

TERMS OF BUSINESS – FS REG LIMITED (“FS REG”)

12 November 2018

1. INTRODUCTION

- 1.1. These terms of business govern the provision by FS REG of legal, regulatory, consulting and other services to a client. Each client of FS REG shall be deemed to accept these terms of business by instructing, or continuing to instruct, FS REG in relation to any matter.
- 1.2. FS REG is a trading name of FS REG Limited, a private limited company registered in England, company number 05666284, having its registered office at 13 Claremont Heights, 70 Pentonville Road, N1 9PR, United Kingdom, VAT registration number GB 278 3897 35.
- 1.3. FS REG is a legal and regulatory consultancy that is not authorised by the Solicitors Regulatory Authority (SRA). Accordingly:
 - 1.3.1. FS REG is unable to carry on reserved legal activities (such as the conduct of litigation or conveyancing) and the work carried on by FS REG is not regulated by the SRA;
 - 1.3.2. clients of FS REG do not have a right to complain to the Legal Ombudsman or apply for a grant to be made out of the Solicitors' Compensation Fund;
 - 1.3.3. FS REG is not covered by the Solicitors' compulsory professional indemnity insurance;
 - 1.3.4. the advice provided by FS REG may not be covered by legal professional privilege;
 - 1.3.5. the protections in the SRA Accounts Rules 2011 in relation to client money do not apply to FS REG; and
 - 1.3.6. any person providing legal or regulatory advice for or on behalf of FS REG provides that advice in the capacity of a legal or regulatory consultant and not in the capacity of a practising lawyer even if they are a qualified lawyer and hold a current practising certificate.
- 1.4. FS REG is not authorised to, and shall not, provide to a client any service that constitutes a regulated activity under the Financial Services and Markets Act 2000 unless an exemption applies.
- 1.5. Unless otherwise specifically agreed in writing, FS REG shall not provide to a client any tax, accounting, environmental, investment, commercial or financial advice and shall not advise on the laws or regulations of any jurisdiction other than England.
- 1.6. Any complaint or request for information about the services of FS REG can be sent to FS REG using the contact details available on its website.

2. DURATION

- 2.1. Either FS REG or the client shall be entitled to terminate the engagement of FS REG at any time by giving written notice to the other.
- 2.2. A client who terminates the engagement of FS REG shall promptly pay any fees accrued, and expenses incurred, by FS REG prior to the date of termination.

- 2.3. FS REG shall promptly advise a client if it becomes unable for any reason to provide, or continue to provide, any service that it has agreed to provide to the client.
- 2.4. Provided such notice has been given, FS REG shall not be liable for any losses, liabilities, claims, costs, damages or expenses suffered or incurred by the client as a result of FS REG ceasing to act for it.
- 2.5. Unless otherwise specifically agreed in writing, any deadline or timescale provided by FS REG for the completion of any work shall be only indicative and FS REG shall not be liable for any failure to meet such deadline or timescale for whatever reason.

3. FEES AND EXPENSES

- 3.1. A client shall pay promptly to FS REG any fees accrued, and expenses incurred, by FS REG in relation to the provision of its services to the client.
- 3.2. Any fee estimate provided by FS REG to a client shall not constitute a fixed price, cap or quotation unless otherwise specifically agreed in writing.
- 3.3. The fees of, and any fee estimate provided by, FS REG shall be exclusive of VAT and expenses, which shall be payable by the client in addition if applicable.
- 3.4. A client shall pay any invoice received from FS REG within 15 days of receipt unless otherwise agreed in writing.

4. INTELLECTUAL PROPERTY

- 4.1. FS REG shall be the sole owner of any intellectual property rights arising from or in connection with the provision of its services to a client, including any copyright relating to any document prepared by FS REG for the client.

5. CLIENT DUE DILIGENCE

- 5.1. A client shall provide promptly to FS REG any information and documentation FS REG may reasonably require from time to time to complete or update its client due diligence in relation to the client.
- 5.2. A client shall notify FS REG promptly in writing if any information provided by it to FS REG has changed in any material respect and provide promptly any relevant updated information.

6. LIABILITY

- 6.1. To the fullest extent permitted by law, FS REG shall not be liable, whether in contract, tort or otherwise (including without limitation for breach of any contractual term, duty of care, fiduciary or statutory duty or the provision of negligent advice), for any losses, liabilities, claims, costs, damages and expenses suffered or incurred by a client arising out of or in connection with the provision by FS REG of its services to the client, or any failure by FS REG to provide its services to the client, unless such losses, liabilities, etc. arise solely and directly from the gross negligence, wilful default or fraud of FS REG.
- 6.2. The liability of FS REG for any such losses, liabilities, etc. shall not exceed in any case an aggregate amount equal to the lower of:
 - 6.2.1. 3 times the fees (if any) (net of any VAT and outlays) received by FS REG from the client in respect of the relevant item of work; and
 - 6.2.2. £500,000.

