

Date:

Dear

**Re: Client care letter relating to your data breach claim**

Welcome to Barings Law. Thank you for choosing us to represent you in your data breach claim.

We understand how distressing and challenging your situation might be, and therefore how important it is that your claim is handled properly and given the attention it deserves.

If you choose to appoint us, you can rest assured that your interests are being looked after by a legal expert who understands the complexities of your case. We aim to resolve your dispute as quickly as possible, though managing a claim can take several months. To ensure your expectations are being managed we will keep you up to date as your claim progresses, either by email, SMS, letter or phone.

Your claim will be dealt with by our specialist team who will have the day-to-day control of the matter and to whom you should address all correspondence. Your case will be supervised by one of our qualified solicitors.

All of our work is carried out on a No-Win No-Fee basis. Due to the nature of this particular claim, we require you to agree to the terms of the enclosed Terms of Conditional Fee Agreement (CF Agreement). The circumstances which govern how the CF Agreement will apply to our charging structure are set out in the relevant associated terms enclosed.

## Documents Enclosed

- Information about funding your claim and Legal Expenses: This explains more about the No-Win No-Fee service and the different options available for funding expenses which may be employed in pursuing your claim.
- CF Agreement including Cancellation Notice: This is your No-Win No-Fee agreement with us which will apply and an explanation as to how you may cancel if you change your mind.
- Form of Authority: This allows us to process your information and enables us to represent you in your claim.
- Standard Terms and Conditions of Business: This sets out the terms of the relationship between you and us and contains information that we are required to provide to you at the start of your claim.

## What you need to do next

To proceed with your claim please carefully read each of the following documents:

1. Terms and Conditions of Conditional Fee Agreement (CF Agreement)
2. Form of Authority
3. Barings Law Limited's Standard Terms and Conditions of Business

## Please then:

(a) Sign and return the (i) Form of Authority

(b) Read the following and confirm your agreement by signing below. Please do not hesitate to contact us if you would like any further explanation about any of the enclosed information and documents.

By signing this letter you confirm that before signing:

1. The following has been explained to you in respect of the CF Agreement (capitalised terms are as defined in the CF Agreement):
  - a. That in signing this letter you consent to the application of the CF Agreement;
  - b. The circumstances in which you will be liable to pay the Firm Fees, CFA Fee and Expenses;

- c. The fact that you cannot seek an assessment of or challenge our fees under the CF Agreement, save that you may seek to object to the agreement as being unfair or unreasonable;
  - d. Whether other methods of financing any of your costs are available and, if so, how they apply to you and your claim;
  - e. You are required to authorise and procure the ability of us to settle any Expenses on your behalf; and Barings Law is entering into the terms of the CF Agreement on reliance of your representations and warranties set out in Schedule 1 to the CF Agreement.
2. The content, terms and effect of the CF Agreement has been explained to your satisfaction and you agree to their terms.
3. You accept that:
  - a. The CF Agreement constitutes the entire agreement between you and Barings Law Limited in relation to the subject matter hereof and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter, except for the Firm's Standard Terms and Conditions of Business as varied by the CF Agreement.
  - b. You and we acknowledge that in entering into the CF Agreement you and we are not relying upon any statement or representation made by or on behalf of the other party, whether or not in writing, at any time prior to the execution of this letter, which is not expressly set out in the CF Agreement.
  - c. You and we expressly agree that neither party shall have any remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the CF Agreement unless such statement, representation, assurance or warranty was made fraudulently. For the avoidance of doubt, this does not prevent you from bringing a claim against us for negligence in prosecuting your claim pursuant to the terms of the CF Agreement.
4. You accept the terms and effect of Barings Law's Standard Terms and Conditions of Business as varied by the CF Agreement.

### Signature

Signature:

Print Name:

Date:

### On behalf of Barings Law:

Signature:

*Craig Cooper*

Print Name:

Craig Cooper

Date:

Yours sincerely,

*Craig Cooper*

**Craig Cooper**

Managing Director

## What you need to know about this CFA

### General Terms

If any of the following events occur, you will be liable to pay our fees as set out 3 and 4 below:

1. You fail to co-operate with us
2. You fail to attend any Court hearing which we are reasonably request You to attend
3. You fail to give us necessary instructions when we ask for them and in a reasonable time
4. You withdraw instructions from us without our written consent
5. You mislead us in any way.

In the event of Your death, this agreement will survive subject to Your Personal Representative agreeing to continue to instruct us under the terms of this agreement.

If your Personal Representative does not provide such instruction, this agreement will be deemed terminated pursuant to sections (c) and (d) above and we may seek recovery of Our Firm Fees and expenses up to the date of Your death from Your estate.

### Procedure

#### What you pay if you win

If your claim is successful, you will be responsible for paying our firm fees, expenses and disbursements, together with a success fee. You may be able to recover some or all of these charges from your opponent. You are responsible for any shortfall and the success fee. However, this will be capped at a maximum of 25% excluding VAT of your damages as awarded.

### Our Fees

#### Firm Fees

These are Our charges for the legal work we do, based on the rates we charge which is £350 per hour. Letters and telephone calls are charged out on a time recorded basis at 1/10th of the hourly rate.

|  | Hourly Rate £ |
|--|---------------|
| Grade A:<br>Consultants/Partners   | £350          |
| Grade B:<br>Senior associates of 8 years Post-Qualified Experience (PQE) | £242          |
| Grade C:<br>Associates of 4 years PQE                                    | £203          |
| Grade D:<br>Paralegals   | £149          |

### Success Fee Explanation

This is a further charge that we claim for accepting the risk. It reflects our risk that if you do not win your case, we will not be paid any fees. Obviously, some claims are perceived as carrying more risks than others, despite the merits of the case. Instead of choosing only those cases that carry the least risk, we accept a range of claims and risks. The awards gained in Success Fees allow us to absorb the costs of the unsuccessful claims and allow us to continue to offer no win no fee services.

The Success Fee forms part of the calculation of your contribution and therefore any sum You are required to pay from your compensation will not exceed a sum equivalent to 25% plus VAT of any damages you receive.

### Success Fee Claim in this case

We claim:

1. 100% of the Success fee in the event that Your claim proceeds to a final court hearing to determine any of the following:
  - a. Liability
  - b. Causation
  - c. Quantum (Level of Damage)
2. Otherwise it is:
  - a. 75%

### **Reasons for the Success Fee in this case**

The figures listed above are generally accepted by the courts as reflecting the risks associated with Your type of case. These risks include the following:

1. Our assessment of the risks of Your case:
  - a. We have yet to obtain any formal witness evidence
  - b. There are inherent risks to any litigation, the extent of which are unknown in this case at the present time.
  - c. The future risk of failing to beat a Part 36 offer made by Your opponent.
  - d. In cases of this nature the Defendant is likely to hold any documents or records.
2. The fact that, if You lose, we will not receive any contribution towards Our fees
3. The fact that we will be funding our fees until the end of the claim You agree that, if in Court proceedings, the Success Fee becomes payable as a result of those proceedings and we, or You, are ordered to disclose to the Court or any other person the reasons for setting the level of the Success Fee as stated in this agreement, we may do so.

### **What happens if You win:**

1. You are then liable to pay all Our firm fees, disbursements and success fee
2. If You and Your opponent cannot agree the amount, the Court will decide how much you can recover. If the amount agreed or allowed by the Court does not cover all Our Firm Fees and unfunded disbursements, you pay the difference in addition to the Success fee, subject to a maximum cap of 25% including vat of any damages recovered.
3. You agree that after winning, the reasons for setting the success fee at the amount stated may be disclosed to the court and any other person required by the court;
4. It may happen that Your opponent makes an offer that includes payment of Our firm fees and a success fee. If so, unless we consent, you agree to tell us to accept the offer unless we and You agree what percentage is to be taken as representing Our fees and expenses under this agreement;
5. We are allowed to keep any interest your opponent pays on our fees.

### **Civil Procedure Rules Part 36 Offers**

It may be that your opponent makes a Part 36 offer to settle Your claim, which You reject on Our written advice, and Your claim for damages goes ahead to trial where You recover damages that are less than that offer or payment. In such circumstances, you will not be liable for our Firm Fees and any Success Fee on those charges from the date of the expiry of that offer. You may be required to pay Your opponent's costs and disbursements from the date of the expiry of the offer.

