

TERMS OF BUSINESS - 2016

1 Introduction

2 These Terms of Business, together with any engagement letter and Schedule(s) thereto which we may send to you in connection with any particular matter, are collectively referred to as the “**Retainer**”. The Retainer sets out the terms on which we will act for you.

3 We provide our services under the Retainer for the benefit of the person(s), firm, company or other association or organisation recorded as our client, and not for the benefit of any other person. No third party has the right to enforce any of the terms of the Retainer.

4 **AMMC – Acumum Corporate Services Ltd.** Corporate and nominee services are provided by AMMC – Acumum Corporate Services Ltd, a limited liability company, with Company No. C 73779.

5 **Acumum Trustees and Fiduciaries.** Trust, foundation and related fiduciary and corporate services are provided by Acumum Trustees and Fiduciaries Ltd, a limited liability company, with Company No. 58410.

6 **Acumum Services Ltd.** If your work concerns citizenship and residency, tax, consulting, maritime, or aviation matters, without the requirement of litigation or attendance at court, your matter will be dealt with by our associated company, Acumum Services Ltd, a limited liability company, with Company No. C.57125.

7 **Acumum Legal.** All legal work undertaken by us will be done so by Acumum Legal, a civil partnership of lawyers.

8 **Acumum Accounting Ltd.** All bookkeeping and accounting work undertaken by us is done so via Acumum Accounting Ltd, a Malta limited liability company with Company No. C 70182.

9 Acumum Services Ltd & Acumum Legal & Acumum Accounting Ltd may be collectively known and referred to as the **Acumum Legal Group**.

10 The registered address of all Acumum firms is 260 Triq San Albert, Gzira, GZR 1150, Malta.

11 Responsibility for your work

11.1 A Partner is responsible for supervising the work we do on any particular matter on which you have instructed us. He or she will ensure that the varied skills and expertise in the firm are most appropriately applied, by making sure that the right individual or team deals with the work you have asked us to do.

11.2 A Partner should also be your first port of call if you are dissatisfied with any element of our service (as per set out herein).

13. How we work

13.1 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.

13.2 We will at all times comply with your instructions, even where these are contrary to our recommendations, unless we feel it would be improper or unethical to do so, or inconsistent with maintaining a proper working relationship.

13.3 Please note that all attorneys are Officers of the Court, and are not permitted to do anything inconsistent with their duties to the Court.

14. Your responsibilities

14.1 We rely upon you to provide us with accurate and complete information about the work you have asked us to do, in good time to enable us to carry out that work, and to let us know promptly of any significant changes to that information, or to your circumstances generally. You should also provide us with any relevant documents and deeds and try to answer our questions or requests for instructions as fully and promptly as possible.

15. **Conflict of Interests.** We rely upon you to provide us with the name of any party with an adverse interest in the matter(s) on which you instruct us or the work you ask us to undertake. We will undertake a conflict search on the names you provide to determine whether any conflict (legal or commercial) exists which may impact on our ability to act on your behalf or the terms upon which we may act. We also rely upon you to provide us with further or additional names of parties that have any such adverse interest immediately upon your

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discovering the existence of such adverse interest. We will carry out conflict searches in relation to such further or additional parties as notified.

16. Anti-Money Laundering.

16.1 As required by Maltese legislation in force from time to time we are obliged to carry out due diligence and 'know your customer' procedures, which include obtaining proof of your identity and, as appropriate, the identity of individuals you authorise to provide instructions on your behalf. It is your responsibility, or (as appropriate), authorised individuals, to comply with any requests we may make from time to time in connection with these due diligence requirements. If you or an authorised individual fail to provide any information so requested, we may be unable to act on your behalf, or be unable to continue to act on your behalf or on the instructions of an authorised individual, or be unable to complete any transaction or matter or undertake or complete certain activities within a transaction or matter (for example, where completion of the transaction or matter or any activity involves dealing with money or property) and may, in addition, terminate the Retainer pursuant to section 17 or cease to act on the particular matter.

16.2 If a conflict of interest (legal or commercial) is discovered in relation to any party whose name you fail to notify to us in connection with a particular matter, or you or an authorised individual fail to provide information requested as part of our due diligence procedures, then you will remain liable for all fees, expenses and disbursements incurred in respect of work already undertaken irrespective of any consequence, or any action taken or not taken, including, but not limited to, our terminating the Retainer pursuant to section 17 or ceasing to act on the particular matter.

16.3 For the avoidance of doubt, by accepting these Terms of Business you irrevocably agree that we shall not be liable for any loss or damage arising from or relating to any consequence of a conflict being discovered, or resulting from any action taken as a result of such conflict being discovered, in relation to any party that you fail to notify to us in accordance with the continuing obligation in section 14, or any action taken, or not

taken by us (including for the avoidance of doubt, not completing any transaction or matter or any activity on any transaction or matter), as a result of you or an authorised individual failing to provide proof of identity as requested.

