



# Terms and Conditions of Service

1. **THESE TERMS AND CONDITIONS OF SERVICE** shall, save as otherwise expressly agreed in writing, apply to the provision of notarial services and services as a commissioner for oaths by and between (on the one hand) James Richard Stirk (referred to as “me”, “my” or “I”) practising and trading as James Richard Stirk Notary Public; and (on the other hand) my clients and prospective clients (referred to as “you” or “your”) to the exclusion (so far as allowed by the law of England and Wales) of all other terms and conditions of business.
2. **HOURS AND WORK LOCATION:** My principal office is at The Clochfaen, Llangurig, near Llanidloes, Powys, SY18 6RP, where my working hours are between 9.30 and 17.30 UK local time Monday to Friday other than on Bank Holidays in England and Wales and other holidays when I do not normally work. I may agree to provide notarial services to you outside these hours and days and/or at locations away from my principal office, such as at your home or place of work (where permitted) provided that any necessary office facilities can be made available for my use, for example document printing facilities or photocopying facilities for the copying of identification documents.
3. **THE SCOPE OF MY RESPONSIBILITY TO YOU AND ITS LIMITS:**
  - 3.1 As a notary public and commissioner for oaths, my primary responsibility (in contract) is to you, my client, and our contractual relationship is governed by these terms and conditions; and I also have a non contractual responsibility to those third parties throughout the world who may foreseeably place reliance on my notarial acts.
  - 3.2 My notarial practice is limited to the preparation and creation of notarial acts and acting as a commissioner for oaths in accordance with the law of England and Wales and the provision of limited ancillary services as mentioned in Clause 10.1 below. I do not provide England and Wales legal advice save in connection with my notarial acts and oaths, neither do I provide legal advice concerning any other legal system or rules of law other than the law of England and Wales, nor do I provide transactional advice or document preparation services beyond the preparation and creation of notarial acts, oaths and provision of the limited ancillary services as mentioned in Clause 10.1 below. You agree that it is your responsibility to obtain any necessary foreign law advice, England and Wales legal advice beyond the notarial act or oath, transactional advice (legal or otherwise) and wider document preparation services from other legal and professional advisors, and any costs, losses, liabilities and other consequences arising from your failure to do so are your responsibility and not mine.
  - 3.3 I do not undertake responsibility for and I hereby exclude my liability for any costs, losses or liabilities arising as a result of any matters or things beyond my direct control including for example service interruption caused by sickness or ill health, weather conditions, delays or loss of documents by third parties, the time taken by third parties to provide or procure an apostille and/or legalisation of a notarial act, the performance of postal or courier services, or the performance or availability of e-mail or the internet.
4. **MY FEES:**
  - 4.1 I will wherever reasonably possible estimate a fixed fee for your approval prior to acceptance of your instructions. Where a fixed fee cannot be estimated, for example because the work involved is impossible sufficiently to quantify in advance, I will agree with you a basis of charging, for example an hourly rate combined with a maximum fee not to be exceeded without your agreement. I may also apply a minimum fee. My fees are not subject to value added tax.
  - 4.2 For the avoidance of doubt, in a case where an hourly rate has been quoted subject to a maximum fee not to be exceeded without your agreement, and that maximum is reached, and you do not agree to it being exceeded, you must still pay me for the work I have done although your matter may not have been completed.
  - 4.3 Occasionally unforeseen or unusual issues arise during the course of the matter which may result in a revision of my fee estimate. Examples of this could include where additional documents are required to be notarised, or additional translations or legalisations are needed to meet the requirements of the receiving jurisdiction, requiring me to do more work than had been anticipated. If this happens I will notify you of any changes in the fee estimate as soon as possible.
5. **DISBURSEMENTS:**
  - 5.1 I will endeavour to estimate the cost of any disbursements (third party costs, travel costs and photocopying charges) which are likely to be incurred in connection with your matter. Unless you object to the disbursements included in my estimate, or subsequently identified by me and notified to you as relevant to the notarial act, you hereby agree to the incurring of those disbursements, provided that if you do object to the incurring of any disbursements (for example in relation to searches in public registers) which I consider to be necessary to enable me to issue the notarial act, I shall be entitled to decline or terminate your instructions.
  - 5.2 Occasionally the cost of disbursements may change owing to (for example) cost changes imposed by third party providers. If this happens I will advise you of any such changes.
  - 5.3 Unless otherwise agreed in writing, photocopies will be charged and paid for by you at the following rates:

- black and white A4, 5 pence per side of page;
- colour A4, 10 pence per side of page;
- black and white A3, 10 pence per side of page;
- colour A3, 15 pence per side of page;

In this clause, the terms “A4” and “A3” refer to the size of the photocopy, not the document copied; and “colour” means a photocopy including any degree of non black pigment.

