

KEPSTORN

Solicitors

TERMS OF BUSINESS

1 Definitions

In these terms of business:

"Kepstorn" means Kepstorn Solicitors Limited;

"Engagement Letter" means the letter, e-mail or other communication recording our understanding of your requirements and the basis of our engagement;

"Group Company" means, where you are a company, you, your ultimate holding company from time to time and any of your, or such holding company's, subsidiary undertakings from time to time;

"Matter" means a specific instruction, transaction, dispute or issue in relation to which you ask us to provide you with Services;

"Services" means the services that we provide to you in relation to the relevant Matter;

"Terms" means these terms of business, as amended or supplemented by any Engagement Letter and as otherwise varied from time to time;

"we", "us" and "our" means or refers to Kepstorn; and

"you" and "your" means the addressee of the relevant Engagement Letter and any other person identified in the Engagement Letter, or otherwise agreed by us in writing, as being our client.

2 Engagement

2.1 These Terms are the only terms and conditions upon which we provide Services. These Terms apply to each Matter we agree to work on for you. No variation of these terms shall be effective unless signed by Kepstorn.

2.2 You give us full authority to act for you to the fullest extent necessary or desirable to provide the Services.

2.3 The person named in any Engagement Letter will be the person primarily responsible for the provision of our Services. That person has complete discretion to deploy such of our lawyers, trainee lawyers, paralegals or other staff as he deems necessary or desirable to ensure appropriate delivery of the Services.

2.4 If, on your behalf, we require to instruct lawyers practising in any jurisdiction to give advice, we will do so on the same basis as we engage other third parties on your behalf.

2.5 Kepstorn alone will provide the Services and you agree that you will have no claim whatsoever against any individual partner, employee, consultant or agent as an individual and that each such individual can rely on these Terms insofar as they limit their liability.

3 Your Responsibilities

3.1 You will (so far as reasonably practicable):

3.1.1 provide us with timely instructions, information and materials necessary or desirable for us to perform the Services for you;

3.1.2 notify us promptly of any changes or additions to instructions, information and materials previously provided by you or on your behalf; and

3.1.3 ensure that all information provided to us is complete in all material respects and not misleading.

4 Communications

4.1 Communication with us can be by telephone, post, fax, e-mail and other forms of communication. We may ask for written confirmation of oral instructions.

4.2 Not all methods (especially electronic methods) of communication are secure. You agree that we will not be liable for any loss or damage arising from the use of any method of communication.

4.3 We monitor communications to and from our systems. Communications (including recorded voice messages) sent to or received from individuals within Kepstorn may be intercepted and recorded by us.

5 Acting For You

5.1 Normally, we expect to continue to act for you in a Matter until we finish the particular work involved.

5.2 We may refrain from carrying out instructions if, in our opinion, they might involve us in a breach of any legal, professional or regulatory requirements or if we consider that we have not been provided with all relevant information or sufficient funds.

6 Joint Instructions and Authority

6.1 Where we are engaged by more than one person together, we will be entitled to proceed on the basis that each one has the authority of the others to give us instructions and accepts personal responsibility for our fees and outlays, jointly and severally.

6.2 Where we are engaged for a company or other body corporate, we will be entitled to proceed on the basis that any director, company secretary, officer, employee or official is authorised to give us instructions.

6.3 Where we are engaged for a business carried on in partnership, we will be entitled to proceed on the basis that each partner has the authority of the others to give us instructions.

6.4 Where we are engaged by another lawyer or law firm, the lawyer or law firm (as appropriate), whether or not being our client, accepts personal responsibility for our fees and outlays jointly and severally with their client (if any). We have the right to release or vary the liability of such lawyer or law firm or the client without affecting the liabilities of the other.

7 Estimates and Quotations

7.1 If we provide an estimate or quotation for a Matter, it is given on the following basis:

7.1.1 An estimate is our best indication only of the likely fee for carrying out the instruction. It does not constitute a contract to carry out the work at that cost. We will let you know if our fees are likely to exceed the estimate given.