16.4 Please give us as much notice as you can of any deadlines or time limits of which you are aware that may affect the work you have asked us to do.

17. Basis of our fees

17.1 Unless otherwise agreed, our fees will be based on the factors set out in this section, regardless of whether a particular matter proves abortive or proceeds to a conclusion.

17.2 In most cases our fees are calculated by reference to the time spent dealing with a matter. This includes time spent on analysis, research, drafting, advising, attending meetings with you and others, attending Court, Tribunal, Inquiries or other hearings, dealing with papers, audit enquiries, correspondence (including facsimiles and electronic communications), dealing with costs, telephone calls, travelling and waiting time.

17.3 Time spent is charged to you at hourly rate(s) that reflect the seniority and experience of the individual(s) concerned. Our current hourly rates are as set out in the most current letter of retainer, as amended from time to time and apply to both legal (attorneys) and accounting staff.

17.4 Our hourly rates are reviewed from time to time and you will be advised of any changes to the rates.

17.5 In addition to the time spent, we may take into account a number of other factors, such as:

- (a) the complexity or novelty of the issues involved;
- (b) the speed at which action must be taken;
- (c) the expertise or specialist knowledge required;
- (d) the value of the property or subject matter involved;
- (e) the importance of the matter to you.

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17.6 Any increase in our fees to reflect these factors will be discussed with you.

17.7 If our engagement requires or if you request us to travel and/or work outside of the Malta, you will be charged for 10 hours' work for each day or part of a day spent travelling or working abroad at the hourly rate chargeable for the attorney(s) concerned or, if the attorney(s) concerned have spent more than 10 hours working on your affairs, for the time they have actually worked.

18. Expenses and Disbursements

18.1 If, in carrying out the work you have asked us to do, we incur expenses, such as couriers, facsimiles, postage, travelling charges, these expenses will normally be charged to you at cost and at no mark up in addition to our fees.

18.2 If our engagement requires or if you request us to travel and/or work outside of Malta, you will be responsible for paying the reasonable costs of travel, accommodation and meals incurred by the attorney(s) concerned while engaged on your affairs.

18.3 In addition, if we instruct third parties at your request and thereby incur liabilities to third parties in respect of services supplied to you, for example search fees, fees of overseas counsel or expert and Court or Tribunal fees, which are often referred to as "disbursements", you will be responsible for all sums charged by such third parties including any applicable value added or other taxes. We may, in appropriate cases, arrange for you to be invoiced directly by the third party.

19. Value Added Tax ("VAT"). Our fees and expenses are subject VAT at the prevailing Maltese rate.

20. Billing arrangements

20.1 Timing of bills often depends on the nature of a matter. We reserve the right to bill you on an interim basis and will endeavour to send you bills on a monthly basis, or any other regular basis agreed with you. Bills may be delivered more or less frequently depending on the nature of the matter and the time spent working on it.

Where any expense or disbursement results in us making payment to a third party, we may send you a bill to cover the payment when we incur the cost.

20.2 At the conclusion of the matter we are working on or, if earlier, upon termination of our Retainer, we will deliver a final bill. The final bill will cover our fees for work done since the end of the period covered by the last bill. Please note that a final bill may not include all expenses and disbursements for that period, since third parties may not have sent their invoices or charges to us in time to be included on our bill. In that event, the relevant expenses and disbursements will be invoiced after we have received the relevant third party invoice or demand.

20.3 If we are acting for you in relation to a transaction, we may at the appropriate stage send you a statement showing what sums are required from you in order to complete the transaction, which may include a sum relating to our fees, expenses and disbursements. If you fail to pay us the relevant sums (including our fees) in time for completion on the planned completion date, we reserve the right to decline to complete the transaction until we have received such sums in full.

21. Settlement of our bills

21.1 All our bills are payable upon receipt by you, unless otherwise agreed by us in writing.

21.2 If you wish a third party to be responsible for paying our bills on your behalf, you should inform us immediately of the name and contact details of that third party (and any other relevant details reasonably required by us). You will remain primarily responsible for paying our bills and they will still be addressed to you but we will, if you wish, mark them as being payable by your nominated third party. If the third party fails to pay any of our bills in accordance with these Terms of Business, we shall be entitled to seek payment of the relevant bill(s) directly from you. You will reimburse us for any costs and expenses we incur in recovering overdue payment from you and/or such third party, and we may charge you in

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accordance with these Terms of Business for the time spent by us in recovering such payment.

