

## General terms of business

January 2007 edition

This document, together with our letter of engagement to you (if any), sets out the terms on which we accept your instructions to act.

### 1. General

- 1.1 We will rely on you to supply, in a timely manner, all instructions and information needed by us to act on your behalf. We will rely on you to inform us of any changes to those instructions or to that information or to any other relevant circumstances. We are not under any obligation to check the accuracy of information you supply.
- 1.2 The services we provide are for the benefit only of the party to whom these terms are sent and as specified in the accompanying letter.
- 1.3 Except for our directors and employees in the circumstances referred to in paragraph 12.1, a person who is not a party to this agreement has no right to enforce any term of this agreement.
- 1.4 Stuarts Walker Hersant is a limited liability company recognised under The Legal Practitioners (Incorporated Practice) Regulations, (as Revised) (the "**Regulations**") and carries on business in accordance with the Regulations.
- 1.5 We are Cayman Islands Attorneys-at-Law and provide advice solely in relation to the laws of the Cayman Islands and not in relation to the laws of any other jurisdiction whatsoever.
- 1.6 Unless we specifically agree in writing with you our advice is limited solely to the laws of the Cayman Islands and we are not under any duty to advise on the commercial issues relating to any matter or to the commercial substance of any documentation in relation to such matter.

### 2. Instructing Counsel and other experts

It may become necessary during the course of a matter to instruct Counsel or other experts. If so, we will discuss this with you at the time and suggest who might be

suitable and the costs likely to be involved. In all such circumstances, you will be liable for such Counsel's or expert's fees and disbursements.

### 3. Our fees

- 3.1 Information about the basis of calculating the fees payable to us is set out in the accompanying letter.
- 3.2 Hourly rates where referred to in that letter are reviewed periodically. We will notify you of applicable changes as soon as practicable after new rates have been set.
- 3.3 Where agreed or where special factors apply it may be appropriate to increase the hourly rates or agree an increase in any fixed fee to reflect the special factors or in the case of an opinion letter, the liability assumed by the firm. We will indicate when you are invoiced whether a fixed fee has been applied. These factors where relevant, are as follows:
- the complexity of the matter or the difficulty or novelty of the questions raised
  - the skill, labour, specialised knowledge and responsibility involved
  - the time spent on the business
  - the number and importance of the documents prepared or perused
  - the place where and the circumstances in which the business or any part thereof is transacted
  - the amount or value of any money or property involved
  - the importance of the matter to the client and its urgency.

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3.4 Costs and disbursements incurred by us on your behalf (such as stamp duty, search fees, barristers' fees and all other disbursements) will be chargeable in addition to our fees, as will any expenses of travel, photocopying, delivery services and any other substantial expenses incurred on communications. Disbursements in relation to photocopying and telephone charges may be charged on a standardized basis.

### **4. Estimates**

Estimates of our fees and disbursements are given for guidance only on the basis of information known to us at the time the estimate is given. As any estimate is only an estimate our actual fees and disbursements (if applicable) may be higher or lower than any estimate given.

### **5. Your right to set a limit on fees and other charges**

You have the right, on giving us written notice, to request a limit on our fees and disbursements. We will notify you if that limit is reached to ask you whether you wish us to continue work (subject to a revised limit) or to cease work. It is not, however possible to limit your potential liability in relation to the other side's costs in litigation.

### **6. Delivery of bills**

6.1 In the absence of any specific written agreement about when we will deliver bills to you, we are entitled to deliver interim bills whenever we consider appropriate.

6.2 A final bill will be delivered when a matter is concluded.

### **7. Payment of bills by third parties**

7.1 In the event that you have agreed with a third party that they will be responsible for your legal costs, you should inform us straight away and provide us with such details of the third party as we may reasonably require. We may require the third party to also agree to these terms and conditions before we act for you.

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7.2 We reserve the right, should the third party fail to pay our bills in accordance with the terms agreed between us, to seek payment from you as our client.

### **8. Payment of our bills and interest on late payments**

8.1 We may at any time require from you reasonable sums on account of anticipated or accrued fees and disbursements. We reserve the right to appropriate such sums received by you (or from any other money we receive on your behalf) to pay for disbursements we have incurred on your behalf, to pay any sums shown in any bills delivered to you or to pay any other sums which you are first informed about in writing.