7.1.2 A quotation is a proposal by us to carry out a Matter for a specified fee. If you accept the proposal (either specifically or by a general instruction to commence the work) before it expires or is withdrawn, the quotation will then become a contractual commitment between you and us.

7.2 Where we carry out work which falls outside the scope of an accepted quotation or estimate, we may charge fees with reference to our hourly rates, in addition to the quoted or estimated fee. We may also charge additional fees on the same basis for work within the scope of such a quotation or estimate which is made more time-consuming, onerous or urgent as a result of:

7.2.1 circumstances or information which we did not know or could not reasonably have anticipated at the time of the quotation or estimate (whether or not you were aware of them/it); or

7.2.2 your, or your agents', act or omission.

8 Fees and Expenses

8.1 Unless otherwise agreed in the Engagement Letter, our fees will be calculated principally by reference to the time spent by us in providing the Services at the hourly rate applicable to the relevant staff, as set out in the Engagement Letter. The minimum charge for any activity is a unit representing one-tenth of an hour (six minutes).

8.2 The hourly rates of each of our lawyers, trainee lawyers, paralegals and other staff are reviewed from time to time and we will inform you of any changes upon request.

8.3 Unless otherwise agreed in the Engagement Letter, you will pay the reasonable expenses we incur in the course of providing the Services.

- 8.4 Unless we state otherwise, all amounts are in Pounds Sterling and are exclusive of VAT.
- 8.5 VAT will be charged in addition to the fee and any relevant expenses at the applicable rate (unless the invoice relates to services treated as supplied outside the European Union or, provided you have given us your VAT registration details, treated as supplied to an undertaking's establishment elsewhere in the European Union). Our VAT Registration Number is GB 105 9215 35.
- 8.6 We may require you to make payments in advance in security of fees and expenses. Any such payment will be held in a client account. By making any such payment, you:
- 8.6.1 agree that no interest will be due on the amount of any such payment (whether or not we have rendered our invoice for the fees and expenses for which it is security); and
- 8.6.2 authorise us to apply the amount of any such payment against invoices as and when we raise them. A payment in advance is not the final charge for any period and is merely a partial security for the aggregate fees and expenses.

9 Invoices

- 9.1 Unless otherwise agreed in the Engagement Letter, we will be entitled to invoice you in respect of our fees and expenses monthly or at other periodic intervals and on completion of each Matter. At the end of our financial year, we shall be entitled to bring up to date our invoicing in respect of all your then unbilled work.
- 9.2 If a third party is to pay for Services provided by us, the VAT invoice will be addressed to the client, and a non-VAT invoice will be addressed to the third party. The persons engaging us will remain responsible for payment of the fees and outlays until we have received payment in full.
- 9.3 If we receive any commissions from third parties relating to specific work done for you, we will (subject to clause 17.1 below) credit you with the commission received, unless we have an agreement with you to the contrary or the amount is less than £50.
- 9.4 We may deduct from any moneys we may hold or receive for you, or from any Group Company, amounts to reimburse us for any expenditure on your behalf or due to us and for any invoice of ours payable by you or any Group Company.
- 9.5 All invoices are payable upon receipt (including by e-mail attachment or fax) of the invoice. Any dispute of any invoice must be communicated to us promptly on receipt of the invoice, otherwise the invoice will be deemed to have been accepted by you.
- 9.6 Where the supply of Services is made to a person receiving them who is not acting in the course of a business (with the result that the supply is not under a contract to which the Late Payment of Commercial Debts (Interest) Act 1998 applies), interest shall be payable on any unpaid invoice at 4% over the base rate from time to time of The Royal Bank of Scotland plc.
- 9.7 If you do not pay any invoice by the date for payment, or a sum on account within seven days (or such longer period as we may specify) of our demand, we may suspend or terminate the provision of all or any Services (and instruct any third parties engaged by us to suspend the provision of their services) and may invoice you for all accrued fees and expenses.
- 9.8 The place for payment of all invoices is the offices of Kepstorn, 7 St James Terrace, Lochwinnoch Road, Kilmacollm PA13 4HB.

