

## CONDITIONS OF BUSINESS

- **Identity Checks and Anti-Money Laundering Requirements**

All solicitors in Scotland require to comply with the Anti-Money Laundering legislative framework. This requires us to confirm the identity of our clients and also the source & destination of any funds passing through our hands. In order to comply with these Regulations we also need to ask for your proof of identity at the outset of a transaction, therefore please let us have sight of at least one up to date photographic form of ID (for example your passport or driving licence) but preferably both of these, together also with an original utility/council tax bill or bank statement dated within the past 3 months confirming your home address. Please hand these into our office for us to take copies. We would strongly advise against posting the original documents to us as for security reasons we will not post these back to you and they will have to be collected by you. If you do not live locally and are unable to provide the originals to us, in compliance with the legislation, we will require you to obtain certified copies of the documents from a Law Society of Scotland or England registered solicitor and Notary Public. In the event of a Third party making a payment on your behalf then that Third party is subject to the same procedures for checking their ID. The firm has complete discretion as to what documents may be accepted by us as proof of identify and can request any further documents as we deem necessary. Where we have not checked your ID in the past 3 years an electronic ID verification will be carried out by URU to ensure compliance with AML rules and a charge of £5 + VAT levied for the same. Please note that a failure to provide these documents is likely to result in a delay to your transaction and added work/cost being incurred, or in certain circumstances, us no longer being able to act on your behalf

- **Business Hours.**

Our normal business hours are 9.00am to 5.15pm Monday to Friday (closed 5.00pm Friday). Our lunchtime is officially 1pm to 2pm but where possible we remain open then but not all staff will be available. Outwith these hours, and when staff are not available, an answering service is provided for messages. We can sometimes also provide appointments outwith these hours, subject to availability, where these are requested by you. Please note however that out-of-hours calls or meetings will incur additional charges, unless specifically agreed otherwise.

- **How to Contact Us**

*The best way to contact us is **By e-mail** – my direct e-mail address is detailed at the start of this letter, while our central e-mail address is:- info@alastairhart.co.uk Our e-mail servers are operational all day, but e-mail is only responded to by staff during business hours even though received earlier. Our e-mail servers use anti-spam filters and anti-virus software and it is therefore recommended that you send e-mail without attachments in a plain text format and request an acknowledgement of receipt if the message is urgent or contains an attachment. We can also arrange to white-list your e-mail address should problems be encountered, but if your ISP's mailservers are blacklisted due to abuse you should contact your ISP direct as this indicates that their mail servers are being used for spamming. Please do remember that while an email may seem easy to send & appear "free", it still requires the same amount of time and attention by us as a letter or phone call and is therefore charged accordingly.*

***In person or by letter** at the addresses at the top of this letter – please always make an appointment before visiting our offices to ensure that I am available before you visit the office, as we cannot generally provide drop-in unscheduled meetings.*

***By telephone** on the numbers at the top of this letter – please do not attempt to text to this number as incoming automated text to voice messages are not accepted. If your call is not answered please leave a message and if your call was important/urgent also email me.*

***By fax** on the numbers at the top of this letter.*

- **How we will Contact You**

*By Letter – addressed to you at the postal address provided by you*

*By telephone on the number(s) provided by you.*

*By e-mail – at the e-mail address provided by you. Note – some ISP's utilise indiscriminate filtering based on complete mailserver/IP address ranges and in some cases then ask senders such as ourselves to pay to be allowed to send e-mails to their customers, and it is your responsibility to ensure your provider accepts our emails without filtering. Please note that we cannot guarantee that e-mails are not intercepted by 3<sup>rd</sup> parties while being transmitted once they have left or before reaching our Exchange Server.*

*By Text – if you wish, we can send short SMS texts to you. Please note that our Text service also allows a reply directly to the sender but the number used by the service alters on a regular basis so should only be used for immediate replies and does not accept voice calls.*

*By Skype/WhatsApp video – where necessary and meetings are not suitable, we can provide remote meetings using either Skype or WhatsApp. Please note these are by prior arrangement, as we do not answer unscheduled incoming video call requests.*

