

# MIDDLETON ROSS CONDITIONS OF BUSINESS

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## **1 INTRODUCTION**

These Conditions of Business apply to all services supplied by us, Middleton Ross & Arnot Limited, Company registration number SC455313, trading as Middleton Ross (“the Firm”), to you, the Client, and are subject to any letter of engagement or other written agreement. If we have already commenced work on your behalf then, unless you notify us immediately in writing to the contrary, you agree that these Conditions of Business apply retrospectively from the start of all work for you.

## **2 OUR DUTY OF CARE**

We will give your business proper professional skill, care and attention and will not act for you if it is not in your best interest.

## **3 OUR DUTY OF CONFIDENTIALITY**

Your business will not be disclosed to any other party without your permission except in a situation where we are legally compelled to do so, or any information relating to you or any matter handled by us on your behalf is in the public domain.

We may obtain personal data from you when you become a client of the firm and during our relationship. This may concern you personally or relate to other persons such as (depending on the circumstances) your spouse, children, employees or agents. Whenever you engage us to act for you in any matter or provide us with any information (including personal data) you consent to our use of all such information for the purpose of performing for you the legal services which you have requested we provide. We may disclose this information (including any personal data) to our Professional Advisors or other agents who may be used to perform certain functions on our behalf but only to the extent that is required by them in order to perform any duties we have asked them to undertake. Disclosure of such information shall not be a breach of the Duty of Care or our Duty of Confidentiality.

We observe the requirements of Data Protection legislation in respect of personal data held by us.

## **4 DELIVERY OF OUR SERVICES AND SCOPE OF BUSINESS**

Effective communication with our client is fundamental to providing a high-quality service. We will correspond with you by telephone, letters, or by email as appropriate. If you have any preference, then please let us know. We may require you to confirm oral instructions to us in writing or by email. Where you communicate by email and such communication changes your instructions to us, it is your responsibility to ensure that the email has been received by us. Any correspondence where instructions are changed should preferably be in writing. Unless otherwise expressly agreed with you, the scope of work undertaken for you will be set out in the Letter of Engagement and will specifically not include:

- 1 Monitoring or reminding you of warranty periods or other notice periods.
- 2 Tax advice (other than Land and Buildings Transaction Tax on normal property transactions).

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.

## 5 INSTRUCTIONS

You can help us by giving clear instructions and asking questions about anything you do not understand. We would also ask that you deal promptly with any queries or requests for information and let us know if there are any important matters we should be aware of. Unless we receive any 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. In particular, we shall be entitled to assume that:

- 1 If the client is a Company we may take instructions from any officer.
- 2 If the client is a Partnership we may take instructions from any Partner.
- 3 If there are joint clients (for example husband and wife or more than one individual shareholder) we may take instructions from either or any of them on behalf of all and all will be fully liable for any actions taken or fees incurred on a joint and several basis.

You should also advise us if we are able to take instructions or authorisation from anyone other than yourself and in that case we may ask you to give written authority to do so.

As your agents we can act only on information and instructions given to us. You should not assume that we have knowledge of any factual matters.

## 6 CLIENT IDENTIFICATION CHECKS

We are required by Anti Money Laundering Legislation to obtain proof of identity from clients for whom we act and it is a criminal offence for us to fail to carry out such procedures in line with these regulations. It is your responsibility to provide us with suitable documents. Any failure or delay on your part to provide us with such may mean that we cannot act for you or must cease acting for you.

The Money Laundering Regulations 2007, the Money Laundering (Amendment) Regulations 2015, the Proceeds of Crime Acts 2002 and the Bribery Act 2010, Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and related Statutory Instruments and any update or replacement of the same from time to time place certain obligations on us and our fee earners. In certain circumstances (whether in respect of you or a third party) which relates to any matter upon which you have instructed us, we may be required to report to the National Crime Agency (NCA). Authority from NCA is then required before we can continue to act for you. We are inhibited from informing you that a report has been made to NCA even if NCA authorises us to continue to act for you. NCA is entitled to pass on any information received from us to third party agencies (such as HM Revenue & Customs) who may decide to make further investigations. The obligations upon us and our fee earners can require disclosure of confidential information and override our duty of confidentiality to you as a client.

We shall incur no liability to you for any loss, damages, penalties, interest, costs or charges which you may suffer or incur if we are so prohibited from acting for you or delayed in continuing to act on your behalf.

We reserve the right not to handle any money or other funds on your behalf 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 have not been paid to us from an account of a UK clearing bank. All funds transmitted to us should be

transmitted from an account in your name with a UK clearing bank either by a cheque drawn on that account and signed by you or by CHAPS transfer. In the event of any CHAPS transfer you require to ensure that the bank or building society transferring funds provide sufficient detail within the transfer to confirm that it comes from your own account. You should notify us at the earliest opportunity details of the account from which funds will be received. If you do not transfer the funds in this manner or if you change details of the accounts from which funds are to be transferred and do not advise us, 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, damages, penalties, costs, interest or charges if there is any delay until we are satisfied with the source of the money or funds. We shall not be liable for any loss, damages, penalties, costs, interest or charges which you may so suffer or incur.

We reserve the right not to accept any payment sought to be made to us in cash.

Under the Anti Money Laundering Regulations we are required to ask you for certain information and formally establish your identity and permanent address. In most cases, we will carry out Anti Money Laundering verification checks using an online agency. The checks will be carried out by Amicus, Veriphy or an equivalent agency. An administration fee of £15 + VAT will be added to your invoice for each individual check required i.e. if a case file has instructions from more than one individual client, each individual will require a separate check and will be charged cumulatively. The administration fee includes the outlay to the agency for carrying out the check.

In some cases this will be in the form of requesting to see and photocopy documents such as your passport and a recent utility bill. A list of acceptable forms of identification evidence will be provided to you. This list will be non-exhaustive. We require to have these checks prior to providing any advice to you and if you delay in providing us with the information this may cause a delay in the completion of your business. All documents exhibited should be originals and not photocopies and will require to be exhibited to us in person by each individual since we reserve to ourselves the right to fully determine whether the documents exhibited fully comply with Anti-Money Laundering Regulations. Unless returned to you in person at our meeting or otherwise instructed by you, these original documents will be returned to you by recorded delivery post and we shall be entitled to charge you for these costs.

