

Terms of business

1. Scope of application

These terms of business apply to all services provided to you, the client, by MSC Solicitors and Notaries of 24 Hillbury Ave, Harrow, HA3 8EW and 16 Upper Woburn Place, London, WC1H 0AF.

2. Regulator

Our notarial work is regulated by the Faculty Office of the Archbishop of Canterbury:

The Faculty Office
1, The Sanctuary
Westminster
London
SW1P 3JT
Tel: 0207 222 5381
Email: faculty.office@1thesanctuary.com
Website: www.facultyoffice.org

Our solicitor work is regulated by the Solicitors Regulation Authority. SRA number: 618917.

3. Responsibility for work and duties

- 3.1 Madhubala Colwill is responsible for the conduct of the business, but other personnel (qualified and non-qualified) may be involved in carrying out your instructions.
- 3.2 We will:
- keep you informed of progress made in carrying out your instructions
 - advise you of any delays and, where possible, explain why such a delay is occurring,
 - advise you where it becomes necessary to change the basis on which our fees are payable or calculated.
- 3.3 You shall:
- provide us with clear instructions,
 - provide us with full and accurate information sufficient to enable us to carry out your Instructions.

4. Identification

- 4.1 A primary duty of a notary and/or solicitor is to identify the client. In the case of individuals, this includes proof of residential address. We will, therefore, require personal documentation from clients and signatories which may include one or more of the following:-
- a passport
 - national identity card
 - photocard driving licence
 - marriage certificate or divorce judgment and/or

- a recent utility bill, bank or credit card statement or council tax bill (for proof of address)

4.2 Where the client is a company or body we will need to satisfy ourselves of the existence of that company or body and the authority of persons signing on its behalf. In the case of companies or bodies established in the United Kingdom, we will generally conduct our own checks. In some cases (particularly companies or bodies established overseas) we may ask you to produce certain documents. These might include a certificate of incorporation, good standing certificate or other similar evidence of corporate existence. In order for us to certify a signatory's authority to represent a company or body, additional documentation will be required, for example:-

- constitutional documents (e.g. memorandum and articles of association)
- a power of attorney in some cases, duly notarised and apostilled
- board resolutions
- bank authorised signatory book
- extract from a commercial register

Documents in a language with which the notary or solicitor is not familiar may require translation. We will be happy to advise precise requirements in any particular case.

4.3 Notaries and solicitors are subject to UK legislation intended to prevent the use of the financial system for the purposes of money-laundering and the funding of terrorism. One of the requirements of the legislation is for notaries and other lawyers to report suspicious transactions to law enforcement agencies. A notary/solicitor who knows or suspects, or has "reasonable grounds" for suspecting, that a person has committed any one of a range of offences relating to money laundering or the funding of terrorism must make a disclosure as soon as is practicable to the appropriate law enforcement agency. For this reason, we may have to make checks of clients which go beyond the identification standards which notaries & solicitors have traditionally applied. Being asked for additional identification or to provide explanations does not mean you are under suspicion. Where we have any doubts as to the facts presented to us or the legality of a transaction we will refuse to act.

5. Fees and payments

5.1 Fees are calculated on a fixed price basis taking into consideration the type and number of documents you have and the form of notarisation that is required. However, we reserve the right to apply additional charges if we are required to carry out extra work or if the matter proves to be unusually difficult or complex. Translation costs are chargeable on a "per word" basis. Miscellaneous costs such as consular fees, bank charges and major photocopying or postage costs may also be passed on to you. In any event, we will to the extent reasonably practicable make known to you in advance the basis upon which our fees will be calculated.

5.2 If our work is terminated before completion, we will charge you a fair and proportionate amount for any work actually carried out.

5.3 Our invoices are payable on receipt. Should settlement not be forthcoming within 30 days of the date of the invoice, we reserve the right to charge interest at 4% per annum above the base lending rate of our clearing bankers accruing on a daily basis on all sums outstanding from the date of the issue of the invoice until payment in full. We also reserve the right to suspend or terminate our services if any sum is overdue from you.

- 5.4 Even if another person has agreed to pay or is responsible for paying all or part of our fees and costs, we may address our invoices to you as the instructing party and you will, in all cases, be responsible for paying them; irrespective of who pays our invoice, our duty of care is owed to you alone as the instructing party unless we agree otherwise.
- 5.5 There are circumstances where we are entitled to retain property which belongs to you. This right of lien may be exercised by us at any time while fees or expenses are unpaid.

6. Termination of instructions

- 6.1 You may at any time terminate our engagement in writing.
- 6.2 We may decline to offer our services or discontinue the same with good reason. For example, if you are overdue in making payment to us, you fail to give clear or proper instructions or instructions which conflict with our rules of professional conduct. We will notify you in such event.

7. Exclusions and limitations of liability

- 7.1 You agree that our aggregate liability towards you and any third party mentioned in clause 5.4 for claims in connection with our services, howsoever arising, shall be limited to £1 million in total per engagement or, if greater, the amount recoverable under our professional indemnity insurance. The aggregate liability of the company, its employees, consultants and partners collectively shall not exceed the aggregate liability of the company alone.
- 7.2 The expression “howsoever arising” covers all causes giving rise to liability, whether arising by reason of non performance, delay, negligence, misrepresentation, other tort, breach of contract, breach of statutory duty or otherwise.
- 7.3 We shall not be liable to you to the extent that we are unable to perform our services as a result of any cause beyond our reasonable control including without limitation industrial action (other than solely on the part of our personnel), act of God, war, civil commotion, terrorism, theft, malicious damage (other than by our personnel) accident, failure or breakdown of computers, machinery, systems, extreme weather conditions, power failure or failure of telecommunications (“Force Majeure”). In the event of any Force Majeure affecting us, we shall notify you as soon as reasonably practicable.
- 7.4 Rights as a consumer as defined in the Unfair Terms in Consumer Contracts Regulations 1999 shall not be adversely affected by these terms to the extent prohibited by those Regulations.
- 7.5 In view of the exclusions and limitations of our liability in these terms, we recommend that you consider taking out your own insurance in respect of those risks for which we exclude or limit liability.
- 7.6 Nothing herein affects our liability for fraud or otherwise to the extent prohibited by law.

