

## Terms and Conditions applicable to services provided by Campbells in Hong Kong

These terms and conditions ("Terms") apply to all business undertaken by Campbells in Hong Kong and we will take your continuing instructions in any matter as your acceptance of these Terms. These Terms together with any engagement letter which is in effect between you and us, if any, are together referred to as the "Retainer" and constitute the entire agreement between you and us, hereby superseding any previous agreement between you and us. These Terms will apply whether or not you have signed an engagement letter, although in the event of conflict between these Terms and any engagement letter which is in effect between you and us, the engagement letter shall prevail to the extent of any conflict.

Campbells describes multiple separate undertakings and partnerships providing services in the Cayman Islands, the British Virgin Islands, Hong Kong, Bermuda and other locations established in the future, practicing under a common name of Campbells. Services are provided by separate Campbells individual undertakings and partnerships, each of which is a distinct and separate business.

The references in these Terms to "Campbells", "we" and "us" mean Campbells, a foreign law firm registered with the Law Society of Hong Kong.

Although we are a part of the Campbells group, it is Campbells in Hong Kong which is solely responsible for providing services to you under these Terms, and you will not be a client of another member of the Campbells group unless otherwise agreed.

### **1 Our Role**

- 1.1 We aim to provide you with sound, practical and prompt legal advice and assistance, and will do our best to keep you informed of our progress. We will at all times do our best to comply with your instructions, even where these are contrary to our recommendations, unless we feel it would be unlawful, improper or unethical to do so, or inconsistent with maintaining a proper working relationship with you. Please note that all attorneys are Officers of the Grand Court of the Cayman Islands or legal practitioners of the Eastern Caribbean Supreme Court in the Territory of the Virgin Islands (British) and are not permitted to do anything inconsistent with their duties to the relevant Court.
- 1.2 No opinion, suggestion or comment, written or oral given by us in relation to the laws of any jurisdiction other than the Cayman Islands or the British Virgin Islands or in relation to any non-legal matter may be relied upon by you.
- 1.3 We reserve the right at our absolute discretion to allocate and re-allocate work to such member(s) of staff of any member of the Campbells group as we deem appropriate due to the nature of the matter, business requirements or staff absences.
- 1.4 We shall not be held liable for any delay or failure to fulfil our obligations to you as a result of causes beyond our reasonable control. Such causes include, but are not limited to, fire, floods, hurricanes, tropical storms, typhoons, acts of god, acts and regulations of any governmental or supranational authority, wars, riots, strikes, lock-outs and industrial disputes.
- 1.5 Our advice is given on the basis of the laws in force in the Cayman Islands or the British Virgin Islands (as the case may be) at the date of that advice. Unless you expressly instruct us in writing to do so we are under no obligation to advise, and accept no responsibility whatsoever for advising, in relation to subsequent changes in

the laws of the Cayman Islands or the British Virgin Islands (as the case may be), and the effect, if any, on you. It is possible that changes may occur in the law and its interpretation before our advice is acted upon. We accept no responsibility for any changes in the law or its interpretation that occur subsequent to our advice being delivered to you.

## **Responsibility to Third Parties**

We provide our services under the Retainer for the benefit of the person(s), firm, company or other association or organisation who is recorded as our client, and not for the benefit of any other person. Save where imposed by law, we do not accept any responsibilities to any third parties.

## **2 Complaints Procedure**

If at any time you have any queries or concerns on any aspect of a matter, then please do not hesitate to contact the supervising partner. If this does not resolve the matter to your satisfaction, or you would prefer not to speak to the supervising partner, then please feel free to contact our managing partner. Any concerns or complaints arising out of or in connection with the Retainer shall be dealt with confidentially between you and us.