Where clients are giving instructions from outside the firm's region, we will ask you to have your identification certified under r39 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 using the letter attached to these Conditions.

In some circumstances we may accept certified copies of such documents from a source acceptable to us if it is impractical for you to bring such documents to our offices. Such source must consent to being relied on in writing and comprise one of the following persons:-

(1) The persons are—

(a) a credit or financial institution which is an authorised person;

(b) a relevant person who is—

(i) an auditor, insolvency practitioner, external accountant, tax adviser or independent legal professional; and

(ii) supervised for the purposes of these Regulations by one of the bodies listed in the list of professional bodies attached to these conditions of business;

(c) a person who carries on business in another EEA state who is—

(i) a credit or financial institution, auditor, insolvency practitioner, external accountant, tax adviser or independent legal professional;

(ii) subject to mandatory professional registration recognised by law; and  
(iii) supervised for compliance with the requirements laid down in the money laundering directive in accordance with section 2 of Chapter V of that directive; or  
(d) a person who carries on business in a non-EEA state who is—  
(i) a credit or financial institution (or equivalent institution), auditor, insolvency practitioner, external accountant, tax adviser or independent legal professional;  
(ii) subject to mandatory professional registration recognised by law;  
(iii) subject to requirements equivalent to those laid down in the money laundering directive; and  
(iv) supervised for compliance with those requirements in a manner equivalent to section 2 of Chapter V of the money laundering directive.

(2) In paragraph (1)(c)(i) and (d)(i), “auditor” and “insolvency practitioner” includes a person situated in another EEA state or a non-EEA state who provides services equivalent to the services provided by an auditor or insolvency practitioner.

“EEA” means European Economic Area.

(3) Nothing in this regulation prevents a relevant person applying customer due diligence measures by means of an outsourcing service provider or agent provided that the relevant person remains liable for any failure to apply such measures.

(4) In this regulation, “financial institution” excludes money service businesses.

The certifier of such documents must provide us with a letter on such certifier’s headed note paper in the form attached to these Conditions of Business upon which we may rely. We reserve to ourselves the right to determine whether any such certification is acceptable to us and complies with the Anti-Money Laundering Regulations.

## **7 OUR OFFICE HOURS**

Our normal office hours are 9am to 5pm each weekday (9am to 4:30pm on Fridays) (excluding Bank and Public holidays and usually some other days over the Christmas/New Year period). Outwith those hours messages can be left on our telephone answer machine or sent to us by email. We will endeavour to respond to any message received by us within 48 hours, or if we are unable to do so, at the earliest possible opportunity thereafter.

## **8**

### **8.1 PAPERS AND CORRESPONDENCE FILES - STORAGE COSTS AND THE LEGAL RIGHT OF LIEN**

At the conclusion of the particular work we will normally send you any original signed contracts or documents or other papers (for example share certificates) to you for safe keeping except when they are normally held by a third party, e.g. a bank or building society. These documents are likely to be sent to you by recorded delivery post and we shall be entitled to charge you for these costs. If you instruct us to store original signed contracts or documents or other papers please note that:

8.1 these shall be stored in secure premises but not necessarily in fire proof conditions, and;

8.2 we shall be entitled to charge you for such storage and we shall notify you of any charges to be made (whether before such storage takes place or at any time in the future).

We are required by the Law Society of Scotland to retain correspondence files for as directed by their Rules. We can by agreement destroy the file earlier or retain such files for longer periods as you require. In that event we shall be entitled to charge you for such storage and we shall notify you of any charges to be made in that respect (whether before such storage takes place or at any time in the future).

Please also note that we have the right to retain your papers and documents until our fees including any due interest are paid.

## 8.2 **PRIVACY POLICY**

We are committed to protecting the privacy and security of your personal information. The Privacy Policy attached to these Conditions of Business aims to give you information on the types of personal data that we may collect about you when you interact with us, how we will collect and process your personal data through your use of our website and during and after use of any of the services provided by us. It also explains how we will store and handle and keep that data safe.

This Notice applies to anyone who uses our website or services.

It is important that you read the Privacy Notice together with the other Privacy Notice or fair processing notice we may provide on specific occasions when we are collecting personal data about you so that you are fully aware of how and why we are using your data.

It is likely that we will need to update this Privacy Notice from time to time. You are welcome to come back and check with us at any time or contact us. We may communicate any updates to you from time to time or where the Privacy Policy is posted on our firm's website, it is available to be viewed there at any time and we would not provide you with specific written updates.

## 9 **INCIDENTAL FINANCIAL BUSINESS**

In the event that we carry out incidental financial business on your behalf (including arranging the sale of shares, unit trusts and similar investments, obtaining Bonds of Caution and Title Indemnity Insurance), then you should note the following information as being specifically relevant to us carrying out this work:

The practice unit of Middleton Ross & Arnot Limited has its principal place of business at Mansefield House, 7 High Street, Dingwall IV15 9HJ and is an ancillary insurance intermediary as defined under the Law Society of Scotland Practice Rule C2: Incidental Financial Business.

The practice unit of Middleton Ross & Arnot Limited is not authorised by the Financial Conduct Authority. However, the practice unit is included on the Register maintained by the Financial Conduct Authority so that this practice unit can carry on insurance mediation activities, 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 and licensed by the Law Society of Scotland. The Register can be accessed via the Financial Conduct Authority website at [www.fca.gov.uk/firms/financial-services-register](http://www.fca.gov.uk/firms/financial-services-register)

The information provided in parts 1 and 2 above may be checked on the FSA's Register by visiting the FSA's website or by contacting the FSA on 0846 606 9966.

The practice unit of Middleton Ross & Arnot Limited does not have any holding, direct or indirect, representing more than 10% of the voting rights of, or the capital in, an insurance undertaking.