The method of communication used in each instance will be at our discretion in the individual circumstances. While e-mail is perceived as a “free” method of communication, please note that it takes us the same length of time to process, record & respond to e-mail communications as for letters and as such incoming and outgoing e-mails are charged in the same manner as a letter is, but with the advantage that you have a faster method of communication. If you have provided an e-mail address it is recommended that you ensure that you are satisfied as to the reliability of your e-mail service, place this firm’s e-mail domain into your white-list (normally in the form of \*@alastairhart.co.uk) and that you download your e-mails at regular intervals. Unless agreed otherwise, we will assume that you have indeed received any letter or transmission of an e-mail which we have sent to you. Please be aware that e-mails sent to or from many services, in particular Google “G-mail”, are read/analysed by the e-mail provider and as such you have to accept that you have limited confidentiality if you choose an e-mail account using such “free” services.

Your contact & other details are set out in the Instructions to Act form at the end of the Terms of Business letter issued to you and along with other information relating to your work will be stored electronically in compliance with the terms of the General Data Protection Regulation (GDPR). Please check and amend these where necessary before returning the form to us. Please note, we do not provide contact details to any other parties other than with your specific authority or where it is a necessary and normal part of a transaction you have instructed (eg when instructing a search in the Land Registers, submitting a LBTT or other tax return, adjusting a deed/document with the other party in a transaction) or where required by law or a court order. We may however from time to time send you correspondence relating to services we have already provided you (for instance recommending that you review your existing will if it is out of date, in order to comply with our professional obligations); you should therefore also ensure that you advise us of any change of contact details to ensure that our correspondence is always correctly addressed to you. Additionally, this firm retains a limited amount of computerised data records, primarily to identify you as listed on the “Instructions to Act Form” at the end of your Terms of Business Letter and to comply with statutory and Law Society regulations - under the GDPR regulations you may request that such data is deleted (except where we require that data to prove regulatory compliance by ourselves) but we would generally not recommend such deletion as it may impact our ability to assist you with any issues relating to your transaction at a later date. Our full Data Protection Policy is available on our website at [www.ahco.co.uk/Information](http://www.ahco.co.uk/Information) and a printed copy can be provided on request.

It is imperative that you advise us immediately of any change in contact details e.g address, email address or telephone number (both during & indeed after your transaction) as we will continue to use those which we have been provided with by you previously. You must also ensure that you advise us if a certain method of communication is not to be used to contact your or if, for examples, voicemails are not be left on a certain phone number.

- **Quality of Service.**

It is of prime importance to us that we provide you with a quality of service which meets with your satisfaction at all times. This involves us providing you with a clear explanation of progress regarding your business, applying the level of expertise required for your individual transaction and providing a rapid response to your enquiries. We always endeavour to respond as quickly as possible with a target of dealing with written enquiries within 3 working days and e-mails & telephone calls by the next working day if received before noon. Unforeseeable circumstances such as staff illness, technical failures of equipment, etc. may affect this, however in many cases you may receive a same-day response time.

Our quality of service is of course equally dependent upon your own full & honest disclosure to us of all relevant facts, providing us with clear and prompt instructions, and acting upon advice and recommendations given.

- **Complaints**

In the unlikely event of you having any concerns, at any time, as to the progress with, the handling of, or any other aspect of our dealing with your business, you must in the first instance, advise the solicitor dealing with your business of these immediately in order that they can endeavour to resolve them without delay and to your satisfaction without the need for you to make a complaint, as all members of our staff pride themselves on implementing the firm’s complete dedication to providing excellent client care and service and will make every reasonable effort to ensure that matters are always dealt with to your satisfaction.

Should they be unable to resolve matters to your satisfaction, you must then request in writing that the issue is dealt with under our Quality Control Procedures, clearly setting out the basis of your complaint and what you would like done, and addressing the same to the ‘Client Relations Manager’ who is the individual responsible for dealing with client concerns and complaints. This may involve a formal meeting with you to assess your concerns. A meeting or response will be provided within 14 days of receipt of your letter. Full details of our written complaints process can be requested by you at any time

Thereafter, should we still be unable to fully resolve matters, the Scottish Legal Complaints Commission (Address: The Stamp Office, 10-14 Waterloo Place, Edinburgh, EH1 3EG; Tel: 0131 201 2130; Email:

enquiries@scottishlegalcomplains.org.uk; Website: www.scottishlegalcomplaints.org.uk) is now the single gateway for all legal complaints and can investigate complaints or issues formally on your behalf, but note that SLCC currently have a 3 year time limit for considering complaints. Please note however that although no charge is made for dealing with such issues informally or under our Quality Control Procedures, in order to prevent the overhead cost of dealing with any unjustified complaints or issues being passed on to all our clients, it is a condition of us acting for you that you do fully follow our internal complaints process and work with us in good faith in making a genuine attempt to resolve any issue first.