## **3 Conflicts of Interest**

- 3.1 At the date of our engagement, we do not to our actual knowledge have a conflict of interest preventing us from accepting your current or proposed instructions. However, we have a large and diverse client base, and conflicts of interest can and do arise. There may be circumstances in which we have to cease acting for you or are obliged by law to suspend activities on your matter, and we may be precluded from informing you of the reasons for the cessation or suspension.
- 3.2 You will be our client for conflict purposes if we are engaged by you on one or more current matters. It is a condition of the Retainer that you agree we may at any time represent former, existing or new clients in any matters that are not substantially related to any matter in which you have engaged us, even if such clients' interests are directly adverse to you or parties related to you. You agree to waive any conflict of interest that may arise in such situations.
- 3.3 We frequently represent clients in restructuring, insolvency and bankruptcy matters; you specifically agree to waive any conflict of interest that may arise where both you and the other client(s) are or may be a creditor, debtor or other stakeholder in such matters. We shall not divulge to our other clients your identity or information that is confidential to you without your express consent, and you will not require us to disclose to you the identity of our other clients or information that is confidential to them, without their express consent. In the event that your interests diverge from, or conflict with, the interests of another client we are representing in such a matter, we reserve the right to cease acting for you and/or for one or more of our other clients and continue acting for others at our discretion.
- 3.4 So that we may consider the matter, you agree to notify us promptly upon becoming aware of any conflict or potential conflict during the term of this Retainer.

## **4 Files and Documents**

- 4.1 After a matter has been completed we will retain all papers and documents in storage for at least six years from the date such papers and documents are sent to our storage facilities. We may destroy them at any time after this period. If you wish papers and documents to be retained for a longer period, then please contact us to make specific arrangements. During such period and thereafter we shall have no liability for the loss, damage or destruction of papers and documents.
- 4.2 We are entitled to keep all your papers and documents whenever there is any money owing to us for our fees and disbursements pending payment. Subject to there being no money owing to us for our fees and disbursements, we will return to you on request papers and documents to which you are entitled, although we may retain a copy. We are entitled to charge for printing, making and retaining a copy thereof, storage and handling (including for any period such files have been kept in storage and for retrieval from storage) and delivery, at our usual rates as determined by us from time to time.
- 4.3 We may retain papers and documents in the form of electronic records only and may destroy hard copies of papers and documents where papers and documents are retained in the form of electronic records.

## **5 Future Instructions**

This Retainer applies to all matters on which you instruct us, both present and future subject to our then current hourly rates, as amended and notified to you from time to time.

## **6 Liability**

- 6.1 To the extent that the law imposes on us responsibility to any third parties, notwithstanding clause 2 above, our liability to them shall be limited in accordance with this clause 7 and clause 8 and a single aggregated limit as set out in this clause 7 shall be shared between such third parties and you. You warrant that you will take all reasonable, immediate and necessary steps to mitigate any loss that you suffer which you claim to have been caused by our act or omission and you must notify us immediately of any such claim. We will have no liability in the event of your failure to fully and promptly meet your obligations in such regard. Any liability which might otherwise be implied or incorporated herein by reason of statute or common law or otherwise is hereby expressly excluded to the fullest extent permissible by law. Our liability to you (and, where applicable, to any third party) shall not exceed the maximum amount which may be payable by our insurer in relation to any claim that you may make or three times our professional fees charged in the matter, whichever is greater. This limit shall apply to any and all causes of action against us in respect of or arising from or in any way connected with our engagement by you. Where you instruct us on future matters, this clause shall also apply to each such future matter. Where instructions on any matter are from joint clients, a single aggregated limit will apply to be shared by such joint clients. Except as otherwise expressly stated in writing, we make no warranties of any kind or nature, whether express or implied, including, but not limited to, warranties of merchantability or fitness for a particular purpose or use in connection with our engagement. We shall not be liable in any way for failure to perform our obligations under this engagement if the failure is due to causes outside our reasonable control. You hereby agree to indemnify us for all actions, suits, proceedings, claims, demands, costs and expenses whatsoever which may be taken or made against us or which may be incurred or become payable by us in respect of or arising out of us acting for you except in the case of our negligence, wilful

misconduct or fraud. We shall not be liable for any indirect or consequential damages. Notwithstanding anything else herein, no partner, member, employee, agent or associated company of ours shall bear any liability in respect of the services provided under these Terms, and your sole recourse shall be to pursue a claim against us, as modified herein.

- 6.2 The Retainer shall only apply to exclude or limit any liability to the extent permitted by law and nothing in the Retainer shall operate to exclude or limit any liability for fraud. Any provisions hereof intended to have continuing effect (including without limitation the liability provisions contained herein) shall survive and remain in full force and effect notwithstanding any termination of the Retainer.

## **7 Contribution Claims**

Where in relation to any loss you have causes of action against us and against any third parties, we shall only be liable to you for our share of the responsibility. Nothing in this clause shall increase our liability beyond that set out in clause 7.