### **What happens if you lose**

You do not have to pay any of the firm fees or success fee. You do have to pay:

1. Your opponent's Legal charges and disbursements if you lose.

### **Other Circumstances and Ending This Agreement**



We may end the Agreement if You reject Our opinion about making a settlement with Your Opponent.

If this happens, you must pay Our firm fees and disbursements up to that point. If later you go on to win Your claim, you will also pay a success fee. You must ensure that You or any other Solicitor takes no action to endanger recovery of Our fees and must include a claim for these sums as a condition to any future settlement of Your claim.

**You may end this agreement at any time before You Win or Lose your claim. However, should You do so, You must pay all of Our Firm Fees and Disbursement at that point. Your funder may withdraw any future funding under the Loan agreement. If applicable and/or if you do not keep to the terms of the Loan agreement. If you go on to win your claim, you will also pay a success fee.**

### **Right to Cancel**

In some circumstances, you may have a right to cancel this Agreement. Please see attached notice of the right to cancel, which forms part of this Agreement. By signing the CFA, you acknowledge receipt of the Notice of Right to Cancel. If applicable, and unless you indicate to the contrary, you ask for work to commence before the end of the cancellation period. If you subsequently cancel the Agreement, you will be liable for our Firm Fees. If your claim ultimately succeeds, you will also be liable for a success fee.

### **Interim Hearings**

If on the way to winning or losing You win an interim hearing, then we are entitled to payment of Our Firm Fees and disbursements related to that hearing at that point in so far as the court orders them to be paid. These sums are payable over and above any sums which are otherwise payable to You under this agreement.

If you win but during the course of the claim lose an interim hearing, You may be required to pay Your opponent's charges of that hearing. (See 10 above)

### **Value Added Tax (VAT)**

We add VAT, at the rate that applies when the work is done, to the total of the Firm Fees and Success Fee.

### **Disputing our Charges**

In the event that You are not satisfied with the amount of Our charges in relation to this matter conducted on Your behalf, there are provisions in sections 70, 71 and 72 of the Solicitors Act 1974 which may give You the right to have Our charges assessed by the Court. You can also in the first instance make a formal complaint to Our Complaints Office, please see Our introductory letter for details.

## Information about funding your claim and legal expenses

### No-Win No-Fee & Alternative Methods of Funding

1. All of our work is carried out on a No-Win No-Fee basis. Due to the nature of this particular claim, we require you to agree to the terms of the enclosed Terms of Conditional Fee Agreement (or CF Agreement) The circumstances which govern whether the charging terms of the CF Agreement will apply are set out in the enclosed terms and are summarised below.
2. We propose to act for you on a No-Win No-Fee basis. We will aim to try and settle your matter outside of the courts but nevertheless will issue formal court proceedings if required.
3. A conditional fee agreement is a form of No-Win No-Fee agreement. This means that, subject to the terms of the CF Agreement, we will only be paid for our legal services if your claim is successful.
4. Under the terms of the CF Agreement, if your claim is successful, we will charge you a CFA Fee of 25% of any compensation (known as "Damages") that you are paid by the opponent, plus VAT. The purpose of the CFA Fee is to reimburse us for our services in achieving a successful result in your claim (and includes any fees for barristers incurred on your behalf). Legal expenses incurred on your behalf in connection with your claim are payable in addition to the CFA Fee, but only to the extent that they are paid by either the opponent or us. VAT is currently set at 20%, meaning the CFA Fee is 30% of Damages. The CFA Fee payable is net of any costs that are paid or payable by any other party for the proceedings. You will therefore take home at least 70% of the Damages received from the opponent.
5. If the CFA Fee does not cover all of our legal expenses and other costs, you will not have to pay us any additional amount to cover these costs.
6. If your claim is not successful, all of your costs will be covered, either by Barings Law Limited (Barings Law). You will not have to pay for our legal services and any third-party expenses will be met by the Barings Law, subject to you complying with the terms of the CF Agreement.
7. By agreeing to the terms of the CF Agreement it ensures that our service costs will be repaid out of the proceeds of your claim and the sums due under the CF Agreement can be deducted from the Damages you receive before any amounts are paid to you. This helps secure our right to payment if you win, without which we would not be willing to assist you by funding the legal expenses which you would otherwise have to pay for yourself.
8. We are entitled in our sole discretion to withdraw our services on reasonable notice to you if we have good reason to do so, as explained further below.
9. If your claim is not successful, all of your costs will be covered, either by us. You will not have to pay for our legal services or for any shortfall in third-party expenses that is not paid by us, subject to you complying with the terms of the CF Agreement.
10. Under the terms of the CF Agreement, if your claim is successful, you will be awarded compensation called "Damages" to be paid by the opponent or the opponent may otherwise agree to pay you Damages. You may also be paid an amount by the opponent to cover your legal costs (known as "Recovered Costs").
11. From the Damages and any Recovered Costs that you receive, if your claim is successful you will pay us:
  - a. our professional fees for acting on your claim ("Firm Fees");
  - b. an additional success fee ("Success Fee"), which is capped at 100% of the Firm Fees; and
  - c. any third-party expenses we have paid on your behalf in connection with your claim (known as "Disbursements").
12. The **Success Fee** is an amount which reflects the fact that Barings Law has achieved a successful result for you and has taken on risk (in the form of the No-Win No-Fee structure) in order to advance your claim. Although in setting the Success Fee, we have taken into account the risk of acting on conditional payment terms, the Success Fee overall is the payment that we require for agreeing to conduct the claim on your behalf, and it is not intended to be a charge which is proportionate to risk. By entering into this Agreement, you acknowledge and accept that and agree to pay the Success Fee stated above.
13. The Firm Fees are calculated by reference to an hourly rate for the work done in respect of your claim and will depend on the level of seniority of the person carrying out that work. These are the fees which you would be required to pay if you asked us to act for you in respect of your claim without using an alternative method of financing (i.e. not on a 'No-Win No-Fee' basis).

14. If your claim is successful, you may be able to seek recovery of the Firm Fees and certain Disbursements from the opponent, but you will not be able to request that your opponent pays for the Success Fee. We will deduct any payment due to us from the Damages and any Recovered Costs which you recover from your opponent before sending the remainder of the Damages to you at the end of your claim.
15. To ensure that you receive a substantial portion of any damages you win from your opponent if your claim is successful, we will apply a cap to the total amount we may receive under the CF Agreement so that we will never receive more than 25% of any Damages you win plus VAT, together with all of any Recovered Costs you are able to recover from your opponent.
16. If your claim is unsuccessful, you will not have to pay us a fee, and your additional expenses (including the Disbursements) will be covered by Barings Law. This means that you will not have to pay these expenses if you do not win your Claim, subject to you complying with the terms of the CF Agreement. You may become liable to pay your opponent's costs (known as "Adverse Costs"). However, provided you comply with the CF Agreement, we will provide you with an indemnity against those costs.
17. Agreeing the terms of the CF Agreement ensures that our service costs will be repaid out of the proceeds of your claim and the sums due under the CF Agreement can be deducted from the Damages and Recovered Costs you receive before any sums are paid to you. This helps secure our right to payment if you win, without which we would not be willing to assist you by funding the legal expenses which you would otherwise have to pay for yourself.

### Alternative methods of funding

Here, we explain the other methods of funding which might be available to allow you to bring your claim. They can be summarised as follows:

- Paying for our services as you use them on an hourly basis whether you win or lose;
- Pre-existing legal expenses insurance that would cover the cost of our services – if you have a policy that will cover you for this case please confirm without delay (we should advise you that legal expenses cover can be included as part of your household or motor insurance policies, so you should check these to see if you may have cover, and ask us if you are unsure);
- A trade union or other organisation of which you are a member that would cover the cost of our services – if you are a trade union member and your union will pay your legal fees and expenses please confirm without delay;

Unless you have pre-existing legal expenses insurance or trade union cover, we would recommend that you proceed on the No-Win No-Fee basis described above for this type of case, because this means that you only have to pay anything if your claim succeeds (and, in which case, the amounts you will owe will be limited according to the amounts you receive from the opponent).