- 5.4 Unless otherwise agreed I may charge you a mileage rate of 20 pence per mile when using my own car for journeys in connection with your matter, including travelling to and from your home, place of work, or business premises, or any other location away from my office where we agree that notarial services are to be provided.
- 5.5 If any disbursements are paid by me on your behalf, you shall on my demand reimburse to me a sum in pounds sterling equal to the amount that I have paid plus any applicable value added tax.

**6. PAYMENT OF FEES AND DISBURSEMENTS AND SECURITY:**

- 6.1 Unless otherwise agreed, my fees are payable by you on presentation of my invoice by cash, or cleared funds to my nominated bank account, in either case in pounds sterling. Cheques are not accepted unless otherwise agreed and if I do agree to accept a cheque such acceptance shall not constitute payment of my fees unless the cheque is honoured and cleared on first presentation.
- 6.2 I reserve the right to retain possession of the notarial act (and also of your documentation) until my fees and disbursements and other sums have been paid or reimbursed to me in full in accordance with these terms and conditions including by the honour and clearance of any cheque which I may agree to accept.

**7. YOUR IDENTITY, CAPACITY, AUTHORITY, AND THE IDENTITY OF YOUR REPRESENTATIVES, AND THE IDENTITY OF WITNESSES:**

- 7.1 Notaries are subject to obligations under Notaries Practice Rules positively to identify appearing parties and to keep records of the means of identification employed. You acknowledge that the identification process will involve you or your representative in a face to face meeting with me and that normally I cannot act for you unless such a meeting takes place. You hereby undertake and warrant that you and (where applicable) your representative, advisors, employees and agents are not party to any kind of identity fraud.
- 7.2 In the case of individuals (including partners, trustees, the representatives of companies, trusts, charities, clubs and partnerships, and witnesses), you must provide me with satisfactory evidence both of identity and of residential address. Unless otherwise agreed by me, this will entail the production to me of at least one genuine original document and preferably two genuine original documents from List (A) and at least two genuine original documents from List (B), although in exceptional cases I may agree to accept other types of genuine documentary evidence. List (A): a current passport, photocard driving licence, or a national identity card, in each case duly signed by the holder where this is a requirement. List (B): a council tax, gas, electricity, water, or other utility bill, or a bank or building society statement, in each case not more than three months old, showing residential address. In addition, you must also produce to me any other form of identification (if any) that may be specified in the documents to be notarised or the instructions that accompany such documents or that I may reasonably require.
- 7.3 In a case where the name on a document is different from the name you are currently using, or there is a variation in the spelling or punctuation of the name or in diacritical marks, you must provide me with such Certificates of Birth or Marriage or such Divorce Decree(s), Change of Name Deed(s) or Statutory Declaration(s) as may be necessary to follow and explain the changes in your name over time or the different forms of name that you use.
- 7.4 In the case of companies and other legal entities, and also unincorporated bodies such as trusts, charities, clubs and partnerships, I will require satisfactory evidence of the existence and legal capacity of the entity or unincorporated trust, charity, club or partnership, and documentary evidence (for example by a board or trustees’ minute or a partners’ agreement) that your representative (whose identity as an individual must also be evidenced to my satisfaction) has authority to intervene in the notarial act. The form of the required evidence may vary from case to case.
- 7.5 In all instances of publicly registered entities, I will be carrying out various searches of public registers, the cost of which (if any) will affect the level of disbursements to be paid by you. In the case of a UK company, for example, such searches will include searches at Companies House and in the London Gazette.
- 7.6 If I request you to do so, you will procure the production to me of all or any of the statutory registers of the company or other entity including where applicable its register of members/shareholders duly made up to date and copies of such statutory registers certified by a proper officer.
- 7.7 In the case of an unincorporated partnership or trust, charity or club, you must produce to me the full and complete partnership agreement, trust deed, constitution, rules, or similar instrument, up to date in all respects, including any amendments.
- 7.8 You consent to me making a photocopy of any document produced to me for retention on my client file and otherwise to comply with my duties under the Notaries Practice Rules.