10 Conflicts

- 10.1 Before accepting an instruction, we will carry out an internal check for any conflict of interest with any other client or matter. We will tell you promptly if we are not free to act in any particular Matter.
- 10.2 If a conflict becomes known after an instruction has been accepted, we will inform you and consider how best to

resolve the situation. In some circumstances, we will be able to act for one person, but in others we will be unable to act for any of the parties.

11 Confidentiality

- 11.1 As solicitors, we owe our clients a duty of confidentiality. We will treat your files, papers and any information which is confidential to you, and which we obtain as a result of acting for you, as strictly confidential, save:
- 11.1.1 for the purpose of acting for you;
- 11.1.2 for disclosures to our auditors or other advisers or for the purposes of our professional indemnity insurance;
- 11.1.3 for the purposes of any legal action; or
- 11.1.4 as otherwise required by law or other regulatory authority to which we are subject.
- 11.2 We shall be under no duty to disclose to you (or take into account in the course of providing the Services) any information acquired by us in acting for any other client or any information in respect of which we owe a duty of confidentiality to a third party.
- 11.3 Our advice and other communications with you are confidential and may not, without our consent, be disclosed by you to any third party (other than to your employees and agents who require access and who do not disclose it further) or otherwise made public except as required by law or other regulatory authority to which you are subject.

12 Publicity

- 12.1 We may refer publicly to your name as a client of ours, provided we do not disclose any information which is confidential to you.
- 12.2 We may wish to seek publicity for our involvement with you or with a particular Matter. We will seek your consent to any such publicity prior to its being published, unless and to the extent that the Matter has been the subject of a press or other public announcement approved by the client.

13 Information about you

- 13.1 We may use the information which you provide, or which we obtain through our dealings with you, for the provision of Services and use it:
- 13.1.1 to administer your account with us, including tracing and collecting any debts;
- 13.1.2 to contact you by letter, telephone, e-mail or otherwise about our services and about events such as seminars and conferences and to send you briefings and similar material;
- 13.1.3 for fraud prevention purposes (including verification checks for our money laundering obligations);
- 13.1.4 for the reasons set out in clauses 18.3 and/or 18.4;
- 13.1.5 to assess client satisfaction (such as by asking you to participate in surveys); and
- 13.1.6 to help improve our services generally.
- 13.2 By instructing us, you consent to us using your information for these purposes. If you prefer not to receive marketing material from us, please advise our marketing department or the Partner who has overall supervision of the Matter.
- 13.3 During the course of us providing the Services you may disclose personal data to us in order that we may provide the Services to you. The processing of personal data is regulated in the UK by the General Data Protection Regulation EU 2016/679 as supplemented by the Data Protection Act 2018 together with other provisions which relate to privacy and electronic communications (the "**DP Requirements**"). In providing the Services, we act as an independent controller and are, therefore, responsible for complying with the DP Requirements in respect of any personal data we process in providing the Services to you. Our privacy statement (as contained on our website: <http://www.kepstorn.co.uk/privacy-statement>) explains how we process personal data. You are also an

independent controller responsible for complying with DP Requirements in respect of the personal data you process and, accordingly, where you disclose personal data to us you confirm that such disclosure is fair and lawful and otherwise does not contravene DP Regulations. Terms used in this clause bear the same meanings as are ascribed to them in DP Requirements.

14 **Intellectual Property**

- 14.1 We retain copyright and all other intellectual property rights in all documents and other works we develop or generate for you in providing the Services (including know-how and working materials, as well as final documents). We grant you a non-exclusive licence to use such documents or other works solely for the Matter to which they relate and for no other purpose.
- 14.2 If you do not pay in full for our Services in relation to that Matter in accordance with these Terms, we may, on giving you notice, revoke that licence and only re-grant it to you once full payment has been made.

15 **Termination**

- 15.1 Either of us may bring the relationship to an end at any time by giving immediate notice to the other in writing. This termination will not be retrospective.
- 15.2 If either of us does terminate the relationship, any fees and outlays incurred or relating to the period prior to termination, plus any additional fees and outlays for work necessary to transfer our files to another adviser of your choice, must be paid by you.