Based upon the information we have received we are satisfied that the enclosed CF Agreement is suitable for your needs and take account of your best interests. If your circumstances change, we may need to review the funding arrangement; please therefore inform us promptly about any change which you consider may be relevant.

Please note that if you breach the terms of the CF Agreement (as applicable at the time of the breach), then the sums due under the CF Agreement may become immediately payable by you.

## Terms and Conditions of the Conditional Fee Agreement

### 1. Definitions and interpretation

1.1. In this CF Agreement, unless otherwise provided, the following words and expressions have the following meanings:

"**CF Agreement**" means the terms and conditions of this conditional fee agreement, including any schedules.

"**Claim**" means the Client's data breach claim against the Opponent.

"**Client Care Letter**" means the letter sent by the Firm to the Client enclosing the CF Agreement and Standard Terms and Conditions of Business.

"**Damages**" means the sum that the Opponent or other related party agrees or is required to pay to the Client in Settlement (whether in full or part) of the Claim if the Client wins the Claim or the sum that the Opponent or other related party agrees or is required to account for or offset against any sum owed by the Client to the Opponent or other related party in Settlement (whether in full or part) of the Claim if the Client wins the Claim. Under this CF Agreement, Damages shall exclude any costs (including expenses) recovered from the Opponent or other third party.

"**CFA Fee**" means 25% of the Damages paid by the Opponent or any other party to the Client in respect of the Settlement of the Claim or of the amounts accounted for / offset against any amount owed by the Client to the Opponent or any other party in Settlement of the Claim, together with VAT thereon. The CFA Fee plus VAT shall be capped at a maximum of 30% of Damages. The CFA Fee to be paid is net of any costs paid or payable by any other party.

"**Expenses**" means disbursements paid on behalf of the Client in connection with the Claim and/or any Proceedings, such as (but not limited to) assessment fees, experts' fees, photocopying charges, travelling expenses, translators' fees, subsistence and other expenses, and excluding counsel fees.

"**Firm Fees**" means the amounts which the Firm charges for the work which it does on the Claim at the rates set out at clause 3.2, not including the CFA Fee, if the circumstances under clauses 11.1.1, 11.2.1, are met. In such circumstances, the Firm Fees may include charges for the work undertaken by the Firm in respect of the Claim prior to the date of the Client Care Letter, including in relation to the Firm assessing the quantum of the Claim. The Firm Fees may also be used to calculate the recoverable costs from the Opponent.

"**Loses the Claim**" means any circumstance other than where the Client wins the Claim, including where the Client discontinues the Claim on the Firm's advice with no agreement for payment of Damages in favour of the Client.

"**Opponent**" means any party against whom the Client proceeds in this Claim – or in claims heard with this Claim – or any one or more of them. Where an Opponent is named in this CF Agreement, the CF Agreement is not limited to a claim against that Opponent but extends to a claim against any other Opponent which the Firm may advise.

"**Recovered Expense Costs**" means all amounts paid by any other party, including the Opponent or other related party to the Client or the Firm or any person on their behalf on account of Expenses or, if a Settlement is agreed that fails to allocate the amount of the Settlement or compromise to such items, an amount equal to amounts attributed as Expenses under an order for recovered costs that a court might reasonably have been expected to make in the Claim as determined by counsel, acting reasonably, or by an experienced costs lawyer agreed between the parties in accordance with clause.

"**Settlement**" means a binding settlement agreement between the Client and the Opponent in settlement of the Claim or if the Opponent is otherwise required to pay, account for or off-set Damages.

"**Standard Terms and Conditions of Business**" means the Firm's terms and conditions of business delivered to the Client.

"**Wins the Claim**" means where the Claim is finally decided in the Client's favour, whether as a result of the Opponent agreeing to pay Damages in Settlement or otherwise.

"**VAT**" means value-added tax at the prevailing rate.

1.2. In the interpretation of this CF Agreement, unless the context otherwise requires:

1.2.1. headings are for reference only and do not affect the interpretation of this CF Agreement;

1.2.2. references to clauses are to clauses of this CF Agreement; and



1.2.3. the singular shall include the plural and vice versa.

## 2. Introduction and important information

- 2.1. The Firm agrees to act for the Client under this CF Agreement in relation to the Claim once the Firm has received a signed and dated copy of the Client Care Letter from the Client.
- 2.2. The Firm will be the Client's solicitors subject to the terms of this CF Agreement, the Standard Terms and Conditions of Business and to the professional duties owed by the members of the Firm.
- 2.3. This CF Agreement sets out the terms upon which the Client and the Firm have agreed that the Firm is retained in relation to the Claim.
- 2.4. This CF Agreement will include any Claim against any other person who is subsequently identified as an Opponent to the Claim.
- 2.5. The Client acknowledges that the parties are entering into this CF Agreement on reliance of the representations and warranties set out in Schedule 1 to this CF Agreement.

## 3. Fees and Expenses

- 3.1. The provisions of the Standard Terms and Conditions of Business between the Client and the Firm will continue to apply, save as varied by the terms of this CF Agreement from the date of the Client's signature to the Client Care Letter.
- 3.2. Firm Fees
  - 3.2.1. The Client is only liable to pay the Firm Fees if the events under clauses 11.1.1, 11.2.1 or 11.2.2 take place.
  - 3.2.2. Under this CF Agreement, the Firm fees are calculated by reference to the hourly rates set out below. These hourly rates have to be reviewed periodically to reflect increases in overhead costs and inflation. Normally the rates are reviewed each year. The Firm will inform the Client in advance of any increase in rates.

|  | Hourly Rate £ |
|--|---------------|
| Grade A:<br>Consultants/Partners   | £350          |
| Grade B:<br>Senior associates of 8 years Post-Qualified Experience (PQE) | £242          |
| Grade C:<br>Associates of 4 years PQE                                    | £203          |
| Grade D:<br>Paralegals   | £149          |

- 3.2.3. Under this CF Agreement, the Firm Fees are calculated by reference to our hourly rate which is £350 per hour. The hourly rate has to be reviewed periodically to reflect increases in overhead costs and inflation. Normally the rates are reviewed each year. The Firm will inform the Client in advance of any increase in the rates.

## 4. Payment to the Firm

- 4.1. If the Client Wins the Claim:
  - 4.1.1. Subject to the terms of this CF Agreement, if the Client Wins the Claim the Client is liable to pay the CFA Fee (net of any costs paid or payable by any other party) in full and on demand.
  - 4.1.2. The Firm will invoice the Client for the CFA Fee.
  - 4.1.3. The Client is liable to pay the Expenses (net of any expenses that are paid or payable by any other party). However, the Firm will not seek to recover any Expenses from the Client in excess of the Recovered Expenses Costs.
  - 4.1.4. The Client agrees to pay all Damages and any Recovered Expense Costs received by the Opponent into the Firm's client account and, out of such sums, the Client agrees that the Firm can take any payments due in the order of priority set out in clause 5 (*Application of Proceeds and Payment Priority*).
  - 4.1.5. If the Opponent does not pay all of the Damages or any Recovered Expense Costs owed to the Client pursuant to an agreement, then the Client agrees that it will use all reasonable endeavours to assist and co-operate fully with the Firm in recovering the

amounts due and owing. This will include, but is not limited to, the right for the Firm to act in the Client's name to enforce any agreement to pay and the right to request a transfer or assignment of any agreement at the Firm's request.

4.1.6. Where Damages and/or any Recovered Expense Costs are not paid directly into the Firm's client account and the Client fails to pay the CFA Fee, and any Recovered Expense Costs within 7 days of a demand for payment, the Firm shall be entitled to payment of interest on the outstanding amount at 2% above base rate per annum from the date of the demand until payment.

4.2. If the Client Loses the Claim:

4.2.1. The Client will not be liable for the CFA Fee.

4.2.2. The Client will be liable to pay the Expenses (net of any expenses that are paid or payable by any other party). However, Barings Law will indemnify the Client for the Expenses, and the Client is not liable to pay any shortfall.