No Financial Services or Insurance company or parent of a Financial Services or Insurance company has a holding, direct or indirect, representing more than 10% of the voting rights or of the capital in this firm.

The contract of insurance on which this practice unit has provided advice or arranged has been selected from a single insurance undertaking. We are not contractually obliged to conduct insurance mediation in this way.

The practice unit of Middleton Ross has Professional Indemnity Insurance under the Law Society of Scotland of Scotland's Master Policy. The current level of indemnity on the Master Policy is £2m per claim. The practice unit of Middleton Ross is also covered by the Scottish Solicitors Guarantee Fund which is a fund established by Section 43 of the Solicitors (Scotland) Act 1980 for the purpose of making grants in order to compensate persons who, in the opinion of the Council of the Law Society of Scotland suffer pecuniary loss by reason of dishonesty on the part of a Scottish solicitor in connection with the practice of the solicitor.

Any complaint which you may have about any service provided by the practice unit should be directed to John Maxwell, Director within Middleton Ross. Furthermore, you have a right to complain to the Scottish Legal Complaints Commission, 12-13 St Andrew Square, Edinburgh EH2 2AF. Tel: 0131 201 2130.

#### Information required in terms of the Provisions of Service Regulations 2009

1. In terms of the above regulations we are required to provide you with the following information:-
2. Our Firm operates as a Limited Company (SC455313).
3. Our VAT registration number is 265 8520 40
4. We have Professional Indemnity Insurance under the Law Society of Scotland's compulsory Master Policy for Professional Indemnity Insurance. The cover is provided by a panel of Solicitors, the lead insurer being Royal & Sun Alliance. The lead insurer's address is 200 St Vincent Street, Glasgow, G2 5SG. This coverage is worldwide (i.e. operates regardless of where the client is situated)
5. The professional rules applicable to solicitors in Scotland are available on the Law Society of Scotland's website: – [www.lawscot.org.uk](http://www.lawscot.org.uk)

## 10 OUR COPYRIGHT POLICY

Unless we expressly agree otherwise, the copyright in the original materials which we generate for you (including all work products whether or not in writing and all intellectual property rights and documentation including working papers) belongs to us, and we assert our moral rights. We may adapt, develop or use such work products for other clients and in other engagements. We may destroy or retain them without reference to you. However the fee you pay for our work permits you to make use of that material for the purpose of which it is created.

## 11 OUR FEES

Unless otherwise agreed with you prior to beginning any specific items of work from you from time to time we shall, on request, provide you with an estimate or fixed fee quote, normally provided by e-mail in advance through our digital partner Quotient, or in our "Letter of Engagement" which may be a letter or an email from us. Please note that this may be difficult to do at times if the scope of the work is not clear or the request for the work is urgent. In the absence of any Letter of Engagement or other correspondence from us in writing or by email which details an agreed fee arrangement, our fees in connection with any work instructed by you from time to time will be charged on the hourly rates of the relevant fee earner on a detailed item for item basis as set down in the Table of Fees which forms part of these Conditions of Business.

Unless otherwise expressly agreed with you in a Letter of Engagement:

- 1 We shall not provide our services on a contingency fee basis, and;
- 2 If any matter that we are working on does not proceed to completion then we shall be entitled to invoice you immediately for all work carried out up to that date at our standard charge out rates (provided this does not exceed any fixed fee where we have agreed one with you).

Where we agree a fixed fee (as detailed in our Letter of Engagement) it will be based on two assumptions:

- 1 The structure or complexity of your business will not be changed to any material extent by any revision or re-negotiation, and;
- 2 No material work will be required beyond what was anticipated at the time the fixed fee was issued.

We reserve the right to revisit any fixed fee "quote" in the event that any of these assumptions turns out not to be the case. If this happens we will provide another fixed fee quote. You will be deemed to have accepted the new fee unless you let us know to the contrary within five working days of having received notice of this amendment. If you inform us within five working days that the additional fees are unacceptable to you, we shall then be entitled to invoice you immediately for all work carried out up to that date at our standard charge out rates notwithstanding that your business has not been completed.

Where we give an estimate it will be an estimate only and not a fixed fee. The fee we will charge you will be the time taken by the fee earner acting on your behalf multiplied by their hourly charge out rate. However if we become aware that the work required to complete the business exceeds our estimate, we will let you know as soon as possible and provide you with a further estimate to cover the additional work considered necessary to conclude your business.

We shall be entitled to have our fee assessed by an independent Auditor at any time or alternatively on request by you. Such assessment shall be carried out by an Auditor of Court or a private Auditor of our choice and where such assessment is requested by you, and failing agreement as to the choice of Auditor, any such assessment shall be carried out by Len Maclachlan, Conon Bridge or other suitable Auditor. The cost of any such assessment shall be borne by you unless otherwise directed by the Auditor or otherwise agreed between us.

Sometimes we may need to employ personnel outwith the firm to do work on your behalf, eg. surveyors, accountants, other solicitors, searchers, property website developers, or anyone who has the necessary skills required to progress matters. If this is required you will be liable to settle their fees and expenses and you hereby authorise us to settle their fees and expenses from any funds we hold on your behalf.

We may receive commissions from third parties for work instructed on your behalf. We are entitled to retain this commission without reference to you.

If our initial engagement with you is on the basis of an introduction by a third party, a referral fee may be paid to the third party and treated as an outlay to be met by you. In that circumstance, our fee to be paid to you will be our standard fee for that transaction, less the referral fee that will be noted as an outlay to the third party. If a quote or estimate has been provided to you without reference to the referral outlay and a referral fee is due, we will adjust the final invoice and cash account to reflect the reduction of the value of our fee and the addition of the referral fee to the third party.

