

TERMS OF BUSINESS (V2024.1)

- 1 Quality Service:** In all our dealings with our clients we aim to provide a high quality service, to find out what our clients want, and achieve it. We try to work quickly and efficiently and we hope you find us friendly and approachable. We hope you will think our fee represents good value for money.
- 2 Contacting Us:** We can be contacted on our office telephone, as well as email, as shown on our firm's literature. If we are unable to take your call, you can leave a message on voicemail. We can also be available outwith normal hours by prior appointment, and subject to availability. We are happy to receive emails at any time and shall respond, where necessary, as soon as practicable. An email will only be deemed as received if acknowledged by a member of staff of TCH Law. Automated read and delivery receipts or other email tracking suggesting its been opened will not constitute safe receipt. We require to prioritise workloads and at busy periods you may not receive immediate responses.
- 3 Initial Meeting:** We may be happy to have an initial telephone discussion or (virtual or in person) meeting with you to decide whether we can be of assistance to you. You will be advised if there is a cost for that before it takes place or if it's on a no obligation basis. We do, however, suggest you provide as much information and documentation as possible prior to the discussion or meeting to make it as useful as possible.
- 4 Instructions:** Instructions may be given to us in writing or verbally. We may well ask you to confirm in writing the terms of verbal instructions given to us. If there is any change in your instructions you must notify us immediately. If you wish anyone other than yourself to give us instructions or information, we will require confirmation of this in writing. If you wish to withdraw authority for any person, you must notify us in writing and it will only be deemed withdrawn, and the withdrawal of authority take effect, if acknowledge by us in writing. You should ensure you receive that acknowledgement.
- 5 Communication:** We deal mainly with email correspondence, and accept that as a means of taking instructions. Please note, however, that unless your email is acknowledged by a return email from a member of staff it cannot be guaranteed that it has been received (automated Read Receipts or email opening trackers will not evidence your email as having been read). Should you fail to receive a response within 7 days (or earlier if the content of your email is urgent), we suggest you contact our office to confirm the receipt of your original correspondence.
- 6 Client Obligations:** When required, we expect instructions and information to be provided to us timeously when requested. Clients also must be available to contact, particularly if critical dates are to be met and clients must keep us update as to any changes in contact details (e.g. address, email address, telephone numbers, change of name due to marriage/divorce etc). Any failure to meet these obligations may result in additional fees being due and we cannot be held liable for any prejudice incurred in situations where the client has failed to adhere to these obligations.
- 7 Conflict of Interest:** In general, we cannot act for two or more parties if they have conflicting interest. Please advise us at the outset if you are aware of potential conflicts which may arise. If we decide that we can still act (i.e. if you are an exception to the general rule) we will confirm this to you in writing.
- 8 Liability:** Unless we agree otherwise, in writing, we shall assume that where we act for more than one person but only one of them tells us what to do, that person has the authority of the other(s) to do so. Where we do act for more than one person, each person for whom we do work is equally responsible for the instructions given to us and for payment of our fees and outlays in connection with that matter. If you do not understand what this means, please ask us to explain.
- 9 Joint & Several Liability:**

Multiple Private Individuals - where the client is more than one private individual, the liability for payment of our fees and costs, and any interest thereon, is joint and several between the instructing individuals.

Sole Traders/ Partnerships: If we are given instructions by an individual trading under a business name, or by a partnership, it is a condition of our accepting these instructions that all individuals and the business are jointly and severally liable for payment of our fees and costs and any interest thereon.

Private Limited Companies: If we are given instructions by a private limited company then it is a strict condition of our accepting these instructions that the Directors and Shareholders are jointly and severally liable along with the Company for payment of our fees and costs and any interest thereon. The signature hereof by any or all Director(s) of the company shall oblige all Directors and Shareholders at that time on a joint and several basis in respect of monies owing to this firm. The Directors and Shareholders are therefore underwriting and guaranteeing payment of our fees costs and any interest thereon.
- 10 Confidentiality:** Information passed to us is kept confidential and will not be disclosed to third parties unless authorised by you or required by law.
- 11 Copyright and Third Parties:** All copyright in documents we produce is reserved to us. Advice given and documents prepared are for your use only and may not be copied or used by any third party without our express written consent. If you are found to be using the wording of any document we have prepared, even with slight variation in formatting or wording, you will be liable for a fee of £1500 plus VAT.
- 12 Law Society of Scotland:** We are members of the Law Society of Scotland and subject to its professional rules.
- 13 How Long Will it Take:** The nature of legal work, particularly court work, often makes it difficult to accurately estimate how long something will take to complete. When we discuss your requirements at the outset we can also discuss timescales. We do attempt to meet these, even to beat them, and always to deal with everything as quickly and efficiently as possible. Please remember that often the speed at which work can be undertaken is affected by the cooperation (or lack of it) received from other parties', most of which is outwith our control.
- 14 Costs/Fees:** Please refer to the current Services Brochure and/or Letter of Engagement provided to you. Some further matters to take account of are:
 - (a) Court Actions:** *The recoverability of Judicial Expenses from your opponent in any litigation will not affect your obligation to meet costs due to us. The fees we will charge shall be estimated (or where possible a fixed price given) prior to the raising of the court action, and will be dependent on the type of case you are raising, and the value of the claim. VAT and outlays are payable in addition to our fees.*
 - (b) Time and Line Charging/ Hourly Rates:**

