

## Business Terms and Conditions

Issue16 July 2023

These terms and conditions are designed to ensure that Clients can deal easily, transparently and confidently work together with us. Each update is identified with the month of update and a unique issue number.

Please read them carefully and retain a copy for future reference taking note of the month date and issue number of the terms and conditions agreed.

We may change these terms and conditions at any time without notice. However, any changes are not retrospective and will take effect immediately only for new Orders unless otherwise agreed in writing.

Clients will be asked to read and accept the latest terms and conditions each time they place a new Order for the provision of Services to ensure and record that they are familiar with the most current issue and agree with them.

### Definitions and Interpretation

In these terms and conditions any use or reference to "garthcaswell.com, Caswell Lottery Solutions, We, Us, Our and the Company" means Caswell Management Solutions Limited.

"Client(s)" means the person or organisation requesting and/or ordering a provision of Services from the Company.

"Services" means the work requested by the Client and agreed to be provided by the Company set out within an Order.

"Order" means an agreement in writing (can be an email if required) between the parties for the Company to provide Services based on the terms and conditions set out herewith unless otherwise agreed in writing between the Parties.

Alternatively, a specific contract or service agreement can be negotiated between the Parties. Any time expended by the Company to negotiate, draft, amend, edit and/or complete such a contract or service agreement will be charged at the Consultancy rate.

"SMART" is an acronym meaning, specific, measurable, attainable, relevant and time based.

"Principal" means Garth Caswell in person.

"Consultancy" is the provision of help, advice, information, guidance and support to a Client via any media.

"Deskwork" is that part of the Services which is carried out by the Company alone including also any work or activity such as research and or reading in preparation for meetings discussions and or the drafting of reports notes or proposals which has been requested by the Client.

"Consultancy Rate" means the rate per Day which will include travel time or the rate per hour which will exclude travel time payable in £GBP for Consultancy and Deskwork by the Principal.

"Administration Rate" means the rate per hour payable in £GBP for Deskwork completed by other staff members.

“Travel Time Rate” means the rate per hour payable in £GBP for travelling time when the per hour Consultation Rate is applied. Travel Time Rate is not applicable if a per Day Consultancy Rate is being applied to the Services or for any time taken to carry out Client’s Deskwork/Consultation during travel.

“Mileage Rate” means the rate payable in p/mile for travelling in Company vehicles.

“Rates” means all rates comprising Consultancy, Administration, Travel Time and Mileage rates.

“Day” means, in the context of applying the per Day Consultation Rate, the aggregate period of Consultation and/or travel time within any 24hour period which does not exceed either 11 hours if travel takes place or 8 hours if no travel takes place.

“Cancellation Charge” means the Rates and/or charges payable in £GBP following cancellation of an Order or Contract or Service Agreement by the Client without due notice.

“GDPR” means the General Data Protection Regulation (EU) 2016/679 which came into effect on May 25<sup>th</sup> 2018.

“DPA” means the Data Protection Act 2018 which supplements and incorporates the GDPR requirements into UK law.

“Insurances” means the insurance policies which the Company maintains to indemnify against claims arising from professional neglect and/or mistake, losses and/or damage to the public or third parties and losses and/or damages resulting from employee related claims. The insurances maintained are as follows:

- Professional Indemnity - £500,000
- Public and Product Liability - £1,000,000
- Employers Liability - £10,000,000

### **Insurances**

The Company will maintain the above Insurances at all times.

### **The Rates**

The Consultancy, Administration, Travel Time and Mileage rates are those Rates which are agreed between the Company and Client for each Order or contract or service agreement. The Company determines and publicises generic Rates for its Services on request but notwithstanding the generic Rates publicised it reserves the right to agree different Rates with any Client at any time at its sole discretion.

The Rates are subject to change at any time without notice. However, Rates which may be bound and fixed within an existing Order, contract or service agreement will remain as agreed for the period or term of the Order, contract or service agreement.

### **The Services**

The Company may provide Consultancy ‘online’, at the Client’s site, the Company’s registered office and / or over the telephone or by email or letter or any other media as may be agreed with the Client. The purpose and content of the Consultancy will be agreed between the Company and the Client in advance and confirmed in an Order placed by the Client. (such Order may be a binding email if agreed.)

**Consultancy and Deskwork**

Consultancy at or away from the Client's site and Deskwork at the Company offices, within overnight accommodation, or at the Client's site will be charged at the appropriate Consultancy Rate for the Services.

Deskwork carried out whilst travelling shall also be charged at, or contained within, the Consultancy Rate being applied and not charged at the Travel Time Rate.

All Consultancy and Deskwork time, including any time spent on telephone calls, receiving and replying to separate emails, faxes or other communications, irrespective of the time actually taken will be rounded up to the nearest 15 minutes.

