered by the court to pay a proportion of your opponents' costs. In some cases, you may be ordered by the court to pay additional amounts calculated in relation to damages or costs awarded, and/or additional interest even if you win. We will advise you separately if this is a risk which applies to your matter. Further, if you are unsuccessful, at a hearing of one day or less during the course of the action, the court may order you to pay a proportion of the costs of the successful party. Unless the court orders otherwise, these costs must be paid within 14 days of the order.

4.1.5

Different rules apply to the costs of mediation and arbitration proceedings. Costs are rarely awarded in mediation, arbitration or tribunals.

4.1.6

You should investigate whether you have legal fees insurance or other applicable insurance. Even if you do, you should be aware that insurers may not accept the matter is insured, and even where they do accept that a matter is insured, the insurer may not pay invoices before completion of the case, and you will remain liable to pay our invoices in accordance with these terms even if you have not yet been reimbursed by your insurers.

4.1.7

If you withdraw an action, the other party is entitled to have an order made by the court for you to pay their costs.

4.1.8

in cases before an employment tribunal, the Tribunal very rarely orders an unsuccessful party to pay the other party's costs, and you should not expect to recover any of our fees and out of pocket expenses, even if you are successful.

4.1.9

in any action, you will be required to disclose to the other parties all documents, correspondence, e-mails, notes, memoranda and other items (including electronically held information) which are or have been in your possession custody or power and which relate in any way to the issues in the dispute. Subject to certain exceptions, such as most communications with us, this duty covers document that may be prejudicial to your case, which you are nevertheless obliged to reveal. The obligation of disclosure is ongoing until the action is over and therefore all such documents must be preserved in safe keeping. This obligation is onerous and you may be liable for severe penalties including fines and/or imprisonment in cases of deliberate non-disclosure. If in any doubt as to whether to preserve documents, you should always err on the side of preservation.

4.1.10

The rules governing exceptions to disclosure on the grounds of "privilege" are complex and you should ask us for guidance on this subject where it may be required.

4.1.11

If you are actual or prospective litigant before a court in England and Wales (or any other relevant court) you are obliged by the Civil procedure Rules to take responsibility for the provision of information and documentation in a timely manner and to verify the accuracy of any statement of case, witness statements and certain other documents. We require your full and frank cooperation so that we, on your behalf, are able to represent you properly and ensure that you comply with any timetable which may be imposed. Guidance as to these obligations is available on request.

4.1.12

Although we will always act in your best interests, we are also subject to an overriding duty to comply with the Civil Procedure Rules and practice and we can take no responsibility for situations where sanctions are imposed as a result of any failure on our part to provide us with instructions or information which may be called for. We

will also be obliged to cease to act for you if you refuse to provide us with consent or should misleading or untrue information be placed before the court.

5. FUNDS HELD BY US

5.1

Whenever we hold funds on your behalf in the client account of the Lawyer (for example where funds are payable to you on conclusion of a matter, where you have made a payment on account of costs or where we have recovered costs for you from another party), we reserve the right to deduct amounts due to us in respect of that or any other matter from such funds unless otherwise agreed in writing. Where we work on different matters for you, we reserve the right to transfer unbilled balances on closed or dormant files to current files so that they can be billed more conveniently.

5.2

As appropriate, the Lawyer will hold your funds in a bank or building society in accordance with the SRA Accounts Rules 2011 and / or their respective internal policies and the CRS will hold your funds in a bank or building society in accordance with the Clients' Money Regulations of the Institute of Chartered Accountants in England and Wales. We do not accept responsibility for the financial stability of any bank or building society in which your funds are held, or liability for the failure of such bank or building society. We do not accept liability for any delay in the transfer of funds via the banking system which is outside our control and caused by transaction checks for regulatory compliance purposes. We are not obliged to hold funds in a high interest account and unless you notify us to the contrary, those funds will be held in our standard low interest bearing client account.

5.3

Should you transfer funds to us prior to your identity being verified, pursuant to our Know Your Client and money laundering procedures, we may be unable to return those monies to you or pay them to any third party without the prior consent of the relevant regulatory body.

5.4

Small amounts of interest (as set out in the Solicitors Accounts Rules and the Clients' Money Regulations of the Institute of Chartered Accountants in England and Wales) on payments in advance for fees and disbursements will not be credited against future bills or paid to you. Where we have rendered a final bill to you, but we are still retaining monies to be applied against future disbursements, we will not account to you for any interest on such monies.

5.5

Where interest on money we hold on account for you accrues interest, unless it amounts to less than £20, (provided this represents a fair and reasonable outcome) we will pay interest to you without deduction of tax.