## **12 VALUE ADDED TAX (VAT), POST AND INCIDENTS, AND OUTLAYS**

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

You are liable to reimburse us immediately all outlays incurred by us for you and will include without prejudice to the foregoing generality, Counsel's fees, search fees, registration or recording fees, Land and Buildings Transaction Tax (LBTT) including LBTT Additional Dwelling Supplement, bank charges, currency exchange costs, couriers and other third party accounts, travelling, subsistence and accommodation and volume lending, photocopying charges and property advertisements.

A post and incidents charge will be added to any fee estimate or fee quotation at the rate of 5% of the fee estimated, quoted, or ultimately charged.

We reserve the right to request an advance payment from you to cover expected fees and outlays. Outlays and expenses may be invoiced to you as they arise and may be invoiced after a fee has been rendered. If payment is not made we may withdraw from acting for you.

Where after consultation with you other professional advisors such as Counsel, Experts or Overseas Lawyers or Surveyors 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.

## **13 PAYMENT OF FEES**

Fees are payable on issue of the fee note. A fee note is issued on completion of the transaction but we reserve the right to charge interim fees which may be on a monthly or other basis agreed with you. In matters which are likely to continue for longer than three months, we will expect to render interim accounts.

Notwithstanding the foregoing, in normal property transactions funds for all fees and outlays will require to be paid to us on or before the Date of Entry (or completion) of the particular transaction whether or not a fee note has been issued. We will provide you with notification of the amount required to settle fees and outlays at least 7 days prior to the Date of Entry (or completion) wherever possible. We reserve the right to delay settlement of the particular transaction if payment of fees and outlays is not met timeously, except as otherwise agreed with you. In those circumstances we shall not be liable to you for any losses, penalties or liquidate damages suffered by you as a result of any such delay.

We may deduct from any monies held for you any fees and outlays due to us.

In the event of non-payment within 30 days after issue of the fee note to you, we shall be entitled to charge you interest on the outstanding amount at a fixed rate of 5% per annum. In the event that court proceedings are raised against you, judicial interest shall be levied on the outstanding amount. We shall be under no obligation to carry out any further work for you until outstanding invoices have been paid in full.

Any payment you make to us on account of costs or any sum received by us on your behalf which is not received for a specific purpose, may be set off against any invoice (interim or final) issued to you by us.

Where payment is made by you by debit card, Visa Debit or Credit, or Mastercard, you shall pay in addition such bank charges as may be incurred by us in processing such payment at the bank rate prevailing thereon from time to time. Notwithstanding any generality contained in this clause, when you accept any Letter of Engagement issued by our firm to you incorporating these Conditions of Business, you are giving us express written authority to draw from our clients account:-

- 1 Any money required for payment to or on behalf of a client;
- 2 Any money required for or to account of payment of a debt due to our firm by a client or in to account of repayment of money extended by our firm on behalf of a client;
- 3 Any money drawn on a client's authority (including complying with lending instructions where the lender is a client);
- 4 Any money properly required for or to account of payment of our firm's professional account against the client, which has been debited to the ledger account of the client in the firm's books and where a copy of said account has been rendered;
- 5 Money for transfer to a separate client account kept or to be kept for the client only; and
- 6 Any fee taken as permitted by or under the Law Society for Scotland Rules.

## **14 INTEREST ON CASH DEPOSITS HELD BY US**

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

- 1 Held by us in accordance with the provisions of the Solicitors (Scotland) Account Rules (in which event any interest accumulated thereon shall be accounted for to you in terms of these rules) or;
- 2 If you so direct, remitted to you on receipt thereof or otherwise applied as you may direct;

Funds held by us in accordance with the said Rules and deposited by us will be deposited in accounts held by The Royal Bank of Scotland plc or Bank of Scotland plc. You accept that we may from time to time use other Banks or Building Societies for such deposits without further referral to you. If you wish any of your funds, held by us in terms of the foregoing, to be deposited in a different Bank, Banks or Building Society, or if you do not wish to have funds deposited in any of the foregoing mentioned specifically in this section, then you will require to give us clear and specific instructions in writing to that effect at the earliest possible opportunity. Depending on prevailing interest rates, Banks or Building Societies may offer us a better rate of interest than you might obtain (with instant access) because of the total sums we invest with that institution. They may also offer to pay a commission to us in the form of a slice of the interest; we may accept such a commission depending on current rates. If you wish to know what will happen in your case, please ask.

The rate of interest to be paid on cash deposits depends on the balance of funds held on deposit and on prevailing Bank rates. All rates are Gross and will be paid quarterly after deduction of income tax where appropriate. We will provide you with specific details of any prevailing Bank rate from time to time on these deposits only on request by you.

Interest is paid to the client only on sums placed on deposit specifically in the name of the client and not in money held in our general client account. Normally, the only sums placed on an interest-bearing deposit for the client's benefit are where the amount of interest which could be earned from those funds exceeds the level prescribed by the Law Society of Scotland, which is currently set at £150.

## **15 TRANSFER OF FUNDS**

You require to read the sections dealing with Transfer of Funds and Post Settlement Matters contained in the Guides referred to in section 30 of these Conditions of Business carefully as they will apply in all transactions. Funds will be transferred or received only in terms of those sections. All funds requested from you will be lodged only in our firms clients account (except as provided for in section 13 of these Conditions of Business). Details of our clients account will be provided to you in sufficient time prior to receipt of any funds and will only be provided to you either in person or by hard copy post. Details will not under any circumstances be provided by email as a security precaution. You should not act on any perceived instructions coming from this firm to send funds to an account different to that which we have supplied you in person or in hard copy. We will have no responsibility for any direct, indirect or consequential loss arising from your failure to abide by these directions.

In addition we will not for similar security reasons accept your instructions to transfer funds to any nominated account except by you in person or in hard copy post. We will not under any circumstances accept email instructions to transfer funds. Further details are given in the Guides. Payment will only be made to your nominated account in your own name and not to any third party or third party's account.

If you require us to transfer funds held on your behalf or to your order as part of a transaction or at the conclusion of a transaction, we shall require clear unambiguous written instructions in our hands no later than twenty four hours prior to the proposed day and time of transfer. Unless such instructions clearly and unambiguously 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 rates, fluctuation etc. We shall have no liability to you or any other party in respect of indirect or consequential loss arising from any delay or error in respect of the transfer of funds. All costs in effecting such transfer including all bank charges shall be met by you.

