

## **TERMS OF BUSINESS**

As part of our commitment to the provision of the best possible quality of service, these Terms of Business are provided to explain the manner in which Mackinnons Solicitors LLP will undertake work on your behalf. We hope this will avoid the possibility of any future misunderstandings. If you have any questions or concerns about these Terms of Business, please do not hesitate to contact us.

### Our Aim

At Mackinnons Solicitors LLP, a limited liability partnership incorporated under the Limited Liability Partnerships Act 2000 (registered number SO306789) having its registered office at 14 Carden Place, Aberdeen, AB10 1UR (öMackinnonsö) we value our reputation for professional standards. We are committed to providing our clients with the highest quality of service and to handling instructions with the utmost skill, care and attention.

### Partner Responsibility

Patricia J Gray, based in our Cults office, shall have overall responsibility for your relationship with Mackinnons (öthe Client Relations Partnerö) and for ensuring that your requirements are met. The term Partner is used to refer to a Member of Mackinnons Solicitors LLP.

You will be notified of the name of the person dealing with and having responsibility for your work and who will be your first point of contact on a day to day basis, and also of others within the team who may also be involved. We will ensure that you are provided with appropriately qualified personnel to deal with your work. If we require to use the specialist skills of other members/employees/agents of Mackinnons we shall advise you of their involvement and, if appropriate, of any change to the basis for charging fees.

These Terms of Business apply to all work carried out by Mackinnons for our clients unless otherwise agreed in writing with you by a Partner of Mackinnons.

### Contacting Us

Our offices are open from 9.00 a.m. to 5.00 p.m. Monday to Friday. Our telephones are answered throughout these times. We are also available to meet with you outwith normal hours by prior appointment. Our addresses, telephone, fax and e-mail details are contained within the Letter of Engagement which accompanies this document. Further information can also be found on our website at [www.mackinnons.com](http://www.mackinnons.com).

### Complaints

To resolve swiftly any client dissatisfaction we operate a complaints handling procedure. In the event that you should become concerned in any way with the manner in which the work is being carried out, you should in the first instance contact the responsible Partner named in the Letter of Engagement. If you do not wish to speak with the individual lawyer involved or responsible Partner, please speak to the Client Relations Partner, Patricia J Gray, who will try to resolve the issue with you. Our Client Relations Partner will ensure that any complaint is fully investigated and that you receive a response within twenty eight working days.

We have a written complaints procedure and a copy of this can be requested from our Client Relations Partner. We recognise that Alternative Dispute Resolution Regulations are now in force, implementing an EU Directive. These Regulations are designed to promote alternative dispute resolution as a means of redress for clients in relation to unsatisfactory services. We have decided not to adopt an ADR process and if you have concerns about the services you receive from us you should follow the procedures outlined above. If you remain dissatisfied with the handling of your complaint by the Client Relations Partner and wish to take matters further the appropriate forum would be the Scottish Legal Complaints Commission, 10-14 Waterloo Place, Edinburgh, EH1 3EG Tel: 0131 201 2130 Email: [enquiries@scottishlegalcomplaints.org.uk](mailto:enquiries@scottishlegalcomplaints.org.uk).

### Communication

In the absence of specific contrary instructions from you, we shall be entitled to communicate with you and with any relevant third parties (e.g. fellow advisers) and to take instruction by telephone, post, facsimile, e-mail and any other form of electronic or internet communication. We may require oral instructions to be confirmed to us in writing or by e-mail.

We will keep you informed about the work carried out on your behalf and, in particular, we shall provide an explanation of what action we are taking

and why, information re. the progress being made and a timeous response to all incoming mail, e-mails and telephone calls.

You will be legally bound by action taken by us on your behalf and to enable us to advise you fully we do need to have full details of the work we are instructed to handle. In this respect you should provide clear instructions, supply all relevant information and documents, keep in regular contact, act promptly, inform us of any time limits or constraints you consider relevant and make yourself available to sign any required documents. You should advise us immediately (preferably in advance) of any change in your contact details (e.g. address, telephone number, email address, etc.).

Please be aware that e-mail is not a 100% secure communications medium and fraudsters have been impersonating law firms with a view to obtaining client funds. If you receive an email that appears to come from Mackinnons, providing or requesting bank details, please contact the solicitor dealing with your matter by telephone to double check the information provided/requested. Mackinnons do not accept responsibility if you transfer money into an incorrect account.