We recognise that Alternative Dispute Resolutions 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 at this time however chosen not to adopt an ADR process and if you have any concerns about the services you receive from this firm you should raise these as detailed above.

Further, nothing contained in these Conditions and attached Terms of Business affects your statutory rights contained within the Consumer Contract (Information, Cancellation & Additional Charges) Regulations 2013 and the Consumer Rights Act 2015 if applicable to the trader/consumer relationship being entered into.

- **Basis of Fee Charging & Payments.**

Our charges to you will be shown under the following headings which will be clearly accounted for to you in our invoices; if you think you may be eligible for Legal Aid or you have legal expenses insurance, it is your responsibility to discuss this with us before work is carried out & costs incurred.

**Fees** – these are the specific charges that we make to cover the cost of undertaking your transaction and are calculated in one of 3 different basis depending on the nature of the transaction, as follows:- (1) A time charge basis which is calculated based on the time that the individual solicitor or member of staff working for them actually spends on your transaction. Time expended on your transaction is recorded in blocks or “Units” of 10 minutes each while each page of a letter or e-mail whether sent or received is also equivalent to 1 Unit charge. These fees are not a charge just for the individual solicitor’s or member of staff’s time but also include the cost of the general overheads of carrying out your transaction (including such things as administrative & secretarial support, the use of office equipment & facilities, the cost of correspondence, etc.) as well as an element of business profit and are what we feel are appropriate to reflect the professional skills involved as well as the remuneration received in other professions and the general level of costs that we require to meet in Aberdeen. The current hourly rates chargeable for a solicitor dealing with your transaction are £249 plus VAT (ie £298.80 inc VAT) and these are normally reviewed effective at the start of each year and can be checked in the current version of these Terms available to view at <https://www.ahco.co.uk/Information>

(2) Indicative fees: these are used to give you an idea of what the likely time charge (calculated as per the above explanation) will be based on the normal amount of work we can expect to be involved and are generally very accurate. This charging basis is used in relation to transactions which have a very specific scope such as the preparation of a will or Power of Attorney. In some circumstances, where complex issues transpire which require more time to resolve, such as a technical tax issue which requires us to provide additional advice above and beyond that normally required in the preparation and subsequent drafting of a will, it may be that the time expended increases and we therefore reserve the right to increase that indicative fee in accordance with the additional time involved. When any such circumstances become reasonably foreseeable, we will notify you at that point that the original indicative fee is likely to be exceeded;

(3) Fixed Fees: Certain kinds of work will allow for a fixed fee to be charged i.e a pre-agreed set figure or percentage of a given figure will constitute the fee with the most obvious example being estate agency commission which is charged at a percentage of the sale amount, regardless of how much work and time may be involved directly up to the completion of your transaction.

You are liable for all time spent relating to your transaction including eg if there is subsequent litigation in which we are called as a witness as a result of our having acted for you or correspondence with new agents (and if this takes place after we have stopped acting for you then these costs apply even when your transaction was on a Fixed Fee), and if you request any work out-of-hours or as exceptional urgency then we will agree with you a separate rate for that work at the time of your request.

**Posts & incidentals** – these are to cover the postal, telephone, photocopying & incidental costs of your transaction. Unless shown in your indicative fee as a specific amount, these will be calculated as 5% of the fee charged for your transaction. If we show these costs as included within the “Fees” element of your indicative fee, additional charges will still apply for any international or mobile telephone calls made for your transaction.

**VAT** – this is a government tax which applies to the element of Fees as well as Posts & telephones that are charged to you. The current rate of VAT applicable (since 4 January 2011) is 20% and is determined by the applicable rate at the date of our invoicing you or otherwise as any legislation altering the rate may determine.