8. Confidentiality

- 8.1 We owe a duty of confidentiality to our clients. You agree, however, that we may, when required by our auditors, insurers or advisers, provide details to them of any engagement, and that we may also disclose confidential information if required to do so by law or regulation.
- 8.2 Sometimes we ask sub-contractors or other third parties to undertake translating, typing, photocopying or other support services. We require them to keep matters entrusted to them confidential but, if you do not want us to use third party providers please inform us in advance.
- 8.3 In accordance with our professional rules, a copy of a notarial act or of the record of a notarial act retained by us may, upon payment of a reasonable fee, be issued upon the application of any person or authority having a proper interest in the act.

9. Documents, copyright and communications

- 9.1 We will store your file (including personal and other data provided to us in accordance with clause 4) electronically or otherwise for such period of time as we judge reasonable taking into account applicable laws and regulations (in particular the record-keeping duties to which notaries are subject under the Notaries Practice Rules 2009 as amended from time to time), after which time we may destroy it.
- 9.2 Unless we agree otherwise, the copyright in the original materials which we create for you belongs to us. Subject to payment of our fees for that material, you are permitted to make use of those materials only for the purposes for which they are created.
- 9.3 We may communicate with you by email, unless you instruct us not to do so. We will not encrypt our outgoing email unless you tell us to do so and we are able to agree with you and implement a mutually acceptable encryption method.
- 9.4 Any reference in these terms to “writing” shall include fax and email.

10. Data protection and compliance with the Notaries Practice Rules

- 10.1 We shall comply with any obligations we may have under the Data Protection Act 1998 and the Notaries Practice Rules 2009 (as amended from time) in respect of personal and other data provided to us pursuant to clause 4.

11. Third party rights

- 11.1 Third Party Rights Other than an employee, consultant or partner of MSC Solicitors and Notaries wishing to rely on paragraph 8, no third party shall have any right to enforce or rely on any provision of the Contracts (Rights of Third Parties) Act 1999. The notification or consent of any third parties shall not be required in order to rescind or vary the terms of our contract with you.

12. Assignment

- 12.1 The performance and benefit of our contract with you may be assigned by us to any person (which expression shall include a body of persons corporate or unincorporate) who acquires or continues all or part of our business
- 12.2 Except as provided by clause 12.1, neither you nor we have the right to assign the performance and benefit of our contract with you without the written consent of the other.

13. Associates

- 13.1 In relation to any engagement, unless we agree otherwise, you accept the provisions of the contract on your own behalf and where relevant as agent for each of your group undertakings (as defined by Section 1161(5) of the Companies Act 2006) which is a recipient of our services ("Associate"). You warrant that you have or will have necessary authority on behalf of each Associate. You will procure that each Associate will act on the basis that they are bound by the contract. References to "you" apply to you and all Associates together.

14. Severance of terms

If any provision shall be declared to be invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions shall not be impaired.

15. These terms and variations

These terms supersede any earlier terms of business we may have agreed with you and, in the absence of express agreement to the contrary, will apply to the current services and all subsequent services we provide to you. Amongst these things, your continuing to instruct us to act for you will amount to acceptance of these terms. From time to time it may be necessary to amend or supersede these terms by new terms. When this is the case, we will notify you of the changes and, unless we hear from you to the contrary no later than 14 days after such notification, the amendments or new terms will apply from the end of that period.

16. Complaints

We are confident that we will provide you with a satisfactory service, but should you wish to complain, you should note the Complaints Procedure set out in Appendix 1 to these Terms of Business.

17. Applicable law and jurisdiction

The contractual relationship that arises when you instruct us shall be governed by the law of England and Wales. In the event of a dispute, the courts of England and Wales shall have exclusive jurisdiction.

Complaints Procedure for Notary Work

1. If you are dissatisfied with the service you have received please do not hesitate to contact me.
2. If we are unable to resolve the matter you may then complain to the Notaries Society of which I am a member, who have a complaints procedure which is approved by the Faculty Office. This procedure is free to use and is designed to provide a quick resolution to any dispute.
3. In that case please write (but do not enclose any original documents) with full details of your complaint to:

The Secretary of the Notaries Society
Old Church Chambers
23 Sandhill Road
St James
Northampton
NN5 5LH

Email: secretary@thenotariessociety.org.uk

Tel: 01604 758908

If you have any difficulty in making a complaint in writing please do not hesitate to call the Notaries Society/ the Faculty Office for assistance.

4. Finally, even if you have your complaint considered under the Notaries Society Approved Complaints Procedure, you may at the end of that procedure, of after a period of 8 weeks from the date you first notified us that you were dissatisfied, make your complaint to the Legal Ombudsman, if you are not happy with the result:

Legal Ombudsman
Baskerville House
Centenary Square
Broad Street
Birmingham
B1 2ND

Email: enquiries@legalombudsman.org.uk

Tel: 0300 555 0333

Website: www.legalombudsman.org.uk

5. If you decide to make a complaint to the Legal Ombudsman you must refer your matter to the Legal Ombudsman within 6 months from the conclusion of the complaint process.