We have taken steps to ensure that e-mails sent from Mackinnons are free from any virus, however we cannot guarantee this and it is the responsibility of the recipient to ensure that emails are virus free.

#### Scope of Engagement

We shall not be responsible for any failure to advise or comment on any matter which falls outside the scope of our engagement or your specific instructions.

#### Authority to Act

In the absence of specific contrary instructions from you, we shall be entitled to assume that those who hold themselves out as having authority to instruct us do have such authority. Without prejudice to the foregoing we shall be entitled to assume:

- If the client is a company, we may take instructions from any director, the company secretary or anyone authorised by them to do so, and such instructions shall be binding on the company;
- If the client is a partnership or limited liability partnership (öLLPö), we may take instructions from any partner or member or anyone authorised by them to do so, and such instructions shall be binding on

the partnership and all of the partners or the LLP and all of its members;

- If the client is a corporate or unincorporated body (other than a company, partnership or LLP), we may take instructions from anyone authorised by the body to do so and such instructions shall be binding on the corporate or unincorporated body; and
- If there are joint clients (e.g. husband and wife or more than one individual shareholder), we may take instructions from either one or any of them and such instructions shall bind the others.

Where we do work for more than one person, each person for whom we do work is jointly and severally liable for payment of our fees and outlays in connection with that matter.

#### Payment of Fees and Expenses

We appreciate clients are concerned about the cost of legal services. In many cases it is hard to estimate fees in advance. Our policy, wherever possible, is to discuss and agree with you the basis on which we will charge a fee for work undertaken on your behalf.

Where we provide you with a fee estimate, this is an indication, made in good faith and on the basis of the information we have at the time the estimate is given, of our likely fee for carrying out the work concerned. An estimate is subject to revision and is not a commitment by us to carry out the work for that fee. If a matter becomes protracted or complicated due to unforeseen events we reserve the right to increase an estimated fee.

If no specific basis for charging is agreed with you, then our charges will be based on the number of hours spent dealing with your matter (at our then applicable standard hourly rates). Hourly rates vary according to the level of seniority of each solicitor involved in advising you. The current hourly charge out rates are:-

Partner:	£230 - £295
Consultant:	£220 - £295
Senior Associate:	£220 - £250
Associate:	£200 - £230
Senior Solicitor:	£180 - £200
Solicitor:	£170 - £190
Trainee:	£110 - £150
Paralegal:	£110 - £150

Our hourly charge out rates are revised by the firm from time to time and we will endeavour to advise you of any revised rates as soon as possible. However, any increase in rates will apply

automatically to work done for you after the effective date of the change without our being required to notify you of the increase, unless expressly agreed otherwise in writing with you.

In trust, executry work and power of attorney work if we deem it appropriate we will have an independent Law Accountant, nominated by us, assess the fee. The cost of this assessment will be borne by the client. In trust, executry and power of attorney cases the basis of the charging will either be on the basis detailed above, in the charging section of our executry administration brochure, or a combination of both.

In property sales work a commission fee will be charged in addition to the hourly rate and will be as detailed in either our Letter of Engagement, fees estimate or both.

#### Value Added Tax (öVATö)

VAT is charged at the current rate on all fees, commissions, and on such outlays and expenses as bear it. Any fee estimate provided will be exclusive of VAT and outlays and expenses.

#### Outlays, Expenses and Interim Bills

In appointing us to act on your behalf you are also authorising us to incur such outlays and expenses as we consider necessary and which you will require to reimburse to us. Mackinnons will add to its charges the cost of outlays and expenses incurred such as counsel's fees, search fees, registration dues, land and property taxes, bank charges, currency exchange costs, couriers and other third party accounts, travelling, subsistence and volume photocopying charges.

Where, after consultation with you, other professional advisers such as counsel, surveyors, photographers, experts or accountants are engaged by us, they will be so engaged by us as your agent and you will be responsible for their charges in addition to our own.

Outlays and expenses will normally be invoiced as they arise. We will not make payments unless you have put us in funds to do so. Please make prompt payment to avoid any delay in the progress of your work.

Mackinnons may render its fee at the end of a matter or may render interim accounts as may be appropriate.