## **8 Electronic Communications**

During the course of this matter, we may wish to communicate electronically with one another. The electronic transmission of information cannot be guaranteed to be secure or error-free, as it will be transmitted over a public network, and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or otherwise be adversely affected or unsafe to use. We will 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. In particularly sensitive cases, we can correspond with you using encrypted email and will be pleased to discuss this with you if appropriate. We each agree to use reasonable procedures to check for the most recently known viruses before sending information electronically, but we each recognise that such procedures cannot be a guarantee that transmissions will be virus-free. We shall each be responsible for protecting our own interests in relation to electronic communications. Neither of us (nor any former partner, employee or agent of Campbells, any undertaking or company controlled directly or indirectly by Campbells or its affiliates or any officer, employee or agent thereof or any successor of any of the aforesaid) shall be liable to the other on any basis, whether in contract, tort (including but not limited to negligence) or otherwise, in respect of any damage or loss arising from or in connection with the electronic communication of information between us. For the avoidance of doubt, where it applies, this exclusion shall take priority over that set out in clause 7.

## **9 Ceasing to Act**

- 9.1 You may terminate the Retainer at any time (either generally or in respect of any particular matter or aspect of a matter) upon notice to the supervising partner which shall, if we so request, be confirmed in writing. No period of notice is necessary. We also reserve the right, upon reasonable notice, to terminate the Retainer. This will be confirmed to you in writing, if requested. Termination shall not affect accrued rights and liabilities and in particular our rights to any fees earned and disbursements incurred by us at the date of termination. Notwithstanding the aforesaid, in certain circumstances, we may be required to suspend or terminate the Retainer without giving any period of notice or reason therefor. Moreover, if you do not give us instructions within a reasonable period of our asking for them, do not pay promptly any request for money on account or do not pay an invoice within the due period or for any other reason in our complete discretion, we reserve the right to decline to act

further. On termination of the Retainer we will submit an invoice to you to cover work performed and disbursements incurred in respect of the period up to the date of termination. Additionally, you will be liable for any fees and disbursements for work necessary in connection with transfer of the matter to another advisor of your choice and/or removing ourselves from the court record, as applicable.

- 9.2 For contentious matters, if we are on the record at Court as acting for you in any proceedings, consent of the Court may be required before we can be removed from the record and, to that extent, our right to terminate the Retainer may be restricted.

## **10 Rights and Remedies**

The rights and remedies available to us by virtue of the Retainer are without prejudice to any other rights or remedies available to us. Any failure by us to exercise or delay by us in exercising a right or remedy provided by the Retainer or by law does not constitute a waiver of the right or remedy, or a waiver of other rights or remedies.

## **11 Confidentiality and Data Protection**

- 11.1 Any information which we obtain as a result of acting for you will be treated in an entirely confidential manner, subject to applicable law. If, however, our engagement is not formalised then information disclosed to us will not be treated as confidential and will not restrict us from acting for another party in any matter or transaction in relation to which you may have discussed engaging us. You acknowledge that we act for other clients and you acknowledge that partners, consultants or staff of any members of the Campbells group who do not carry out work on your behalf are not expected to nor are they to be regarded as having knowledge of your confidential information. Neither we nor you will be prevented from disclosing confidential information:

- (a) which is or becomes public knowledge other than by a breach of an obligation of confidentiality by us;
- (b) which is or becomes known from other sources without restriction on disclosure;
- (c) which is required to be disclosed by law or any professional or regulatory obligation; or
- (d) which is required by our or your respective auditors, bankers or other service providers provided that such information does not include privileged legal advice and such persons are required to keep such information confidential.

- 11.2 You understand and accept that we may be required in certain circumstances to make reports to regulatory and law enforcement authorities, or to disclose documents or information or take other action, as a result of information received by us or matters which come to our attention during the course of our engagement. Where appropriate and permitted, we will advise you in advance of any action we may be required to take.

- 11.3 You acknowledge and agree that, subject always to our confidentiality obligations to you in these Terms, we may generate, collect, receive, transfer, disclose, process and store materials, data, information and content relating to you and/or your business, or its principals, affiliates, shareholders, directors, officers, employees and agents ("Information") whether confidential or not, either in original format, on servers maintained by us within or outside of Hong Kong and/or in any other jurisdictions,

including jurisdictions which may not have equivalent data protection requirements to Hong Kong.

- 11.4 In this regard, you explicitly consent to the generation, collection, receipt, transfer, disclosure, processing and storing of all Information in and out of any such jurisdictions. You further acknowledge and agree that entities in the Campbells group may be obliged to retain such Information for a period of time after the termination of our engagement, may transfer Information outside Hong Kong where this is necessary for us to fulfill our engagement or where requested by your legal advisors or other persons engaged by you to do so and may be requested, required or compelled to disclose such Information to third parties.