## **16 UNFORESEEN CIRCUMSTANCES**

If we are unable to perform our obligations to you as a result of circumstances which are beyond our control (which includes without limitation delays as a result of acts of God, acts of terrorism, civil disturbances, and governmental regulations and directions) we shall give you notice of such circumstances or delays. Such delays shall not constitute a breach of our agreement with you but if such delay continues for a period in excess of thirty days you shall be entitled to terminate your relationship with us.

## **17 LIMITATION OF LIABILITY**

Unless another limit is expressly agreed in writing by us our maximum aggregate liability for any claim or series of related claims directly arising out of or in connection with services and advice supplied by us to you (whether as a result of breach of contract, negligence, or otherwise) shall not exceed:

- 1 The sum of One Million Five Hundred Thousand Pounds (£1,500 000), or;
- 2 Ten times the amount of the fees that you pay us in connection with the relevant claim(s), whichever is the lower amount.

Subject to the overall limitation of liability as set out above, our liability to you shall also be limited to that proportion of the loss or damage (including interest and costs) suffered by you which is calculated after taking account of the contribution (if any) to the relevant loss or damage of you or any other person responsible and/or liable to you for such loss or damage. In circumstances where you make a claim against us and you wish to claim contribution from a third party but that third party's liability to you has been excluded or limited thereby reducing the contribution you can recovery from them, you will make an equal reduction in your claim against us. For this purpose "reduction" and "contribution" includes 100% reduction or contribution.

Although we may be liable for direct claims we shall not be liable for any indirect or consequential claims, losses or damages in connection with services and advice supplied by us including without limitation for loss of business, profits, revenue, interest on anticipated savings. Nothing in these Conditions of Business shall exclude or limit our liability for death or personal injury which cannot be excluded or limited by law.

In the unlikely event of any claims against we have Professional Indemnity Insurance cover in place of any claims up to £1,500 000.

Any claim from you against the firm in connection with work carried out by us for you must be made in writing within three years of the date on which you became aware, or reasonably to have become aware, of circumstances giving rise to a potential claim against us.

We shall incur no liability to you for any loss or damage suffered by you arising from fraud, misrepresentation, or withholding of information or inaccuracy of or omission from information relevant on your part or that of other solicitors information relied on by us.

## **18 CONFLICT OF INTEREST**

Our clients may include persons who operate in your area or a related area. We maintain the right to act for these clients subject to our professional duties in relation to conflicts of interest and our obligations of confidentiality referred to in these Conditions of Business.

We undertake to carry out any matter in accordance with all appropriate professional standards. We will notify you immediately if we become aware of any conflict of interest and will discuss the position with you and take steps to resolve that conflict of interests promptly. We may be required to withdraw from acting for you where a conflict of interest arises.

## **19 DISSATISFACTION AND DIRECTOR RESPONSIBILITY**

A Director shall have an overall responsibility for your relationship with us. This Director will maintain an overview of your affairs and has ultimate responsibility for ensuring that your requirements are met. Any Letter of Engagement issued to you will specify the Director, Solicitor, Trainee or Paralegal dealing with the effective day to day progress of the work carried out on your behalf. If a Director is given as the person dealing with the day to day progress, that Director may at his discretion delegate all or any part of the work to any other Solicitor, Trainee, or Paralegal within the firm. We will ensure that you are provided with appropriately qualified personnel to deal with your work.

If you feel you have cause for dissatisfaction about any aspect of our service, you should first take this up with the party responsible for the day to day progress of your transaction as detailed in our Letter of Engagement. We would ask that you put your comments in writing and state what action you would like us to take. If you still feel you have not received a satisfactory answer then you should contact John Maxwell, our Client Relationship Manager. It is always our intention to deal with any complaints promptly and fairly but if you are not satisfied with the outcome you can receive help from a third party. From 1<sup>st</sup> October 2008 all complaints against solicitors are dealt with in the first instance by the Scottish Legal Complaints Commission in Edinburgh (SLCC). All complaints of whatever nature are addressed to SLCC but it should be noted that complaints about the conduct of solicitors rather than the service provided, or arising from work carried out prior to 1<sup>st</sup> October 2008, will be dealt with by the Complaints Department of the Law Society of Scotland in Edinburgh and such matters will be referred to them by the SLCC. Their contact details are Scottish Legal Complaints Commission, 12-13 St Andrew Square, Edinburgh EH2 2AF. Tel: 0131 201 2130.

## **20 TERMINATION**

Either of us may terminate our professional relationship in its entirety at any time by written notice given to the other. In the event of termination you will remain responsible for our fees and outlays until termination in accordance with these Conditions of Business and any Letter of Engagement, together with any further fees and outlays and expenses reasonably incurred by us in connection with the transfer of our files to another solicitor instructed by you, upon payment of which we will deliver up all deeds and documents as you may require.

## **21 INVALIDITY**

If any the terms or other provisions of these Conditions of Business and/or any Letter of Engagement are found by an Arbiter, Court or other competent Authority to be void or unenforceable, such provision shall be deemed to be deleted from these Conditions of Business and/or any Letter of Engagement (as applicable) but the remaining provisions of these Conditions of Business and/or Letter of Engagement (as applicable) shall continue in full force and effect is so far as they are not affected by any such deletion.

## **22 COURT ACTIONS**

In Court actions the general rule is that expenses follow success, i.e. if you are 100% successful the losing party pays for your expenses. You should be aware, however, that only a portion of the real costs of the successful party will be payable by the unsuccessful party. You will be liable for our fees whether or not you are successful in the proceedings. You should also be aware that the recovery of such costs may depend on the financial position of the unsuccessful party and there is no guarantee that these costs will ultimately be recoverable as a result thereof.