**8. WHAT YOU MUST BRING TO OUR FIRST MEETING AND (WHERE APPLICABLE) ANY SUBSEQUENT MEETINGS:**

- 8.1 You must produce to me:
- 8.1.1 at our first meeting, relevant genuine original documentation evidencing identity, name, capacity and (where relevant) authority in accordance with Clause 7 above.

- 8.1.2 at our first meeting, copies of any documentation, translations or instructions relating to the required notarial act that have been provided to you by any overseas lawyer, UK lawyer, or other advisor, or provided to you by the authority or entity that requires the notarial act to be performed. You consent to me making a copy of the documents produced for retention on my client file.
- 8.1.3 in cases where third party witnesses are necessary (as to which I will advise you once you have produced your documentation to me or I have otherwise ascertained the nature of the relevant documentation) you are responsible for procuring the attendance at the completion (signing) meeting of the required number of independent, adult witnesses of full capacity, and you must procure that each such witness produces to me relevant genuine original documentation evidencing their identity in accordance with Clause 7 above.
- 8.2 You hereby acknowledge that your failure to produce when required relevant genuine original documentation to me or materially incomplete instructions from you may cause delays in the provision or completion of notarial services or even cause me to decline to act or cease to act for you, and that I shall be entitled so to do.
- 8.3 Where the relevant notarial act requires me to prepare documents I will normally need to do this document preparation at my principal office or a secondary office and you hereby acknowledge that in such cases more than one meeting with you or (where applicable) your representative may be necessary before the notarial act can be completed.

## **9. LANGUAGE AND TRANSLATIONS:**

- 9.1 It is required by the Notaries Practice Rules that you and I have a sufficient understanding of the meaning of any document which I notarise, and so where that document is not in the English language you acknowledge that I may require a reliable English translation to be prepared at your cost (perhaps by your lawyer in the receiving jurisdiction) before issuing any notarial act. My notarial act will always be in the English language.
- 9.2. For the avoidance of doubt, you acknowledge that my first and only legal language is English and that, not least having regard to the technical and specialised vocabulary used by lawyers in all their languages, I can only create and issue notarial acts in the English language. You further acknowledge that you will be responsible for the cost of any translation of my notarial act that may be required where the receiving jurisdiction is not English speaking. If you require a notarial act to be issued in England and Wales in a language other than English, you will need to refer the matter to another notary with the relevant language skills, or perhaps an appropriate official of an embassy, consulate or diplomatic representation of the receiving jurisdiction.