## **12 Fees, Client Account Funds**

- 12.1 You agree to pay for our services at our usual current hourly rates from time to time plus all disbursements which we incur. For matters not conducted by our Litigation Department, a miscellaneous disbursement equal to 5% of legal fees is charged to cover photocopying, printing, telephone and fax charges. In matters involving urgency, novelty, specialist knowhow, unusual responsibility, complexity or where a formal legal opinion is required we reserve the right to add a weighting to our fees.
- 12.2 All invoices are to be paid within 30 days from the date of issue, failing which we reserve the right to, at our election, suspend activity on the file and/or charge interest on the balance outstanding, at the rate of 10% per annum, from the date of the invoice to the date of payment. Interest shall accrue and be payable on a daily basis pro rata.
- 12.3 Where significant or unusual third party payments are required (e.g., counsel fees, expert fees, special studies, extensive transcripts or filing fees) we will normally forward the charge to you for direct payment or obtain advance funds from you to cover the cost. If we advance funds for you they will be added to our invoice. We will deposit any funds we hold for you in our escrow account from time to time. You authorise us to apply such monies to pay your invoices as billed on any matter for you and we shall have a lien for lawyers' fees and costs advanced on all or any property in our possession including without limitation any monies on account, escrow accounts, client accounts, documents, files and records in our possession. After we cease to act for you, you agree that we may donate to charity any credit balance of less than US\$100 that may be payable to you after all then current fees and disbursements have been settled.
- 12.4 Interest will only be paid to you on such sums if we are specifically requested by you to place the funds in a separate interest bearing account.
- 12.5 In the event that the bank at which our escrow account is held or any clearing bank through which such monies may be transferred becomes insolvent or fails to pay any such amount held for you, our responsibility to you shall be limited to the actual amount recovered from such bank in relation to such deposit. We shall not be liable for any loss of client monies held in escrow or any other form of economic loss to clients which occurs as a result of cybercrime activity which is outside our control, including without limitation unauthorised access of a client's computer or computer network, electronic data interception or redirection causing misapplication of client funds or other related actions which may result in loss of client monies.
- 12.6 Subject to applicable law, we may seek, obtain, and divulge any information regarding you, your credit history and dealings with us to or from any credit reporting bureau, any financial institution and any employer. Such credit information may be used to

create and maintain a credit report file on your credit history and credit account details with any credit reporting bureau, which may periodically receive credit updates from other financial institutions or creditors whom have extended credit to you and which may periodically divulge such credit information to members in good standing of such credit bureau. Subject to applicable law, overdue fees or other sums owing may be assigned to a credit bureau/collection bureau for collection and/or court proceedings may be taken in respect thereof in which case you will be liable for any collection fees, legal fees and/or court costs in relation thereto on an indemnity basis. All fees, costs and expenses payable to us shall be paid net of any taxes or surcharges.

- 12.7 For many transactions we are able to give estimates of the cost of completing the work. Estimates are not fixed fees or caps on our fees and are provided solely for the purpose of indicating to you the likely overall cost of our services. In the event that the actual fees that are chargeable on a time and expertise basis exceed the estimate, we shall be entitled to recover from you our fees in full.
- 12.8 Transactions are aborted or delayed for a variety of reasons beyond our control. Our fees are not conditional upon a transaction or other matter happening or not happening. We do not work on a contingency basis and in these circumstances we will charge for work done up to the time the transaction aborts or is delayed.
- 12.9 Your obligation to pay our fees and disbursements in litigious matters exists irrespective of the outcome of any proceedings or any order for costs which may be made. We should point out that even if you are successful in your litigation and you are entitled to the payment of your costs by another party it is unlikely that you will recover the full amount which you have been billed by us.
- 12.10 Although often for non-contentious matters we will usually submit an invoice at the completion of a transaction, unless we explicitly state otherwise, we reserve the right to submit invoices periodically (not more than monthly). Contentious matters will usually be billed monthly.
- 12.11 We reserve the right to stop working in relation to any matter where we have any outstanding invoice(s). In the event that we do stop working on any matter on the basis of unpaid fees, we shall not be liable for any loss or damage which this may cause to you.
- 12.12 If we commence arbitral and/or court proceedings (including appellate proceedings) against you to recover payment of an outstanding invoice then we shall be entitled to recover from you our reasonable legal costs and expenses of those proceedings, including costs and expenses incurred representing ourselves, on an indemnity basis.

