

# **Brasfield & Gorrie**

## **OUTSIDE COUNSEL GUIDELINES**

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**I. Adoption and Applicability of Guidelines**

[Brasfield & Gorrie, L.L.C.] (hereinafter 'B&G'), and its subsidiaries will begin using CounselLink to process its outside counsel invoices and manage its matters on May 15, 2013. We expect outside counsel to use good judgment when staffing our matters. We also expect that the work charged for professional services will not exceed what is reasonable and appropriate for the engagement, consistent with our strategy and the complexity of the matter.

Below are the guidelines you will be expected to comply with when assigned to a B&G legal matter.

The main objectives for the adoption of these Guidelines are to achieve greater consistency and

efficiency in improved and streamlined communication, matter handling across and within outside counsel, standardize requirements in furtherance of more streamlined processes, and improve cost savings. We expect all outside counsel to adhere to these Guidelines. However, nothing in these Guidelines is in anyway intended to interfere with your professional judgment or duties as an advocate representing the interests of B&G.

These Guidelines are effective for all work performed from April 15, 2013 forward, and are applicable to all outside counsel and vendors assigned to work on legal matters for B&G or any of its subsidiaries. In the event of a conflict with any other guidelines or policy document, retention agreement or engagement letter, these Guidelines shall prevail. You may not depart from these guidelines without written approval from your B&G contact. B&G encourages outside counsel to raise any questions regarding its Guidelines and billing expectations.

B&G expects that all outside counsel it retains will review these Guidelines and indicate acknowledgement of these Guidelines through the Company's matter management and electronic billing provider, LexisNexis CounselLink™.

Outside counsel invoicing will be prohibited until acknowledgement of these Guidelines is completed in CounselLink.

B&G reserves the right to modify these Guidelines at any time and will provide outside counsel at least thirty (30) days' notice prior to any substantive modifications taking place.

## **II. Conflicts of Interest**

Prior to being retained, B&G expects its outside counsel to investigate and resolve any potential conflicts of interest it may have in representing B&G. Outside counsel must affirmatively represent to B&G that it has done so and that no conflicts preventing its representation were found to exist and/or that any conflicts have been fully resolved. If any actual or potential conflicts are found, outside counsel must identify them in writing for B&G to review and consider prior to confirming any engagement. All requests to waive an actual or potential conflict shall be submitted in writing on firm letterhead to the attention of the initiating B&G attorney. B&G will not pay for any time or costs incurred by outside counsel in fulfilling this obligation.

## **III. Retention/Engagement**

Matters will be assigned to outside counsel through B&G's chosen matter management and electronic billing provider, LexisNexis CounselLink™. Matters may also be assigned to outside counsel directly by Travelers. You may be instructed to accept the B&G matter assignment within CounselLink or the matter may be automatically accepted on behalf of your firm.

## **IV. Staffing**

To achieve efficiency and value, the roles and responsibilities of the staff members should be clearly defined and appropriate to each individual's qualifications and level of experience. B&G expects its outside counsel to staff projects appropriately based on the nature and complexity of the legal work, engaging the smallest number of knowledgeable professionals necessary to the matter to get the job done well. A balance should be struck between the efficiency a more experienced lawyer brings to a given task and the advantages of having other tasks performed by

a less senior lawyer or paralegal. Attorney, paralegal, and legal assistant time billed should not include tasks that are more appropriate for clerical or secretarial personnel, such as stamping or numbering documents, indexing or tagging exhibits, organizing files or reproducing documents. Please review the Clerical and Administrative task list below so it is clear which tasks should not be billed no matter who performs the work.

Without prior agreement B&G does not expect to be billed and will not pay for time submitted by librarians, secretaries, billing, filing, clerks, internal messengers/couriers, law clerks, summer associates, temporary or clerical support staff, word processors, and IT professionals.

B&G expects to be informed and consulted on the engagement of any experts, consultants, litigation support vendors and e-discovery vendors. Prior approval should be obtained before hiring any third party vendors on non-litigation matters. Outside counsel is responsible to insure all third party vendors are aware of and comply with this Guidelines document when applicable.

#### **V. Matter Management & Reporting Requirements**

B&G may find it necessary to impose other billing requirements and policies during the engagement as appropriate to effectively and efficiently manage the matter. Prior notice will be given and the matter discussed with counsel if this is deemed necessary. Please discuss the reporting requirement of your B&G Contact for each matter you are assigned.