16 **Papers and Documents**

- 16.1 We may retain any property in our possession belonging to you or any Group Company until all fees and outlays owed by you or any of them are paid in full. Subject to this, on completion of a Matter, we will, if you request, return to you all materials provided by you, or any Group Company, to us for the purpose of that Matter.
- 16.2 We will retain all correspondence and other material for a minimum of five years and will then be free to destroy them without further reference to you.
- 16.3 We will only store title deeds, papers and original documentation for you by prior agreement. In that case, we may use our own storage facilities or those of a third party selected by us. If we use our own storage facilities, we will make an appropriate charge; if storage is arranged by us with a third party, we will recover the third party charges from you. If we store with a third party, such storage and/or the processing of relative personal data may be outside the European Economic Area.

17 **Client's Money**

- 17.1 Any money which we hold or receive on your behalf will be held in a bank account designated as a client account and will be held separately from our own money and we will keep and apply such money for you and account to you for interest on it in accordance with the Solicitors (Scotland) Accounts Rules in force from time to time. We are entitled to retain interest or commission paid to us by our bankers, including amounts so paid calculated by reference to sums in the client account.
- 17.2 We do not claim to be capable of offering, do not offer and are not to be taken to offer any opinion or assurance of any kind about any bank or building society at which a client's money is deposited.
- 17.3 We will hold any funds on your behalf in a Client Account with The Royal Bank of Scotland plc (the "**Bank**"). The current base rate means that little or no interest is being paid by the Bank on Solicitors Special Deposit Accounts ("**SSDA**"). In certain circumstances the Bank is charging a fee to place funds in an SSDA. As a result, you agree that funds we hold on your behalf may be held in our Client Account and may not accrue interest for you whilst they are so held and that you will have no entitlement to any amount of interest that we may be paid in respect of funds held in our Client Account.

18 **Money Laundering**

- 18.1 Our compliance requirements include obligations under the Proceeds of Crime Act 2002, the Money Laundering Regulations 2007 and the Terrorism Act 2000. We will do whatever we consider appropriate in order to carry out customer due diligence measures and ongoing monitoring and to assess creditworthiness. This may include making enquiries, carrying out checks and asking questions, relative to the client, its beneficial owners and others, and storing the results.
- 18.2 We will not be ready to commence work instructed by or for you until these procedures have been completed to our satisfaction and continuance of work will depend on our ongoing monitoring.
- 18.3 Any other business that is engaged for your benefit or to which you are referred may have similar or equivalent compliance requirements and it may be necessary for us to communicate to such a business information held by us which has been obtained relative to our own compliance diligence and monitoring. This does not relieve anyone of any responsibility imposed by law, contract, professional code, regulation or in any other way.
- 18.4 We are professionally and legally obliged to keep your affairs confidential. However, solicitors may be required by statute to make a disclosure to the Serious Organised Crime Agency where they know or suspect that a transaction may involve money laundering or terrorist financing. If we make a disclosure in relation to your Matter, we may not be able to tell you that a disclosure has been made. We may have to stop working on your Matter for a period of time and may not be able to tell you why.

19 **Governing Professional Bodies**

- 19.1 Kepstorn is authorised in the United Kingdom by and subject to the Professional Practice Rules and Regulations of The Law Society of Scotland, <http://www.lawscot.org.uk/>.
- 19.2 Kepstorn is not authorised by the UK Financial Services Authority (FSA).

20 **Professional Indemnity Insurance**

We maintain professional indemnity insurance under the Master Policy for Professional Indemnity Insurance of the Law Society of Scotland. The cover is worldwide and the lead insurer is Royal & Sun Alliance Insurance plc of 200 St Vincent Street, Glasgow, G2 5SG.

21 **Tax Advice**

Unless we are engaged expressly to give tax advice, we will assume that you have your own tax adviser, that tax advice on the Matter will be sought from that tax adviser by you and that we are being consulted on non-tax matters only.