8.2 Our bills are due and payable on delivery. If you do not make payment within 30 days of delivery we may:

- charge interest on any amount billed and unpaid, calculated from the date of delivery of the bill, at the rate of the lesser of (i) 1% per month or (ii) the highest rate allowable by law, in each case compounded monthly to the extent allowable by law
- terminate entirely our services provided to you until payment is received on past due invoices
- retain documents and papers belonging to you, together with our own records
- charge all fees incurred by us in seeking to obtain settlement of our bill

8.3 The rights set out in this paragraph 8 are without prejudice to our rights to cease or suspend work in accordance with the terms of paragraph 13.

### **9. Contentious matters**

9.1 If you are successful in any proceedings, it may be that you will obtain an order for the payment of your costs by another party. Such an award is at the discretion of the Court. Even if you win and obtain a costs

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award, your opponent will probably not be ordered to pay the full amount of the charges you are to pay to us. Your opponent may fail to pay any sum for which you have been given judgment and any costs awarded to you. If you instruct us to pursue collection, you will incur further charges with us, all or part of which may also never be recovered from your opponent. You are liable to us for your costs incurred with us whether or not the litigation results in an order in your favour and, if any order is made in your favour, whether or not it is complied with and whether or not any costs or damages you have been rewarded are recovered.

9.2 If you lose proceedings, you will probably be liable to pay your opponent's costs, as well as having to pay us.

### 10. Interest on money held

Money held on your behalf will not usually be held on an interest bearing account. If you specifically request that such monies are held in an interest bearing deposit account we will transfer such monies accordingly if the interest to be accrued would exceed US\$50.00 and pay any interest accrued thereon to you.

### 11. File management

At the end of a matter, we normally store the files relating to that matter for a reasonable period (which will not be less than six years). No charge is made for this. Unless otherwise agreed, we reserve the right to dispose of the file without further reference to you at the end of that time. During the storage period, we may make a charge for retrieving a file and sending you copies or originals of any of the papers which are your property.

### 12. Our liability

12.1 You agree that any claim of any kind arising out of or in connection with this appointment either directly or indirectly or as a result of any act or omission by us (whether within the scope of our appointment or otherwise) shall be brought only against ourselves (the

company Stuarts Walker Hersant, Attorneys-at-Law) and that no claims of whatsoever nature will be brought personally against any director or employee or any former director or employee of the firm of Stuarts Walker Hersant, Attorneys-at-Law.

12.2 You agree that our maximum aggregate liability in respect of all claims for breach of contract or breach of duty or fault or negligence or otherwise arising out of or in connection with this appointment either directly or indirectly or as a result of any act or omission by us (whether within the scope of our appointment or otherwise), brought by you or without limitation your assignees or successors or any person acting on your behalf or any third party shall be limited in total to the lesser of either (i) the aggregate amount of the professional indemnity cover maintained and available by the firm from time to time irrespective of both the number of such claims and of the number and identity of the persons making such claims or (ii) three times the fees paid by you on the relevant matter to which such claim relates.

12.3 You may have other advisers acting for you on a matter as well as ourselves in circumstances where you have agreed to a limitation of their liability. In these cases, our aggregate liability to you in respect of any breach of contract or breach of duty or fault or negligence or otherwise arising out of or in connection with this appointment either directly or indirectly or as a result of any act or omission by us (whether within the scope of our appointment or otherwise), shall be limited to that proportion of the loss or damage (including interests and costs) suffered by you which is attributed to us by a court of competent jurisdiction having regard to the contribution to such loss and damage by any other person but subject always to the limitation set out in paragraph 12.2 above. You agree that this will remain the position even if it means you may not be able to recover a part of any loss for which we might otherwise have been liable.

12.4 Any claim for breach of contract, breach of duty or fault or negligence or otherwise arising out of or in connection with this appointment either directly or indirectly or as

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a result of any act or omission by us (whether within the scope of our appointment or otherwise), brought by you or without limitation your assignees or successors or any person acting on your behalf or any third party shall be brought against us within one year of the act or omission alleged to have caused the loss or damage in question. If the claim is not brought within this period, it shall be deemed to have been waived and abandoned.

12.5 You agree that the provisions of this paragraph 12 shall not be affected by the termination of our appointment (whether or not pursuant to paragraph 13) and that the provisions of this paragraph 12 shall continue in full force and effect notwithstanding any such termination.

12.6 No provision of this paragraph 12 shall apply to any liability or responsibility which we are restrained by law from seeking to limit or exclude.