#### **VI. Alternative Fee Arrangements**

B&G is receptive to alternatives to the conventional hourly billing model, including the use of fixed or flat fees, blended rates, contingency fees etc. We encourage your firm to consider and propose alternative legal spend arrangements at the inception of matters whenever feasible. These alternative fee arrangements will be agreed to in writing and implemented using CounselLink.

#### **VII. Prompt Pay Discounts**

If your firm will provide a prompt pay discount based on industry standards, please include Firm's prompt pay discount when providing Firm fee offer in CounselLink. B&G will apply the discount to your invoice if payment is submitted to your law firm within 20 days of invoice receipt into CounselLink.

#### **VIII. Billing and Expense Guidelines**

##### **A. Rates**

Billing is to be at the current approved hourly rate. Law firms will submit a Fee Offer of current individual timekeeper rates for those timekeepers who perform work for B&G through CounselLink for review and approval by B&G. Charges submitted at a rate that exceeds the approved CounselLink Fee Offer rate for a timekeeper will be reduced to the approved rate.

##### **B. Invoicing**

Beginning May 15, 2013 with invoices for work performed in April 2013. ALL invoices related to matters assigned to your firm through CounselLink must be submitted to B&G through CounselLink. Matters assigned to your firm by Travelers should be billed in accordance with

instructions received from Travelers. Instructions on how to submit invoices to CounselLink are attached hereto as Exhibit A “Using CounselLink”.

*A separate invoice must be submitted for each matter for which your firm has performed work during the relevant time period.*

### **C. Invoice Format**

Each invoice will include the following minimum requirements:

- Unique invoice number
- Invoice date
- Matter name
- B&G’s matter number
- Date services were performed
- Timekeeper name or ID
- Timekeeper title or level
- A narrative description of the service provided including B&G attorney and employee contact name and task performed for each specific task. ‘Block billed’ descriptions (grouping multiple activities under a single time charge) is prohibited. The description should clearly state the nature of the task performed sufficient to allow the B&G reviewer to determine why it was necessary. Incomplete or vague charge descriptions are unacceptable. Examples include, but are not limited to: ‘as analysis’, ‘conference’, ‘attention to matter’, ‘worked on discovery’, ‘work on file’, ‘prepare for meeting’, ‘miscellaneous’, ‘other’, etc.
- Time entry to the nearest tenth (.10) of an hour
- Timekeeper rate
- Charge total
- Detail of reimbursable expenses and disbursements at actual cost

If your firm provides services on more than one matter during a billing period, a separate invoice for each matter is required. Block Billing will not be accepted. Please refer to Exhibit A - ‘Using CounselLink’ for a discussion of Block Billing and how to properly format your charge entries.

### **D. Time Frames for Billing**

Unless otherwise approved, invoices should be submitted monthly, the month following the date the service is provided or cost incurred.

### **E. Clerical Tasks**

Without prior agreement, B&G will not reimburse outside counsel for the clerical tasks regardless of the personnel performing the task. These non-reimbursable tasks include but are not limited to the following:

- Calendaring/docketing
- Word processing

- Data processing
- Faxing documents
- Mailing documents
- Preparing transmittal letters
- Photocopying documents or files
- Organizing documents or files
- Updating documents or files
- Labeling
- Printing documents
- Collating or Bates stamping documents
- Document indexing
- Scanning documents
- Binding documents
- Filing, serving or hand-delivering documents
- Other general clerical tasks

#### **F. Administrative**

B&G will not reimburse for administrative tasks that it would expect to be included in the outside counsel billing rates. Non-reimbursable tasks include but are not limited to:

- Preparation of timesheets and invoices
- Preparation of the budget, work plan or staffing proposal
- Opening/closing files
- All tasks related to conflicts checking
- Receiving and processing mail/faxes/email
- Scheduling appointments, events, depositions, conferences, deliveries, or travel
- Interacting with vendors and vendor invoice processing (calls, processing invoices etc.)
- Secretarial billings
- Database administration including maintenance, data loading, data conversion etc.
- Internal messengers
- Attendance at seminars, continuing legal education or conferences
- Other general administrative tasks

#### **G. Legal Research**

Legal research should be undertaken when necessary to protect B&G's interests. B&G will pay for time spent conducting necessary legal research. We would normally expect research projects to be conducted by experienced associates instead of partners. We expect to benefit from previously prepared briefs and memoranda, and when such briefs or memoranda exist we will pay only for actual time spent updating or tailoring the same to our needs. B&G will not pay for research regarding fundamental concepts or local rules, the understanding of which is assumed by your firm's retention. When research is conducted on behalf of B&G it should be provided to B&G in the format requested. In some instances, an email will be sufficient. In other instances, we may request a more formal memorandum. If there is any question about the format, the lawyer should contact B&G legal to discuss what is required before creating the work product.