## **13 Know Your Client Requirements**

- 13.1 We are subject to legal requirements which require us to report knowledge or suspicions of money laundering to the relevant authorities. In addition, it is an offence for us to prejudice any investigation by those authorities by "tipping-off" any person who may be the subject of suspicion, or any third party, that such a person is suspected of money laundering.
- 13.2 We are required by money laundering legislation and regulations to verify your identity and we can accept new instructions only on the basis that you can properly identify yourself to us and explain any transaction in which you are involved. If we do not receive or have sufficient evidence of identity and a proper explanation of the details

and nature of a proposed transaction we will not be able to act or may have to terminate the Retainer.

## 14 Sanctioning Authority and Sanctioned Persons

14.1 You represent and warrant that you (and, where you are a legal person, your management and owners including any directors, officers, shareholders and ultimate beneficial owners or equivalent):

- (a) are not Sanctioned Persons
- (b) are not operationally based or domiciled in a country or territory in relation to which current sanctions have been issued by a Sanctioning Authority
- (c) are not dealing with and have no connections with Sanctioned Persons
- (d) where you are a legal person, have carried out thorough due diligence to establish the identities of each beneficial owner in you and, based on such due diligence, such beneficial owners are not Sanctioned Persons and that you will hold the evidence of the identities and status of each such beneficial owner and will maintain all such evidence for at least five years from the date of your dissolution, and
- (e) will make available to us such information and any additional information that we may request.

14.2 "Sanctioning Authority" means the Cayman Islands, United Nations, European Union, United Kingdom, United States of America and any other applicable competent authority or government including without limitation the Governor of the Cayman Islands, United Nations Security Council, European Union, United Kingdom Foreign and Commonwealth Office and United States Treasury Department's Office of Foreign Assets Control.

14.3 "Sanctioned Persons": means any persons, entities, bodies, or vessels designated by a Sanctioning Authority.

## 15 Amendment

The Retainer may be amended or added by us upon not less than thirty days' notice of such amendment. In the case of these Terms, notice of amendment is given by posting the amended Terms on our website. Your continued use of our services following any such change shall be deemed and constitutes your acceptance of any amendments and you acknowledge and agree to be bound to the current version of these Terms at all times.

## 16 Miscellaneous

16.1 In these Terms unless there be something in the subject or context inconsistent with such construction:

- (a) the singular shall include the plural and vice versa and words importing any gender shall include all genders;
- (b) words importing persons shall include companies or associations or bodies of persons whether corporate or unincorporated;

- (c) reference to laws, acts or statutes are to laws, acts and statutes applicable to the Retainer, unless otherwise noted, and include any revisions, statutory modifications and re-enactments thereof for the time being in force.
- 16.2 If any provision of the Retainer or any agreement entered into pursuant hereto is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect: (i) the validity or enforceability in that jurisdiction of any other provision of this Retainer or such other agreement; or (ii) the validity or enforceability in other jurisdictions of that or any other provision of the Retainer or such other agreement.
- 16.3 If we merge with another firm or transfer our business to another entity or undertaking (a "Successor Firm") then our engagement with you to provide services under the Retainer shall not automatically terminate by reason of such merger or transfer. You agree that the Successor Firm is automatically appointed by you on the terms of the Retainer so that continuity of service can be provided to you. Both the Successor Firm and you may rely on the Retainer as setting out the continuing terms of the engagement and both shall take such steps as are necessary to enable such continuity of service.
- 16.4 You agree to comply with all applicable laws and to provide to us such documentation and information as we may require to comply with all applicable laws and regulations in force. You shall be responsible for compliance with and, if relevant, drawing our attention to any relevant requirements of the laws of other jurisdictions.

## **17 Jurisdiction and Applicable Law**

The Retainer and all business undertaken between you and us is subject to Cayman Islands law for services in respect of Cayman Islands matters and British Virgin Islands law for services in respect of British Virgin Islands matters. Any dispute arising out of or in connection with the Retainer, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference, save that we shall have the right at our sole option as an alternative to arbitration to bring any claim against you in the courts of the Cayman Islands, the British Virgin Islands or any competent jurisdiction. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be the Cayman Islands. The language to be used in the arbitral proceedings shall be English.