12.7 You agree to indemnify us and any subsidiaries, affiliates, directors and other officers, shareholders, servants, employees, agents or any former director or employee of Stuarts Walker Hersant ("**Indemnified Person**") and keep us indemnified and each other Indemnified Person from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, claims, demands and suits (including without limitation, costs (including legal costs), expenses or disbursements) of any kind or nature whatsoever which may be imposed on, incurred by or asserted against any of the Indemnified Persons howsoever arising (other than by reason of proven fraud or dishonesty on the part of such Indemnified Person) in connection with the provision of services to you.

### 13. Cessation or suspension of work

13.1 We will have the right to cease work and terminate this agreement (or, at our option, to suspend work) by giving you reasonable notice in writing sent to your last known address or orally if:

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- any bill remains unpaid for more than 30 days after delivery to you, or for any shorter period which may be reasonable in the circumstances
- you fail within 14 days (or such lesser period as may in the circumstances be reasonable) to pay any money required of you on account of costs under the terms of in paragraph 8.1 above
- without good reason you fail to give us information or instructions in a timely manner between you and us
- you fail to comply with any request to provide due diligence information or any information requested pursuant to any money laundering regulations or practices or procedures in force or applicable in the Cayman Islands from time to time
- any other circumstances arise which, as a matter of law or practice, entitle us to terminate our engagement.

13.2 In the event that we terminate this agreement in accordance with the terms of paragraph 13.1, we will, where so entitled, retain sole ownership of all file notes, memoranda and other similar items prepared by ourselves. Likewise, we will, where so entitled, retain sole ownership of the same during any period for which we suspend work in accordance with paragraph 13.1.

### 14. Resolving problems and complaints

14.1 The attorney who is responsible for your matter is also responsible for ensuring that you receive a high quality of service.

14.2 It is our policy to investigate complaints or any expressed dissatisfaction in relation to our conduct of a matter fully and promptly and to this end we run an internal complaints handling system.

14.3 If you have a complaint relating to the work being carried to you, you should raise the

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issue with the attorney responsible for the matter.

14.4 If you are not satisfied, or if it is inappropriate to raise the issue with the attorney responsible, you should make a formal complaint in writing addressed to the Managing Director of Stuarts Walker Hersant, giving full details of the nature of your complaint.

14.5 The Managing Director, or another director nominated by him or her, will then look into the matter and aim to send you a substantive written response within 14 days of receipt of your complaint.

### **15. Confidentiality**

You waive all rights of confidentiality with respect to any disclosure which we make pursuant to any applicable law or regulation or which we reasonably believe is in our best interests to make. You agree that Stuarts Walker Hersant Attorneys-at-Law, its directors, attorneys and employees shall not be liable for such disclosure. You expressly permit Stuart Walker Hersant to transfer your information to another jurisdiction as part of our disaster recovery plan and consent to any consequential disclosure.

We reserve the right to record telephone conversations or meetings at our offices at our discretion for the purpose of keeping accurate records of such telephone calls and meetings. No prior notification is required or will be given before such rights are exercised and you consent to such recording.

### **16. Force Majeure**

We will not be liable to you for any failure or delay in performing any of our obligations to you due to causes beyond our reasonable control including but not limited to hurricane, flooding, interruption in telephone/e-mail services, power outage, government intervention and war.

### **17. Anti Money Laundering**

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We support and comply with comprehensive anti-money laundering legislation, which may vary from time to time. Currently, such legislation requires us, amongst other things, to obtain the necessary documentation to verify the identity and address of a prospective client and, in certain circumstances, to disclose information about the client.

You agree to provide any information to us, or comply with any procedures, as we may reasonably require, in order for us to meet our ongoing obligations under anti-money laundering legislation.

### **18. Severability**

If any provision of this document is declared by any Court of competent jurisdiction to be illegal, invalid or unenforceable in whole or in part, then such provision or part shall to that extent be deemed not to form part of this document and the legality, validity and enforceability of the remainder of this document shall not be affected.

### **19. Jurisdiction and Governing Law**

Our relationship with you is governed by Cayman Islands law. You hereby irrevocably agree, for our exclusive benefit, that the Cayman Islands Court shall have jurisdiction to hear and determine any claim, suit, action or proceeding whatsoever and to settle any dispute which may arise out of any provision of this Agreement or out of any action taken or omitted to be taken under this Agreement and for such purposes you irrevocably submit to the jurisdiction of the Cayman Islands Court. Nothing contained in this paragraph shall limit our rights to take proceedings in any other Court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).