4.3. *CFA Fee*

4.3.1. The CFA Fee is payable by the Client to the Firm if the Client Wins the Claim.

4.3.2. The CFA Fee is set out in the Definitions above. The reasons for calculating the CFA Fee at this level as they reasonably appear to the Firm at the date this CF Agreement is entered into include, but are not limited to, the following:

4.3.2.1. The fact that the Firm is self-financing the Claim and will not be paid unless and until the Client wins the Claim;

4.3.2.2. The Firm's assessment of the risks of the Claim, which include the following:

4.3.2.2.1. The Firm has not yet seen all relevant documentary evidence in relation to the Claim;

4.3.2.2.2. Further information may be provided by the Opponent which impacts upon the viability of the Case;

4.3.2.2.3. The fact that there is a possibility the Opponent will put forward a conflicting interpretation of the facts;

4.3.2.2.4. The fact that the CF Agreement is being entered into at the very outset of receiving instructions from the Client;

4.3.2.2.5. It is uncertain when and if the Opponent will make reasonable offers to settle the Claim; whilst an early Settlement is possible it would not be a safe assumption;

4.3.2.2.6. Decisions that the Client makes may materially impact on whether the Claim continues and whether the Client wins the Claim;

4.3.2.2.7. The fact that if the Client loses the Claim, the Firm will not earn anything.

4.3.2.2.8. The fact that the Firm has the responsibility of making a significant investment in the Claim, including not only in relation to its own time for work undertaken but also in respect of Expenses notwithstanding the risk factors set out above.

4.4. Irrespective of the risk of the Success Criteria not being achieved, a CFA Fee of 25% plus VAT is the consideration which the Firm requires in return for acting on terms which are contingent on success, which give rise to uncertainty and unpredictability in the Firm's business affairs and deprive the Firm of cashflow for what may be a significant period.

4.5. The CFA Fee is only payable by the Client if the Client wins the Claim and will be payable via a deduction from the Damages. The CFA Fee is calculated net of any costs paid or payable by any other party.

4.6. The CFA Fee is payment by the Client for the service provided by the Firm in the conduct of the Claim from the date of instruction.

4.7. If there is anything that the Client wishes to discuss about the CFA Fee they should contact the Firm before signing the Client Care Letter enclosing this CF Agreement.

4.8. *Client's total liability to the Firm*

4.8.1. In recognising the need for the Client to recover a portion of its Damages, it is agreed that if the Client wins the Claim, the Client's total liability to the Firm under this CF Agreement will not exceed the aggregate of:

4.8.1.1. The CFA Fee;

4.8.1.2. Any Recovered Expense Costs received.

#### 4.9. Settlement

- 4.9.1. Where the Opponent makes an offer to settle the Claim for a lump sum or benefit that does not distinguish between Damages and any Recovered Expense Costs, the Client agrees that it will not accept such an offer without the Firm's written consent.
- 4.9.2. It may be that the Opponent makes a Part 36 Offer which the Client rejects on the Firm's or counsel's advice and the Client pursues the Claim to trial and obtains judgment in its favour where the Damages it recovers are less than or equal to the Part 36 Offer. If this happens, the Client will still win the Claim but the Firm will charge the Firm Fees and Success Fee for the period up to 21 days after it received notice of the Part 36 Offer / payment and for the period thereafter it shall not claim any Firm Fees or a Success Fee. The Client shall still be liable for Disbursements. The Client will also usually be ordered to pay the Opponent's costs from 21 days after notice of the Part 36 Offer / payment which will be covered by the indemnity for Adverse Costs provided by the Firm.
- 4.9.3. If the Opponent makes a Part 36 Offer which the Client rejects against the Firm's or counsel's advice and the Client pursues the Claim to trial and obtains judgment in its favour where the Damages are less than or equal to the Part 36 Offer, the Client will remain liable for the Success Fee, as well as the Firm Fees and Disbursements and in these instances such amounts shall not be subject to the cap in clause 4.7. The Client will also usually be ordered to pay the Opponent's costs from 21 days after notice of the Part 36 Offer / payment and the Client shall be liable for these amounts. Such amounts would not be subject to the cap in clause 4.7 nor covered by the indemnity for Adverse Costs provided by the Firm.

#### 5. Application of proceeds and payment priority

- 5.1. The Client agrees to hold all Damages and any Recovered Expense Costs as trust property on bare trust absolutely for the benefit of the Firm and itself to the extent of each of their respective interests in the Damages and Recovered Costs as described in this CF Agreement.
- 5.2. If the Client wins the Claim, Damages and any Recovered Expense Costs paid into the Firm's client account in accordance with clause 4.1.4, shall be applied by the Firm in the following order of priority:
- 5.2.1. First, to the Firm in respect of the CFA Fee;
- 5.2.2. Second, to the Client in respect of the balance of the Damages together with any interest payable in accordance with the Solicitors Accounts Rules.
- 5.3. If the Client loses the Claim, the Client irrevocably instructs the Firm that any amounts recoverable shall be paid directly into the Firm's client account to be applied by the Firm to meet any Expense payable by the Client in accordance with the terms of this CF Agreement.

#### 6. VAT

- 6.1. VAT will be added to the CFA Fee at the rate which applies when the invoice is rendered.

#### 7. Right to apply for an assessment

- 7.1. The Client has the right to an assessment by the court of the amount of the Firm Fees, Success Fee and/or Disbursements which are payable by the Client under this CF Agreement, by making an application under section 70 of the Solicitors Act 1974. There are time limits for that application, including an absolute right to assessment if the Client applies to the court within one month of delivery to the Client of the bill of costs, and a gradual reduction of the right the longer it is left thereafter, which the Firm will inform the Client about if asked. The Client is welcome to seek advice from another law firm about this but would be required to pay the costs associated with doing so.

#### 8. Lien

- 8.1. The Firm is entitled to keep any money, papers, documents or other property held on behalf of the Client until all money due to the Firm is paid in full. A lien may be applied after this CF Agreement ends.

#### 9. Responsibilities

- 9.1. To enable the Firm to properly advise and represent the Client, the Client's responsibilities include:
- 9.1.1. Giving the Firm full, honest, clear and timely instructions and instructing the Firm so as to allow it to comply with all rules of the court or obligations imposed by its regulators;

- 9.1.2. Co-operating fully with the Firm in the preparation and conduct of the Claim, including informing the Firm of all material facts of which the Client is aware, promptly keeping the Firm informed of any developments which are relevant to the Firm's representation of the Client in relation to the Claim and its assessment of the likelihood that the Client will win the Claim, and not causing any significant delay or otherwise acting in a manner that might materially prejudice the likelihood that the Client will win the Claim;
  - 9.1.3. Telling the Firm promptly if any information previously provided to the Firm is no longer true or accurate;
  - 9.1.4. Acting throughout the duration of the Claim in accordance with the reasonable advice and direction of the Firm, including the use and instruction of experts, the issues arising in the Claim and any compromise of the Claim;
  - 9.1.5. Providing the Firm with all information and documents which are relevant to the Claim, including but not limited to letters, documents and emails, third-party reports and records, and statutory filings;
  - 9.1.6. Safeguarding and preserving any relevant documents (in both electronic and hard-copy form) that may be relevant to the Claim. Further details in relation to the Client's disclosure requirements are set out in the Standard Terms and Conditions of Business;
  - 9.1.7. Not asking the Firm to work in an improper or unreasonable way;
  - 9.1.8. Paying all amounts due to the Firm upon delivery of invoices;
  - 9.1.9. Consulting with the Firm before making any contact with or having any discussion or correspondence with the Opponent or its lawyers concerning any aspect of the Claim;
  - 9.1.10. Not abandoning or discontinuing the Claim or any part of the Claim against the Firm's advice;
  - 9.1.11. With the Firm's guidance, taking all reasonable steps to engage constructively with the Opponent to resolve the Claim and to notify the Firm immediately if the Client receives an offer of Settlement, whether orally or in writing, from or on behalf of the Opponent;
  - 9.1.12. Not settling the Claim (or any part of it) without the Firm's consent, such consent not to be unreasonably withheld having regard to the Firm's duty to act in the Client's best interests, not entering into any Settlement which does not differentiate between the sum paid as Damages and any sum paid as Recovered Expense Costs unless the Firm agrees, and not agreeing to any apportionment of a Settlement sum between Damages and Recovered Expense Costs unless the Firm agrees;
  - 9.1.13. Not entering into any agreement, orally or in writing, with any other person in respect of the Claim (including any agreement relating to a sharing of Damages) without the Firm's agreement;
  - 9.1.14. Not entering into any new agreement concerning the Claim that does not acknowledge the enforceability of this CF Agreement and the Firm's rights hereunder;
  - 9.1.15. Not creating a charge over the Damages in favour of any other person;
  - 9.1.16. Not creating any future interest in the Damages that would have priority over the Firm's interest;
  - 9.1.17. Not receiving any payment directly from the Opponent or any other person in respect of Damages or Recovered Expense Costs. All Damages and Recovered Expense Costs must be paid directly into the Firm's client account; and
  - 9.1.18. Not causing or contributing to a conflict of interest that would prevent the Firm from continuing to act in relation to the Claim.
- 9.2. The Firm's responsibilities include:
- 9.2.1. Always acting in the Client's best interests, subject to the Firm's overriding duties to the court and/or its regulators and/or the Firm's other professional duties;
  - 9.2.2. Explaining to the Client the risks and benefits of taking legal action, including advising the Client of any legal issues, circumstances and reasonably foreseeable risks relevant to the Claim;
  - 9.2.3. Giving the Client the best information reasonably possible about the likely costs of the Claim and the different methods of funding those costs;
  - 9.2.4. Keeping the Client apprised of progress; and
  - 9.2.5. Seeking the Client's instructions as required.