## **10. MY LIABILITY AND YOUR LIABILITY.**

- 10.1 The scope of my notarial practice is limited to the performance of notarial acts as a public certifying officer but I may also where I consider it to be necessary prepare affidavits and declarations and make textual or formal amendments to a document which is to be notarised, whether issued in public or private form, for example to ensure that the document is factually accurate, makes sense, and is compliant where necessary with the law of England and Wales. My responsibility and correlative liability to you in contract or otherwise is limited to my responsibility expressly undertaken in accordance with these terms and conditions. I maintain professional indemnity and fidelity insurance at a level of cover approved by the Master of the Faculties: PI insurance of £1,000,000.
- 10.2 You hereby acknowledge and agree that I shall have no liability to you or (where applicable) your representative in contract or otherwise for any costs losses or other harm caused by events matters or things which are not within my direct control; or caused by your failure to perform any matters or things which are, under these terms and conditions, expressed to be your responsibility or (where applicable) the responsibility of your representative; or caused by any matters or things for which my responsibility is otherwise excluded by these terms and conditions.
- 10.3 Subject to Clauses 10.1 and 10.2, you acknowledge that my liability to you in contract or otherwise is limited to direct costs losses or other harm directly caused by my acts or omissions ("loss") not exceeding £50,000 (Fifty thousand pounds) in respect of any one loss or a number of losses arising out of the same act or omission, and you acknowledge that liability of any other kind (for example, indirect or consequential) is hereby excluded.
- 10.4 The exclusions and limitations of my liability imposed under these terms and conditions do not extend to my liability for any fraudulent misrepresentation, or personal injury or death caused by my negligence, or extend to any other type of liability which cannot be excluded or limited by such contract terms under the law of England and Wales, for example in relation to a particular category of contracting parties such as consumers, when those exclusions and limitations of liability shall be read and construed as not applying to that category of contracting parties to the extent that those exclusions and limitations are not permitted to be effective under the law of England and Wales.
- 10.5 You hereby acknowledge that the exclusions and limitations of my liability imposed and the indemnities created for my benefit under these terms and conditions are reasonable having regard to the risk profile of my notarial practice and the nature and cost of the notarial services, oaths, and any ancillary services which I have agreed to provide to you. You further acknowledge that, were it not for those exclusions, limitations and indemnities and your acknowledgment of their effectiveness, I would not have agreed to act for you without charging a much higher fee, or at all.
- 10.6 In the event that I incur any loss liability or harm directly or indirectly caused by breach of these terms and conditions by you or (where applicable) by or through your representative, advisors, employees or agents (including any breach of warranty) or caused by breach of any duty of care owed to me by you or (where applicable) by your representative, advisors, employees or agents or caused by fraud, misrepresentation or other unlawful act committed by you or (where applicable) by or through your representative, advisors, employees or agents, you hereby agree that you shall fully and effectually indemnify me and my personal representatives, my estate and property, and hold me and my personal representatives, my estate and property,

harmless from and against such loss liability and harm and also from and against any costs including legal costs incurred by me or my personal representatives in or in connection with the legal assessment, defence, mediation, arbitration, or settlement of the same, and for any legal advice which I or my personal representatives decide to obtain in connection with those matters, on demand, without set off, counterclaim or any other deduction of any nature.

11. **LAWFUL PURPOSE:** You hereby undertake and warrant to me that neither you nor (where applicable) your representative nor your advisors, employees or agents will procure or allow the use of my name or status as a notary public for or in connection with any fraudulent or otherwise unlawful purpose, or procure or allow the issue or use of a notarial act, oath, or other document created or amended by me which you or (where applicable) your representative, advisors, employees or agents intend to use for or in connection with any fraudulent or otherwise unlawful purpose, or which you or (where applicable) your representative, advisors, employees or agents have reason to believe may be used for or in connection with any fraudulent or otherwise unlawful purpose.
12. **COMPLAINTS ABOUT MY SERVICE OR A REFUSAL TO ACT:** I aim to provide you with a high and efficient standard of service. However, in the event that you wish to complain about my standard of service, or my refusal to act for you, then you should follow the complaints procedure which is set out elsewhere in my website.
13. **MY RECORDS:**
  - 13.1 The Notaries Practice Rules require that I create and preserve prescribed records including register entries of notarial acts "in private form" for at least 12 years; and complete photographic copies or duplicates of notarial acts "in public form" permanently. Subject to the Notaries Practice Rules, you and persons with an interest are entitled to receive copies of my records relating to any notarial act which I create for you.
  - 13.2 You hereby acknowledge and agree that I may make and preserve records of notarial acts which I create for you and copies of other documents and files created or assembled in the course of providing notarial services to you in all or any of the following forms: in manual (hard copy paper) form and/or electronic form and/or in and through any cloud service, hosting service or medium provided by a third party of a kind and on terms from time to time approved by the Master of the Faculties or recognised as safe, secure and suitable for such use by the Faculty Office of the Archbishop of Canterbury.
14. **USE OF E-MAIL:**
  - 14.1 I maintain an e-mail account for my notarial practice. In performing services for you, I may wish to send messages and documents to you, your representatives, advisors, employees and agents by e-mail if you or they are able to provide me with an e-mail address for that purpose. You acknowledge that, in common with other forms of communication, e-mail carries its own risks including the possibility of unauthorised access to data by third parties, corruption of text, inadvertent misdirection, inadvertent deletion, non-delivery, and receipt without being read. Not all these risks can be avoided even by the use of passwords or encryption. Nevertheless, by providing me with an e-mail address, you hereby acknowledge that you and the users of the relevant e-mail accounts have agreed that the benefits of the use of e-mail (for example speed and economy) outweigh the risks of its use, and that you and the users of the relevant e-mail accounts have consented to the use of e-mail by me.
  - 14.2 If you receive an e-mail from me which was not intended by me to have been sent to or received by you, you must notify me immediately upon becoming aware of my error, delete the e-mail permanently from your systems, destroy any paper copies, and you must not disclose any of its contents to any other party.
  - 14.3 You hereby acknowledge that I do not accept service of court documents or other documents which have legal effect by e-mail, and that any attempt to effect such service by e-mail shall be invalid and ineffective save as otherwise provided by the mandatory law of England and Wales.
15. **DATA PROTECTION:** In addition to the obligation of confidentiality owed to my clients, as a data controller and processor of personal data relating to you and, where applicable, your representatives and persons who are witnesses to notarised documents, I am committed to compliance with the wider data protection laws applicable to my notarial practice and services which I may provide as a commissioner for oaths. I will process your personal data fairly and lawfully subject to and in accordance with the applicable statutory principles, these terms and conditions, and subject to and in accordance with the Privacy Statement which is set out elsewhere on my website.
16. **INTEGRITY AND HONESTY:** Notaries of England and Wales are obliged under the terms of their notarial Oath and legislation including legislation and regulations relating to anti-money laundering and anti-terrorist financing to take measures for the purpose of detecting and preventing fraud, duress, and crime. In this regard, you hereby acknowledge and agree that I am entitled to make such enquiries and ask such questions of you and third parties as I consider are necessary or appropriate, including requesting you to provide or procure the provision to me of a written summary and rationale of the wider substantive transaction or series of transactions to which a given notarial act or oath relates including (where relevant) written disclosure of your political connections and particulars of the beneficial ownership and control of corporate entities and partnerships. You hereby undertake and warrant that any such enquiries and questions will be answered promptly, fully and truthfully by you, your representatives, advisors, employees and agents in default of which I will decline or terminate your instructions.
17. **EQUALITY AND DIVERSITY:** I am committed to promoting equality and diversity in all of my dealings with you and third parties.
18. **DISABILITY:** I will endeavour to make any reasonably feasible adjustments in the manner of providing my services in order to facilitate their provision to or involving any person with a relevant disability.
19. **CONSUMER CONTRACTS REGULATIONS:**