**Outlays/Disbursements/Regulatory Charges** – these are mainly costs that we incur *on your behalf* and are not Fee charges from the firm but costs chargeable to you from other parties but which we temporarily meet on your behalf. There is no element of “mark up” or profit for us in outlays & disbursements and if they

are shown in the Indicative Note of Charges attached, they are merely a pre-estimate only and you will be liable for the actual amount the other party invoices. We also show under this heading charges relating directly to costs incurred due to statutory/regulatory requirements such as storage of files to comply with statutory regulations (please note that we retain files for up to 10 years to fully comply with Law Society regulations and then destroy files securely without further reference to you unless you have specifically provided alternative instructions). The providers of some services eg surveyors, may require their accounts to be settled immediately and such disbursements therefore become due by you upon their account being submitted.

In the event that your transaction is not completed for any reason, or either you or we terminate our acting for you, you will be invoiced at that time, based on the time involved to date on a time charge basis, for all work carried out on your behalf. If you require a summary breakdown of the hours/units worked on your transaction this will be provided free of charge. If you request a more detailed breakdown of each item of charge, this can be provided but you will require to meet the cost of producing the same in advance. If you mandate your file to another agent or request it yourself, we will require to copy the same and you must meet the cost of copying (@ 10p per sheet) prior to delivery of the file, along with a delivery fee. After your transaction has been completed your file will be archive stored and an administrative fee (currently £50 + vat) will be payable should you require your file to be recovered from the archive for any reason. In the event of your transaction being unduly protracted or a substantial amount of chargeable time being incurred in any one month we reserve the right to submit interim invoices for payment. Appointments cancelled/postponed by you with less than 48 hours notice may incur a charge and any cancellations with less than 24 hours notice will be charged at 30 mins time as such meeting time becomes unavailable to other clients. In certain transactions you may be requested to make a *payment to account* – this is a payment which we will hold for you but which will be applied *towards* the payment of your Invoice when this is issued and which you authorise to hold on your ledger here for your credit without any requirement to lodge this on a separate interest bearing account. If you are required to make a Payment to Account at this stage, this will be detailed in the Instructions to Act Form and until this payment is received we will be unable to commence work on your behalf. Should we not have an up to date address for you, surplus funds on the end of your transaction will be dealt with in terms of Rule 6 of the Law Society of Scotland practice rules ie remitted to a Charity or to the Queen's and Lord Treasurer's Remembrancer.

Due to current low interest rates, it is agreed and accepted that unless instructed by you otherwise, any funds held on your behalf will not accrue interest. In cases where funds are lodged on a separate Designated Account on your behalf, whether on your instructions or because the length of time/amount of funds merits this (which it is agreed is when it becomes foreseeable that at least £100 would be earned by then placing the funds on a designated account with Bank of Scotland), although we are signatories to operate such accounts, the responsibility for and ownership of the funds and for accounting for any tax rests with you and if you therefore wish a particular bank to be used please notify us. In some instances this firm may receive commission or other payments from the institution providing such Accounts (of not more than ½%) or from other parties such as Financial Advisors and lenders to whom we introduce business, and in such cases such payments which will be used to defer the costs of meeting regulatory requirements for such accounts, and it is agreed between us that we will not require to account to you in any way for such payments. You also are held to provide consent for us to pass identifying details of you to any bank or institution with whom funds you are entitled to are lodged, whether in order to open such accounts or in order to satisfy any regulatory or governmental requirements and that without requiring separate consent from you.

All funds held on your behalf by us are held with UK based banks or building societies approved of for the investment of Client funds by the Law Society of Scotland but neither this firm, nor the Law Society of Scotland's Guarantee Fund or our Professional Indemnity Insurance are responsible for the return of such funds in the event of such bank or building society not being able to honour its obligations to customers, in which event such funds are eligible for the level of protection provided by the Financial Services Compensation Scheme (details and current limits of which are available at [www.fscs.gov.uk](http://www.fscs.gov.uk)). This firm primarily places funds with the Bank of Scotland (but may also use other UK banks & Building Societies with Aberdeen based offices) – if you require funds held on your behalf to be placed with a specific institution(s) this can be arranged but we will require at least 7 days notice in writing of such instructions & you will be liable for any costs involved.