## **H. Third-Party Disbursements**

Unless otherwise requested by B&G, outside counsel should pay all third-party invoices (i.e. expert witnesses, court reporters, etc.) and then submit those charges as disbursements on the firm's monthly invoice to B&G as an expense item, with supporting documentation/invoice attached using the 'Document Attachment' feature in CounselLink (see Exhibit B). Should an exception occur, contact B&G to discuss handling.

## **I. Expenses**

Each expense or disbursement shall be billed at actual out-of-pocket cost. No mark-ups or administrative fees may be added, nor will they be paid by B&G. Each expense or disbursement should be itemized with a description sufficient for review, units, price per unit and total cost. B&G may refuse to pay for disbursements billed as "miscellaneous," billed in a group, (i.e. Travel expenses \$3000.00) or disbursements without any description. Specific expenses and disbursements, reimbursable and non-reimbursable, are addressed in the sections below.

## **J. Law Firm Overhead**

B&G will not reimburse for the following overhead expenses that should be considered part of the firm's cost of doing business, unless previously agreed in writing. Such expenses include but are not limited to:

Electronic research (i.e. Lexis, Westlaw, CourtLink unless approved by B&G attorney)

- Overtime expenses including overtime hours, meals and transportation
- Temporary staff charges
- Office rent/utilities
- Office supplies
- First class postage
- Interest on unpaid invoices
- In-house accounting fees
- Internet service fees
- Cellular telephone charges
- Local or long distance charges
- Facsimile charges
- Firm conference rooms
- Temporary office space
- Equipment rental or purchase
- Storage charges
- Laser printing
- Case management or litigation software or systems
- Computer hardware and software
- IT charges/database administration including database maintenance
- Costs of computer support or IT professionals
- Temporary word processing or clerical staff (regular and overtime charges)
- Internal messengers and couriers
- Subscriptions, books, periodicals, publications
- Professional association fees

- Group outings or hospitality
- Client entertainment
- Business meals or refreshments during the course of a work day (unless associated with travel, trials, meetings or depositions)
- Local mileage – 50 miles or less

#### **K. Photocopies**

B&G will pay for photocopies at a rate not to exceed \$0.10 per page. Color photocopies will be reimbursed at a rate not to exceed \$0.75 per page.

#### **L. Express Mail/Messengers**

B&G will not pay for Federal Express, Express Mail, or other overnight messenger/courier charges unless the use of such services was necessitated by time constraints imposed by B&G or because of the need for reliability given the nature of the items being transported.

#### **M. Telephone & Facsimile**

B&G will not pay for local or long distance telephone calls, or mobile telephone calls. B&G will not pay for receipt or delivery of facsimile transmissions. However it is preferred that, when feasible, correspondence and documents be transmitted by secure e-mail.

#### **N. Travel**

B&G expects that its outside counsel will use travel time spent on B&G matters as productively as possible. B&G will not pay for non-productive travel time unless prior approval is received. Charges for attorney/staff time during travel shall not be billed if the time is spent doing work on non-B&G matters or is billed to another client. If the travel involves another client, B&G expects to only be billed for its proportionate share for both time and expenses.

B&G will reimburse reasonable and actual charges for transportation, lodging and meals necessary for effective representation. Personal travel expenses will not be reimbursed. Personal travel expenses include salon expenses, alcohol, in-room or in-flight movies or entertainment, excess baggage expenses, travel agency expenses, shoe shines, toiletries, and luggage. Please discuss arrangements for international travel in advance with B&G.

##### **1. Air Travel**

Air travel should be economy or coach class for all domestic travel. Business class may be used for international travel with B&G approval. Unless approval is given in advance B&G will not reimburse the cost of first class travel, and expects that travel arrangements will be made far enough in advance to take advantage of any available cost effective discounts or special rates. Air travel receipts should be attached to the invoice using the Document Attachment feature in CounselLink. See the instructions for attaching on Exhibit B.

##### **2. Accommodations**

B&G expects outside counsel to use good judgment when choosing accommodations and will compensate for hotel expenses consistent with the average moderately priced overnight accommodations for the geographical region. B&G will not reimburse outside counsel for four or



five-star hotel unless approval is received in advance. We will not reimburse for mini-bar expenses, in-room movies or entertainment or laundry. Overnight parking will also be compensated if a rental car is necessary. Hotel expenses should be itemized with the daily rate and the number of days and the receipts should be attached to the invoice using the Document Attachment feature in CounselLink.