## **23 PROCEEDINGS BEFORE THE COURT OF SESSION**

If you instruct us to raise a court action and that action is brought before the Court of Session in Edinburgh you must be represented by an Advocate or Solicitor Advocate. These individuals are specialists in presenting oral and written arguments before that Court. Advocates are members of the Faculty of Advocates and are entirely independent from our firm and from you as their clients. The decision of whether to instruct an Advocate or a Solicitor Advocate is entirely yours. If it is necessary to instruct an Advocate or a Solicitor Advocate we will engage someone to carry out that work on your behalf. In these situations it is our practice to instruct individuals we have instructed in the past or whom we know are capable and experienced in the area in question. Where that is not possible we generally instruct individuals who are recommended to us personally. You will be responsible for all fees incurred by any Advocate or Solicitor Advocate so appointed.

## **24 LAND AND BUILDINGS TRANSACTION TAX**

Land and Buildings Transaction Tax (LBTT) is payable by the Tenant on most new leases and by the Purchaser on most purchases. Unlike stamp duty and subsequently Stamp Duty Land Tax which it replaced, LBTT is payable on the transaction not on deeds. We will inform you whether LBTT is payable in each appropriate transaction. The LBTT is required to be paid to Revenue Scotland within thirty days of the effective date, and all necessary forms and payment must be submitted within that timescale. The effective date in most cases is the date of entry to the property but in some cases may well occur before the lease is prepared for signature and more rarely in purchases before the Disposition is prepared for signature. Failure to lodge any forms and payment timeously will result in penalties for which you will be responsible, unless the failure to lodge the forms and payment timeously is due to the fault of us. If the date of entry in any transaction is not self evident, it is extremely important that you let us know the date of entry as soon as you become aware of it to avoid any LBTT penalties and interest being payable. We will complete LBTT forms on your behalf and you will be asked to sign a mandate authorising us to submit the LBTT forms by electronic means to Revenue Scotland on your behalf.

## **25 ADDITIONAL DWELLING SUPPLEMENT**

Additional dwelling supplement (ADS) is payable by the purchaser in some transactions. We will inform you whether ADS is payable in each appropriate transaction. The rate of ADS is currently 8% of the purchase price paid in the transaction but this may vary from time to time as set per the Scottish

Government. Generally ADS is payable where at the time you buy a new property, you already own another property. There are exceptions to the general rule and we will ask you for all relevant information to determine whether ADS is payable or not in each appropriate transaction. The rules on payment, effective date, submission and failure are the same as for LBTT.

## **26 CAPITAL GAINS TAX**

You should be aware of up to date changes in the Capital Gains Tax Regime on property transactions and in particular that a tax return in respect of transactions where Capital Gains Tax in respect of disposal of UK land must now be lodged with the Her Majesty's Revenue and Customs within 60 days of settlement. This applies to most non-resident tax payers for disposals from 6 April 2019 and they will apply to UK residents disposing of (chargeable) residential property as well as to all other non-residents (generally those carrying out a trade professional vocation within the UK) from 6 April 2020. Payment of any tax due (on at least a provisional basis) will also be required to be paid within the same deadline. You should take detailed advice from an accountant or other tax advisor regarding any tax matters.

## **27 ACCEPTANCE OF THESE CONDITIONS OF BUSINESS**

These Conditions of Business (subject to the terms of any Letter of Engagement by us) shall govern our solicitor/client relationship with you unless we agree otherwise with you in writing or by email. We shall endeavour to provide you with a Letter of Engagement prior to beginning specific items of work and your continuing instructions therefrom will confirm your acceptance of these Conditions of Business. Unless otherwise agreed the Conditions of Business shall apply to any future instructions you may give to us. That assumption will apply in the absence of any Letter of Engagement or an acceptance from you in writing or by email of any Letter of Engagement and/or these Conditions of Business. It is usual in Scotland for us, as your agents, to enter into legally binding contacts on your behalf. If you change your instructions at any time you must notify us immediately in writing.

## **28 JURISDICTION**

Any Letter of Engagement and our solicitor/client relationship with you shall be governed by and construed in accordance with Scottish Law and the Courts of Scotland shall have non-exclusive jurisdiction to settle any questions or disputes which may arise out of or in connection with the same. However we shall, in our sole discretion, be entitled to raise proceedings in any jurisdiction we deem appropriate.

## **29 CANCELLATION**

### **1 Right to Cancel**

This Notice has been provided to you because you have entered into a contract to which the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 ("the Regulations") apply. Under the Regulations, you have the right to cancel this contract if you wish to do so within fourteen working days without giving any reason.

The Notice explains how to exercise this right. It also gives you other information that is required by the Regulations.

The cancellation period will expire after 14 days from the day of the conclusion of the contract – that is within 14 days of the date that you receive this notice.

In order to exercise your right to cancel the contract, you need to deliver or send to us a cancellation notice (that is, a written and clear statement that you wish to cancel the contract e.g. a letter sent by post, fax or email). The cancellation statement or notice should be delivered or sent to Middleton Ross, Mansefield House, 7 High Street, Dingwall, Ross-shire, IV15 9HJ or at mail@middletonross.co.uk. You can use the cancellation form (attached) if you wish but you do not have to do so.

To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

## 2 Commencing work during the 14 day cancellation period

We cannot provide any services before the end of the cancellation period unless you have made an express request to that effect. If you require us to undertake some urgent work for you before the cancellation period expires, you are welcome to require that we do so. This request should be made in writing and sent to Middleton Ross, Mansefield House, 7 High Street, Dingwall, Ross-shire, IV15 9HJ or at mail@middletonross.co.uk

However, please note that if you do ask us to begin the performance of services during the cancellation period and then subsequently seek to cancel the contract, you will be liable to pay us an amount which is in proportion to what has been performed until the time that you have communicated us your cancellation from this contract, in comparison with the full coverage of the contract.

## 3 Effects of cancellation

If you cancel this contract within the relevant period, this will end both your and our obligations under the contract.

If you cancel this contract, we will reimburse to you all payments received from you.

