

Rathbone trust legal services

# Terms of business

Please keep for your records.

Valid from 27<sup>th</sup> May 2022

# Terms of business

## 1 Introduction

- 1.1 These Terms of Business, alongside any enclosed or existing Letter of Engagement, confirm the basis upon which we are accepting, or continue to accept, your instructions. Please read the Terms of Business and any supporting Letter of Engagement carefully. If a Letter of Engagement is received with these Terms of Business, then by signing and returning the Letter of Engagement you are accepting that you fully understand and accept the Letter of Engagement and these Terms of Business.
- 1.2 Your continuing instructions in a matter will amount to your acceptance of these Terms of Business as clarified by any specific Letter of Engagement from the date that you first instructed us in that matter.
- 1.3 If there is any conflict between these Terms of Business and the Letter of Engagement then the Letter of Engagement will take precedence.

## 2 People responsible for your matter

- 2.1 Any specific Letter of Engagement will confirm the people who will carry out most of the work on your matter and their charges. It will also set out the contact details of the person who is ultimately responsible for your matter.
- 2.2 We try hard to avoid changing the people who are handling your work but, if this cannot be avoided, we will let you know as soon as possible and tell you why the change is necessary.

## 3 Your responsibilities

- 3.1 To allow us to advise you fully, we need to have full details of the matter and for you to inform us of any changes in circumstances going forward. You can help us by giving full clear instructions, providing all relevant documents, acting promptly and telling us about any time limits that you consider relevant.
- 3.2 The advice provided in any Will prepared by us is based solely upon the information which you supply to us and upon current law at the time of preparation of the Will. It is your responsibility to inform us of any changes in circumstances which may affect the operation of the Will. This company does not accept responsibility for notifying you of any changes in law or legal decisions (including in relation to tax planning) which may affect the terms of the Will.

## 4 Scope of advice

- 4.1 Our advice is personal and confidential to you only. If you pass any of that advice on to others or ask us to do so, that other person will not have any enforceable right against this company under these Terms of Business.
- 4.2 We may advise you to seek advice from other professionals such as accountants or surveyors. We

are not liable for any advice they give you (whether or not such advice is obtained by us on your behalf). If you instruct us to obtain any such advice and to take action as a result of that advice, you will be responsible for our charges and expenses incurred in carrying out your instructions.

## 5 Client funds

- 5.1 Money which we hold on your behalf will usually be deposited in our general client account. In certain circumstances these funds will be held in a designated client account. The treatment of client money and accounts is regulated by the Solicitors Regulation Authority ('the SRA') and detailed in the most recent version of the SRA Accounts Rules ('the Accounts Rules') which can be accessed at [www.sra.org.uk](http://www.sra.org.uk)
- 5.2 We will deposit all money that we receive in connection with our providing services to you with a bank or banks which we consider to be reputable. However, we cannot guarantee the security of the money held in our client accounts against the risk of losses arising from the failure or default of any bank. If for any reason any bank should fail to remit the money to you, to us, or to a third party on your behalf, we will have no liability to make good any shortfall or otherwise to compensate you for any loss you suffer as a result, unless we acted in breach of our Contract with you or any other duty to you concerning our choice of bank. In the event that such a default occurs you may be entitled to compensation under such financial services compensation schemes as may be operated by the Financial Conduct Authority at the relevant time.

## 6 Interest

- 6.1 We will calculate sums payable to you in lieu of interest on any funds which we hold for you in accordance with clauses 6.2 to 6.5 below.
- 6.2 The period for which any sums in lieu of interest will be paid will run from the date when funds are received by us until the date of issue of any cheque, or any bank transfer, to discharge such sums.
- 6.3 Due to the costs involved for us in administering a general client account for you, (a) we will retain the first £50 of any sum due in lieu of interest in respect of a matter for each quarter year ending on 31<sup>st</sup> March, 30<sup>th</sup> June, 30<sup>th</sup> September and 31<sup>st</sup> December and (b) where interest rates on our general client accounts are at an average of less than 0.1% in any such quarter period, we will cease to pay sums to you in lieu of interest since it will be overly burdensome administratively to do so.
- 6.4 Subject to 6.3, sums in lieu of interest will reflect as accurately as possible the rate or rates that we are being offered by our bankers in respect of our general client account(s).
- 6.5 In certain circumstances, we may agree with you to place sums on a designated client account. We reserve the right in those circumstances to charge a £100 administration fee for arranging this for you.