21.3 When making a wire transfer to us please ensure that all charges are for the account of you as the sender of the wire so that the amount of funds received by us is our invoiced amount and not an amount less wire or bank charges, as this will result in a small balance remaining unpaid by you.

21.4 If you are a partnership or more than one individual or legal entity, each partner or individual or legal entity, as the case may be, shall be jointly and severally liable for our fees, expenses and disbursements.

22. Money on account

22.1 We reserve the right at all times to require money on account of our anticipated fees, expenses and disbursements. This is particularly important where we are required to carry out a considerable amount of work over a short period, or to incur liabilities to third parties, such as experts or overseas counsel, on your behalf.

22.2 If you pay us money on account, it will be held by us on our Client Account until we deliver a bill to you. We will transfer the appropriate amount from our Client Account to our Office Account in settlement of any bill(s). If a matter continues over an extended period, or if we anticipate that our fees, expenses or disbursements will exceed the sums held on Client Account, we may request further money on account.

22.3 Before we can act in this matter, we require the sum as set out in your engagement letter on account of our prospective professional fees and expenses.

23. Late Payment

23.1 If we do not receive payment of any bill within 30 days of the date of the bill, or if we have requested money on account and we do not receive such money within the time specified by us for payment, then, in addition to any other rights and remedies available to us, we may: -

23.1.1 on written notice to you, suspend or cease working on any current matter(s) and/or terminate the Retainer forthwith. In litigation cases this may necessitate our having to apply to the Court for an order to come off the Court record, the cost of which will be charged to you; and/or

23.1.2 charge you interest on any amount due to us at an annual rate of 3%. Interest will be calculated on a daily basis from the date payment was due until the date we receive full payment (plus interest); and/or

23.1.3 retain (and exercise a lien over) any or all documents and papers in our possession until we have received payment of all amounts due to us (plus any interest charged by us).

24. If you dispute the amount of a bill. If you dispute the amount of any bill we send you, you may of course raise the issue with us directly, and we would hope to be able to resolve the matter to our mutual satisfaction.

25. Concerns and complaints. If you have any problem with the service we have provided for you, then please let us know. Concerns can often be resolved by informal discussion with the partner responsible for a particular matter and we aim to deal with concerns in this way wherever possible.

26. Discovery of Documents. If you are a party to litigation in Malta or elsewhere you must be prepared to provide copies of all documents or records of whatever nature and in whatever format in your "possession, custody or power" relating to the issues in the case to your opponents in the litigation. It is crucial that no documents in any way relating to the issues in question are destroyed. It is therefore important that you do not create any documents in relation to the issues in the case which you are not willing to hand over to the other side. This does not apply to your communications with us as your attorneys, which are

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protected from disclosure under the doctrine of attorney-client privilege.

27. Advice on investments. We do not offer investment advice on investments, but are happy to refer you to reputable investment advisors in Malta.

28. Storage of papers and documents

28.1 After completing any matter, we will keep our file of papers and documents (except, subject to 10.3 above, any papers which you have asked to be returned to you) for a reasonable period after the relevant file has been closed. Unless we have agreed otherwise in writing, we will be entitled to destroy the file (without notifying you) after a period of six years from the end of the relevant matter.

28.2 We will not charge you for the administrative cost of retrieving papers or documents from storage. However, we reserve the right to make a charge based on the time spent by any fee earner in considering and sorting stored papers or documents, searching for particular documents and/or sending them to you or another person at your request.

29. Termination of the Retainer

29.1 You have the right to terminate the Retainer at any time on written notice to us. You will remain liable to pay all our fees, expenses and disbursements which have been incurred up to the date of termination.

29.2 We are entitled to terminate the Retainer on written notice to you:

29.2.1 in the circumstances set out in section 11; or

29.2.2 if any guarantee provided in relation to your obligations is withdrawn by the giving of notice, or if any event or act occurs which vitiates the guarantee or otherwise renders it void or unenforceable; or

29.2.3 if you fail to give us timely and adequate instructions, so that we are unable to conduct any of your matters properly and expeditiously; or

29.2.4 if you insist on a course of action which requires us to act contrary to our responsibilities as attorneys or which would lead to a breakdown of the relationship of trust and confidence which is essential for the proper handling of legal matters; or

29.2.5 if there is a breakdown of confidence between you and us; or

29.2.6 if a conflict of interest (legal or commercial) is identified (and in such circumstances the provisions of sections 14 shall apply); or

29.2.7 if, where we have requested information and/or documentation in order to verify your identity, such information and/or documentation is not provided; or

29.2.8 if, as appropriate, you become insolvent, enter into liquidation or bankruptcy, or any insolvency, liquidation or bankruptcy procedures are commenced against you, or you pass a resolution for your own winding up or insolvency, or you become unable to pay your debts as they fall due, or any receiver, administrator or similar person is appointed in respect of any of your assets, or you enter into any arrangement or composition with your creditors (including for the avoidance of doubt any voluntary arrangement), or any similar or equivalent event occurs in relation to any Guarantor who has provided a guarantee in relation to your obligations (unless a replacement guarantee is provided by an alternative Guarantor acceptable to us); or

29.2.9 you fail to comply with any term of the Retainer.