Deskwork, where appropriate, may be agreed in advance. Where specific agreement of time and/or cost may not be practicable, an estimate of time may be given on request. If the Client requires a financial or time limit, then such a limit may be agreed with the Client beyond which the Company shall not exceed without further authorisation by the Client.

Generally, Consultancy and Deskwork time will be recorded on a simple narrative based timesheet and submitted with any invoice by the Company. Such narratives can be supplied at time or cost intervals as may be specified by the Client from time to time.

Deskwork carried out by Company staff other than the Principal at or away from the Client's site, will be charged at the Administration Rate.

One-off introductory telephone discussions with new Clients not previously registered with the Company and no longer than 15 minutes per call will normally be free of charge at the Company's sole discretion.

The Company reserves the right to levy a charge for any such calls that exceed the first 15 minutes. The Company shall notify the other Party at the time of the call if such charge is to be levied.

**Travel and Accommodation Time**

Travel time will be charged at the Travel Time Rate with the exception of when the per Day Consultation Rate is applied or when Deskwork/Consultation is carried out during travelling in which case such Deskwork/Consultation time shall be charged at, or contained within, the Consultancy Rate being applied.

Overnight accommodation time between arrival at the accommodation address and departure to the Client's office or the Company office is not chargeable unless Deskwork/Consultation is carried out during these times when the time taken will be charged at, or contained within, the Consultancy Rate applied to the Services.

**Expenses**

All expenses including travel (including car parking), reasonable subsistence and accommodation costs where applicable are charged at cost inclusive of any VAT applied. Travel is by standard class or first class depending on availability and working requirements during the journey and/or by car. The Company reserves the right to choose the method of travel on a per visit basis. Car mileage travelled is charged at the Mileage Rate.

Accommodation costs are charged at the nearest local 'Premier Inn' rate available on the date of the stay irrespective of the actual costs incurred by the Company. The Company reserves the right to choose actual accommodation whether of a higher or lower standard and/or cost at its sole discretion.

Receipts will not normally be provided by the Company to the Client. The Client will be provided with a detailed invoice and narrative, including all expenses incurred by the Company, for the Client's own receipting purposes.

### **Payment Terms**

The Rates for Services are not subject to VAT.

Payment is to be received by the Company within 5 working days of receipt of invoice by the Client unless agreed otherwise in advance by the Parties.

Payment should be by direct bank payment using BACS. The account number and sort code will be provided by us on all invoices.

If a BACS transfer is not possible the payment can be made by cheque (if agreed in advance by the Company) remitted to the registered office address below however the Company reserves the right to recover bank and transaction charges or fees incurred due to the Client not using BACS/direct bank payment facilities and/or by the Client electing to use commercial payment organisations such as Skril or Paypal as examples. Cheques and payments should be made payable to "Caswell Management Solutions Limited".

We reserve the right to charge the appropriate Consultancy Rate for any Deskwork time taken by the Company to progress payments and/or to recover any actual costs incurred by the Company relating to the Client's failure to pay promptly and/or correctly.

### **On Site Facilities**

During training and presentations, on-site audio equipment is to be supplied by the Client. Access to the internet may also be needed. A local laptop computer may also need to be provided by the Client. In this case memory sticks may be used by the Company.

During such visits it is essential for an IT operator to be present initially to ensure that passwords / WiFi and / or network connections are working.

Delays due to inoperative site equipment and/or WiFi/Internet connection problems may delay and extend any consultancy period and thereby increase Client's fee costs.

### **Data Transfer**

Any file or data transfer must be 'zipped up' and password protected unless otherwise agreed. The password should be sent by separate email. If encryption is used, it is essential that the Parties each check that both Parties have the appropriate software.

### **Confidentiality**

The Company will keep and maintain all information and data related to the Client which is not in the public domain as confidential and will not disclose any data or information related to the provision of Services to any third party, unless required to do so by law, regulation or statute, without the prior and written consent of the Client save that of showing the Client's logo and agreed contact email address on the Company's website.

### **Website**

The Client will allow the Company at the Company's sole discretion to display the Client's logo on the *Testimonial* page of the Company's website <https://www.garthcaswell.com>. The Client agrees to such display and will supply a suitable jpg GIF or bitmap copy of its logo if requested by the Company for this purpose only.

**Licensing or Declarations**

Any licence or registration or declaration which is applied for by and granted to the Company and or its Directors and or its employees which is required specifically in order to carry out the Services for the Client irrespective of whether the Client has paid or contributed to any fees relating to these licences or otherwise shall when granted become the complete and whole property of the Company or the person to whom the licence is granted until such licence shall expire.