## Terms of business – continued

### 7 Complaints

7.1 A copy of our Complaints Procedure is available on request. We will respond promptly to any complaints we receive and keep a record of all action which we take and the eventual outcome.

7.2 If you have any concerns about the way in which your work is handled, or any bill that you have received, please get in touch with the Director ultimately responsible for your matters, who will investigate your concerns and respond to you. Should you still have cause for dissatisfaction then please write giving full particulars to Bruce Newbigging, Chief Executive who has special responsibility for dealing with such matters.

7.3 In the event that you are not satisfied with the Company's response the Legal Ombudsman may be able to consider your complaint. The contact details for the Legal Ombudsman are:

Telephone: 0300 555 0333

Minicom: 0300 555 1777

E-mail: [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)

Website: [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)

Address: Legal Ombudsman, PO Box 6806, Wolverhampton WV1 9WJ

You should bring any complaint to the Legal Ombudsman within six months of the end of our complaints process. In addition you should be aware that the Legal Ombudsman will not accept your complaint if:

- more than six years have elapsed from the date of the act or omission giving rise to the complaint; or
- more than three years have elapsed from the time when you should have known about the complaint; or
- the date of the alleged act or omission giving rise to the complaint was before 6th October 2010 and you were aware of it before that date.

You may also be able to object to our bill by applying to the Court for an assessment under Part III of the Solicitors Act 1974. If you exercise this right you could be prevented from making a complaint to the Legal Ombudsman. In addition, if you apply to the Court for an assessment and if all or part of the bill remains unpaid at the end of that assessment, we are entitled to charge interest. There are strict time limits that apply to this process and you may wish to seek independent legal advice.

### 8 Charges and expenses

8.1 We generally calculate our charges based on the hourly rates of and the time engaged by those acting on your matter.

8.2 We reserve the right to increase the level of the hourly rates set out in any Letter of Engagement where a case or transaction is one of exceptional urgency or complexity or your instructions require that meetings take place or other work is carried out outside normal office hours.

8.3 We will periodically review our hourly rates and reserve the right to vary them at any time by written notice to you.

8.4 For certain work fixed fees or scale fees up to a maximum level may be agreed.

8.5 Unless stated to the contrary in the Letter of Engagement, any estimate of costs given in the Letter of Engagement is not intended to be fixed.

8.6 Where helpful, we will give you further estimates of our likely charges and expenses as the matter progresses.

8.7 You may ask us to set a limit on the charges and expenses to be incurred on your matter. If we have agreed to set such a limit, this will be set out in any Letter of Engagement or later estimates. This means that you must pay our costs incurred up to the agreed limit without our needing to refer back to you. We will let you know if it appears that costs will exceed the agreed limit and we will not incur costs in excess of the agreed limit without first obtaining your approval.

8.8 We will also have to pay expenses on your behalf during the course of many matters (such as experts' fees, court fees, travel costs, company searches and photocopying costs). These will be shown separately on our invoices. Unless you ask us to do so, we will not usually check with you before paying expenses on routine items. If we have to pay non-routine expenses, we will usually ask you first. You will have to repay us for any expenses or payments we make on your behalf. We are under no obligation to effect such payments on your behalf unless cleared funds have first been provided by you for that purpose.

8.9 We will, in addition, charge VAT at the prevailing rate in force, in any case where we are obliged by law to charge VAT. Our VAT registration number is GB 241 6893 49.

### 9 Invoice arrangements

9.1 From time to time we may ask clients to pay sums of money in advance to cover the cost of future charges and expenses. We will normally ask for the first payment in any Letter of Engagement.