### **3. Meals**

B&G will reimburse for meals while outside counsel is traveling on B&G business. Meals should be consistent with the average moderately priced meals for the geographical region. B&G will not reimburse for any meals not associated with travel unless prior approval has been received from B&G counsel.

### **4. Ground Transportation**

Unless it is more cost effective to do otherwise, or prior approval has been received from B&G, public transportation including taxis, rather than rental vehicles should be utilized. If it is necessary to utilize a rental car B&G will reimburse for up to mid-size class. B&G will also reimburse for tolls and parking when a rental car is required. B&G will not reimburse for limousines or town cars unless it is the most cost effective means of transportation. Should outside counsel use a personal vehicle for approved travel, mileage will be reimbursed at the current IRS rate. Local mileage (under 50 miles) will not be reimbursed.

## **IX. Confidentiality**

The Company may provide outside counsel with copies of confidential and proprietary information relevant to the work outside counsel is performing on B&G's behalf. None of these documents or materials should be used by outside counsel directly or indirectly of any purpose other than in connection with their representation of B&G.

## **X. Sarbanes-Oxley**

B&G expects that your firm will act in accord with Section 307 of the Sarbanes-Oxley Act of 2002 and all rules enacted pursuant to the Act. We expect that you have an internal policy or process in place to assure compliance with these provisions. Copies of any reports prepared pursuant to this act should also be sent to the General Counsel and the relevant B&G contact. All questions concerning any reporting should be directed to the General Counsel of B&G.

## **XI. Records Retention**

Upon completion of an assignment for B&G, all original records or documents must be returned to B&G. All other documents or other information gathered through the course of the assignment may not be destroyed except with written permission of the B&G contact. If notified by B&G that any information in your firm's possession is subject to a Litigation Hold, all relevant information should be preserved unless otherwise directed by a member of the B&G legal department.

## **XII. Media Contact**

All inquiries from the media regarding any of B&G's legal or business matters will be handled by B&G personnel. If outside counsel is contacted by the media, inquiries must be directed to B&G's Tracey Sibley, VP Marketing 205-714-4545. You should also notify the B&G contact

responsible for the matter. Outside counsel is not at liberty to speak to the media regarding any B&G matters or publish any matter information in firm publications internally or externally without the express approval of B&G.

### **XIII. Use of Brasfield & Gorrie Name (including any subsidiaries)**

Your firm is not authorized to use the B&G name or the name of any of its subsidiaries in any firm marketing materials, websites, presentations unless written approval has been received from the B&G legal department. In addition, discussion of any B&G legal matters during presentations, round tables or seminars is strictly prohibited.

### **XIV. Corporate Responsibility**

B&G is committed to pursuing environmental and green initiatives. B&G requests that, whenever practicable and reasonable, its law firms and vendors consider the environment before printing documents, use electronic means for the transmission/filing of documentation, and use technology in lieu of travel in making appearances.

## **EXHIBIT A**

### **INVOICE SUBMISSION**

#### **Invoice Submissions**

To secure prompt and accurate payments to your firm, invoices in structured data format (LEDES) submitted via the web site [www.counsellink.net](http://www.counsellink.net) are preferred. When necessary, we will accept invoices, in other formats, including e-mailing a .PDF or ASCII invoice or mailing a white paper invoice.

#### **Submission of a Structured Data File to CounselLink**

- Export the invoice to the LEDES (ASCII) structured data format
- Log into [www.counsellink.net](http://www.counsellink.net) using your assigned login and password
- Click on the Upload Invoice link on the law firm home page
- Browse to the saved LEDES invoice, select it and click "Open"
- Complete any other necessary information on the Invoice Submission page and click "Submit File"

#### **Creating an Invoice in CounselLink (U.S. currency only)**

- Log into [www.counsellink.net](http://www.counsellink.net) using the provided login and password
- Click on the Matter Search link on the law firm home page
- Search for the matter on which the invoice is to be submitted
- Select "Create Invoice" from the Action bar dropdown
- Enter information on the "Edit Invoice Screen" if applicable and click on Submit
- Enter fees and expenses from the invoice screen
- Submit invoice

## **Alternative Forms of Submission**

**Email:** A .PDF file or ASCII format copy of the invoice may be submitted via email to [dept165@examen.com](mailto:dept165@examen.com). Submit only ONE INVOICE PER .PDF file, although multiple .PDF files may be attached to a single email.

