

TERMS OF BUSINESS

of

ROBERTSON WYSE SOLICITORS COWDENBEATH

We, Robertson Wyse Solicitors (hereinafter referred to as "the Solicitor") members of and regulated by the Law Society of Scotland and you the Client (hereinafter referred to as "the Client") agree that the following terms of business shall apply in respect of the work/instructions which the Client has provided to the Solicitor:-

1. The Solicitor will give the instructions due care and attention. The Solicitor can only act on information and instructions provided directly to him by the Client. The Client should not assume that the Solicitor has knowledge of any factual matters. Instructions can be verbal or in writing although the Client may be requested to confirm verbal instructions in writing. If there is any change in the Client's instructions the Client must notify the Solicitor immediately. The Client must specify in writing the capacity in which they are instructing the Solicitor (i.e. an officer of the Company, partner of a firm etc.) failing which the Solicitor shall be entitled to assume that they are acting for the Client as an individual. Where work is being instructed on behalf of spouses the Solicitor shall be entitled to accept instructions from one spouse on behalf of both parties unless instructions are providing in writing to the contrary.
2. The Client's business will be handled by the Solicitor to whom the Client's instructions should be addressed. The Solicitor can be contacted during the consulting hours Monday to Friday 9.30 am to 5.00 pm. (excepting Local or Public Holidays) or at other times by mutual arrangement. If there is any difficulty in making contact the Client should leave a message with the Receptionist or Secretary of the Solicitor for action.
3. The Solicitor will handle the instruction competently.
4. The Solicitor will carry out the instruction within a reasonable time.
5. The Solicitor will report progress and any material development which requires consideration and discussion.
6. The Solicitor will keep the business of the Client and related documents confidential. Information provided to the Solicitor will only be disclosed to parties authorised by the Client or as required by the Law Society of Scotland or any other authorised body. The Solicitor is under a statutory duty to report any matter where there are circumstances which may indicate money laundering, criminal activity, abuse of legal aid or where the Client fails to verify identity, address or source of the funding to the Financial Unit of the National Criminal Intelligence Service.
7. The Solicitor's duties to the Client are always subject to his other duties to the Court, the public and fellow members of the legal profession.
8. The Solicitor will defend the Client's interests. The Solicitor is unable to guarantee success in any Court proceedings, litigation or tribunals.
9. The Solicitor will be independent and will give the Client honest and unbiased advice on what is best for the Client.
10. If any matter arises which is outwith the knowledge of the Solicitor or requires specialist advice, outside advice shall be obtained or the Client referred to another Solicitor.
11. The Solicitor will be honest and act with integrity.
12. By accepting these Terms of Business or proceeding with the transaction, the Client agrees to prorogate jurisdiction in respect of matters relating to the Solicitor's fees to the Sheriff of Tayside, Central and Fife at Dunfermline.
13. The Client before completion of any transaction instructed shall provide the Solicitor with evidence of identity and verification of current address to comply with regulations to prevent money laundering. The Client shall produce to the Solicitor a driving licence or passport or a note of their National Insurance Number together with evidence of their current address e.g. Council Tax Demand, Rent Book, gas, telephone or electricity account. In the case of limited companies the Certificates of Incorporation and any other documents required by the Solicitor.
14. **CHARGES** (see also paragraphs 15, 16, 17, 18 & 19)
 - (i) Unless negotiated and agreed in advance with the Solicitor, fees are charged on the basis of time spent on the work, together with an element for responsibility which can vary according to a number of matters, such as urgency, importance of the work to the Client, amount or value of money or property involved, complexity, difficulty or novelty of the matters, length, number or importance of documents or papers. Our current charge out rate is based on an hourly rate of £185.00 plus VAT.
 - (ii) Any estimate given will be for a probable fee based on the Solicitors experience of the general amount of work involved in a typical transaction of the type involved. If the work turns out to be more complex than normal, then the Solicitor's estimate may require to be amended. The Client will be kept advised of any such changes. **Fees are payable, unless by prior arrangement, from funds belonging to the Client which are available to the Solicitor or within 30 days of rendering of the Solicitor's account as applicable.** Interest at the rate of 4% will be charged on outstanding fees if payment is not made within this 30 days limit. Please also note settling our fees by credit card there will be a 2% administration charge payable. The Solicitor will have a lien over title deeds and other papers held on behalf of the Client until payment in full to the Solicitor of all fees and outlays.
 - (iii) Fees which are not agreed in advance are subject to independent assessment by the Auditor of Court. This process is known as "Taxation". The Client is entitled to require the Solicitor's fee to be taxed if the Client is not happy about the fee charged. In such a case the fee is passed to the Auditor who will fix what he considers to be a fair and reasonable fee in all the circumstances, including those factors outlined above. The Auditor can fix a fee higher or lower than the fee charged. If it is lower, then the Solicitor will pay the cost of taxation. If, however, the Auditor prices a higher fee or confirms the fee as charged then the Client will be responsible for that fee as well as the Auditor's costs. Should the Client request a detailed Account such shall be prepared at the Client's expense.
 - (iv) Along with the Solicitor's fee, the Solicitor will issue a statement detailing financial dealings on the Client's behalf. This will include outlays which may have been incurred. Where outlays have been incurred the Solicitors will require repayment of them within seven days of receipt by the Client of a request. The solicitor will charge the client an administration fee of £20.00 plus VAT for any payments made to the client or to third parties by electronic transfer. The firm currently receives commission from First Scottish based on the volume of transactions referred to First Scottish. Said commission will be retained by the firm.
 - (v) The Solicitor may require the Client to settle accounts and repay outlays during the course of the transaction. In such a case, interim statement will be issued. Large outlays will require to be paid to the Solicitor before they are due to be paid out by the Solicitor.
 - (vi) The Solicitor will hold funds on behalf of the Client in our Client Account which is a current account unless sums held are likely to attract interest of £100 or over and in such cases the sums will be lodged on a Short Term Royal Bank of Scotland Designated Client Account. This is an instant access type deposit account with interest payable from the start of the investment even for short periods of time such as a matter of days. The rate of interest applied to each sum invested is at 2.25% below the Bank of England base rate per annum on the sum invested and such interest will be paid to the Client. In addition, the Solicitor receives from the bank a commission equivalent to a flat rate of interest of 0.25% per annum of the sum invested.
15. **TRUST AND EXECUTRY WORK.** The Solicitor's fee for Executry, Trust and management of financial affairs or related works will be assessed by a competent law accountant who will fix a reasonable charge for the fee having regard to the work carried out. This will apply unless a fixed fee has been agreed in writing. The law accountant's fee is charged to the Executry.