We will make the reimbursement without undue delay, and not later than 14 days after the day on which we are informed about your decision to cancel this contract.

We will make the reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of the reimbursement

### 30 TABLE OF FEES

1 Detailed charges for private client work where no quote has been given charged on an hourly rate of 10 units per hour.

1.1	Hourly Rate	Per unit	Per hour
	Directors	£32.50	£325.00
	Senior Associate	£28.00	£280.00
	Associates	£25.50	£255.00
	Solicitors	£22.50	£225.00
	Paralegals/Trainee Solicitors/Legal Executives	£20.00	£200.00

1.2	Unit Rate		
	Letters	Per page up to 125 words	1.25
	Simple acknowledgement letters and the like		0.5
	Telephone calls	First 6 minutes or part thereof	1
		Thereafter per 6 minutes	1
	Preparation of deeds and other papers	Per sheet of 250 words or part thereof	5
	Time spent where not otherwise covered by detailed charges, including time occupied in travelling or waiting, meetings, perusing or revising letters and documents	Per 15 minutes or part thereof	2.5
	Registration of writs		£60.00
	Lending or delivering titles and other papers		£50.00
	Plus	Per sheet of inventory (if required)	£15.00
	1. Acting as Notary Public	Per Affidavit, Declaration or Certified Copies	£80.00
	Posts and incidents	5% of total cumulo detailed charges	
	2. Acting as Notary Public + Apostille stamp		£105.00
		Apostille charge per document	£45
		Courier fee	£5

Our fee rates are reviewed with effect from 1 April in each year. We reserve the right to increase the rate being charged as at 1 April in any year by a maximum of 5% without any specific intimation to that effect. Any proposed increase in excess of 5% would be intimated to you. VAT will be charged in addition on all fees at the appropriate rate in existence at the time of invoice and, if appropriate, on certain outlays and ancillary costs.

2 Value of the transaction

A percentage of the value of the property or the money involved in the transaction or the rent payable under a lease over a 10 year period may be added to compensate for the risk element in carrying out the work. ½% up to a value of £250,000 with ¼% thereafter may be added.

3 Commissions

In connection with the administration of executry estates or trusts, commission may also be charged on the following basis:

Collection of interest on dividends	Maximum 4% of amounts received
Realising cash and other assets in an executry estate	Maximum 1%
Collecting and distributing interest, dividends, rents etc. in executry estates or trusts.	Maximum 10% of amount received
Collection of rent for property where a factoring service is also given	Not to exceed 15% of amount received
Negotiating and settling claim for damages	Minimum fee £250.00
Up to £2,500	25%
On the excess over £2,500 up to £5,000	15%
On the excess over £5,000 up to £10,000	7.5%
On the excess over £10,000 up to £20,000	5%
On the excess over £20,000	2.5%

Note: Where expenses and outlays are recovered as part of the settlement terms they will be used to offset our fees in full or part and in the event of a shortfall only the difference will be paid by the client.

4 Other factors which may be taken into consideration

The importance of the matter to the client;  
The amount or value of any money or property involved;  
The complexity of the matter;  
Specialised knowledge and responsibility required in the particular case;  
The time spent on the matter;  
The length, number and importance of any documents or other papers prepared or examined;  
The degree of urgency required or the place where, and the circumstances in which, the work had to be done

5 A post and incidents charge of 5% of the fee will be levied in all fees charged. This charge will also be subject to VAT at the prevailing rate.

### 31 ID CHECKLIST FOR CLIENTS

The list below shows the items that can be used as identification when requested. Please supply one item from each list.

1 Client identification

Passport	<input type="checkbox"/>
Full driving licence (both parts)	<input type="checkbox"/>
Pension book	<input type="checkbox"/>
Pensioners Travel Pass	<input type="checkbox"/>
Building Society passbook	<input type="checkbox"/>
DSS Benefit book	<input type="checkbox"/>
Armed Forces Identity Card	<input type="checkbox"/>
Signed Employer's Identity Card	<input type="checkbox"/>

2 Address verification

Electricity bill	<input type="checkbox"/>
Gas bill	<input type="checkbox"/>
Telephone bill ( <b>not</b> mobile phone)	<input type="checkbox"/>
Cable/satellite television bill	<input type="checkbox"/>
Council Tax bill	<input type="checkbox"/>
Credit or store card statement	<input type="checkbox"/>
Bank or Building Society statement	<input type="checkbox"/>

Note: Must be a recent bill or statement – within the last two months.

3 Evidence of funding

Details of account where funds held:      Bank:  
Sort Code:  
Account Number:  
Account Name:

Bank statement/passbook showing funds in account (original required)

### 32. GUIDES TO PURCHASING AND SELLING PROPERTY

We will provide you with a Purchaser's Guide to Purchasing Property/Seller's Guide to Selling Property as appropriate for any particular transaction as part of these Conditions of Business (The Guides). The Guides act as a supplemental guide to the conveyancing process involved in any appropriate transaction and requires to be read in conjunction and along with these Conditions of Business.

### **33. ARTIFICIAL INTELLIGENCE**

In the course of providing legal services, we may use artificial intelligence and generative AI tools for limited internal purposes, including administrative support, document handling, summarisation and drafting assistance.

We will not enter your name, contact details, personal data, confidential information, documents, or matter-specific facts into public or consumer-grade generative AI systems. If such a system is used for internal support, any information entered will be anonymised and will not identify you or your matter.

Where it is appropriate to use generative AI in connection with client information, we will do so only through a private or enterprise system that is subject to safeguards which we consider appropriate for legal practice, including confidentiality and data protection protections.

We remain responsible for the legal services we provide to you. AI-generated content is reviewed by us and is not relied on without human oversight and professional judgement.

## Middleton Ross and Arnot Ltd Privacy Notice

Middleton Ross and Arnot Ltd, including Highland Homes, is a law/estate agency firm regulated by the Law Society of Scotland. We act as a data controller, meaning we are responsible for deciding how and why your personal data is processed.