#### Payment of Bills

Payment of fees, outlays and expenses is due within 30 days of the date of invoice. If fees, etc. are not paid within the 30 day period, we will be entitled to charge interest on the sum overdue from the due date until payment at 4% above Clydesdale Bank PLC base rate. You are responsible for payment of our charges whether or not the matter proceeds to completion and in property transactions this will include all work carried out including abortive offers and advice given whether or not successfully concluded or otherwise. If any of our charges are overdue for payment, we reserve the right to suspend work and to retain documents and papers belonging to you, irrespective of the matter to which they relate, until all sums outstanding to us are paid. If payment of fees, outlays and expenses is made in a currency other than sterling then you would be responsible for paying any shortfall as a result of exchange rates or currency fluctuations.

In property transactions our invoice will normally be sent to you in advance of the settlement date. This will enable you to make payment on or before the completion date.

In property transactions we reserve the right to charge remuneration in addition to any other costs or charges, in each of the following circumstances:

- If missives are concluded in the period when we have sole selling rights, even if the purchaser was not found by us;
- Where a purchaser is ready, willing and able and in a position to enter into unconditional missives for your property and has been introduced by the firm in accordance with your instructions and you subsequently withdraw the property from the market unless that withdrawal is caused by bereavement, serious illness or such other personal situation beyond your reasonable control which would make a disposal at the time inappropriate;
- If missives are concluded after the expiry of the period during which we have sole selling rights but to a purchaser who was introduced to you during that period by any person or with whom we or any subsequent agent had negotiations about the property during the period, or who received particulars of the property from ourselves during that period.

For the purposes of the above, a party who has concluded missives is a purchaser whether or not they complete the purchase.

## ClientsøMoney

Any money belonging to you which is received by Mackinnons in the course of dealing with your business and which is not required for fees and outlays, shall be either:

- held by us in accordance with the provisions of the applicable Solicitors Accounts Rules and, where appropriate, placed on deposit with either Clydesdale Bank plc or Royal Bank of Scotland plc (in which event any interest accruing thereon shall be accounted for to you in terms of these rules) or;
- if you so direct, remitted to you immediately on receipt thereof or otherwise applied as you may direct.

Details of the rates of interest paid on clientsø money held in bank deposit accounts are available on request.

If you wish your funds to be deposited within a different bank from those detailed above, or require us to transfer funds to another client ledger, please supply written instructions to that effect.

Where funds are received by cheque please note that before we can remit cleared funds to you, the Bank will require 4 / 5 working days for clearance. Any bank transfer charges will require to be paid by you.

## Expenses in Court Actions

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 only a proportion of your expenses are likely to be recoverable. You are liable for our fees and for outlays incurred on your behalf whether or not you are successful in an action but credit will be given for all expenses recovered from your opponent.

## Transfer of Funds

If you require us to transfer funds held on your behalf or to your order we shall require clear written instructions in our hands no later than 24 hours prior to the proposed date and time of transfer. Unless such instructions clearly state otherwise, we shall make all transfers in pounds sterling. We will have no responsibility for any loss or cost relating to bank charges, currency exchange rate fluctuation, etc., and shall have no liability to you or any third party in respect of indirect or consequential loss arising from any

delay or error in respect of the transfer of funds. We reserve the right only to transfer funds to your account and not to any specified third party account.

## How Long Will it Take

The nature of legal work often makes it difficult to estimate precisely how long something will take to complete. When we discuss your requirements at the outset we will also discuss timescales. We will attempt to meet these and always to deal with everything as quickly and efficiently as possible. Please remember that quite often the speed at which work can be completed is affected by the co-operation we require from others and is outwith our control.

## 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.

## Conflict of Interest

We cannot act for two or more parties if they have conflicting interests. Please advise us at the outset if you are aware of any potential conflicts which may arise. If we decide that we can still act (i.e. if you are one of the exceptions to the rule) we will confirm this to you in writing.

## Storage of Papers, Wills and Deeds

We can provide a safe custody service to clients for wills, deeds and other securities within our Cults office and in an off-site storage facility. We reserve the right to make a charge for this service.

As far as other documents are concerned, such as pre-registration deeds and documents (where title to the property has been registered at the Registers of Scotland) we retain these for as long as we decide, and in accordance with Law Society guidelines in our absolute discretion. A client who requires such papers to be kept for any specific period, must give written notice to us.

When stored documents and/or papers are retrieved by us at your request for transfer to another solicitor/agent, we do reserve the right to charge for such retrieval work.

## Property Descriptions

Mackinnons, as estate agents and letting agents have a duty to comply with a range of consumer

protection laws that prohibit the giving of false, deceptive or misleading information when describing a property in marketing particulars. We require you to sign a Validation Certificate confirming the accuracy of the property description prior to marketing your property.