5.6

If the total sum of money held on your behalf exceeds £10,000 for a period of more than 30 days, or such sum is likely to be held for more than 30 days, then the money will be placed in a separate client bank account designated to you. This account will be non-interest bearing unless you specifically request that such funds are held in a separate interest-bearing client bank deposit account. All interest earned on such money that is credited to a client bank deposit account by the bank will remain in the account until you specifically request in writing that it be paid to you. Subject to any tax legislation, any interest will be paid gross. No interest will be paid to you on sums held in non-interest bearing client bank accounts.

6. DOCUMENTS

6.1

After completing the work, we are entitled to keep all your papers and documents while there is money owing to us for our costs. Otherwise we will return to you, at your request, any documents provided to us for the purposes of that matter and any other papers to which you are entitled. We will retain our working documents, draft documents and correspondence sent by us. These may be kept in electronic format only. We will keep our file of documents (except for any of your papers which you ask to be returned to you) for no more than 6 years. We keep the file on

the understanding that we have the authority to destroy it 6 years after the date of the final bill we send you for the matter. We will not destroy documents you ask us to deposit in safe custody.

6.2

If we retrieve documents from storage in relation to continuing or new instructions to act in connection with your affairs, we charge for such retrieval. We may also charge for reading, correspondence or other work necessary to comply with the instructions given by you or on your behalf.

6.3

Copyright in any document created by us will be and remain vested in us and will not be transferred to you. We assert the right to be identified as the author of and to object to the re-use of any such document.

7. CONFIDENTIALITY

7.1

The Lawyer is bound by a general and professional duty of confidentiality towards its client. Any information which we obtain from you while providing our services which is not in the public domain will be treated as confidential. Information passed to us is kept confidential and will not be disclosed to third parties except as authorised by you or required by law. If on your authority we are working in conjunction with other professional advisors or banks, lenders expert witnesses and service providers, we will assume that we may disclose any relevant aspect of your affairs to them.

7.2

Where you provide us with fax or email addresses to which material is to be sent, we shall assume, unless you tell us otherwise, that your arrangements are sufficiently secure and confidential to protect your interests.

7.3

You should recognise that the Internet is not secure and that there are risks if sensitive information is sent in this manner by you or you request us to use the same system. We will use all reasonably commercial endeavours to protect the integrity of computer systems by screening for viruses on mail sent or received and would expect you to do the same, however we cannot guarantee that our systems or communications will be virus free.

7.4

Like most businesses we may from time to time outsource certain aspects of our business, such as cleaning, maintenance, information technology, photocopying, refuse collection and courier services. We will always seek a confidentiality agreement with such providers.

7.5

As part of the service we offer, we may wish to send you information by post, email, SMS and other forms of communication, relating to legal developments and the services we offer. By accepting our letter of engagement and these terms of business, you consent to us sending you such material by post or electronic means. You may revoke this consent at any time by writing to any of the client partners set out in the Engagement Letter of the Collaborating Parties.

8. PRIVACY, DATA PROTECTION AND PUBLICITY

8.1

We are committed to respecting the data which we hold on you. Your details will be kept on our database for administration and accounting purposes, to enable us to undertake credit searches and so that we can send you relevant information on our services and on events which may be of interest to you. Your details will be processed and kept securely in accordance with the Data Protection Act 1998. The data will not be disclosed to third parties except for the purposes mentioned above. If you have any questions or concerns regarding our use of your data or wish to know the identity of any credit reference agencies used then please address those to our Practice Manager at our Liverpool office.

8.2

We may publicise the fact that we act for you generally or in relation to a particular matter or transaction unless you indicate to the contrary.

9. CONFLICTS OF INTEREST

9.1

We advise a large number of clients, and may be in a position where we are advising individuals or entities whose interests may compete with your own. We cannot be certain that we will identify all such situations which exist or may develop and it is difficult for us to anticipate all situations which you might perceive to involve a conflict. We request that you notify us promptly of anything that you think might involve a potential conflict of interests between yourself and another of our clients, or us.

9.2

Where any conflict of interest arises, we may be prevented from continuing to act for a client, notwithstanding we may have already commenced work.

10. COMMUNICATIONS

10.1

Please note that all communications which are sent by you to our staff (or vice versa) by postal service, public or private telecommunications service or system (as those expressions are used in the Regulations of Investigatory Powers Act 2000) may be intercepted by us.

10.2

We may correspond with you (and with your other professional advisers with whom we are working on a matter) by email. You acknowledge that email may not be secure. Email will be treated as written correspondence and we are entitled to assume that the purported sender of an email is the actual sender and that any express or implied approval or authority referred to in an email has been validly given.

10.3

Although the majority of electronic messages reach their destination safely, you should be aware electronic communications are neither private nor secure, nor are there service guarantees for correct message routing and promptness of delivery.

11. ARRANGING INSURANCE AND INVESTMENT BUSINESS

11.1

CBSL are not authorised by the Financial Conduct Authority. However, the lawyer and the Accountant are included on the register maintained by the Financial Conduct Authority so that we can carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is authorised and regulated by the Solicitors Regulation Authority. The register can be accessed via the Financial Conduct Authority website at www.fca.org.uk/register.