In addition to this, the following will also be charged:-

1. COMMISSION ON THE COLLECTION OF REVENUE
 - (I) Interests and Dividends on Stocks and Shares collected by us-
 - Up to £1,000 – 5%
 - On the next £4,000 – 3.5%
 - On the balance over £5,000 – 2%

- (ii) Feu duties, grounds annuals, interest on heritable securities and other miscellaneous and periodic payments - Not exceeding 10% of the actual amount received.

2. COMMISSION ON CAPITAL TRANSACTIONS

(I) Realising Capital for any purpose other than re-investment for the same client:

- (a) Money forming part of the original estate uplifted from banks or building societies –
On each payment up to £30,000 – 1%
On the balance over £30,000 – 0.50%
- (b) Policies of assurance not exceeding 1% (sliding scale as above)
- (c) Conveyance of heritable property not sold on open market-
1% of value, minimum 27.5 units
- (d) Stock, shares and other securities realisable on the Stock Exchange-
 - (i) On the first £30,000 of each sum – 1.5%
 - (ii) On the next £30,000 of each sum – 1%
 - (iii) On the balance over £60,000 – 0.75%
- (e) Other stocks, shares and securities not realisable on the Stock Exchange and interest on private partnership – 1% to 5%
- (f) Miscellaneous property – 1% to 7.5%
- (g) Bonds, heritable and moveable – 0.5%
- (h) National Savings – 1%

(ii) Investing or re-investing Capital –

- On the first £30,000 – 0.75%
- On the next £30,000 – 0.50%
- On the balance over £60,000 -0.25%

Where securities or other assets in executory estates are not realised but are transferred to beneficiaries direct – 0.25% to 1.5% on the total transfer value.