#### Confidentiality

Information passed to us is kept confidential and will not be disclosed to third parties unless authorised by you or required by law.

#### ARTL

ARTL means the Automated Registration of Title to Land, a system whereby title to property is registered electronically in the Land Register. We are registered for the operation of ARTL. Provided your transaction is ARTL compatible, ARTL may be used and we will clarify to you as soon as possible whether your transaction will proceed under ARTL. For reasons outwith our control, ARTL may not always be available. Where ARTL is used, digital signatures are utilised and you will be required to grant appropriate mandates authorising us to sign documentation electronically on your behalf.

In conveyancing sale transactions we will apply on your behalf for an Advance Notice in your name, electronically or in paper form, in terms of the Land Registration (Scotland) Act 2012. Said Notice, which confirms the main details of the sale transaction, will be entered onto the Land Register (or such other register, as appropriate).

#### Termination

Either of us may terminate our professional relationship at any time by written notice given to the other.

In the event that you choose to terminate our professional relationship entirely you will pay us all fees and outlays and expenses incurred prior to such termination and due to Mackinnons together with any further fees and outlays reasonably incurred by us in connection with the transfer of files to another solicitor instructed by you, upon payment of which we will deliver up all deeds and documents as you may require.

#### Ownership of Correspondence Files

All correspondence, attendance notes, internal memoranda and draft documents (whether held electronically or not) will remain the sole property of the firm. We retain copyright and all other

intellectual property rights in all documents and other works we develop or produce for you. It is our normal practice to destroy all files in accordance with Law Society of Scotland guidelines (details can be provided on request).

#### Critical Dates and Advice

After completion of the matter we accept no responsibility for reminding you of important future dates. Any reminder which we issue is done without liability on our part. Where we provide draft or provisional advice or other materials, the advice or materials are not to be relied upon as constituting our final view. Our services are provided in accordance with professional practice requirements and the proper interpretation of the law, as each exists on the date on which the service is provided. If there is any change in the law or its interpretation after the matter has been concluded (or before but which we could not reasonably have known), we have no responsibility to notify you of the change or any consequences thereof. We will try to meet any deadline we agree with you for the performance of our services but, unless we agree otherwise in writing in relation to any time, date or period for delivery or performance by us, time shall not be of the essence.

#### Applicable Law

These terms and conditions are governed by the Law of Scotland and are subject to the non-exclusive jurisdiction of the Scottish courts. By instructing us to act for you, you prorogate the non-exclusive jurisdiction of the Sheriff Court of Aberdeen in respect of any works arising under the contract between us.

#### Proceeds of Crime Act, Money Laundering and other reporting

We are required by anti-money laundering legislation to obtain proof of identity from clients for whom we act and to make enquiries regarding the source of funds and source of client wealth in respect of any funds passing through our hands. Accordingly, you will be asked to supply us with the requisite information. Any failure or delay on your part to provide us with any requested documentation or information may mean that we cannot act for you or must cease acting for you. We may also seek to obtain confirmation of your identity through electronic verification.

Any personal data received from you will be processed only for the purposes of preventing money laundering or terrorist financing, or as

permitted by or under any enactment or for any other lawful required purposes.

Mackinnons has reporting obligations imposed on it under and in terms of the Proceeds of Crime Act 2002, The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, the Terrorism Act 2000 and related Statutory Instruments which, in certain circumstances, require disclosure of confidential information to the authorities. In such circumstances we may be prohibited from notifying our clients of such a report and we may require to cease to continue to do any work on the client matter until such time as we receive formal authorisation from the authorities to do so. We shall incur no liability to you for any loss, damage, penalties, interest, costs or charges which you may suffer or incur if we are so prohibited from acting, or delayed in continuing to act on your behalf.

We reserve the right not to handle any money or other funds on your behalf or on behalf of any third party if we are not satisfied with the source of the money or funds and, in particular, if the money or funds are not being paid to us from an account with a UK clearing bank. Please note that before we accept any monies into our Client Bank Account we reserve the right to require you to provide us with details of the source of the monies being transferred, i.e. bank, sort code and account number and documentary evidence of the source of the wealth i.e. bank statement, confirmation of a bequest, sale proceeds, etc. Please advise us without delay if you intend to transfer or arrange the transfer to us of any money or funds otherwise than from an account in your name with a UK clearing bank as we may not be able to complete any transaction or to conclude any proceedings on your behalf, and you may consequently suffer or incur loss, damage, penalties, costs, interest or charges if there is any delay in our accepting money or other funds on your behalf until we are satisfied with the source of the money or funds. We shall not be liable for any loss, damage, penalties, costs, interest or charges which you may suffer or incur.