- 19.1 If you are a consumer for the purposes of the law of England and Wales you have a variety of legal rights as a consumer including in certain circumstances a right to cancel by notice any contract between us if that contract has been formed elsewhere than at my office (for example at your home or your place of work) (“off premises contract”) or by distance communication (“distance contract”). Such cancellation right exists for a period of 14 days after the date you sign your contract of retainer with me or after the date on which you continue to give me instructions, whichever is earlier (“the cancellation period”). Unless you ask me to begin work within the cancellation period, I will not commence such work, and you can cancel your contract within the cancellation period by giving me a clear statement to that effect whereupon I will reimburse to you all payments received from you by the same method that you used to pay me, at no cost to you, without undue delay, and not later than 14 days after the day on which you inform me of the cancellation.
- 19.2 Given the often urgent nature of notarial services and your requirements, in any case where the said cancellation period and right applies, you shall (and hereby) request that such services shall be begun before the end of any applicable cancellation period, so that, if you exercise your right of cancellation, you shall still be obliged to pay me for the work which I have done up to that point (where my work has been completed, this will be the full fee which we have agreed) and to pay or reimburse to me any incurred disbursements in full.

## **20. TERMINATION:**

- 20.1 You may terminate your instructions to me at any time by giving to me reasonable written notice. In such case, all my fees for work performed by me and disbursements incurred up to the point of termination shall be due and payable by you to me.
- 20.2 I may terminate my engagement by you in any of the circumstances specified in these terms and conditions of service, or if I have good reason to do so, for example if you do not pay on the due date a sum of money which is due to be paid by you or if you fail to give me the co-operation which I am reasonably entitled to expect.

**21. LAW AND JURISDICTION:** The law which governs the construction, interpretation and effect of these terms and conditions of service and my contractual relationship with you is hereby chosen to be the law of England and Wales; and you hereby agree that the courts of England and Wales shall have non exclusive jurisdiction to adjudicate upon any dispute or claim between us.

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Please [CLICK HERE](#) to visit my website and accept the Terms & Conditions.