30. Confidentiality and Statutory Reporting Obligations.

Although we are under professional and legal obligations to keep your affairs confidential, those obligations may in certain circumstances be overridden by obligations imposed on us by Maltese or other applicable legislation in force from time to time. Legislation may, in certain circumstances, impose an obligation upon us to disclose information to the Financial Reporting Unit ("FRU"), the Malta Financial Services Authority ("MFSA") or any other body appointed or created to discharge the same or a similar function where we know, or have reasonable grounds to suspect, that a matter on which we have been

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instructed involves property, including money, obtained as a result of, or in connection with, criminal conduct. In circumstances where we are obliged to disclose information to MFSA or the FRU, or any other body, we may not be able to inform you that a disclosure has been made, or the reasons for such disclosure, where legislation makes the act of informing you (frequently called "tipping-off") a criminal offence. We may also be prevented from dealing with such property without approval from MFSA or the FRU, or any other body, which may prevent us from carrying out your instructions.

31. Successor Firm. If we merge with another firm or transfer our business to another partnership or a limited liability company (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 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. If such transfer requires some official action by you then you will take such steps as are necessary to enable continuity of service. This section does not in any way limit your termination rights as set out in the section above headed "Termination of the Retainer".

32. Recovering the Costs of Litigation

32.1 Inter-partes Costs. You will remain liable for the difference between any sum recovered by you from an unsuccessful litigant and the full amount of our invoiced professional fees and disbursements.

32.2 Security for Costs. If you are a plaintiff and you are ordinarily resident outside of Malta and without substantial liquid assets in the Islands, the Court may on the application of a Defendant order you to pay into an account maintained by the Court a sum of money as security for the defendant's legal costs to abide the outcome of the action. Alternatively, the Court may direct you to give security for the defendant's costs of the action in some other manner, such as a Bank guarantee.

33. Conflicts of Interest. We are prohibited by professional rules governing the conduct of attorneys from acting in any matter when that would or might give rise to a conflict of interest. You agree that we remain generally free to act for any other client in relation to any matter involving you. We for our part will not without your consent act for another client on any matter where, by having previously acted for you, we have come into possession of information confidential to you, which in our view is relevant and which it would otherwise be our duty to disclose.

34. Our Work Product. Original materials which we generate for you are protected by copyright, which belongs to us. You are entitled to use those documents for the purposes for which they were created and for all reasonably associated purposes.

35. E-mail Communications. We are happy to communicate with you by e-mail but, because of the security risks involved with unencrypted email, best professional practice requires us to seek your "informed consent" before communicating with you on confidential matters in this manner. We should be grateful if you would confirm whether or not you are happy for us to communicate with you by e-mail in this matter. If you continue to send e-mails to us, we will assume that this constitutes your informed consent.

36. Insurance. Please note that you may be able to recover your legal costs for this matter from an insurer under an existing insurance policy you may have (such as legal expenses insurance). You should therefore check any such policies. However, we reserve the right to decline to act for you if you do decide to fund this matter by way of insurance or to impose conditions of our so acting, which will include you funding personally any difference between our actual fees and the amount recovered from the insurer. Please therefore advise us urgently if you do wish to fund this case by way of insurance. You should

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also separately notify your insurer of the circumstances of any claim you may wish to make without delay.

- 37. Governing Law.** The terms of this engagement are governed by the laws of Malta. Except in the circumstance of applying and obtaining any equitable relief, where the courts situated in Malta shall have non-exclusive jurisdiction, the Malta Arbitration Centre ('MAC') shall have non-exclusive jurisdiction in respect of any dispute over these terms of engagement or matters relating or arising here from. The parties agree that any matter referred to or heard by MAC shall be in the English language and presided over by no more than three arbitrators. Acumum reserves the right to bring any action or claim in the country of residence or incorporation of the client.
- 38. Invalidity.** In the event that any part of the Retainer is held to be invalid, the remainder of the Retainer will continue in full force and effect.

THIS IS AN IMPORTANT DOCUMENT. PLEASE KEEP IT, WITH ANY COVERING LETTER, ANY ENGAGEMENT LETTER (AND ANY SCHEDULES TO SUCH LETTERS) IN A SAFE PLACE FOR FUTURE REFERENCE.

Version 2.1