11.2

If during a matter you need advice on investments, we may have to refer you to someone who is authorised by the Financial Conduct Authority, as we are not. However, as we are authorised and regulated by the Solicitors Regulation Authority, we may be able to provide certain limited investment services where these are closely linked to the legal work we are doing for you.

12. TERMINATION

12.1

You may terminate your instructions to us in writing at any time.

12.2

We may decide to stop acting for you on reasonable notice if you fail to make payment of a bill or monies required to be paid on account, or if we believe you are acting unreasonably or not providing us with proper and timely instructions.

12.3

If you or we decide that we will no longer act for you, you will pay all charges and disbursements incurred up to the point that we stop acting, despite the fact that we may not have completed what we were instructed to do, and we will be entitled to keep all your papers and documents while there is money owing to us. In the event of early termination of this engagement, our fees will include time and other costs necessarily incurred to bring the engagement to an orderly conclusion.

12.4

We reserve the right to levy a charge for providing access to our working papers to a successor firm, either where we are legally obliged to do so or at your specific request.

12.5

Should we resign or be requested to resign, we may issue a disengagement letter to ensure that our respective responsibilities are clear. Should we have no contact with you for a period of twelve months or more, we may issue to your last known address a disengagement letter and thereby cease to act.

13. PROBLEMS WITH OUR SERVICE

13.1

If you have any problem with the service we have provided for you then please let us know. We will try to resolve any problem quickly and each Collaborating Party operates an internal complaints handling system (a copy of which is available from each Collaborating Party on request) to help us to resolve the problem between ourselves. If for any reason we are unable to resolve the problem between us, then the Solicitors Regulation Authority and the Legal Ombudsman provide complaints and redress mechanisms for the Lawyers' services and the Institute of Chartered Accountants in England and Wales provide complaints and redress mechanisms for the CRS. In the first instance, any problem should be referred to the relevant client partner of the specific Collaborating Party providing the specific aspect of the service complained of and if the matter is not resolved then to the Collaborating Party's partner in charge of complaints.

13.2

The Law Society is a designated professional body for the purposes of the Financial Services and Markets Act 2000 but responsibility for regulation and complaints handling has been separated from the Law Society's representative functions. The Solicitors Regulation Authority is the independent regulatory body of the Law Society and the Legal Ombudsman is the independent complaints handling body for complaints about Solicitors. The register for the Institute of Chartered Accountants in England and Wales can be accessed via the Financial Conduct Authority website at www.fca.org.uk/register

14. MONEY LAUNDERING

14.1

We are bound by the Proceeds of Crime Act 2002 and the corresponding Money Laundering Regulations 2007 which require that we obtain proof of identity from clients for whom we act in connection with relevant financial business. Accordingly you may be asked to supply us with the necessary details. In addition, we reserve the right to verify your identity by engaging a specialist information provider, such as a credit reference agency or fraud prevention agency to carry out searches. The information provider will record the details of the searches whether or not you become our client. Other users of the services of the information provider may share these services in order to prevent fraud. We may charge you for the time spent in obtaining information. This charge will be invoiced to you in the normal course.

14.2

In certain circumstances, we are required by law to report to the Serious Organised Crime Agency any evidence or suspicion of money laundering. We are also prohibited from notifying our client of the fact that a report has been made and will remove from any papers supplied to a client any record of doing so.

15. QUALITY STANDARDS

15.1

B hold both ISO9001 and ISO27001, and may from time to time pursue other certification ("Certification"). Certification requires a quality system to be in place which guarantees the highest levels of service to our clients.

15.2

In order for us to be properly assessed for certification, it is necessary for certain files to be made available to the assessing body for audit. As we owe you a duty of confidentiality, we consider it proper to inform you of the possibility of files relating to your affairs being disclosed to the assessing body as part of the audit process. Files are usually selected for audit on a random basis. The assessing body will not disclose any information contained in those files to any third party. The assessing body is only concerned to ensure that your affairs receive the level of attention appropriate to our quality system.

15.3

You are free to inform us that you do not wish files relating to your affairs to be disclosed, and you may refuse to give your consent at any time without reason. Refusal or consent will not in any way affect the quality of the work we carry out on your behalf. Unless and until you inform us that you are not content to have files disclosed for audit, we will assume that you do consent.

16. INTELLECTUAL PROPERTY RIGHTS

16.1

Escalate Ltd will retain all copyright in any document prepared by us during the course of carrying out the engagement, save where the law specifically provides otherwise.

16.2

Nothing in the engagement letter, CFA or these terms of business shall be construed so as to prevent the Collaborating Parties from using techniques, expertise and ideas gained during the performance of the engagement in the furtherance of other client work. Such use must not result in a disclosure of confidential information in breach of section 7 above or an infringement of any of your intellectual property rights.

