

## The Falcon Chambers Model Arbitration Directions

### Preamble:

- The parties are free to decide the way in which they wish to have their dispute decided by the Arbitrator.
- The directions immediately below provide for the commencement of the arbitration in a way that is designed to avoid deadlock.
- These directions are followed by an agenda for discussion which the parties may wish to use as a guide to the matters that may need to be covered, and which may be adapted to suit the nature of the case and the desired timetable. They should be treated as guidelines and not as rules. The Arbitrator will assist the parties to ensure that the directions are tailored to their particular dispute.
- Should the parties wish their dispute to be determined quickly and at fixed cost, they may wish to adopt the Falcon Chambers 20 or 40 Day Arbitration Directions set out in the Schedules to these directions.

### Directions

- 1 The parties should endeavour to agree suitable directions and seek the approval of the Arbitrator to those directions not later than 10 working days after the appointment.
- 2 If the parties are unable to agree directions by that date, they must instead send to the Arbitrator within a further 5 working days a statement of what they can and cannot agree and the submissions of each on the directions in dispute; the Arbitrator will then issue such directions as he or she sees fit.

### Agenda for discussion

The headings and content below may assist the parties in their consideration of what directions may be necessary for the successful conclusion of their arbitration.

### Statements of Case

- 1 Insofar as the parties have not exchanged statements setting out their respective cases prior to the commencement of this arbitration, such statements will be exchanged in accordance with the following timetable:
  - 1.1 Claimant to serve Statement of Claim within 10 working days;
  - 1.2 Respondent to serve Defence and any Counterclaim within 10 working days thereafter;
  - 1.3 Claimant to serve any Reply and Defence to Counterclaim within 10 working days thereafter;
  - 1.4 Respondent to serve any Reply to Defence to Counterclaim within 10 working days thereafter.

### Rules of Evidence

- 2 Unless otherwise agreed between the parties, the Arbitrator shall not be required to apply the rules of evidence.

### Disclosure

- 3 Each party shall give to the other party disclosure of the principal documents relevant to the matters in issue within 10 working days of service of the last statement of case, by serving one copy of each such document upon the other party (unless it knows that that party already has a copy of the same document).

### Witness Statements

- 4 The parties shall exchange statements of witnesses of fact within 10 working days of completion of disclosure.

### Expert Evidence

- 5 Expert evidence that is relevant to the matters in issue shall be given in accordance with the following timetable:
  - 51 Each expert shall serve a preliminary written report upon the other party within 10 working days of the date for service of witness statements.
  - 52 Thereafter, the experts shall within 10 working days hold without prejudice discussions with a view to narrowing the issues in dispute.
  - 53 If the experts cannot resolve all the issues in dispute, they shall prepare and serve a statement of issues agreed and not agreed, with reasons for any disagreement, within 10 working days of their without prejudice meeting.
  - 54 Any final expert's report that is necessary shall be served within 10 working days of the date of agreement of the statement of issues.
  - 55 The experts shall attend for cross examination at any Arbitration hearing unless otherwise agreed by the parties.

### Site Visit

- 6 If the parties agree (or the Arbitrator decides in default of agreement) that there should be an inspection of the premises or locus to which the dispute relates, the parties shall cooperate in making arrangements for a site visit at an appropriate time.

### Arbitration Bundle

- 7 Within 10 working days of the date for service of witness statements or (if later) the date of service of final experts' reports, the Claimant shall prepare and agree with the Respondent an Arbitration Bundle containing the statements of case, witness statements (if any), experts' reports (if any) and relevant documents for consideration by the Arbitrator, and shall file a copy with the Arbitrator.

### Skeleton Arguments

- 8 Skeleton arguments are to be exchanged within 10 working days of the filing of the Arbitration Bundle, with a copy of each provided to the Arbitrator.

### Hearing

- 9 If the parties agree (or the Arbitrator decides in default of agreement) that there should be a hearing, it should take place on the earliest date following compliance with the directions above, with a time estimate of [ ] day(s).
- 10 If the parties agree (or the Arbitrator decides in default of agreement) that there should be a pre-hearing review, it should take place 3 or 4 weeks before the hearing date.

### Settlement

- 11 The parties shall inform the Falcon Chambers Arbitration Clerk immediately if the case should settle.

### Award

- 12 The Falcon Chambers Arbitration Clerk shall notify the parties when the Award is ready, and it shall be sent to the parties by email once the Fee agreed with the Falcon Chambers Arbitration Clerk has been received.
- 13 The parties agree that the Arbitrator should also decide which party should be liable for the costs of the Arbitration and the fees of the Arbitrator. That matter shall be determined in a Costs Award, following receipt by the Arbitrator of one set of submissions as to costs by each party. The Costs Award shall be sent to the parties by email once the appropriate further Costs Fee agreed with the Falcon Chambers Arbitration Clerk has been received.

### Communications

- 14 Any communications between a Party and the Arbitrator shall be by email, and shall be copied to the other Party. Emails to the Arbitrator shall be sent to [ArbitrationClerk@falcon-chambersarbitration.com](mailto:ArbitrationClerk@falcon-chambersarbitration.com)

### Seat

- 15 It is agreed that the seat of this Arbitration is England and Wales.

### Further Directions

- 16 These directions may be amended by the Arbitrator on the application of either party, or as the Arbitrator sees fit.

## Category A: the Falcon Chambers 20-Day Arbitration Directions

### Preamble:

These Directions are suitable for adoption where:

- (a) the formulation of the issues has been agreed;
- (b) the relevant documents have been agreed, and comprise no more than one lever arch file (up to 350 single-sided pages); and
- (c) there will be no hearing.