Payment of Fee Invoices is normally required within 14 days of their date, and *interim invoices* issued during the course of your transaction require to be settled immediately, while any outlays/disbursements paid on your behalf should be reimbursed when requested. Thereafter, unless otherwise agreed, an overdue account administration charge of £10 plus VAT per month is made plus interest at 2.5% per month (compounded monthly), and you will be charged at our standard rates for all work and correspondence involved in following up any overdue amounts. If we provide any restriction to our fees this is on the strict basis that our Invoice is settled within its terms. Payment of fees and any other sums you require to pay us may be made by cash, cheque or bank transfer (BACS or Phone/Internet Banking – to our "Client Bank Account"), and where we receive funds for you (eg sale monies) we may deduct any sums due by you to us from such funds before remitting the balance to you. Due to the level of bank charges any cheque payments

of less than £20 are subject to a £0.75 surcharge and cash payments over £250 are subject to a 1% surcharge. If we require a payment from you that is to be forwarded to another party (eg your own funds for use in a property purchase) this will require to be paid to us by BACS/CHAPS payment of cleared funds to be received by us at least one bank working day prior to our using the payment; cheques for any such payments are by prior agreement only and (see <http://www.bba.org.uk> ) are only fully cleared on the expiry of 6 bank working days after they are received ie are only guaranteed on the 7<sup>th</sup> working day after receipt; cheques from non-UK Banks are not accepted. Similarly funds received by cheque from other solicitors by us although “guaranteed funds” still require clearance time (usually between 1 and 4 days) and cannot be used or paid out until they have cleared.

Due to the Money Laundering Regulations we require to have confirmation from you in writing as to the original source of any significant payment, or combination of payments (which we regard as being a payment amounting to over £5,000) that we receive from you (“**Source of Wealth**”), which information may require to have separate documentary verification. This confirmation might be eg “long term savings”, “inheritance from grandfather”, “sale of previous property at *address*”, “redundancy payment from *employer*” etc, in the absence of which any such payment cannot be credited to your account with us and used even if actually received at our Bank. We also require to have prior verification of any Bank Account used to either send funds to us, or receive funds from us, which must be in the form of an original Bank Statement clearly demonstrating that the Account is held in your own name and when sending funds must show the funds transmission to us or a formal receipt/letter from your bank identifying the payment (“**Source of Funds**”) – in order to minimise the risk of fund transfer frauds we may require additional separate verification of bank details before making any transfer and likewise we recommend that you phone us to verify our bank details before transmitting funds to avoid the risk of fund transfer frauds which can involve criminals intercepting/hacking emails; we may also ask for confirmation of receipt of a “test” funds transmission to ensure the correct account details are being used, and you may wish to consider doing the same when sending funds to us. If you ask us to cancel a cheque and reissue it, there will be a time charge for this and funds can only be reissued once our bank has confirmed the original cheque has been stopped which may result in several days delay. Note, we will never advise a change of our Client Bank details by email, and you should verify our bank details with us by phone or in person before sending funds. If any funds are to be “mandated” to a 3<sup>rd</sup> Party rather than being paid directly to you, we require at least 5 working days notice of this together with full MLR identification of that party and the reason for the mandate and in all cases we reserve the right at our sole discretion to refuse to accept such mandates and to remit funds directly to you rather than to the 3<sup>rd</sup> Party.

- **Instructions From You.**

Our policy is to accept instructions from you in person, as well as by letter, fax, e-mail or telephone but we reserve the option on all occasions to require from you confirmation of instructions in person or in writing. In the event of instructions being received in person or by telephone, you must speak to the solicitor responsible for your transaction and we will keep a record of such instructions on your file and that record of such instructions will be accepted by you as confirmation of the nature of your instructions unless we receive prior written intimation from you to the contrary in which event you will require to provide us with written confirmation of all instructions before they are acted upon. If you provide us with an e-mail address we will be entitled to act upon any instructions purported to be from you and received from that e-mail address and as such you should ensure that your e-mail address is secure and only accessed by yourself. Please note that once instructions have been given, whether in person, by letter, fax, e-mail or telephone, it may not be possible to later alter, withdraw or vary such instructions if, for instance, we have already acted upon or communicated the terms of such instructions to a third party. You should also ensure, by requesting an acknowledgment, that any posted, faxed or e-mailed instruction has actually been received by us, as such instructions are only valid once received & acknowledged by the person responsible for your work; also we specifically do not accept correspondence along the lines of “unless I hear from you otherwise, I will assume/proceed...” as you should in all cases obtain specific advice from us prior to taking any course of action.