16. **COURT WORK.** Where a Client who is not eligible for or is refused Legal Aid instructs the firm in connection with pursuing or defending civil court proceedings or defending criminal court proceedings the Client will pay an initial payment of £350 to the Solicitor to account of their fees and outlays. The Client will then complete a Standing Order mandate and thereafter will instruct their bank/building society to implement the mandate for further payment to account of the fees and outlays due to the Solicitor. Should the initial payment to account of fees and outlays not be paid when requested or the Standing Order mandate not be implemented the Solicitor reserves the right to decline instructions from the Client or to cease acting on behalf of the Client.

17. **LEGAL ADVICE & ASSISTANCE IN CIVIL AND CRIMINAL MATTERS.** The Client has been advised by the Solicitor that Legal Advice & Assistance may be available to them through the Legal Aid Legislation subject to their financial status. Where the Solicitor is satisfied that the Client is eligible for Advice & Assistance but the Client has declined to accept the Advice & Assistance the Client will be responsible for payment of legal fees and outlays in accordance with the above paragraphs 14 and 16.

Where the Client has been granted Legal Advice & Assistance subject to a contribution, the Solicitor shall be entitled to payment of the contribution before they commence acting. If the Solicitor agrees to accept payment of the contribution by instalments the Solicitor will not commence acting until the first instalment has been paid. Should the Client fail to pay the contribution in full the Solicitor reserves the right to cease acting on behalf of the Client without prejudice to any right to recover the balance of the contribution.

Where the Advice & Assistance expenditure limit has been reached and an application for increase in the limit has been refused by the Scottish Legal Aid Board the Client acknowledges that should instructions be provided to the Solicitor to carry out further work having been informed of the refusal, the Client is liable to make payment for the further work in accordance with paragraphs 14 and 16.

18. **CIVIL LEGAL AID.** If the Client requires work to be done in connection with a civil court matter and such work is to be done under the Scottish Legal Aid Board's special urgency provisions and it has been calculated by the Solicitor that the Client will be likely to have to pay a Legal Aid Contribution, the Client must pay such contribution as assessed by the Solicitor, to the Solicitor before commencement of the work.

If Legal Aid is granted the Client accepts that it is their responsibility to inform the Scottish Legal Aid Board of any change in their financial circumstances or change in address. Should Legal Aid be withdrawn the Client accepts that the Solicitor is entitled to withdraw from acting on behalf of the Client should the Client not make an acceptable arrangement with the Solicitor for payment of further fees and outlays to be incurred.

The Client will as soon as possible complete, sign and return to the Solicitor any financial information forms or other documents, which the Solicitor may require to lodge with the Legal Aid Application. The Client acknowledges that failure to do so may prevent Legal Aid being granted.

Any work done under the special urgency provisions or prior to the grant of a Legal Aid Certificate may, if not covered by a Legal Advice & Assistance Certificate, be charged for by the Solicitor in accordance with paragraphs 14 and 16.

19. **RECOVERY OF PRINCIPAL SUMS AND EXPENSES IN CIVIL LITIGATION.** The Client understands that the Solicitor cannot guarantee recovery of any principal sum or expenses awarded by a Court or other Tribunal in the Client's favour. The Client understands that if he is awarded expenses against his opponent in any Court action these expenses may not be as much as the fees which the Client is liable to pay to the Solicitor. The balance may be taken by the Solicitor out of any payment received on behalf of the Client. If the opponent has Legal Aid the court may refuse to make him pay expenses even if the Client's case is successful. This paragraph may apply whether the Client receives Legal Aid or is funding the litigation privately. The Client (if not receiving Legal Aid) remains liable to pay the Solicitor's fees whether or not any sum is awarded to him is recovered.

