

## GENERAL TERMS OF BUSINESS

The following terms will apply to all engagements accepted by Wilson and Fish Solicitors a trading style of Wilson McKendrick Solicitors Limited. All work carried out is subject to these terms except where changes are expressly agreed in writing.

### DEFINITIONS

**'Client' or 'You':** the addressee(s) of the Engagement Letter.

**'Engagement Letter':** the email, letter or Service Agreement that incorporates these Terms of Business together with these Terms of Business or as may be varied in writing from time to time.

**'the Firm' or 'We' or 'Us':** Wilson McKendrick Solicitors Limited is a limited company registered in Scotland with company number SC455450 and having its registered office at Queens House, 29 St. Vincent Place, Glasgow G1 2DT. The company VAT number is 112380555.

### Engagement terms

The solicitor client relationship is with the Firm and not with any director, consultant or employee of the Firm. All correspondence sent, and advice given, by a director, consultant or employee of the Firm is sent or given for or on behalf of the Firm. Only the Firm and not any director, consultant or employee, is legally responsible for the provision of services to you.

If our client is a company we will take instructions from any director or anyone authorised by a director to give instructions.

If our client is a limited liability partnership ("LLP") we will take instructions from any member or partner or anyone authorised by a member or partner to give instructions.

If our client is a corporate or unincorporated body (but not a limited company or LLP), we will take instructions from any authorised officer.

If there are joint clients we will take instructions from either or any of them.

Where we act for more than one person, each person is jointly and severally liable for the instructions given to us and for payment of our fees and outlays.

### Fees

Our fees will be calculated on the basis set out in the Engagement Letter.

Where a fixed fee quotation has been given for specified work the fee for that work will be as quoted where the

work is completed. Where additional work beyond the scope of a fixed fee quotation is performed an additional fee will be payable. We will if requested provide an estimate of any additional fee.

In all other circumstances the fee will be calculated on the basis of hourly rates applied to the time spent working on the matter by our staff. The time includes that spent on perusing and drafting documents, advising, reporting, dealing with correspondence, telephone calls, preparing for and attending meetings and notes of these meetings, researching the law, attending court and travelling. Hourly rates are calculated in units of one tenth of an hour or part thereof for each item attended to. Our current hourly rates are set out in your Engagement Letter.

Hourly rates are reviewed annually and we will advise you, in writing, of any changes to the rates.

Any estimate of fees provided will be an estimate based on our experience of the work you have asked us to do. The final fee may be less or more than the estimate.

Fees are payable whether or not a matter is successfully completed and if for any reason the matter is not completed we are entitled to charge for the work done. If we have quoted a fixed fee and the work quoted for does not complete we will be entitled to charge for that proportion of the work that is done. That charge will be based upon the time spent by the Firm.

We shall invoice for our work on completion of the relevant matter or on a monthly/quarterly interim basis.

Any payment you make to us or any sum received by us on your behalf, which is not received for a specific purpose, may be set off against any invoice issued to you by us.

In addition to fees, we will ask you to pay for any disbursements and other out of pocket expenses incurred on your behalf.

Our terms for payment of invoices are strictly 30 days net. We reserve the right to charge interest on the amount overdue at the current rate under the Late Payment of Commercial Debts (Interest) Act 1998. Our fees are subject to VAT at the prevailing rate.

### Client monies

Client monies will normally be held in a general client bank account with the Royal Bank of Scotland, in which amounts for different clients are pooled. We will hold your funds in accordance with the accounting rules set out by the Law Society of Scotland.

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It is the Firm's policy to account to its clients for a sum in lieu of interest on a fair and reasonable basis. In particular a sum in lieu of interest will be payable on amounts held in our general client bank account on the following basis:

interest will be calculated daily on the balance held for each individual matter, and compounded on an annual basis and interest will be based on the rate of interest payable by our bankers on the relevant amount, if it were to be held separately in our general client account;

due to the administrative costs involved we will not pay interest if the sum calculated is less than £100.00 in total for the full period during which we hold your money in our general client bank account;

The Firm does not accept liability for funds held on your behalf should an "authorised deposit taker" (as defined by the Financial Services and Markets Act 2000 as amended), such as a bank or building society, be unable to return the funds deposited with it. This also applies to funds held on your behalf but awaiting clearance through the banking system where such funds are held in our client account.

### Taxation advice

Almost any legal transaction whether of a private or business nature can affect the amount of tax or other government duties which you may have to pay in either the short or long term. However, we do not provide tax advice. Consequently, we shall not be responsible for any failure to offer tax advice or any incorrect opinion passed on a tax matter. If you require advice on a tax matter you should seek advice from a specialist tax advisor.

### Incidental Financial Business

On certain transactions we may carry out Incidental Financial Business for you (such as arranging an insurance policy e.g. a Bond of Caution, selling shares or other regulated investments or engaging in debt collection).