## 10. Termination

### 10.1. By the Client

10.1.1. The Client is entitled to end this CF Agreement in writing at any time. If the Client does so and it:

10.1.1.1. Does not continue with the Claim, it agrees immediately to pay the Firm Fees for the work done to the termination date of this CF Agreement, together with Expenses incurred to the termination date.

10.1.1.2. Continues with the Claim and wins the Claim, the Client will have to pay the Firm the CFA Fee.

10.1.2. If the Client terminates this CF Agreement and continues with the Claim, the Client agrees to:

10.1.2.1. Keep the Firm regularly informed of the progress of its Claim;

10.1.2.2. Procure that any new solicitors instructed on the Claim shall provide the Firm with regular information upon the Firm's reasonable request as to the progress of the claim and shall respond to any reasonable queries the Firm may raise on a timely basis;

10.1.2.3. Immediately notify the Firm in writing of any monies received in connection to the Claim and shall instruct its new solicitors to hold the CFA Fee (where the Client Wins the Claim and where such fee is due to the Firm in accordance with the terms of this CF Agreement) on trust for the Firm in a designated client account and to provide confirmation of the same to the Firm;

10.1.2.4. Ensure that, if the Client wins the Claim, payment of the CFA Fee to the Firm shall take priority over any other payment obligations the Client may have under any additional funding agreement or damages-based agreement arising out of the same Claim and that the required amount of Damages and Recovered Expense Costs shall be paid in accordance with clause 5 (*Application of Proceeds and Payment Priority*).

### 10.2. By the Firm

10.2.1. The Firm is entitled to end this CF Agreement on reasonable notice if:

10.2.1.1. The Client rejects the Firm's advice to accept a reasonable offer from the Opponent or to make a reasonable offer to the Opponent in Settlement of the Claim or to discontinue part of the Claim. In such circumstances, the Firm may elect whether: (i) the Client must pay the Firm Fees for the work done to the termination date of this CF Agreement, together with Expenses incurred to the termination date; or (ii) the Client must pay the Firm the CFA Fee if it proceeds with the Claim and wins the Claim together with any Expenses that are recovered from the Opponent;

10.2.1.2. The Client elects to discontinue the Claim without the Firm's agreement. In such circumstances, the Client must pay the Firm Fees for the work done to the termination date of this CF Agreement, together with Expenses incurred to the termination date. The Client may also be liable to pay the Firm damages for breach of contract;

10.2.1.3. The Client does not meet its responsibilities, breaches its duty of confidentiality as set out under this CF Agreement, provides information that is false, inaccurate, misleading, fraudulent or materially incomplete, materially breaches any of the representations and warranties set out at Schedule 1, or if the Client is otherwise in material breach of any of the terms of this CF Agreement. In such circumstances, the Client must pay the Firm Fees for the work done to the termination date of this C Agreement, together with Expenses incurred to the termination date. The Client may also be liable to pay the Firm damages for breach of contract. If the Client proceeds with the Claim and wins the Claim, it must pay the Firm the CFA Fee;

10.2.1.4. The Client becomes bankrupt, insolvent, or subject to winding-up proceedings or liquidation/receivership. In such circumstances, the Firm may elect whether: (i) the Client must pay the Firm Fees for the work done to the termination date of this CF Agreement, together with Expenses incurred to the termination date; or (ii) the Client must pay the Firm the CFA Fee if the Client's trustee(s) in bankruptcy or liquidator/receiver proceeds with the Claim and the Client wins the Claim, together with any Expenses that are recovered from the Opponent;

10.2.1.5. The Firm believes that there is no longer a reasonable prospect that the Client will win the Claim or that the likely recovery the Client would achieve is insufficient to justify expenditure of further Firm Fees or Expenses. In such circumstances, provided the Client has not provided information that is false, inaccurate, misleading, fraudulent or materially incomplete, the Client will not be required to pay any Firm Fees, the CFA Fee or Expenses;

10.2.1.6. On grounds of breach or misconduct by the Client. In such circumstances, the Client must pay the Firm Fees for the work done to the termination date of this CF Agreement, together with Expenses incurred to the termination date. If the Client proceeds with the Claim and wins the Claim, it must pay the Firm the CA Fee.

10.2.2. The Client's death before the Claim is resolved will bring this CF Agreement to an end. In such circumstances, the Firm will be entitled to recover the Firm Fees and Expenses up to the date of the Client's death from the Client's estate.

10.2.3. If the Firm terminates this CF Agreement in accordance with its terms and withdraws its services, it shall have no duty to find the Client alternative lawyers.

### *10.3. Cooling-off period*

10.3.1. The Client has a right to cancel this CF Agreement under Schedule 2 and will pay nothing if this is done within the 14-day time limit

## **11. Confidentiality**

11.1. It may be necessary for the Firm or the Client to share information about the Claim with the insurer under the Insurance Policy. Common interest privilege and/or litigation privilege will attach to information shared with such insurer in relation to the Claim.

11.2. The Client agrees not to disclose any information about the Claim to a third party before first discussing it with the Firm.

11.3. The existence and terms of this CF Agreement shall be treated by the Client as confidential.

## **12. Severability**

12.1. If, for any reason, one or more of the provisions or undertakings of this CF Agreement shall be held to be invalid but would have been held to be valid if part of the wording of the same was deleted or the period or scope of the same reduced then the said provisions or undertakings of this CF Agreement shall apply with such deletion or modification as may be necessary to make them valid and effective.

12.2. Without prejudice to the above, the illegality, invalidity or unenforceability of any provision of this CF Agreement under the laws of any jurisdiction shall not affect its legality, validity or enforceability under the laws of any other jurisdiction, nor the legality, validity or enforceability of any other provisions of this CF Agreement. Each party shall use all reasonable endeavours to replace any illegal, invalid or unenforceable provisions by a legal, valid and enforceable substitute provision, the effect of which is as close as possible to the intended effect of the illegal, invalid or unenforceable provision.

## **13. Conflict**

13.1. If there is any inconsistency between any of the provisions of this CF Agreement and the provisions of the Firm's Standard Terms and Conditions of Business, the provisions of this CF Agreement shall prevail.

## **14. Governing law and jurisdiction**

14.1. This CF Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter, existence, formation, validity, termination or enforceability shall be governed by and construed in accordance with the law of England and Wales.

14.2. Subject to clause 15.3, each party irrevocably submits to the exclusive jurisdiction of the courts of England and Wales to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this CF Agreement or its subject matter or formation.