*Unless another rate is agreed expressly in writing, by Tracey Campbell-Hynd only, where you are advised that you will be charged for work completed on an Hourly Rate and/or on a Time and Line basis, the rates will be **£250 plus VAT**. This is chargeable per hour. When time spent on any particular matter is recorded it will be so recorded in 1 minute units.*
 - (c)** *In some cases a loading/premium may be charged on top of the actual time spent on the matter and when assessing our fee we take into account a number of factors, including the value of the transaction, the complexity and difficulty of the matter, the skill, knowledge and responsibility involved & urgency of the matter.*
 - (d) Settlements- instalment plans** *Where we receive instalments from a third party on your behalf, or remit payment to a third party on your behalf, we are entitled to deduct a fee which will be a percentage of each instalment. That fee will be in respect of our administrative costs in facilitating the instalment plan. If we require to report a failed payment and/or chase your Debtor for payment, we reserve the right to charge a further Default Fee for doing so.*
 - (e) Other matters / Variation of Fees Noted Above:** *No variation to these terms will be permissible unless expressly agreed in writing by Tracey Campbell-Hynd.*
 - (f) Recovery of Expenses:** *If we act on your behalf in connection with a court action in which you are partly or wholly successful, it may be possible to recover expenses from your opponent. In practice sometimes only a proportion of the costs to litigate are recoverable. You are liable for these costs (being our fees, VAT and outlays) incurred throughout our dealings, whether or not you are successful in an action. The actual recoverability of expenses from your opponent does not affect your obligation to meet our costs. If, however, the judicial expenses are awarded and recovered at any stage of, or at the conclusion, of your case exceed the fees charged by us, the surplus between costs already charged and expenses recovered is payable to this firm. Any deficit must be met by you.*