The Firm has limited its Incidental Financial Business activities to arranging insurance policies, selling shares or other regulated investments and engaging in debt collection, given the limited scope of activities allowed under the Law Society of Scotland's Incidental Financial Business regime.

The Firm is licensed by the Law Society of Scotland to carry on Incidental Financial Business under the Society's Practice Rule C2: Incidental Financial Business.

The Firm is not authorised by the Financial Conduct Authority under the Financial Services and Markets Act 2000.

### Quality of service

If you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, please let us know by contacting **Mark Wilson**, [markwilson@wilsonmckendrick.co.uk](mailto:markwilson@wilsonmckendrick.co.uk) whom the Firm has appointed as Client Relations Partner to adjudicate on any such matters. A copy of our Complaints Procedure is available from him.

If the matter cannot be resolved then you may refer it to the Scottish Legal Complaints Commission ("SLCC") The Stamp Office, 10 -14 Waterloo Place, Edinburgh. EH1 3EG. Tel: 0131 201 2130 [www.scottishlegalcomplaints.com](http://www.scottishlegalcomplaints.com). The SLCC operates strict time limits for accepting complaints, which require complaints to be made within one year of the service ending or the conduct occurring. However, the SLCC will disregard any time it considers that the complainer was excusably unaware of their concerns.

We recognise that Alternative Dispute Resolution Regulations have implemented ADR/EDR Directive 2013/11/EU to promote alternative dispute resolution as a means of redress for consumers in relation to unsatisfactory services. We have however chosen not to adopt an ADR process and if you have any concerns about the services you receive from the Firm you should contact the Firm's Client Relations Partner.

### Limitation of liability

The aggregate liability of the Firm, directors, consultants and employees for loss, damages, claims and/or expenses (arising from contract, delict, statute or otherwise) in relation to the work referred to in the Engagement Letter or any other work done for you shall not exceed the sum of £2,000,000. Although we may be liable for direct claims, we shall not be liable for any indirect or consequential claims, losses or damages in connection with services and advice supplied by us, including without limitation for loss of business, profits, revenue, interest or anticipated savings. Nothing in these Terms of Business shall exclude or limit our liability for death or personal injury, which cannot be excluded or limited by law. The Firm, its directors, consultants and employees shall have no liability for any loss, damages, claims and/or expenses that arise as a result of any failure or omission that is attributable to you and or a third party.

We do not accept any responsibility for highlighting critical dates or reminders to clients following the completion of a transaction unless this has been specifically agreed in writing.

The Firm has Professional Indemnity Insurance under the Law Society of Scotland's Master Policy. The current

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level of indemnity under the Master Policy is £2,000,000 per claim. This firm is also covered by the Scottish Solicitor's Guarantee Fund which is a fund established under Section 43 of the Solicitors (Scotland) Act 1980 for the purposes of making grants in order to compensate persons who, in the opinion of the Council of the Law Society of Scotland have suffered pecuniary loss by reason of dishonesty on the part of a Scottish solicitor in connection with the practice of a solicitor.

### Proceeds of Crime Act & Money Laundering

The Firm is obliged by law to comply with all civil and criminal legislation currently in force including the Terrorism Act 2000, the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007. This legislation requires us to undertake identity checks on all clients and, notwithstanding any confidentiality issues (subject to "privileged" circumstances), to report to the authorities any transaction or activities we regard as "suspicious". We may also have to carry out checks against any persons who are involved in instructing us who may not be our client.

We also require to verify the source of all funds and of wealth of all parties involved in any transaction so we will normally need to know details of the bank accounts (including sort code and account number) from which the funds are being sent. Please note that if we cannot verify the source of any funds and of wealth within 24 hours of receipt we are obliged to return these funds to the relevant bank.

We are unable to accept payments in cash of more than £200.

### Files and papers

All files and papers received by us will be scanned and stored in digitised format only. If you send us paper documents, we will scan these into a digitised format and destroy the original documents after a period of 7 days. We will not destroy any documents you ask us to retain.

All correspondence, file notes, memoranda, opinions and draft documents relating to any matters are the sole property of the Firm.

Unless we expressly agree otherwise, the copyright in the original materials that we generate for you belongs to us, and we assert our rights. However, the fee you pay for our work permits you to make use of that material for the purposes for which it is created.

### Data Protection

In this clause, the following definitions shall apply:

**'client personal data'** means any personal data provided to us by you, or on your behalf, for the purpose of providing our services to you, pursuant to our Engagement Letter with you;

**'data protection legislation'** means all applicable privacy and data protection legislation and regulations including PECR, the GDPR and any applicable national laws, regulations and secondary legislation in the UK relating to the processing of personal data and the privacy of electronic communications, as amended, replaced or updated from time to time;

**'controller', 'data subject', 'personal data', and 'process'** shall have the meanings given to them in the data protection legislation;

**'GDPR'** means the General Data Protection Regulation ((EU) 2016/679); and

**'PECR'** means the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003).

We shall each be considered an independent data controller in relation to the client personal data. Each of us will comply with all requirements and obligations applicable to us under the data protection legislation in respect of the client personal data.