22 **Delivery of Advice**

- 22.1 Where we provide draft or provisional advice or other materials, that advice or those materials are not to be relied upon as constituting our final view.
- 22.2 Our Services are provided in accordance with professional practice requirements and the proper interpretation of the law, as each exists on the date on which the relevant Service is provided. If there is any change in such requirements of the law or their interpretation after the relevant Matter has been concluded (or before that known time but which could not reasonably be known by us at that time), we have no responsibility to notify you of, or of the consequences of, the change.
- 22.3 We will try to meet any deadline we agree with you for the performance of any Services but, unless we agree otherwise in writing in relation to any time, date or period for delivery or performance by us, time shall not be of the essence.

23 **Proportionate Liability**

Our liability shall be limited to that proportion of your losses which it is determined would be just and equitable to require Kepstorn to pay, having regard to the extent of our responsibility for the same and on the basis that any other

professional advisers engaged by you in relation to such work shall be deemed not to have the benefit of any express exclusions or limitations of liability, nor any joint or co-insurance provisions, even if you have accepted or agreed to such provisions with any of them.

24 Limitation of Liability

24.1 Neither we nor you exclude or limit liability to the other for death or personal injury caused by any negligent act or omission; or for any liability which cannot be excluded or limited by law.

24.2 We do not accept liability for:

- 24.2.1 indirect, special or consequential loss or damage;
- 24.2.2 loss of business profits, salary, business revenue, goodwill, or anticipated savings; or
- 24.2.3 loss which could have been avoided through your reasonable conduct or by taking reasonable precautions.

24.3 In relation to each Matter, our liability shall be limited to the sum specified in the Engagement Letter or, if no sum is specified, the sum of £1 million.

25 Complaints

25.1 If at any time you are dissatisfied with our service, you should raise this with Calum Jones, the Client Relations Partner. It will be dealt with under our internal complaints procedure. This is designed to comply with the Law Society of Scotland's requirements. We make all efforts to deal with any complaints as speedily as possible.

25.2 A non-judicial dispute resolution procedure is provided by the Scottish Legal Complaints Commission (the "SLCC").

25.3 The SLCC operates strict time limits for accepting complaints, which require complaints to be made within one year of the service ending or the conduct occurring. However, the SLCC will disregard any time it considers that the complainer was excusably unaware of their concerns.

25.4 We recognise that Alternative Dispute Resolution Regulations have implemented ADR/EDR Directive 2013/11/EU to promote alternative dispute resolution as a means of redress for consumers in relation to unsatisfactory services. As there is currently no ADR Entity appointed in Scotland for Scottish Legal Services, we have chosen not to adopt an ADR process and if you have any concerns about the services you receive from this firm you should contact the firm's Client Relations Partner.

26 Force Majeure

We shall be excused performance of our obligations if we are prevented from or delayed in carrying on business by acts, events, omissions or accidents beyond our reasonable control, including industrial disputes (whether involving our workforce or any other party), absence of personnel due to illness or injury, telecommunications failure, power supply failure, terrorism, fuel strikes, severe weather, computer breakdown, failure of suppliers to meet delivery requirements, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, accident, fire, flood, storm or default of suppliers of sub-contractors.

27 Variation

These Terms may be varied by us at any time on giving you adequate notice in writing (including by e-mail).

28 Severability

If and in so far as any part or provision of these Terms is or becomes void or unenforceable, it shall be deemed not to be, or never to have been or formed, a part of the Terms and the remaining provisions shall continue in full force and effect.

29 Waiver

The failure of either party to exercise or enforce any right conferred on that party by these Terms shall not be deemed to be a waiver of any such right or operate to bar the exercise or enforcement thereof at any time or times thereafter.

30 Third Party Rights

Save to the extent expressly set out in the Engagement Letter, these Terms are not intended to create, nor shall they create, any rights, entitlement, claims or benefits enforceable by any

person that is not a party to them, whether in terms of the Contract (Third Party Rights) (Scotland) Act 2017 or otherwise.

31 Law

Our appointment and provision of Services and these Terms are governed by the law of Scotland and you agree that the Scottish courts will have exclusive jurisdiction in any dispute or other matter relating to same.

16th April, 2018