Please bear in mind that any delay on your part to respond to a request from us from information/instructions from you will ultimately delay your transaction and it is therefore important that you provide requested information/instructions timeously. It is also important that you are available to attend at our offices to sign documents when requested and if you become aware that you are likely to be unavailable to do so for any period of time during your transaction, that you intimate this to us as a matter of urgency.

Where we are acting for more than one party or for a corporate entity, it may be necessary for us to act on instructions received from one party only, eg. a husband for both himself and his wife, one partner for the whole partnership or one director for the company, and all instructions are accepted on the basis that they are deemed to be given by and are binding upon all parties for whom we act, unless we have received prior written intimation from at least one party to the contrary. If we require to obtain individual instructions, or you choose to each send separate, whether duplicated or different, correspondence then the time-cost involved will be charged in addition to any estimated fees. By instructing us to act, where you are a corporate entity,

you are held to confirm that you have the authority of the corporate entity to so instruct us and that you personally guarantee the payment of our fees and costs.

***Advice Given to You.***

Advice to you will be provided either in person, by telephone or in writing and in the event of such advice being provided in person or by telephone our file records of the nature of such advice will be accepted by you as confirmation of the terms of such advice unless we receive prior written intimation from you to the contrary in which event we will confirm all advice in writing at your cost and subject to your acceptance of responsibility for the delays this may cause to your transaction.

The nature and content of any advice given to you is provided for your own use only and in relation to the specific transaction undertaken. No responsibility is taken in respect of the use of such advice by any other party or in connection with any other transaction and such advice must not be disclosed to, published, or conveyed to any other party other than as is necessary for any other professional advisors involved in the transaction.

- ***Scope of Our Work & Responsibilities***

We will provide advice on and undertake the work detailed in *Scope of Work* provided with your Terms of Business Letter, which advice will be accurate and correct insofar as existing legislation, procedures and case law is concerned but no responsibility can be accepted for future changes in legislation nor for any unforeseeable or indirect consequences of such advice or actions; and our responsibility is to you yourself & not to any 3<sup>rd</sup> Parties even if our advice to you has an effect on them. Our responsibility is restricted to the specific areas of business we have agreed to act for you in and does not include advising you on any other matters whatsoever whether associated in any way with that transaction or not, unless specifically agreed by us, nor in respect of providing advice on any related or non-legal issues for which you should consult the appropriate professional advisors such as accountants, brokers, surveyors, etc. If requested we can provide a referral to such other professional advisors but, whether such advisor has been recommended to you by us or not, no responsibility can be taken by us for their advice. For the avoidance of doubt, unless otherwise instructed by and agreed by us, upon completion of your transaction as per the *Scope of Work*, our services will terminate at that point and you should therefore ensure that you diary to arrange for any subsequent element of work that you may later require to instruct, eg renewal of a licence, service of notice to terminate a lease, intimation of rent review etc., as these become your responsibility to arrange and instruct at the appropriate time.

We will at all times carry out your transaction in a responsible and professional manner and in the unlikely event of any error or omission on our part we must be given a reasonable opportunity to remedy that error or omission at our own expense. You agree however, that we will not under any circumstances, be liable for unforeseeable or indirect losses nor for any losses in excess of £2,000,000 unless specifically agreed by us in writing prior to our commencing acting for you. In the event that you do not settle your Invoice within the payment terms, it is agreed and you accept that our liability will be restricted to the amount of fees and VAT actually paid by you.

- ***Variations***

These Conditions of Business are version 11/21 and are current as at the date of the Terms of Business Letter attached, however they are occasionally revised and updated. No such changes will apply to you until at least 1 month has elapsed since the issue of this set of Conditions to you; thereafter the current version including our Data Protection Policy can be checked online at [www.ahco.co.uk/Information](http://www.ahco.co.uk/Information) or is available on request. In the event that you instruct other or additional work with us, these conditions will apply to such work unless or until a new Terms of Business Letter is issued to you.