- 6.3. FS REG shall not be liable in respect of any claim, whether in contract, tort or otherwise (including without limitation for breach of any contractual term, duty of care, fiduciary or statutory duty or the provision of negligent advice), arising out of or in connection with the provision by FS REG of its services to the client, or any failure by FS REG to provide its services to the client, unless legal proceedings in respect of that claim have been issued and served on FS REG within 2 years from the date on which FS REG provided, or failed to provide, the relevant services.
- 6.4. A client shall:
- 6.4.1. without limiting the provisions of clause 6.6 below, indemnify fully on demand FS REG and each of its directors, employees, consultants and agents for any losses, liabilities, claims (including any third party claims), costs, damages and expenses suffered or incurred by any of them arising out of or in connection with the provision by FS REG of its services to the client unless such losses, liabilities, etc. arise solely and directly from the gross negligence, wilful default or fraud of FS REG; and
- 6.4.2. not bring any claim whatsoever, whether in tort, contract or otherwise (including without limitation for breach of any contractual term, duty of care, fiduciary or statutory duty or for the provision of negligent advice), arising out of or in connection with the provision by FS REG of its services to the client, or any failure by FS REG to provide its services to the client, against any director, employee, consultant or agent of FS REG, even if the claim arises from the actions, omissions or negligence of, or breach of any contractual term, duty of care, fiduciary or statutory duty by, that director, employee, consultant or agent.
- 6.5. Under no circumstances shall FS REG be liable under contract, tort or otherwise (including without limitation for breach of any contractual term, duty of care, fiduciary or statutory duty or the provision of negligent advice):
- 6.5.1. for any indirect, special or consequential losses suffered by a client;
- 6.5.2. for any losses, liabilities, claims, costs, damages or expenses suffered or incurred by a client that would not have been suffered or incurred had the client acted diligently or which the client failed to avoid or mitigate; or
- 6.5.3. to any person other than the client of FS REG as designated by FS REG at the time of its engagement.
- 6.6. A client of FS REG shall ensure that no other person relies on any advice or services provided by FS REG to the client or brings against FS REG or any of its directors, employees, consultants and agents any claim whatsoever, whether in tort, contract or otherwise (including without limitation for breach of any contractual term, duty of care, fiduciary or statutory duty or the provision of negligent advice), arising out of or in connection with any such advice or services. The client shall indemnify fully on demand FS REG and each of its directors, employees, consultants and agents in respect of any such claims.
- 6.7. Any director, employee, consultant or agent of FS REG shall be entitled to rely on and enforce against any client of FS REG the provisions of this clause 6 (including without limitation the provisions of clauses 6.4 and 6.6 above) as if such director, employee, consultant or agent were a party to these terms of business.

7. PRIVACY AND DATA SECURITY

- 7.1. FS REG is committed to protecting the privacy of individuals whose data we process and to complying with our obligations under relevant data protection and privacy laws including the General Data Protection Regulation (Regulation 2016/679).

- 7.2. The privacy policy available on our website (www.fsreg.com/legal) provides information on how FS REG processes personal data which we collect about clients, non-client business contacts, contractors and service providers, job applicants and visitors to our website.
- 7.3. Each client of FS REG consents to the processing by FS REG of any personal data relating to the client and any directors, partners, officers, employees, consultants and agents of the client in accordance with our privacy policy as amended from time to time.
- 7.4. Each client or prospective client of FS REG also consents to the disclosure by FS REG, on a confidential basis for conflict check or client due diligence purposes, of any personal data or other information relating to the client or any person associated with the client to any law firm with whom FS REG is associated from time to time.
- 7.5. FS REG adopts such technical and organisational measures to protect the security of any client data as it considers to be reasonable having regard to its own circumstances, the circumstances of its client and the nature of the client data. FS REG shall not be liable to a client or any other person for any losses, liabilities, claims, costs, damages and expenses suffered or incurred by the client or any other person arising out of or in connection with any unauthorised or unlawful access or processing of any client data or accidental loss, destruction or damage of any client data that has taken place notwithstanding the adoption by FS REG of such measures, including without limitation any losses, liabilities, etc. resulting from any cyber-attack or criminal act.

8. VARIATION

- 8.1. FS REG shall be entitled to vary or supplement these terms of business at any time by uploading on its website an updated version of these terms of business.
- 8.2. The updated terms of business shall apply to each client of FS REG with effect from the date on which they have been brought to the attention of the client.

9. ASSIGNMENT

- 9.1. A client shall not be entitled to assign or transfer to any person any of its rights, claims, benefits or obligations arising under or in connection with these terms of business without the prior written consent of FS REG.

10. SEVERANCE

- 10.1. If any provision or part-provision of these terms of business is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of any other provision contained in these terms of business.

11. THIRD PARTY RIGHTS

- 11.1. Unless these terms of business expressly state otherwise, and without prejudice to clause 6.7 above, no person other than FS REG and the designated client of FS REG shall be entitled to enforce any provision of these terms of business.

12. GOVERNING LAW

- 12.1. These terms of business shall be governed by English law.
- 12.2. The courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these terms of business.

13. FS REG AFFILIATES

- 13.1. There may be circumstances where services are provided to a client not by FS REG Limited but by another person or entity (each, an “**FS REG Affiliate**”) which may or may not be under common ownership or control with FS REG Limited even though it trades under the FS REG brand. Where that is the case, this will be made clear to the client at the time of the engagement.
- 13.2. Where services are provided to a client by an FS REG Affiliate, these terms of business shall apply to the provision of such services as if any reference to FS REG was a reference not to FS REG Limited but to the FS REG Affiliate that is providing such services.
- 13.3. FS REG Limited shall not be liable for any act or omission of any FS REG Affiliate or any losses, damages, liabilities, etc. caused to a client or any other person by any FS REG Affiliate, including as a result of any negligent advice provided by that FS REG Affiliate.
- 13.4. Unless otherwise specifically agreed in writing, a client of any FS REG Affiliate shall not be a client of FS REG Limited.