14.3. Where there is a dispute between the Firm and the Client as to the apportionment of any amount paid to the Client by way of Settlement between Damages and Recovered Expense Costs, the disputes shall be referred for determination by an independent barrister or experienced costs lawyer to be agreed between the parties, such barrister or lawyer to be of appropriate seniority and experience having regard to the subject matter, value and complexity of the dispute. The barrister or lawyer shall act as an expert and not an arbitrator, and his or her decision shall be binding. The barrister or lawyer shall decide the procedure for resolving the dispute, and who is to be responsible for the costs of the dispute, including his or her own fees. The barrister or lawyer will be appointed by agreement between the parties or, in the absence of any agreement, by the President of the Law Society.

14.4. Nothing in this clause 15 is intended or shall prejudice any rights of the Client under the Solicitors Act 1974 or any right of recourse to the Legal Ombudsman, the Solicitors Regulation Authority or other regulator.

## **15. Assignment**

- 15.1. The Client shall not assign or transfer any of its rights and/or obligations under this CF Agreement without the prior written consent of the Firm.
- 15.2. The Firm shall be entitled (subject to any applicable laws) to assign, transfer, charge or securitise its rights to any Firm Fees or CFA Fee or Expenses under this CF Agreement to a third party or parties upon written notice to the Client, but not so as to affect any of the Client's rights to its detriment. The Client agrees to execute any further documents the Firm requires to make such assignment effective.
- 15.3. The Firm will notify the Client as soon as reasonably possible where any assignment, transfer, charge or securitisation referred to in clause 15.2 above affects any provision of this CF Agreement or if, as a result of such assignment, transfer, charge or securitisation, the Client should consider all references to the Firm in this CF Agreement as references to the relevant assignee.
- 15.4. This CF Agreement shall be binding upon and enure to the benefit of the successors in title and assigns of the Firm.
- 15.5. Notice given to the Client pursuant to this clause 16 shall be sent by email to the following address:

**16. Warranty of authority**

- 16.1. Any person who signs the Client Care Letter enclosing this CF Agreement on behalf of the Client hereby warrants that they are duly authorised to do so and that their signature legally binds the Client.
- 16.2. Each party warrants and represents to each other party that the signatories to the Client Care Letter enclosing this CF Agreement are duly authorised by the respective party on whose behalf they sign to sign the Client Care Letter and bind the respective party to the terms of this CF Agreement.

**17. Third-party rights**

- 17.1. No person who is not a party to this CF Agreement has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this CF Agreement but this does not affect any rights or remedy of a third party which exists or is available other than under the Act, nor does it affect the rights of any successors or assigns of the Firm.



## **Schedule 1 (Representations and Warranties)**

The Firm's decision to enter into the terms of this CF Agreement is based in part on the representations and warranties the Client has made in this Schedule 1. The Client agrees to inform the Firm promptly if any of these statements is no longer true and accurate.

In addition to the representations and warranties set out at clause 16, the Client hereby warrants and represents that:

1. All factual information howsoever delivered by the Client to the Firm prior to the date of the Client signing the Client Care Letter was true and accurate in all material respects as at the date of the relevant report or document containing the information and remains true and accurate at the date of the Client signing the Client Care Letter.
2. No legal proceeding or other procedure or step in relation to the subject matter of the Claim has previously been advanced by or on behalf of the Client.
3. No information has been withheld or concealed by the Client or, to the best of the Client's knowledge, by its affiliates or any advisors that, if disclosed, would have the effect of causing the information, opinions, intentions, forecasts or projections previously provided by the Firm being untrue or misleading in any material respect or which, if disclosed, might reasonably have been expected to affect the Firm's decision to enter into the terms of this CF Agreement.
4. All documents in the Client's possession or control relevant to the Claim have been and will be safeguarded and preserved by the Client (in both electronic and hard-copy form) and will be supplied to the Firm (including but not limited to letters, documents and emails, third party reports and records, and statutory filings).
5. There are no facts or situations that have not been disclosed to the Firm which might reasonably be expected in any material respect to adversely affect the conduct, progress or continuation of the Claim or the prospects that the Client Wins the Claim.
6. Other than this CF Agreement, there are no other agreements or understandings, whether in oral or written form, between the Client and any other person in respect of the Claim or Damages (including any agreement or understanding relating to the sharing of any Damages or any charge over any Damages).
7. The obligations assumed by the Client under this CF Agreement are legal, valid, binding and enforceable obligations, subject only to applicable bankruptcy or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity.
8. The entry into and performance by the Client of this CF Agreement does not and will not conflict in any respect with, or result in a breach or violation of:
  - 8.1. any law or regulation applicable to the Client; and
  - 8.2. any agreement or instrument binding upon the Client or any of its assets;
9. No consent, approval, authorisation, filing with or order of any court or governmental agency or body is required to enable the Client lawfully to enter into, exercise its rights and comply with its obligations in this CF Agreement.
10. No legal proceeding or other procedure or step has been taken or, to the Client's knowledge (having made all reasonable enquiries), threatened, by or in relation to the Client on the basis that the Client is unable to pay its debts.
11. No legal proceeding or other procedure or step has been taken leading to a conviction against the Client in relation to the Client having committed fraud.





## Schedule 2 (Notice of the Right to Cancel)

The Client has the right to cancel this CF Agreement without giving any reason within a period of 14 days from the date of signing the Client Care Letter. To exercise the right to cancel, the Client must inform the Firm of its decision to cancel by a clear statement (e.g. a letter sent by post or e-mail). The Client may use the template cancellation form below if it wishes to but it does not have to.

To meet the cancellation deadline, it is sufficient for the Client to send its communication concerning its exercise of the right to cancel before the cancellation period has expired.

The Client can cancel by:

Post to: Barings Law Limited, 8th Floor, Cardinal House, 20 St Mary's Parsonage, Manchester, M3 2LY.

Email to: [info@baringslaw.com](mailto:info@baringslaw.com)

If the Client cancels this CF Agreement, the Firm will reimburse to the Client any payments received from the Client within 14 days, using the same means of payment as the Client used, and without charging any fee (although it is extremely unlikely that the Client will have made any such payments).

Where the Client requested the Firm to begin the performance of services during the cancellation period, the Client shall pay the Firm an amount which is in proportion to what has been performed until the Client has communicated its cancellation to the Firm.

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### Cancellation Notice

If the Client wishes to cancel the CF Agreement it may use this form, but it does not have to.

To: Barings Law Limited, 8th Floor, Cardinal House, 20 St Mary's Parsonage, Manchester, M3 2LY **OR** [info@baringslaw.com](mailto:info@baringslaw.com)

I hereby give notice that I wish to cancel my damages-based agreement with Barings Law enclosed with Barings Law 's letter dated  your reference:

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_



## Form of Authority

I authorise Barings Limited (Trading as Barings Law) with registered office at 8th Floor, Cardinal House, 20 St Mary's Parsonage, Manchester, M3 2LY to act on my behalf. I give Barings Law full authority to refer my claim to my opponent including, but not limited to, the Financial Ombudsman Service (FOS), and/or the Financial Services Compensation Scheme (FSCS).

I agree and accept that upon signing this Letter of Authority, Barings Limited may submit a Data Subject Access Request (under s.45 of The Data Protection Act 2018 and under Article 15 of the General Data Protection Regulation) to my opponent, or related parties, to provide a copy of all personal data relating to me.

The authority also gives my opponent and or the FOS/FSCS permission to communicate with Barings Law and to share information with Barings Law about my case. **I further authorise any payment to be made directly to Barings Limited.**

This authority started from the date I signed it and does not end until I withdraw my instructions from Barings Law. This authority overrides any earlier authority I may have provided.

I have signed this electronically and understand I am bound as if I had signed it by hand.

### Claimant's Personal Details

Our Reference Number:

First Name:

Surname:

Maiden name or any other previous name:

Claimant's Signature:

Current Address:

Date of Birth:

Date:

IP Address:

## Barings Law's Standard Terms and Conditions of Business

This document sets out the terms of the relationship between You, the Client, and Us, your Solicitor, and contains certain information that We are required to provide to You at the start of Your claim. We have tried to make the information as clear as possible and it is vital that You read the document carefully and fully understand and agree its contents. We do appreciate that You may like Us to clarify certain points and if there is anything You would like Us to explain, please do not hesitate to contact Us. These terms contain provisions which limit Our liability to £5 million. We refer You to the limitation of liability set out below.