**Paper:** An original copy of an invoice on white paper. If submitting paper invoices, a separate invoice must be submitted for each matter. When submitting invoices for multiple matters at one time, each invoice must begin on a new sheet of paper and must have a unique numerical identifier. Unique invoice numbers for individual matters may be created by adding a suffix to the invoice number created by your system (e.g., 12345 1, 12345-2, 12345-3, etc.)

Paper invoices should be sent to B&G c/o LexisNexis CounselLink, Attention: Department 165, 3831 North Freeway Boulevard, Suite 200, Sacramento, CA 95834

## **Invoice Returns**

Invoices and the charges they reflect that in all respects conform to this Policy will be promptly processed for payment. Invoices or charges that do not conform to this Policy may be returned to your firm, in whole or in part, for correction. Invoices may also be returned for the following reasons:

- Firm has not acknowledged these guidelines
- Invoice is not in the proper format
- Invoice contains a math error
- Invoice contains block billed charges
- No invoice number
- Duplicate invoice number
- Invoice date is in the future
- Charge date is in the future
- Invoice is an exact duplicate of previous invoice
- Fee charges do not contain a date
- Fee charge does not contain date, timekeeper, units and rate
- Time increments not in tenths of an hour
- Unknown timekeeper
- No approved rate
- Expense charge has no description
- Unknown or incorrect LF Matter ID
- At Client's discretion

## **Block Billing on Invoices**

Invoices should set forth in detail the related professional, the distinct tasks and activities performed by each professional, the time expended in tenths of an hour and fees charged for that work in separate time entries. Additionally, the task description must be sufficiently descriptive

in order to identify the facility, location or office involved. Descriptions of blocks, batches of activities or tasks under one charge (i.e., “block-billing”) are unacceptable. Invoices that contain any “block” billing entries will be returned.

For example, an invoice containing the following entry will be returned:

<u>Hours</u>	<u>Description</u>
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1.5	Reviewed plaintiff’s interrogatory responses; prepared letter to opposing counsel regarding settlement options; continue drafting motion for summary judgment.
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An acceptable method to enter the time entry would be:

<u>Hours</u>	<u>Description</u>
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1.5	Reviewed plaintiff’s interrogatory responses (.3); prepared letter to opposing counsel regarding settlement options (.4); continue drafting motion for summary judgment (.8).
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### **CounselLink Customer Support**

CounselLink technical expertise is available to our outside counsel at no cost.

For technical support, please contact LexisNexis CounselLink’s Customer Support Department at 800-600-2282, option 2, then 1. If outside the United States, please contact +1-916-679-3899.

## **EXHIBIT B**

### **DOCUMENT ATTACHMENT**

Law firms are able to attach case supporting documents such as pleadings, status reports and third-party invoices electronically to either an invoice or a matter. Outside counsel may be requested to upload specific documents to a matter or invoice. Documents will be permanently attached to the invoice or matter unless removed by the individual who attached them. Only the law firm and Client will be able to view the documents. Most document formats are accepted including PDF files.

**PLEASE DO NOT USE DOCUMENT ATTACHMENT TO SUBMIT LAW FIRM INVOICES.**

#### **Attaching a document to an Invoice (e.g. expense receipts)**

- Log in to <http://www.counselink.net>
- From the Home page, click on either **Created** or **Scheduled** Invoices (dependent upon the status of your invoice)
- Click on the **CounselLink Invoice Number**
- To add or search for a document , click on the **Documents** link

- To add a document, click on the **Add Document** link
- Type in the document name as you want it to appear in CounselLink
- Browse your file directory for the document to add by clicking the **Browse** button
- Select the **Category** from the drop down
- Select “**Yes**” from the **Shared** drop down
- Select “**Public**” from the **Access Level** drop down
- Enter a free form description of the document in the **Description** box
- Enter a key word to assist in future searches in the **Key Word** box
- Click on **Save**

Attaching a document to a Matter (e.g. Initial Report, pleadings, summaries)

- Log in to <http://www.counsellink.net>
- From the Home page, click on **Matter Search**
- Enter the **Matter Search** criteria
- Click on the **Matter ID** or **Matter Title**
- Select **Documents** from the **Action** drop down
- Type in the document name as you want it to appear in CounselLink
- Browse your file directory for the document to add by clicking the **Browse** button
- Select the Category from the drop down
- Select “**Yes**” from the Shared drop down
- Select “**Public**” from the **Access Level** drop down
- Enter a free form description of the document in the **Description** box
- Enter a key word to assist in future searches in the **Key Word** box
- Click on **Save**