In the event that the Services to any Client who has paid for or contributed towards acquiring a licence specific to the Services shall cease for whatever reason the Company or licensed person shall

not be requested or be required to reimburse any part of or all of the application and or licence fees paid by the Company in the acquisition of the licences.

The Company shall charge the Client any renewal fees that may be required to maintain the specific licence during the provision of the Services. This clause does not apply to the Principal's "Personal Management Licence (PML)"

**Variations and Amendments**

A requirement to amend or vary an Order or contract or service agreement for the provision of Services may be requested at any time by the Client. Only following acceptance by the Company in writing shall the terms of the original Order for the provision of Services be deemed to be duly amended.

**Cancellation**

Where an Order for Services has been confirmed by the Client and a date has been set aside by the Company for the provision of the Services and the Order by the Client has been accepted by the Company a Cancellation Charge shall be payable if the Client terminates, cancels or postpones the Order for the provision of the Services after the end of business (17:00hrs) of the working day (Monday to Friday inclusive) immediately prior to the day on which the Services were agreed to be provided.

The Cancellation Charge shall be limited to and shall not exceed the estimated cost of providing the Services originally ordered which will include the estimated Rates and the recovery of any actual costs and expenses incurred including but not limited to advance travel and accommodation costs already booked, in relation to the provision of the Services to which the Company has already committed to following the acceptance by the Company of the Order.

**Termination**

Either party to any Order (verbal or otherwise) provided by the Client to the Company for the provision of Services by the Company shall be entitled to terminate such Order by giving reasonable and sufficient notice as may be considered reasonable and sufficient by a reasonable business person within the context of the Order (Monday to Friday inclusive subject to the Cancellation Clause above) in writing to the other Party for any reason without any compensation or damages due to either the Client or the Company subject only to the clause set out above relating to the payment of the Cancellation Charge.

**Sub-Contracting**

The Company will not sub-contract any of the Services without the written consent of the Client.

**Liability**

All information, data and advice is provided in good faith to the Client by the Company. The Company shall not be accountable or responsible or liable for any damages or losses whatsoever which may result from the implementation and use by the Client of such information, data and/or advice. The

decision as to whether to implement any action based on advice or information given or to use data or information provided by the Company is at the sole discretion and risk of the Client.

Legal information is NOT the same as legal advice; the application of law to an individual Client's specific circumstances is specific to that Client.

Although the Company and its Director Garth Caswell have considerable experience in the field of lottery operations, we strongly recommend that all Clients consult a lawyer if the Client requires professional legal assurance that any and all information and or advice given by the Company, and the Client's interpretation of it, is appropriate to the Client's particular situation and needs.

All Clients should consider all information, data, advice and any other messages provided by Caswell Management Solutions staff and/or Directors as personal opinion only and NOT the advice of a lawyer or legal professional.

### **Force Majeure**

The Company shall not be liable for any losses or damages whatsoever or howsoever sustained or incurred by the Client, whether actual or otherwise, which resulted from any acts or omissions by the Company which were caused by or related to any incident, act, situation or other occurrence which were beyond the reasonable control of the Company.

### **Data Protection Act 2018 (DPA)**

The terms data controller, data processor, personal data, sensitive data and processing shall have the meanings set out in the DPA

Both Parties agree to comply with the DPA insofar as it relates to the performance of their roles related to any Order agreement contract or service agreement which exists between the Client and the Company from time to time and shall not do anything that causes the other party to be in breach of the terms of the DPA.

The Parties will co-operate with each other to ensure that each Party is able to perform its obligations under the DPA and shall provide any personal data to the other under any Order agreement contract or service agreement which may exist between the Client and the Company from time to time in compliance with the terms of the DPA.

The Company shall not unreasonably withhold its consent to comply with any Client data processing and data sharing guidelines that the Client may produce from time to time, copies of which shall be provided to the Company.

### **Contract Preparation**

Where bespoke agreements, service agreements and/or contracts are negotiated between a Client and the Company any work undertaken by the Company in such negotiations and preparations shall be chargeable by the Company at the Consultation Rate. This clause does not apply to any negotiations relating to specific amendments or special conditions related to these Business Terms and Conditions.

### **Law and Jurisdiction**

The construction, validity and performance of any agreement, Order or contract or service agreement between the parties shall be governed by the law of England and Wales and both parties hereby submit to the exclusive jurisdiction of the England and Wales Courts.

**Amendments or Special Conditions to apply to these Business Terms and Conditions.**

None.

**These Business Terms and Conditions, inclusive of any Amendments and Special Conditions set out above are agreed between the Parties.**

The Party	Signed	Print Name & Position	Date
Caswell Management Solutions		Garth B Caswell Director	