### 1. No claims to be made against individual directors, partners and employees of the firm

- 1.1. Subject to the qualification set out below, no director, partner or member of staff of Barings Law will have any personal liability for work undertaken for You. You agree not to bring any claim personally against any individual director, partner or member of staff in respect of any loss which You suffer or incur, directly or indirectly, in connection with Our services. This will not limit Barings Law 's own liability for its acts or omissions. This provision is intended to benefit such directors and members of staff, who may enforce this clause pursuant to the Contracts (Rights of Third Parties) Act 1999.

### 2. Liability to persons who are not the client of Barings Law

- 2.1. Subject to the qualification set out below, we shall have no liability to any parties except You and any third parties to whom Our advice is expressly addressed.

### 3. Our liability limited to £5 million

- 3.1. Subject to the qualification set out below, our liability for losses arising out of, or in connection with, our retainer (including legal costs You incur in pursuing recovery of the losses, and including interest) shall be limited to the sum of £5 million in respect of any claim against Us. In defining what a claim is for the purposes of this clause, all claims against Us arising from one act or omission, one series of related acts or omissions, the same act or omission in a series of related matters or transactions, similar acts or omissions in a series of related matters or transactions, and all claims against Us arising from one matter or transaction, shall be regarded as one claim.

### 4. Proportionate liability

- 4.1. Subject to the qualification set out below, if We are jointly, or jointly and severally, liable to You with any other party We shall only be liable to pay You the proportion of Your losses which is found to be fairly and reasonably due to Our fault. We shall not be liable to pay You the proportion which is fairly and reasonably due to the fault of another party.

### 5. Effect of limitation or exclusion of liability you agree with another person

- 5.1. We could be affected by any limitation or exclusion or liability which You agree with another of Your advisers or any other third party in connection with a matter on which We are acting for You. This is because such a limitation or exclusion of liability might also operate to limit the amount which We could recover from that other person, for example by way of contribution. Subject to the qualification set out below, you agree that We shall not be liable to You for any increased amount thereby payable by Us, or for any amount which We would have been entitled to recover from another of Your advisers or other third party by way of indemnity, contribution or otherwise, but are unable to recover because of that limitation or exclusion of liability.
- 5.2. We believe the limitations on Our liability We have set out are reasonable having regard to the likely level of the loss We would cause to You in the event that We incur a liability to You, and the availability and cost of professional indemnity insurance and possible changes in its availability and cost in the future. But should You consider them inappropriate We invite You to discuss the limits with Us and We will then investigate the options with You, including the option of providing further cover at additional cost.

### 6. Severance

- 6.1. Each of the limitations set out above constitutes a separate and independent limitation so that if one or more are held to be invalid for any reason or to any extent whatever or does not accord with any professional obligation, then the remaining limitations or the limitations as varied shall be valid to the extent they are not held to be invalid or incompatible with any professional obligation.

### 7. Who regulates us?

- 7.1. We are regulated by the Solicitors Regulation Authority (SRA). The professional rules relating to solicitors' firms, including the Code of Conduct can be accessed on the website of the SRA at [sra.org.uk/solicitors/handbook/code](http://sra.org.uk/solicitors/handbook/code).

- 7.2. Under an exemption from direct authorisation from the Financial Conduct Authority (FCA), whilst we are permitted to advise on and arrange non-investment insurance policies, it is your responsibility to make your own insurance and funding arrangements.
- 7.3. Our firm holds professional indemnity insurance and, should You so request, we will provide You with the name and contact details of Our professional indemnity insurer, and details of the territorial coverage of the insurance.

**8. What does our service cost?**

- 8.1. Our service cost and terms and conditions are outlined in the terms of engagement. For a more detailed cost of each agreement, please refer to the individual terms and conditions of the CF Agreement.

**9. Challenging our charges**

- 9.1. In any circumstances where We do seek payment of Our charges from You, you are entitled to make a complaint to Us about the firm's bill, in accordance with Our complaints procedure. There may also be a right to object to the bill by making a complaint to the Legal Ombudsman, and/or by applying to the Court for an assessment of it under Part III of the Solicitors Act 1974. Please note that the Legal Ombudsman may not consider a complaint about the bill if You have applied to the Court for assessment of the bill.

**10. Time limits**

- 10.1. Claims often involve time limits, particularly once legal proceedings are commenced, and there is a limitation period in place which provides a deadline by which Your Case must be pursued. Your co-operation at all times will help to ensure Your Case is progressed without delay. Failure to respond to Our requests for co-operation and information may result in Us ceasing to act on Your behalf.

**11. Documents and other property**

- 11.1. It is important that you keep all documents, which relate in any way to your case. For the present purposes, 'documents' includes anything recorded, whether in permanent or semi-permanent form, such as letters, contracts, receipts, diaries, computer records, photographs, videos, and anything else of that kind. Whilst we do not need to see all of those documents at this stage, they may have to be produced in support of your case or in court proceedings, and a duty is owed to the court to ensure that all documents related to the case are retained in case they should be required. Also, if You have any other property which may be required to prove Your case, you should retain that property until the case is concluded, or We have advised that You can dispose of it.

**12. Financial services**

- 12.1. Sometimes litigation work involves investments. We are not authorised for providing investment advice and so may refer You to someone who is authorised to provide any necessary advice. However, we can provide certain limited services in relation to investments, provided they are closely linked with the legal services We are providing to You as We are regulated by the Solicitors Regulation Authority.

**13. Client satisfaction and complaints**

- 13.1. At Barings Limited, we aim to deliver a first-class service every time. We realise, however, that things can sometimes go wrong, and we welcome complaints as an opportunity to improve our service. If something is wrong, we will do our best to put it right. If you do need to make a formal complaint about our service, we invite you to contact us as outlined below and we will acknowledge your complaint and confirm how it will be dealt with.

**Telephone:** 0161 200 9960

**Email:** anil.kara@baringslaw.com

**By Post:** Barings Limited, 8th Floor, Cardinal House, 20 St Mary's Parsonage, Manchester, M3 2LY.

- 13.2. If you are not satisfied with our handling of your complaint, you can ask the Legal Ombudsman to consider your complaint. There are limits for submitting a complaint to the Legal Ombudsman. Where you have not followed our complaints procedure, you must submit your complaint to the Legal Ombudsman within one year from the date of the problem you are complaining about occurring, or one year from the date when you first realised that there was a problem.
- 13.3. Where you have followed our complaints procedure, the time limit for pursuing a complaint to the Legal Ombudsman is no later than six months from the date on which you received a definitive response to your complaint from us, or from the last day of the eight-week period, whichever is the earlier.

There are exceptions to the eight-week and six-month rules. For information relating to those exceptions, please refer to the scheme rules on the Legal Ombudsman website. The Legal Ombudsman's contact details are:

**Post:** The Legal Ombudsman P.O. Box 6806 Wolverhampton WV1 9WJ

**Telephone:** 0300 555 0333

**Website:** [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)

#### **14. Fraud**

14.1. Although the great majority of claims are entirely genuine, it has to be acknowledged that dishonest claims do exist. Any claimant who is found to have brought a fraudulent claim risks having this reported to the police and being subject to criminal prosecution. In the event that the evidence establishes that a claim is being brought dishonestly, we will be entitled both to terminate our retainer and to seek recovery of any Costs and Legal Expenses which we have incurred.

#### **15. Money Laundering Regulations 2017 and Proceeds of Crime Act 2002**

15.1. As a law firm, we are subject to Money Laundering Regulations, The Proceeds of Crime Act and the Terrorism Act and as such We are under certain obligations to report suspicious circumstances to the authorities. The law requires solicitors to obtain satisfactory evidence of the identity of their clients and We may do this in a number of ways including using computer software or arranging for Your identity to be checked in person. We may validate name, address and other personal information supplied by You against appropriate third-party databases. By accepting these terms and conditions You consent to such checks being made. In performing these checks personal information provided by You may be disclosed to a registered Credit Reference Agency which may keep a record of that information. This may affect Your credit rating. All information provided by You will be treated securely and strictly in accordance with the Data Protection Act 2018.

