

TERMS OF ENGAGEMENT

1. **Definitions**

1.1. The following definitions will apply to these Terms of Engagement and the covering letter to which these Terms of Engagement are an appendix.

1.1.1. “*Engagement*” means the legal advice and service to be provided to the client by Crumps including the work necessary to provide such advice.

1.1.2. “*Letter of Engagement*” means the letter from Crumps to you relating to the Engagement and to which these Terms of Engagement are an appendix.

1.1.3. “*Client*” means the person, firm, company or other entity instructing Crumps.

1.1.4. “*Contract*” means these Terms of Engagement together with the Letter of Engagement to which these Terms of Engagement are an appendix.

1.1.5. “*Crumps*” means Crump & Co.

1.1.6. “*Associates*” means all companies which you control, or, if you are a company forming part of a group, the company by which you are controlled directly or indirectly and all other companies controlled directly or indirectly by such company.

2. **Introduction**

2.1. The contract sets out the basis on which our services are provided and comprises the entire agreement for the completion of the Engagement to the exclusion of any other express or implied terms, whether orally or in writing, including without limitation, any conditions, warranties and representations.

3. **Client Contact Partner**

3.1. In addition to any specific method of communication and reporting agreed with you, we operate a “*Client Contact Partner*” system to ensure that you have a single, senior lawyer who will maintain an overview of your affairs

CRUMP & CO.
LAWYERS

and have ultimate responsibility for ensuring that your requirements are met. His/her name is set out in the Letter of Engagement.

- 3.2. We will report to you (and others, where applicable) as set out in the Letter of Engagement.

4. **Instructions**

- 4.1. The extent of the Engagement is set out in the Letter of Engagement. It may be modified by written agreement between us.
- 4.2. In appointing Crumps to act on any matter on your behalf you are also authorizing us to take any necessary steps to protect your interest in that matter (unless you instruct us to the contrary).
- 4.3. We shall not be responsible for any failure to advise or comment on any matter which falls outside the scope of your instructions.
- 4.4. You agree to ensure that all instructions which we require in connection with the Engagement are provided fully and promptly.
- 4.5. You agree to ensure that any information which we may require or is reasonably necessary in connection with the Engagement is provided fully, accurately and promptly.

5. **Charges**

- 5.1. The fees to be charged by Crumps in relation to the Engagement are set out in the Letter of Engagement.
- 5.2. Unless otherwise agreed, fees are based on the time spent conducting the Engagement. Hourly rates vary according to the level of seniority of each lawyer. Your instructions will be carried out at the level of seniority believed by us appropriate to providing an efficient and economic service.
- 5.3. We try, however, to be flexible in our charging approach and are prepared to consider alternatives to an hourly rate including, for example, fixed fees, blended rates, fee limits, percentage fees based on specific criteria, or retainers. If we have agreed such a modification, details are set out in the Letter of Engagement.
- 5.4. If you require, we will tell you when fees reach a certain level and place a limit on the level of charges that we may incur without further reference to you.

CRUMP & CO.

LAWYERS

- 5.5. Any estimate given in the Letter of Engagement for carrying out the Engagement (or part of it) is only as a guide to assist you in budgeting and should not be regarded as firm or binding quotation unless otherwise agreed in writing.
- 5.6. For a variety of reasons some Engagements are not completed. A transaction may abort. In these circumstances we will charge for the work done.

6. **Expenses**

- 6.1. In appointing us to act on your behalf, you are also authorizing us, unless you instruct us to the contrary, to incur such expenses and disbursements as we consider necessary which you will be required to reimburse to us.
- 6.2. Examples of disbursements which we may have to pay on your behalf include Court and commissioner's fees, fees of counsel, foreign lawyers and other experts, search and registration fees, stamp duty and special bank transaction costs. We will recharge such disbursements at the actual cost to us. We will charge traveling and subsistence costs and expenses incurred on your behalf.
- 6.3. We reserve the right to charge postal, fax, telephone and photocopying expenses incurred on your behalf.
- 6.4. If we engage third parties to participate in the Engagement, Crumps shall not be liable in respect of any advice given or work undertaken by them, regardless of whether such persons were introduced by us.

7. **Accounts**

- 7.1. You will be invoiced at regular intervals (usually monthly) or at an appropriate stage in the conduct of the matter. We reserve the right to request payments in advance on account of fees and disbursements and to require funds held on account to be increased so as to cover anticipated fees and disbursements.

8. **Payment**

- 8.1. Payment is due within 30 days from the invoice date unless we have agreed in writing that a different payment date will apply. If an account is not paid within 30 days, we shall be entitled to charge interest on the amount outstanding (including any expenses) from the date of invoice at a rate equivalent to 3% above the base rate from time to time of HSBC.

CRUMP & CO.
LAWYERS

- 8.2. If an account is overdue for payment, we reserve the right to suspend work and to retain documents and papers belonging to you and your Associates, irrespective of the matter to which they relate, until all sums outstanding to us are paid.
- 8.3. When we receive instructions from, or on behalf of, more than one client to deal with any particular matter, each such client will be separately responsible for payment for our fees and disbursements.
- 8.4. Where you may be entitled to be reimbursed your costs by a third party such as an insurer, you will continue to be responsible for our fees in the event the third party does not pay them for any reason within our payment terms.