- (g) **Costs – General – VAT:** In addition to fees, Value Added Tax. Value Added Tax is charged at the current rate on all fees and will be subject to the prevailing legislation at the time of our fee being rendered to you.
- (h) **Costs – General – Outlays:** In addition to fees and Value Added Tax, Outlays incurred on your behalf (e.g. sheriff officers fees, court dues, registration dues) will be payable by you. The costs will be chargeable to you at the market rate for such outlays. In some cases, all or some of the outlays are not recoverable from debtors for varying reasons. In cases such as that, you will remain liable to us for the full sum charged to you.
- (i) **Deduction of Fees and Outlays at Source:** Where we receive sums which are due to you we shall be entitled to deduct from those sums all outstanding fees and outlays due by you, across all cases we are dealing with for you, before sending you the balance.
- (j) **Costs paid on your behalf:** Where fees, outlays or expenses are to be paid by us on your behalf, we will endeavour to give you details of these in advance in order that you may place us in funds before the sums are due. If however we are unable to do so, we will require to be repaid by you immediately upon you receiving a request for payment of the sum.
- 15 Payment of our Fee Notes/ Credit Terms:** We will issue our Fee Notes to you at interim stages in your case, and at the end of a matter. All Fee Notes are due for payment **immediately** upon presentation of a Fee Note. If you do not pay our account on time, we reserve the right to stop working for you and to charge you for the full amount of work we have done for you.
- We also reserve the right to retract any restrictions or discounts on previous Fee Notes that remain unpaid after 30 days. Therefore the full chargeable sums will become payable as if no restriction had been given. We will also make a charge of £10 plus VAT for each Credit Control Reminder communication that requires to be sent to you (whether by email, post or otherwise). If payment is not remitted by you by the due date for payment of the Fee Note, then in the case of clients acting in the course of a business, interest and compensation will be charged in terms of the *Late Payment of Commercial Debts (Interest) Act 1998*. In the case of non-trade clients, the interest payable on all overdue invoices will run at the rate of **12%** per annum from the date the invoice fell due.
- Further to the applicable interest, all reasonably incurred costs in pursuing you for the debt, whether professional or otherwise, will be payable by you on a full indemnity basis, with interest to run thereon at the rate charged on the overdue invoice.
- 16 Clients' Money:** Any money belonging to you and received by the Firm in the course of dealing with your business which is not required for fees or outlays shall either (1) held by us in accordance with the provisions of the Solicitors (Scotland) Accounts Rules (in which event we shall account to you for interest thereon in terms of these Rules) to be deposited into the Royal Bank of Scotland or (2) if you so direct in writing, remitted to you or otherwise applied as you may direct. If you wish funds remitted to a different bank or banks, then full specification of the institution must be provided in writing by you, and acknowledged by us in writing to you, before such funds will be remitted.
- Interest is paid on clients' money held in bank deposit accounts at the current market rate. Any costs incurred in the setting up, or maintenance, of the account on your behalf will be deducted from the sums placed on deposit. We make no charge for the collection of interest on clients' deposits but we are entitled to retain interest or commission paid to us by the Bank.
- 17 Independent Fee Assessment:** An external Auditor is always available to provide a completely independent assessment of a fair fee for any piece of legal work carried out for a client. On occasions, to ensure that a file has been correctly charged, we may voluntarily send the file to the Auditor. Unless otherwise agreed with you beforehand, in that event we will be responsible for payment of the Auditor's fee.
- However, should you be dissatisfied with the amount of a fee charged you are entitled to ask us to have the Auditor review your file and set an appropriate level of fee for the work undertaken. Any upfront fee the Auditor may charge will be your responsibility. If the Auditor reduces the amount of our original fee we will only charge that reduced amount and we will pay the Auditor's costs (including reimbursing you for any upfront costs you paid). If, however, the Auditor confirms that our fee is correct or undercharged, then you will be responsible for the Auditor's costs in addition to the account as taxed.
- 18 Money Laundering:** Money Laundering Regulations require us to be satisfied as to the identity of our clients and as to the source of any funds passing through our hands. In order to comply with these regulations we will require proof of your identity and possibly further information. We reserve the right to withdraw from acting for you if you fail to provide us with the information requested of you and required in connection with our Money Laundering procedures. By providing instruction to us, you authorise us to conduct Credit Reference Checks for both verification of your identity but also to assess your Credit Worthiness and identity. These checks can be ongoing, and not just at the outset of our dealings.
- 19 Payments from you:** Any payments from you must be from an account held in your name, within a UK Bank or Building Society. We will only make payment due to you to a UK Bank account held in your name, and to no other account. We will not pay out in cash nor will we accept any payment in cash. We shall not accept a Banker's Draft without the issuing bank providing us with adequate source of funds details. Any variation to the terms set down in this clause may cause a delay to your transaction and/or result in us withdrawing from acting for you.
- 20 Request for return of Records:** On completion of the work, and after payment of all fees and outlays due to us, you will be entitled to request return of any documents, papers, etc owned by you. We reserve the right to make a charge to you for preparing the file prior to release thereof. The minimum charge is £45 plus VAT, but should the file exceed 100 items, a further charge of £25 plus VAT is payable in respect of every 100 items thereafter, e.g. if the file consists of 150 items, the charge will be £70 plus VAT, or 201 items it would be £95 plus VAT on so on. We reserve our right to provide any papers, documents etc in electronic format as opposed to hardcopy.
- If a request is made for return, or copy of, any records physically stored/archived in accordance with these Terms of Business, then a reasonable charge may be payable in respect of the uplift of these records from storage/archive.
- 21 Storage of Records:** Unless we receive a request for return/uplift of documents, papers, etc within 30 days of our intimation of closure of our files we will arrange for storage of all papers relative to your transaction. A standard charge of £30.00 *per year* may be made at our discretion. We reserve the right to store all client documents, records and papers in any format, or at any location.
- We are entitled to retain all files, documents and other papers held on your behalf until all outstanding fees and outlays have been paid in full. We will retain files for a minimum period of 10 years. Thereafter, these files may be destroyed. Your acceptance of these Terms of Business expressly authorises us to do so. You should therefore keep a record of these timescales in the event you wish return of documents, papers, etc owned by you at expiry thereof.
- 22 Dissatisfaction:** If for any reason you are unhappy about the quality of service provided, or the amount of our fees, then you should, in the first instance, take the matter up with the Fee-Earner with whom you have been dealing. Alternatively, should you prefer or if you feel your initial approach has not resolved the point, we can raise the matter with Tracey Campbell-Hynd our Client Relations Partner. Mrs Campbell-Hynd will ensure that any such complaint is fully investigated, and that you receive a detailed response within twenty working days. If you are still dissatisfied you are entitled to take the matter up with the Scottish Legal Complaints Commission, Capital Building, 12-13 St Andrew Square, Edinburgh EH2 2AF
- 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 this firm you should contact the firm's Client Relations Manager.
- 23 Whole Agreement:** These terms & conditions, together with the other communication accompanying them, or any subsequent communication issued to you detailing an estimate of costs, will form the whole agreement between us to carry out the work on your behalf.
- 24 Applicable Law:** These terms and conditions are governed by the Law of Scotland and are subject to the exclusive jurisdiction of the Scottish Courts.
- 25 Acceptance of Terms of Business:** Unless otherwise agreed in writing these Terms of Business apply to any future continuing instructions to us from you. This version supersedes any previously issued version of TCH Law's Terms of business.