15.2. The provision of a Funding Agreement requires Us to extend the search of the registered Credit Reference Agency to meet Our responsibilities under the FCA Consumer Credit Sourcebook, which governs consumer lending and implements the Consumer Credit Act 1974. This enables Us to fulfil Our obligations to the funders of the Funding Agreement.

15.3. Please note that it is not Our policy to make any compensation payments to anyone other than yourself as Our Client, regardless of whether You provide written authority.

#### **16. Data Protection / Privacy notice**

16.1. We use the information You provide primarily for the provision of legal services to You and for related purposes including: Updating and enhancing Client records; Analysis to help Us manage Our practice; Statutory returns and legal and regulatory compliance.

16.2. Our use of that information is subject to Your instructions and consent, the Data Protection Act 2018 and Our duty of confidentiality. Please note that Our work for You may require Us to give information to third parties such as expert witnesses and other professional advisers. You have a right of access under data protection legislation to the personal data that We hold about You. Please contact Us if You would like a copy of Our full Privacy Policy.

#### **17. Using your personal information for legal services**

17.1. Personal information which You supply to Us will be used to fulfil Our contractual obligation to You in providing You with legal services.

17.2. It is necessary for Us to pass Your personal data to other organisations to provide You with legal services. Examples of such organisations are for document signing, barristers, experts and witnesses, outsourcing providers, courts, government agencies and defendants such as insurance companies, local authorities, financial institutions or solicitors. We have to do so to comply with statutory legislation and court procedures. You agree to sharing Your personal data with such third parties and their processing Your personal data for such purposes, whether based in the UK or elsewhere.

17.3. Our legal basis for processing Your personal data to provide You with legal services is Contract, Legal Obligation and Legitimate Interest.

17.4. We retain personal data for 6 years from the date We close Your claim, except where it has been lodged with Us for safekeeping.

17.5. We do not provide Your personal information to any other person, organisation or agency for any other purpose, other than as described above. We do not use personal data to automate individual decision-making or profiling.

#### **18. Using your personal information for marketing**

18.1. Personal information which You supply to Us may be used to provide You with information on legal services which We offer. Our legal basis for processing Your personal data is Legitimate Interest. Where You separately opt in to receiving information about Our services, our legal basis for processing Your personal data is Consent. You may withdraw Your consent at any time and without any detriment to Us providing You with legal services. We do not provide Your personal information to any other person, organisation or agency for any other purpose.

## **19. Individual Rights**

- 19.1. You may request a copy of the personal data We hold on You. We would normally provide this information to You, usually at no charge and within 30 days, or refuse and explain why.
- 19.2. You may request that personal data is rectified where it is inaccurate or incomplete. You may also request that personal data processing is restricted. We would normally rectify this information, usually at no charge and within 30 days, or refuse and explain why.
- 19.3. You may request that personal data is erased, although this right is not absolute and applies in certain circumstances. We would normally consider this request, usually at no charge and within 30 days, or refuse and explain why. We may also extend the period to respond by a further two months if the request is complex.
- 19.4. You may object to the use of personal data, although this right is not absolute and applies in certain circumstances.
- 19.5. You may request that personal data is provided electronically or transferred, although this right is not absolute and applies in certain circumstances. We would normally consider this request, usually at no charge and within 30 days, or refuse and explain why.
- 19.6. Where a request is made, we would normally deal with it at no charge, except where a request was unfounded or excessive, where We would request a reasonable fee.

## **20. Complaining about data processing**

- 20.1. If you have concerns about how We have processed Your personal data, you should initially contact Anil Kara by email address at [anil.kara@baringslaw.com](mailto:anil.kara@baringslaw.com) at Our registered address.
- 20.2. If You remain unsatisfied, you have a right to complain to the Information Commissioner's Office – concerns can be reported online at <https://ico.org.uk>, by telephone on 0303 123 1113 or 01625 545 745, or in writing to Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

## **21. Confidentiality**

- 21.1. If Your case requires litigation or disbursement funding and/or is indemnified by a legal expenses insurance policy or requires support from outsourcing providers expert witnesses, the funder, insurer, outsourcing providers and expert witnesses involved in Your case may seek access to Your data for the delivery of their services or audit and monitoring purposes. We may be required to provide information and allow audit in accordance with the terms of agreements with these providers. If You refuse consent the providers may be unwilling to provide assistance for Your case. You agree to sharing Your data with such third parties for such purposes, whether based in the UK or elsewhere.
- 21.2. All reviews are conducted in the strictest of confidence but please do advise Us if You would prefer Your file not to be audited.

## **22. Equality and Diversity**

- 22.1. Barings Law Limited is committed to promoting equality and diversity in all of its dealings with Clients, third parties and employees.
- 22.2. Please contact Us if You would like a copy of Our Equality and Diversity policy.

## **23. VAT**

- 23.1. Under current HM Revenue & Customs Regulations, if You are a company, business or individual who is registered for VAT, you are responsible for any VAT on Your legal costs. This is not recoverable from the person at fault, and we will submit to You a VAT account. Please note that VAT will also not be recovered from the person at fault in relation to repair costs, hire charges, etc. incurred by you. If, however, you are not registered for VAT then it will be reclaimed from the person at fault or their insurers on Your behalf.

## **24. Interest**

24.1. If interest can be claimed on any amounts your opponent is required to pay, you will be entitled to any interest relating to any loss you have incurred, subject to Our policy regarding interest. We are entitled to keep any interest your opponent pays on Costs.

## **25. Outsourcing and Instructing Experts**

25.1. During the course of acting for you in connection with your case we may outsource aspects of the investigation process or need to obtain expert evidence to support your case such as from an Accountant, Financial Advisor or other expert. In some cases, Barings Law may instruct a third party to carry out an expert assessment. Barings Law do not receive any commission or fee in respect of referrals to a third party. You are free to refuse to use our third-party services, but this may result in a delay in obtaining evidence required to progress your case.

25.2. As you do not pay Legal Expenses in addition to Our fee stipulated in the CF Agreement if the success criteria is met, then this outsourcing does not lead to any additional cost to you in any event.

25.3. Unless we hear from you to the contrary, we will assume that you are happy for us to use the services of a third party and will outsource work and/or issue instructions accordingly.

## **26. Fees and Commissions**

26.1. Under Solicitors Regulation Authority Rules, before we can begin to act for you, we must give you information about any financial arrangement we have with the business partners. We do not receive any fee or commission in respect of your claim. As a firm of solicitors, we have a professional duty to act in Your best interest at all times and give You independent advice. There is nothing in Our relationship with any business partner that would compromise or impair this duty or Our independence.

## **27. Your Papers**

27.1. We operate a paperless environment and all correspondence and documents are scanned into an electronic file upon receipt. Personal documents that You send to Us will be returned to You by return post and all other paper correspondence will be destroyed once scanned. Once Your claim is settled Your electronic file will be archived and the record retained for a period of 6 years before being securely destroyed. If after your file is archived you require copies of any papers We hold, a small charge may apply for retrieving the papers.

## **Data Protection / Privacy Notice**

We are a data controller bound by the requirements of the UK General Data Protection Regulations (UK GDPR) and the Data Protection Act 2018. Our office address is Barings Law Limited, 8th Floor, Cardinal House, 20 St Mary's Parsonage, Manchester, M3 2LY and we can be contacted by telephone on 0161 200 9960, by post at Barings Law Limited, 8th Floor, Cardinal House, 20 St Mary's Parsonage, Manchester, M3 2LY and by email at [anil.kara@baringslaw.com](mailto:anil.kara@baringslaw.com).

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If You remain unsatisfied, you have a right to complain to the Information Commissioner's Office – concerns can be reported online at <https://ico.org.uk>, by telephone to 0303 123 1113 or 01625 545 745, or in writing to Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Their website address is <https://ico.org.uk>

### **Confidentiality**

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