### Directions

- 1 All the documents that are necessary for the Arbitrator to decide the matters in dispute, including the parties' submissions, shall be set out in a bundle ("the Bundle") containing no more than 350 single-sided pages, which shall be delivered to the Falcon Chambers Arbitration Clerk at the same time as the Agreement appointing the Arbitrator.
- 2 If, upon receipt of the Bundle, the Arbitrator forms the view (whether because of the complexity or value of the dispute or otherwise) that the dispute is not suitable for resolution using the Falcon Chambers 20 Day Arbitration, the parties shall be informed accordingly, and the Arbitration shall proceed no further, unless the parties or the Arbitrator agree that it shall continue either as a Falcon Chambers 40 Day Arbitration, or in accordance with other directions agreed between the parties.
- 3 Unless otherwise agreed between the parties:
  - (a) the Arbitrator shall not be required to apply the rules of evidence;
  - (b) the Arbitrator may call on either party to produce documents other than those voluntarily disclosed, where, having regard to the matters in dispute, this appears to be necessary for the resolution of the dispute.
- 4 Any communications between a party and the Arbitrator shall be by email, and shall be copied to the other party. Emails to the Arbitrator shall be sent to [ArbitrationClerk@falcon-chambersarbitration.com](mailto:ArbitrationClerk@falcon-chambersarbitration.com).
- 5 The Arbitrator shall use reasonable endeavours within 20 working days of receipt of the Bundle to write a reasoned Award dealing with the matters in dispute.
- 6 The Falcon Chambers Arbitration Clerk shall notify the parties when the Award is ready, and it shall be sent to the parties by email once the Arbitrator's Fee of £3,000 plus VAT has been received by the Falcon Chambers Arbitration Clerk.
- 7 If the parties have agreed that the Arbitrator should determine which party shall be liable for the costs of the Arbitration, then within 10 working days of receipt of the Award, the parties shall send submissions in respect of costs to the Falcon Chambers Arbitration Clerk.

- 8 The parties shall jointly meet the Arbitrator's fee in the giving of the Award on the question of costs ("the Costs Award") in a further sum of £450 ("the Costs Fee").
- 9 The Arbitrator shall inform the parties by email addressed to their representatives as above when the Costs Award is available, and the Costs Award shall be sent to the parties by email upon payment of the Costs Fee.
- 10 These directions may be amended by the Arbitrator on the application of either party, or as the Arbitrator sees fit.

## Category B: the 40-Day Falcon Chambers Arbitration Directions

### Preamble:

These Directions are suitable for adoption where:

- (a) the formulation of the issues has been agreed;
- (b) the relevant documents have been agreed, and comprise no more than three lever arch files (up to 350 single-sided pages each);
- (c) any oral evidence is limited to fact, and is either agreed, or will take no longer than one day to be examined at a hearing.

### Directions

- 1 All the documents that are necessary for the Arbitrator to decide the matters in dispute, including the parties' submissions, shall be set out in a bundle ("the Bundle") comprising no more than 3 lever arch files of up to 350 single-sided pages each, which shall be delivered to the Falcon Chambers Arbitration Clerk at the same time as the Agreement appointing the Arbitrator.
- 2 If, upon receipt of the Bundle, the Arbitrator forms the view (whether because of the complexity or value of the dispute or otherwise) that the dispute is not suitable for resolution using the Falcon Chambers 40 Day Arbitration, the parties shall be informed accordingly, and the Arbitration shall proceed no further, unless the parties or the Arbitrator agree that it shall continue in accordance with other directions to be agreed between them.
- 3 Unless otherwise agreed between the parties:
  - (a) the Arbitrator shall not be required to apply the rules of evidence;
  - (b) the Arbitrator may call on either party to produce documents other than those voluntarily disclosed, where, having regard to the matters in dispute, this appears to be necessary for the resolution of the dispute.
  - (c) the Arbitrator may call for a hearing. In default of agreement the Arbitrator will decide the date, time and venue of the hearing. It shall be the parties' obligation to book and pay for the venue.
- 4 Any communications between a party and the Arbitrator shall be by email, and shall be copied to the other party. Emails to the Arbitrator shall be sent to [ArbitrationClerk@falcon-chambersarbitration.com](mailto:ArbitrationClerk@falcon-chambersarbitration.com).
- 5 If any hearing is to be held, it shall take place within 20 working days of receipt of the Bundle by the Arbitrator, and shall take no longer than one day (to include any evidence and oral submissions).
- 6 The Arbitrator shall use reasonable endeavours within 40 working days of receipt of the Bundle or 20 working days of the hearing (whichever is the later) to write a reasoned Award dealing with the matters in dispute.

- 7 The Falcon Chambers Arbitration Clerk shall notify the parties when the Award is ready, and it shall be sent to the parties by email once the Arbitrator's Fee of £6,000 plus VAT has been received by the Falcon Chambers Arbitration Clerk.
- 8 If the parties have agreed that the Arbitrator should determine which party shall be liable for the costs of the Arbitration, then within 10 working days of receipt of the Award, the parties shall send submissions in respect of costs to the Falcon Chambers Arbitration Clerk.
- 9 The parties shall jointly meet the Arbitrator's fee in the giving of the Award on the question of costs ("the Costs Award") in a further sum of £600 ("the Costs Fee").
- 10 The Arbitrator shall inform the parties by email addressed to their Representatives as above when the Costs Award is available, and the Costs Award shall be sent to the parties upon payment of the Costs Fee.
- 11 These directions may be amended by the Arbitrator on the application of either party, or as the Arbitrator sees fit.