9.2 To help you budget, we will send you regular invoices for charges and expenses. We shall be entitled to offset any funds held for you on our client accounts against invoices which have been rendered to you (unless these funds are clearly required for any other purpose) and may require you to provide us with further payments on account.

9.3 In relation to estate matters (and without limiting paragraph 9.2 above), to the extent that any sums received by us into the estate on behalf of executors are not required for payment of liabilities of the estate having priority in law to our own charges and

## Terms of business – continued

expenses and have not been specifically allocated for payment of any other costs or expenses, these sums may be used by us to meet our invoices after they have been rendered to you.

- 9.4 Payment is due to us as soon as you receive our invoice. If you do not pay an invoice (in whole or in part) within 28 days of the date of the invoice, we may charge you interest on the amount outstanding from the date of invoice until payment. Interest and compensation will be payable pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 or where that does not apply, at 8 per cent per annum from the date of the invoice until payment.
- 9.5 Please note that although it may be the case that some other person agrees or is ordered to pay our costs, you will remain personally responsible for paying our costs and expenses as and when they become due. We will not usually allow delays in payment of our charges and expenses because someone else has agreed to or is under an obligation to pay them.
- 9.6 If you have any query about an invoice, we may begin legal proceedings against you for payment of our charges and expenses. In all such cases, you will be responsible for the payment of all further charges and expenses incurred in those proceedings, even if that claim is for less than £10,000.

### 10 Copyright

We own the copyright in all documents created by us for you. You may use those documents for the particular purpose for which they were created if you have paid all costs and expenses due to us. If you wish to use them for any other purpose, you should obtain our permission to do so first.

### 11 Documents and storage

- 11.1 Please make sure that you keep all letters, papers and documents which may, in any way at all, be connected to a matter.
- 11.2 On completion of your matter or termination of our instructions, we are entitled to keep all your papers and documents while there is money owing to us for our charges and expenses.
- 11.3 We will retain files after completion for such period as is required by law or the rules of The Solicitors Regulation Authority. We reserve the right to destroy files at the end of that period. We will not destroy any documents which you ask us to deposit in safe custody.
- 11.4 We are able to keep important documents such as Deeds and Wills in safe custody on your behalf.
- 11.5 If we retrieve papers or documents from storage in relation to continuing or new instructions to act in connection with your affairs, we may charge for such retrieval. We may also charge for reading, correspondence or other work necessary to comply with the instructions given by you or on your behalf.

- 11.6 If we accept any Deeds, Wills or other documents for storage, we are not thereby responsible for checking the accuracy of those documents or for advising on any changes in law which may affect the terms of the documents, including in relation to any tax planning arrangements.
- 11.7 If we are required for any reason (whether during the course of a matter or after it has terminated) compulsorily to disclose documents or to give information orally or in writing relating to a matter or your affairs pursuant to a court order, notice or demand served by an entity or person with the authority to compel such disclosure, then we shall comply. We will be entitled to be paid for the costs of such compliance by you at our then existing hourly rates. If any documents or information are subject to legal professional privilege, we will let you know and advise you of the opportunity to waive privilege. If you decide not to waive privilege and this is challenged, we will be entitled to be paid by you for the costs incurred in preserving privilege on your behalf.

### 12 Termination and cancellation

- 12.1 You may terminate your instructions to us, in writing, at any time. In some circumstances, we may consider we ought to stop acting for you. We would only do so with good reason and on reasonable notice.
- 12.2 If you, or we, decide to terminate our instructions, we will still be entitled to receive payment of our charges and expenses for services performed up to the date of termination.
- 12.3 If you are a client instructing us other than in the course of your business, the provisions of the Consumer Contracts Regulations may apply to the work we undertake for you and you may be entitled to cancellation or 'cooling off' rights in certain circumstances. You will be advised where this is the case.