20. **CONFLICT OF INTEREST.** The Solicitor is not entitled to act in a conflict of interest situation. The Solicitor may act for existing Clients of this firm and is entitled to act in terms of the Solicitors (Scotland) Practice Rules 1986. However in these circumstances we would not act on behalf of both parties if any conflict of interest or dispute between them was foreseeable. If such a conflict did arise then the Solicitor would ask both parties to seek separate legal advice. This shall be done in the best interests of both parties so as to ensure complete impartiality.

21. **CONDUCT OF INVESTMENT BUSINESS.** The Solicitor shall comply with the rules in the Solicitors (Scotland) (Conduct of Investment Business) Practice Rules 1997 in respect of any investments which are being administered for the Client. However, the Solicitor shall not provide the Client with any investment advice. In the event that the Client wishes any investment advice the Solicitor shall, on behalf of the Client, obtain the advice of a Specialist Financial Adviser (e.g. a Stockbroker) and then communicate the advice to the Client but shall provide no comment on such advice. The Client accepts that this activity does not fall within the definition of investment advice/management and shall not be deemed to be the advice of the Solicitor.

22. **CLIENT'S OBLIGATION.** The Client shall respond within a reasonable time to any request by the Solicitor for information, documents or instructions which the Solicitor may reasonably require. This is particularly important in conveyancing transactions and court actions where stringent time limits can operate. In the event that the Client fails to provide instructions, information or documents within a reasonable time then the Solicitor shall be entitled to withdraw from acting and seek recovery of any charges to the date of the withdrawal. The Client shall ensure that he communicates regularly with the Solicitor and that he is available to sign security, transfer documents and Affidavits required by the Solicitor to effect any instruction. The Solicitor will not accept liability for financial loss due to the Client's failure to sign such documents.

23. **GENERAL.** The Solicitor holds Indemnity Insurance in respect of any one claim for negligence/financial loss up to a limit of £1,000,000. The Client accepts that this will be the upper limit for any financial claim against the Solicitor unless prior written agreement has been obtained.

24. Unless the Client specifically specifies in writing otherwise, the Client consents to the Solicitor destroying the Client's file eventually under the guidelines set out in the Law Society of Scotland's Better Client Care Manual and it is our practice to do so.

25. **Cloud computing**

We use cloud storage for client files. Our cloud software provider is One Drive. One Drives' cloud infrastructure is provided and maintained by industry leading cloud-platform provider Microsoft Web Services. Microsoft Web Services demonstrates a

commitment to information security at every level of the organisation and complies with internationally recognised standards, the EU Data Protection Directive, GDPR and the *Data Protection Act 1998*. If you object to your files/other details being stored in this way, please let us know.

26. Data protection

We use the information you provide primarily for the provision of legal services to you and for related purposes including:

- updating and enhancing client records;
- analysis to help us manage our practice;
- statutory returns;
- legal and regulatory compliance.

Our use of that information is subject to your instructions, GDPR and the *Data Protection Act 1998* and our duty of confidentiality. Please note that our work for you may require us to give information to third parties such as expert witnesses and other professional advisers. You have a right of access under data protection legislation to the personal data that we hold about you.

We may from time to time send you information that we think might be of interest to you. If you do not wish to receive that information please notify our office in writing.

The Solicitor's aim is to provide an efficient service, but if the Client is unhappy about any aspect, then please discuss the Client's concerns in the first instance with the Solicitor dealing with the Client. However, if that would cause the Client difficulty or embarrassment the Client should speak to the supervising partner or any of the partners whose names appear on the notepaper. If the matter cannot be resolved then the Client is always entitled to refer it to the Scottish Legal Complaints Commission, The Stamp Office, 10-14 Waterloo Place, Edinburgh. Complaints must be made within three years of the date of instruction of the Solicitor.