9. **Termination of Instructions**

- 9.1. You may withdraw your instructions at any time by written notice to us.
- 9.2. We may withdraw on giving you written notice where we have reasonable grounds to do so (including failure by you or your associates to settle invoices in full on the due date or to make payments in advance when so requested).

10. **Money Held by Us**

- 10.1. Money held by us for you, whether on account of fees or disbursements or otherwise, will be placed in our Client Account and you will be entitled to interest which would have been earned had it been held in a separate designated deposit account at the HSBC unless the amount of such interest is less than HK\$500.
- 10.2. Money held by us (and accrued interest) may be taken by us in payment or part payment of our invoices whether overdue or not and whether in connection with the same or different matters in respect of which we act for you. This extends to money held for your Associates.

11. **Litigation**

- 11.1. There are a number of specific points that you should be aware of when involved in litigation (including arbitration) whether as claimant or defendant:
 - 11.1.1. You are responsible for paying our account even if the Court eventually orders another party to contribute towards your legal costs. You should be aware that there are sometimes difficulties and/or delays in assessing and recovering these costs.

CRUMP & CO.

LAWYERS

- 11.1.2. The Court has wide-ranging discretion to determine which party(ies) should bear the costs of the proceedings and in what proportion. This is usually exercised to order an unsuccessful litigant to pay a proportion of the successful litigant's costs (normally 60-70%).
- 11.1.3. Only in exceptional cases will the Court make an award which gives the successful litigant a right to the full reimbursement of the costs of the proceedings. You should therefore assume that even if your action is successful there will be additional costs payable to us over and above anything recovered from the other side. In cases where another party is legally aided you may not be able to recover any costs, even if you are successful.
- 11.1.4. If you lose an action, you will be liable to pay our fees and disbursements. In addition, the Court is also likely to exercise its discretion to order you to pay a proportion of your opponent's costs (again, normally 60-70% of the total expended by the other side). Further, if at a hearing during the course of the action the Court orders you as the unsuccessful party to pay the costs of the successful party, these costs may be assessed and ordered to be paid forthwith.
- 11.1.5. If you have legal fees insurance or other applicable insurance you should also be aware that insurers may not pay bills before completion of the case, and you will remain liable to pay our bills when rendered during and at the end of the case even if you have not yet been indemnified by your insurers.
- 11.1.6. If you withdraw an action, the other party is entitled to have an order made by the Court for you to pay costs.
- 11.1.7. In any action you will be required to disclose to the other parties all documents, correspondence, notes, memoranda or other items which are or have been in your possession, custody or power and which relate in any way to the issues in the dispute. This duty covers documents which may be prejudicial to your case but which, subject to certain exceptions such as communication with ourselves, you are nevertheless obliged to reveal. The obligation of disclosure is ongoing until the action is over and therefore all such documents must be kept in safe-keeping. This obligation is onerous and you may be liable for severe penalties including fines and/or imprisonment in cases of deliberate non-disclosure. If in

any doubt as to whether to preserve documents, you should always err on the side of preservation.

12. **Confidentiality and Conflicts**

12.1. All information regarding your business and affairs will be regarded as, and kept confidential at all times unless you instruct us to disclose information or we are compelled to disclose it by law, for example where fraud or other crime is involved.

12.2. An actual or potential conflict between your interests or the interest of another client of the firm may arise during the course of a matter. If this situation arises during our dealings with you, we will discuss the position with you and determine the appropriate course of action. In order to protect your interests we may not be permitted to continue acting.

13. **File Storage**

13.1. Files and other papers relating to your matters will be stored for no more than 6 years. Such files or papers may be stored on microfilm or by other means of image processing. After the expiry of this 6 year period we will be entitled to destroy such files and papers and your express authority for us to do so is a term of the Contract. This applies to all files and papers retained by us other than title deeds and other documents of title which you have asked us to hold in safe custody.

14. **Complaints**

14.1. If you have any comments or concerns about the services that we provide, or, you wish to discuss any aspect of the way in which your instructions are being handled and you do not wish to raise these with the individual lawyer involved, please speak to your Client Contact Partner, or, if you prefer, the Managing Partner.

15. **Regulation**

15.1 Our firm is regulated by the Law Society of Hong Kong and these Terms of Engagement are subject to the Rules and Regulations of the Law Society of Hong Kong.

16. **Variation**

16.1. These terms shall apply subject to any variation agreed with you.

17. **Jurisdiction and Proper Law**

- 17.1. These Terms of Engagement are subject to Hong Kong law and the Courts of Hong Kong shall have exclusive jurisdiction to settle any dispute which may arise between us. To this end, you and we irrevocably agree to submit to the jurisdiction of the Courts of Hong Kong and irrevocably waive any objection to any action or proceedings being brought in that Court or any claim that any such action or proceedings has been brought in any inconvenient forum. Judgment in any suit, action or proceedings brought in the Court of Hong Kong shall be conclusive and binding and may be enforced in the Court of any other jurisdiction.

[CAP/fc]