### 13 Our liability

- 13.1 Unless otherwise agreed in writing by a Director of this company, we accept no responsibility whatsoever to any third party howsoever arising from the advice that we give to you. Any third party receiving details of our advice or any document containing such advice given to you does so at its own risk and must be informed of this clause.
- 13.2 Our liability to you shall be limited to that proportion of the loss or damage (including interest and costs) suffered by you, which is ordered against us by a Court of competent jurisdiction after taking account of the contribution to the relevant loss and damage of any other person responsible and/or liable to you for such loss or damage. For the purpose of assessing such contribution of any other person, no account shall be taken of any limit imposed on the amount of liability of such person by any agreement made before the loss or damage occurred.

## Terms of business – continued

- 13.3 Where we are acting for more than one person, the limit of liability will have to be allocated among you. If this allocation is not expressly stated in any Letter of Engagement, such allocation will be a matter entirely for you. If, for whatever reason, no such allocation is agreed by you, then you will not dispute the limit of liability on the grounds that no such allocation was agreed.
- 13.4 The limitations and exclusions on liability in this Section shall have no application to any liability for death or personal injury caused by our negligence or for any other liability which cannot lawfully be excluded or limited.
- 13.5 The Contracts (Rights of Third Parties) Act 1999 is excluded so that no third party shall be entitled to enforce any provisions of these Terms of Business or any Letter of Engagement.

### 14 Confidentiality

In acting for you, our first responsibility will be to you as our client. Information concerning you and your matter is treated as confidential by all members of our staff. We may also have responsibilities to other organisations, such as the court or Legal Services Commission, insurers in litigation matters and your mortgage lender in a property transaction if we are instructed to act for them as well. We may, therefore, have to advise you to provide information to them.

### 15 Conflict

- 15.1 We carry out conflict checks in every matter as soon as it is practical to do so. We have a number of procedures in place to ensure that any issues which arise can be discussed with you and dealt with as quickly and efficiently as possible.
- 15.2 We have a professional obligation not to act for you, or any other client, in a situation where there is an actual or significant risk of a conflict with either the interests of another client or our own interests.
- 15.3 If you become aware of an actual or potential conflict of interest at any time while we are acting for you please discuss it with us immediately so that we may endeavour to resolve the issue in the most advantageous way to all clients concerned. If we do have to cease acting for you, you will still be responsible for our charges up to that time.

### 16 Anti-money laundering

- 16.1 To enable us to meet our statutory obligations, new clients (and existing clients for whom we do not hold sufficient evidence of identity) will be asked to provide evidence of identity or documents relating to the formation of a company. Until we receive this information, the transaction or other work in question may be delayed. We may also have to cease acting for you if we do not receive this information.

- 16.2 On occasion, we will require information and evidence as to the source and/or destination of funding. We reserve the right to refuse cash deposits and are unable to accept cash payments in excess of £200.
- 16.3 We are professionally and legally obliged to keep your affairs confidential, however we may be required by statute to make a disclosure to the National Crime Agency ('the NCA') where they know or suspect that a transaction may involve money laundering or terrorist financing. We may also be compelled to notify the NCA in cases where any individual required to provide verification documentation for the purposes of anti-money laundering and the prevention of terrorist financing, refuses to do so. If we make a disclosure in relation to your matter, we may not be able to tell you that a disclosure has been made. We may have to stop working on your matter for a period of time without providing you with reasons for this. By law, your right to confidentiality and your professional legal privilege is waived to the extent of any report made, document provided or information disclosed to the NCA.
- 16.4 We will not be liable for any loss, damage or expense which you suffer as a result of any delay or otherwise caused by us complying with our statutory obligations to the NCA. This will be the case even if it later turns out that we were not required to make the report by law.

### 17 Compliance

In order to meet our obligations under anti-money laundering regulations, we will ask you to provide proof of your identity and details of your personal finances, including the beneficial ownership of assets in connection with which you have engaged us to provide legal services and details of the ultimate beneficiary of our services. We may also be required to provide such information to your insurance company building society, banks or other relevant authority before we are able to carry out your instructions and you agree that we may do so. We will also have to ask you to explain to us the source of any monies provided to us by you.