You shall only disclose client personal data to us where:

you have provided the necessary information to the relevant data subjects regarding its use (and you may use or refer to our privacy notice available at [www.wilsonmckendrick.co.uk/privacy-policy](http://www.wilsonmckendrick.co.uk/privacy-policy));

you have a lawful basis upon which to do so, which, in the absence of any other lawful basis, shall be with the relevant data subject's consent; and

you have complied with the necessary requirements under the data protection legislation to enable you to do so.

Should you require any further details regarding our treatment of personal data, please contact our head of privacy, the contact detail of which can be found in our Privacy Notice on our website.

We shall only process the client personal data:

in order to provide our services to you and perform any other obligations in accordance with our engagement with you;

in order to comply with our legal or regulatory obligations; and

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where it is necessary for the purposes of our legitimate interests and those interests are not overridden by the data subjects' own privacy rights. Our privacy notice (available at [www.wilsonmckendrick.co.uk/privacy-policy](http://www.wilsonmckendrick.co.uk/privacy-policy)) contains further details as to how we may process client personal data.

For the purpose of providing our services to you, pursuant to our Engagement Letter, we may disclose the client personal data to our regulatory bodies or other third parties (for example, our professional advisors or service providers). The third parties to whom we disclose such personal data may, in rare circumstances, be located outside of the European Economic Area (EEA). We will only disclose client personal data to a third party (including a third party outside of the EEA) provided that the transfer is undertaken in compliance with the data protection legislation.

We shall maintain commercially reasonable and appropriate security measures, including administrative, physical and technical safeguards, to protect against unauthorised or unlawful processing of the client personal data and against accidental loss or destruction of, or damage to, the client personal data. Further details of our security measures are available on our website at [www.wilsonmckendrick.co.uk/our-gdpr](http://www.wilsonmckendrick.co.uk/our-gdpr)

In respect of the client personal data, provided that we are legally permitted to do so, we shall promptly notify you in the event that:

we receive a request, complaint or any adverse correspondence from or on behalf of a relevant data subject, to exercise their data subject rights under the data protection legislation or in respect of our processing of their personal data;

we are served with an information, enforcement or assessment notice (or any similar notices), or receive any other material communication in respect of our processing of the client personal data from a supervisory authority as defined in the data protection legislation (for example in the UK, the Information Commissioner's Officer); or

we reasonably believe that there has been any incident which resulted in the accidental or unauthorised access to, or destruction, loss, unauthorised disclosure or alteration of, the client personal data.

Upon the reasonable request of the other, we shall each co-operate with the other and take such reasonable commercial steps or provide such information as is necessary to enable each of us to comply with the data protection legislation in respect of the services provided to you in accordance with our engagement letter with you in relation to those services.

### Distance Selling Regulations

If your transaction is one which is deemed to fall within the Distance Selling Regulations currently in force you may have the right to withdraw your instructions without charge should you decide not to proceed. You have fourteen days for the date of the email/letter of engagement to intimate your intention to withdraw by writing/email. However unless you instruct us to wait fourteen days before we start work for you, this will not apply and you will be taken to have consented to our starting work immediately.

### Confidentiality

Like all businesses we are audited by a number of external organisations. We have a duty of confidentiality to you and therefore need your permission for your files and data to be inspected by such external organisations. We will assume that you have given us this permission by your acceptance (whether deemed or actual) of these Terms of Business.

### Changes in the law

We will not accept liability for losses arising from changes in the law or the judicial interpretation thereof that occur after the date on which the advice is given.

### Termination of appointment

Either of us may terminate our professional relationship at any time by giving written notice to the other. We hope that this will not happen but if it does, you will pay us all fees and outlays and expenses incurred prior to such termination together with all reasonable costs of providing copy files, deeds, documents or other data or information to you or your new solicitors or advisors. In particular you agree to meet these costs even where we are required by law to provide these files, data or information.

Upon payment, we will transfer any copy files, deeds, documents or other data or information belonging to you that we have retained.

### Applicable law

The Law of Scotland will apply to this agreement and you agree that any dispute arising from this engagement shall be dealt with only by the Scottish courts.

### Regulation

The Firm is regulated by the Law Society of Scotland Atria One, 144 Morrison St, Edinburgh EH3 8EX.

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**Acceptance of terms**

It would be helpful if you would indicate that you accept the terms and conditions by signing and returning the accompanying Mandate to Act. However, it is not essential that you do so; your continuing to instruct us will be deemed to be acceptance of these terms.