17. LIMITATION OF LIABILITY

17.1

In the unlikely event that the Collaborating Parties are individually or collectively liable to you in respect of any loss or damage as a result of our providing our services to you, unless otherwise agreed between us, our liability shall be limited to £3 Million.

17.2

Nothing in these terms shall restrict or limit your general obligation at law to mitigate a loss which you may incur as a result of any mistake we make.

17.3

The limitation set out in clause 17.1 shall not apply in respect of any liability arising out of fraud, dishonesty, or reckless disregard of professional obligations or for death or personal injury caused by negligence, or other liabilities which cannot lawfully be limited or excluded.

17.4

You agree that you will not bring any claim in connection with advice or services provided to you, whether on the basis of contract, tort or otherwise against any director, shareholder, consultant or employee of the Collaborating Parties but this will not limit or exclude the liability of the Collaborating Parties for the acts or omissions of such persons.

17.5

We will not be responsible for any losses arising from the supply by you or others of incorrect or incomplete information, or your or others' failure to supply any appropriate information, or your failure to act on our advice or respond promptly to communications from us. You agree to hold harmless and indemnify us, our members, partners, employees, agents and consultants against any misrepresentation (intentional or unintentional) supplied by you to us orally, or in writing, in connection with this engagement.

17.6

To the maximum extent possible under law, we will not be responsible or liable for any loss, damage or expense incurred or sustained if information material to the service we are providing is withheld or concealed from us, or misrepresented to us. This applies equally to fraudulent acts, misrepresentation or wilful default on the part of any party to the transaction, and their directors, officers, employees, agents or advisers. This exclusion shall not apply where such misrepresentation, withholding or concealment is or should (in carrying out the procedures which we have agreed to perform with reasonable care and skill) have been evident to us without further enquiry.

17.7

Neither we nor you will be liable to the other for the effect of any delay or total or partial failure to fulfil relevant duties and obligations under the engagement to the extent that any delay or failure arises from causes beyond our and your control including, but not limited to, any act of God, fire, act of Government or war, commotion, insurrection, embargo, prevention from or hindrance in obtaining any raw materials, energy or other supplies, labour disputes or whatever nature or any other reason beyond our and your control. If such reasons continue to prevent performance of either party's duties and obligations for a period of more than 60 days, the parties shall consult together for the purpose of agreeing what action should be taken.

17.8

Advice rendered by us is provided for your benefit and solely for the purpose of the instructions to which it relates. Specific advice should always be taken in relation to any particular transaction or matter. Our advice may not be used or relied upon for any other purpose or by any person or entity other than you without our prior written agreement. We will not be liable for any loss or damage which may occur as a result of any such "unauthorised" use or reliance. We are liable only to you and to third parties to whom we have expressly undertaken responsibility. A party to this agreement is the only person who has the right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

17.9

In the event that we find ourselves subject to a claim from another party arising out of this engagement (other than as a result of our own negligence or wilful default), any claim established against us, and the costs we necessarily incur in defending it, would form part of the expenses we would look to recover from you.

17.10

You agree to indemnify us and our agents in respect of any claim (including any claim for negligence) arising out of any unauthorised disclosure by you, or by any person for whom you are responsible, of our advice and opinions, whether in writing or otherwise. This indemnity will extend to the cost of defending any such claim, including payment at our usual rates for the time that we spend in defending it.

17.11

If we need to engage another professional on your behalf (such as a foreign lawyer or an accountant to provide expert evidence etc.) whether in the UK or abroad we will do so as your agent. We cannot be responsible for any act or omission of such a professional unless we have otherwise agreed in writing.

17.12

We shall not be under any obligation in any circumstances to update, amend or modify any advice to take account of or to notify you of any subsequent change (whether a change in law, policy, facts or otherwise) which may have an effect upon such advice after it has been given.

18. COMMISSIONS AND OTHER BENEFITS

18.1

In some circumstances, we may receive commissions or other benefits for introductions to other professionals, or in respect of transactions which we arrange for you. Where this happens, we will notify you. The same will apply where the payment is made to, or the transactions are arranged by, a person or business connected with ours. The fees you would otherwise pay will not normally be reduced by the amount of the commissions or benefits. Where, exceptionally, we do reduce the fees that we would otherwise charge by the amount of commission retained, we will apply the HMRC concession which allows VAT to be calculated on the net fee after deduction of the commission.

19. CHANGES TO THESE TERMS

19.1

We may, by not less than one month's written notice to you, modify these Terms and Conditions from time to time to reflect our current practice and/or changes to professional or other regulatory requirements which we are obliged to meet.

20. APPLICABLE LAW

20.1

Our relationship with you will be governed by English Law and will be subject to the jurisdiction of the English Courts.