### 18 Data protection

For the purposes of the General Data Protection Regulation (and other applicable data protection legislation), Rathbone Trust Legal Services Limited is a 'data controller' and will process your personal data (as defined in the data protection legislation): (a) as set out in our Privacy Notice for Clients, as may be amended from time to time; (b) as set out in these Terms of Business, and in order to perform obligations under any contract between you and Rathbone Trust Legal Services Limited; and (c) in order to comply with any court order, request from or referral to an appropriate authority, or legal, regulatory or good practice requirement.

## Terms of business – continued

### 19 Auditing and outsourcing

We are currently audited by KPMG, a leading firm of accountants, to ensure that we comply with the Accounts Rules. We have a duty of confidentiality to you and, therefore, need your permission for your files to be inspected by these organisations. Unless otherwise advised to us, we will consider this permission granted on your receipt of these Terms of Business and acceptance of any Letter of Engagement relating to your affairs. In turn, this firm will keep your information confidential. If you refuse to give us this permission, it will in no way affect our handling of your case or the standard of our work. You may withdraw any permission granted at any time without having to give us a reason.

### 20 Email warning

- 20.1 Email is a useful way of communicating with clients and third parties and we try to encourage its use. However, emails are carried by the Internet, which is a potentially insecure channel for communication. In sending an email, one has no control over the route of the message. Unlike sending a fax, there is no way of knowing whether an email has been delivered or not. There is a risk that communications may contain a computer virus, although we will do our best to prevent this from happening through the use of anti-virus software. If we email you, or other parties involved, in any transaction, the message could be accessed by someone not involved in the transaction. While we will keep the affairs of our clients confidential, the use of emails raises a risk of confidentiality being compromised.
- 20.2 We believe that the benefits of email outweigh these factors in most circumstances. If you do not wish us to use email, please let us know as soon as possible. Also please inform us of any limitations you wish to make on its intended use.

### 21 Financial regulation

- 21.1 We are not authorised under the Financial Services and Markets Act 2000, nor are we authorised or regulated by the Financial Conduct Authority. If, while we are acting for you, you need advice on investments, we may have to refer you to someone who is authorised to provide the necessary advice. However, we may provide certain limited investment advice services where these are closely linked to the legal work we are doing for you. This is because we are members of the Law Society of England and Wales, which is a designated professional body for the purposes of the Financial Services and Markets Act 2000. The Solicitors Regulation Authority is the independent regulatory arm of the Law Society. The Legal Ombudsman provides an independent complaints review process for most clients of solicitors' firms. If you are unhappy with any investment advice you receive from us, you should raise your concerns with either of these bodies.
- 21.2 We are not authorised by the Financial Conduct Authority. However, we are included on the Financial Services Register maintained by the Financial Conduct Authority so that we may carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Solicitors Regulation Authority. The register can be accessed via the Financial Conduct Authority website at [www.fca.org.uk/register](http://www.fca.org.uk/register). If you are unhappy with any insurance advice you receive from us, you should raise your concerns with either the Solicitors Regulation Authority or the Legal Ombudsman whose address details appear under 'Complaints' at Section 7.3 above.

### 22 Solicitors Regulation Authority

- 22.1 This company is authorised and regulated by the Solicitors Regulation Authority, whose rules can be found on their website at [www.sra.org.uk/handbook](http://www.sra.org.uk/handbook). In accordance with their rules we maintain indemnity insurance. A copy of the policy may be inspected at our office at 8 Finsbury Circus, London.
- 22.2 For the avoidance of any doubt, Rathbone Trust Legal Services Limited is a separate business from Rathbone Investment Management Limited, Rathbone Trust Company Limited and Rathbone Unit Trust Management Limited, although they are all part of the same group of companies, and none of those other companies is authorised or regulated by the Solicitors Regulation Authority.

### 23 Governing law

Our relationship with you will be governed by English law and will be subject to the exclusive jurisdiction of the English Courts.

This firm is authorised and regulated by the Solicitors Regulation Authority as Rathbone Trust Legal Services Limited; SRA number 636409  
Registered office: 8 Finsbury Circus, London EC2M 7AZ  
Registered in England number: 10514352  
VAT Registration number: GB 241 6893 49  
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**Rathbones**  
Look forward