We collect and use personal information in the course of providing our legal and estate agency services, whether through our website, when you request a quotation, or when you formally instruct us. We may also require additional information during the course of your matter, which will be handled in accordance with this Privacy Notice.

### What Information We Collect

We collect personal data that can directly or indirectly identify you. This may be obtained from you or, where appropriate, from third parties or publicly available sources.

Information may be collected via our website, email, telephone, meetings, or other communications. We may use trusted digital recording devices to record meetings to ensure accurate note-taking, and we will always seek your permission before any recording begins.

Examples of the types of information we may collect include:

- Name, address, telephone number and email address
- Date of birth
- Photographic identification
- National Insurance number
- Family and relationship details
- Financial and employment information
- Health information (physical and mental)
- Ethnic origin
- Religious or philosophical beliefs
- Genetic or biometric data
- Sexual orientation

We will only collect and process sensitive personal data where necessary and in accordance with applicable data protection laws.

### How We Use Your Information

We process your personal data on the following legal bases:

- **Performance of a contract** - to provide legal and estate agency services
- **Legal obligation** - including compliance with the Law Society of Scotland, Anti-Money Laundering Regulations, and other regulatory requirements
- **Legitimate interests** - including managing our business, maintaining client relationships, and promoting our services (where appropriate)
- **Public interest** - where required in the course of legal work

We use your information to:

- Provide legal advice and services
- Communicate with you by email, telephone or post
- Represent you in legal or property matters
- Carry out roles such as attorney or guardian
- Maintain accounting and client records
- Carry out conflict of interest checks
- Investigate and respond to queries or complaints
- Send updates, legal information and invitations to events (you may opt out at any time)

If you do not provide the information we require, we may be unable to act on your behalf. You have the right to object to processing based on legitimate interests, particularly in relation to marketing communications. To do so, please contact us on 01349 862214.

### **Sharing Your Information**

Your information is treated as confidential and is generally protected by legal professional privilege.

However, we may share your data where necessary with:

- Other solicitors involved in your transaction
- Courts and tribunals (including the Scottish Courts and Tribunals Service)
- Financial institutions and advisers
- Surveyors and estate agents
- Registers of Scotland
- HM Revenue & Customs and the Department for Work and Pensions
- The Office of the Public Guardian
- NHS and other relevant bodies
- The Law Society of Scotland
- Accountants and professional advisers
- Trusted service providers (such as IT support, Amicus and Signable)
- Any third party authorised by you
- Any party where disclosure is required by law

### **How We Store Your Information**

We store personal data securely and in accordance with guidance from the Law Society of Scotland, HMRC, and the UK Information Commissioner's Office (ICO).

We take appropriate technical and organisational measures to protect your data against unauthorised access, loss or misuse. However, no system is completely secure, and transmission of data over the internet is at your own risk.

We ensure that any third-party service providers handling data on our behalf have appropriate safeguards in place.

### **How Long We Keep Your Information**

We retain personal data in line with regulatory and professional requirements:

- **Private Client matters** - 20 years after completion
- **Conveyancing purchases** - 10 years after completion
- **Conveyancing sales** - 1 year after completion
- **Estate Agency matters** - 1 year after completion

We may review and securely delete data where appropriate after a period of 10 years from the end of our relationship with you, unless we are required to retain it for longer.

### **Your Rights**

You have the following rights under data protection law:

- To access the personal data we hold about you
- To request correction of inaccurate or incomplete data
- To request restriction of processing
- To request deletion of your data (where applicable)
- To object to processing, particularly for marketing purposes
- To withdraw consent where processing is based on consent

To exercise your rights, please write to us at:

Middleton Ross  
Mansefield House  
7 High Street  
Dingwall  
IV15 9HJ

We may require proof of identity before processing your request.

If you are not satisfied with our response, you have the right to complain to the Information Commissioner's Office:

[www.ico.org.uk](http://www.ico.org.uk)

### **Changes to This Notice**

We keep this Privacy Notice under regular review and will update it on our website:

[www.middletonross.co.uk](http://www.middletonross.co.uk)

CANCELLATION FORM

(Complete, detach and return this form ONLY IF YOU WISH TO CANCEL THE CONTRACT)

To:

I/We hereby give notice that I/ We wish to cancel my/our contract for the supply of legal services with reference  
*(firm to insert reference number, code or other details to enable the contract or offer to be identified)*

Contract concluded on *(insert date)*

Signed \_\_\_\_\_

Full Name/s: \_\_\_\_\_  
\_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

## PROFESSIONAL BODIES

### PART 1

1. Association of Chartered Certified Accountants
2. Council for Licensed Conveyancers
3. Faculty of Advocates
4. General Council of the Bar
5. General Council of the Bar of Northern Ireland
6. Institute of Chartered Accountants in England and Wales
7. Institute of Chartered Accountants in Ireland
8. Institute of Chartered Accountants of Scotland
9. Law Society
10. Law Society of Scotland
11. Law Society of Northern Ireland

### PART 2

12. Association of Accounting Technicians
13. Association of International Accountants
14. Association of Taxation Technicians
15. Chartered Institute of Management Accountants
16. Chartered Institute of Public Finance and Accountancy
17. Chartered Institute of Taxation
18. Faculty Office of the Archbishop of Canterbury
19. Insolvency Practitioners Association
20. Institute of Certified Bookkeepers
21. Institute of Financial Accountants

TO BE PRINTED ON SOLICITORS HEADED NOTE PAPER

Middleton Ross  
Mansefield House  
7 High Street  
DINGWALL  
IV15 9HJ

Dear Sirs

I confirm that I met with and have carried out the following money laundering identity checks. I have enclosed certified copies of each of the following:-

1. His/her/their passport and driving licence (both paper and card if available), each of which I have certified. I confirm that I saw the originals and that where appropriate the photograph bore a good likeness to
2. A bill addressed to him/her/them at his/her/their current address dated no more than three months prior to the date of this letter. I confirm that I saw the original.
3. I confirm that I agree to being relied upon in terms of r39 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

Yours faithfully

Solicitor