Please note we cannot accept any payments in cash of more than £250 whether in respect of fees, VAT, rent, outlays or otherwise.

In order to enable us to complete the compliance procedures set out above, please sign, date and return one copy of these Terms of Business and provide us with appropriate evidence of identity.

## Data Protection

For the purposes of data protection legislation please note that personal information about you will be held on our computer systems and processed for the purposes of fulfilling our contractual obligations to you or as otherwise required for the lawful compliance of our responsibilities to any regulatory body including, but not limited to, the Law Society of Scotland.

## Acceptance of Terms of Business

Your continuing instructions to us will confirm your acceptance of these Terms of Business. If you are not prepared to accept these Terms of Business please notify the solicitor or Client Relations Partner in writing without delay. Unless otherwise agreed these Terms of Business apply to any future instructions you may give us.

## Limitation of Liability

We maintain professional indemnity insurance under the Law Society of Scotland's Master Policy as well as additional indemnity cover (details of which can be provided on request). Although instructions will be handled by specific individuals, your instructions are accepted by us strictly on the basis that Mackinnons Solicitors LLP is acting on your behalf. We shall however, in no circumstances have any liability in respect of any of the following losses (a) any, indirect, incidental, special or consequential loss or damage; (b) loss of actual or anticipated income or profits; (c) loss of goodwill; (d) loss of business; (e) loss of revenue or of the use of money; (f) loss of contracts; (g) loss of anticipated savings and (h) loss which could have been avoided by you through reasonable conduct or by you taking reasonable precautions. Without prejudice to the foregoing, we shall have no liability for any loss, damage, cost or expense caused or arising as a consequence of (i) acts, events or omissions beyond our reasonable control within the scope of work we are carrying out for you; (ii) force majeure; (iii) software virus or cyber-crime (including e-mail hacking or the creation of false accounts) and (iv) the failure of you to comply with the Terms of Business. We accept responsibility to you alone and consequently, we accept no liability to any other person, other than may be expressly agreed by us in writing. Unless otherwise agreed with you in our Letter of Engagement any liability that we may properly incur shall be limited to the sum of £2,000,000. Nothing in these Terms of Business shall exclude or in any way limit our liability for fraud or for death or personal injury caused by our negligence or any other liability to the extent the

same may not be excluded or limited as a matter of law.

Whole Agreement

These Terms of Business, together with the Letter of Engagement accompanying them and any enclosed schedule of costs, will form the whole agreement between us to carry out the work referred to in that Letter. If and in so far as any part or provision of the terms is or becomes void or unenforceable it shall be deemed not to be or never to have been a part of the terms and the remaining provisions of the terms shall continue in full force and effect.

The Law Society of Scotland

Like all Scottish solicitors, we are members of the Law Society of Scotland subject to its professional rules at all times.

I/We have read, understood and accepted the Terms of Business detailed above.

\_\_\_\_\_  
Sign

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Date

I agree that my email address may be added to the Mackinnons mailing list for the purpose of receiving legal updates/circulars which Mackinnons believe may be of interest to me

\_\_\_\_\_  
Sign

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Date

I agree that my email address may be added to the Mackinnons mailing list for the purpose of receiving legal updates/circulars which Mackinnons believe may be of interest to me

Client Identification

Please sign and return one copy of these Terms of Business and provide 2 forms of identification from the list below.

Please provide either 2 from Section A or 1 from Section A and 1 from Section B. We require to see the principals of all documents (photocopies are not sufficient). Documents from Section B should show your home address and be dated within the last 3 months.

**ONE FORM OF ID MUST BE PHOTOGRAPHIC**

- A1 Passport (preferred)
- A2 Photographic Drivers Licence (preferred)
- A3 Armed Forces ID Card
- A4 National ID Card
- A5 Travel Card
- A6 Signed ID Card of Employer
- A7 Young Person NI Card (under 18 only)
  
- B1 Drivers Licence (Counterpart)
- B2 Bank/Credit Card Statement
- B3 Building Society Passbook/Statement
- B4 Council Tax Demand
- B5 Utility Bill
- B6 Mortgage Statement
- B7 Credit Reference Agency Search
- B8 Copy Company Certificate of Incorporation (accompanied by ID for relevant officers)

Mackinnons Ref: í í í í í  
Terms of Business November 2021