

**FIXED FEE SCHEME
TERMS AND CONDITIONS OF BUSINESS**

On 1 April 2015 the business of Cunningtons transferred to Cunningtons LLP, a Limited Liability Partnership registered in England and Wales under Registered Office number OC395326. Our registered office is Great Square, Braintree, Essex, CM7 1UD. The name Cunningtons is being retained as a trading name of Cunningtons LLP.

We are registered for VAT purposes and our VAT number is 102 4554 14.

The member(s) of the LLP are referred to throughout the Terms and Conditions as “partner(s)”. We will continue to use the title “partner(s)” to describe our designated member(s) but the use of this title should not be seen as denoting that we are a partnership.

We are authorised and regulated by the Solicitors Regulation Authority (SRA) of England and Wales SRA ID number 619821. Our professional rules can be read on the SRA website at www.sra.org.uk/solicitorshandbook/content.

These Terms and Conditions of Business and our initial client care letter will together set out the basis on which our services are provided and the basis upon which our fees are charged.

These Terms and Conditions will also apply to any future business you may have with our firm unless or until you sign further Terms and Conditions of Business or we inform you of any amendments in writing via our website at www.cunningtons.co.uk.

1. The availability of this scheme is entirely at our discretion. All work is carried out at our absolute discretion and we reserve the right to decline to act for a client under the fixed fee scheme.
2. Fees are payable whether or not a case is successfully concluded.
3. The fee(s) we charge do not include payment of disbursements such as Court fees or other payments to third parties.
4. Any disbursements or third party fees must be paid by the client prior to those fees being incurred.
5. Unless otherwise agreed with us in writing, the fixed fee scheme for dealing with financial matters is only available where the total asset pot (including pensions and businesses and equity in any properties) is less than **£300,000.00**. If, within the course of the matter, it becomes clear that the total asset pot is over that amount, we reserve the right to charge the client for all work so far undertaken as well as all future work on an hourly rate basis instead and will render a bill accordingly.
6. Please note that if we consider that any financial agreement you have reached with the other party is beyond the scope of an order that a court might make, or that it is particularly unfair to you or that you may be under duress or undue influence, we are likely to decline to prepare or check the Financial Agreement/Consent Order.
7. The Fixed Fee Scheme does not cover:-
 - a) Annulments
 - b) Defended divorces / dissolutions
 - c) Preparing Supplemental or Amended Petitions
 - d) Applications for Fee Remission
 - e) Applications for deemed/substituted/dispensed with service
 - f) Applications for Decree Absolute / Final Order where more than 12 months has passed since Decree Nisi / Conditional Order
 - g) Dealing with defended claims for costs
 - h) Application as Respondent for Decree Absolute

- i) Locating opponents or proceedings where the location of the opponent is unknown
- j) Implementation or Enforcement of orders
- k) Proceedings outside of the jurisdiction of England & Wales
- l) Proceedings with an international element
- m) Withdrawal of divorce / dissolution proceedings
- n) Personal service unless requested as a bolt-on
- o) Obtaining a duplicate marriage/civil partnership certificate unless requested as a bolt-on
- p) Representation at court
- q) Interlocutory hearings
- r) Applications to freeze assets
- s) Maintenance pending suit applications
- t) Reciprocal enforcement in other jurisdictions
- u) Any work required where Financial Remedy Orders have been rejected by the Court.
- v) Any other matter not specifically covered by the fixed fee scheme

8. The charges in respect of preparing specific documents are payable each and every time we prepare a document even if we have or prepared it for the client before.
9. We will only place ourselves on the court record and accept service of documents on behalf of clients where we have been instructed under our Divorce fixed fee package; our Divorce and Agreed finances fixed fee package or where we are dealing with Contested Children Act proceedings.
10. We reserve the right to ask the client to sign a Notice of Acting in Person at any point during the matter and the client accepts that we can file that Notice at court to remove ourselves from court record at any point.
11. Any proceedings or work undertaken outside of the scope of the fixed fee scheme shall be charged on an hourly rate basis. Where we consider that such additional work is necessary, we will notify the client in writing in advance with an estimate of the costs of additional work before incurring such additional fees.
12. Our current hourly rate for Family Law work undertaken by a solicitor is £210 plus VAT. Our Trainee Solicitors are charged at £120.00 per hour plus VAT. Our legal assistants are charged at an hourly rate of £50.00 plus VAT.
13. In the event that the client withdraws their instructions before matters have concluded then we reserve the right to bill the client on an hourly rate basis for all work done so far or to charge the full fixed fee at our discretion.
14. We are under no duty to apply for or release the Decree Absolute / Final Order until the final account has been paid.
15. Where a payment on account has been made or monies are held on the client's behalf and a bill has been rendered, the client's acceptance of these terms and conditions of business will amount to their written authority for us to use those sums to discharge their outstanding account in whole or in part but it is important that the client understands that their total charges and expenses may be greater than any advance payments.
16. Any bills rendered are payable within 14 days of receipt.
17. We reserve the right to exercise a lien over our file of papers which means we can choose to do no further work or release any documents to the client until outstanding fees have been paid in full. Clients may terminate their instructions to us in writing at any time but we will be entitled to keep all papers and documents while there is money owing to us for our charges and expenses.

18. Clients should be aware that in some circumstances it might cost them less to instruct us on an hourly rate basis than it would to instruct us on a fixed fee basis. The purpose of the fixed fee scheme is that it allows clients to know exactly what their costs will be in advance and they will be charged the full fixed fee regardless of how much work we do on their behalf, even where the costs would have been lower on an hourly rate basis.
19. It is important that the client understands that they will be responsible for paying our bills. Even if the client obtains an order for costs against another person, that person may not be obliged to pay all of the client's charges and expenses or these may not be recovered from them in full and the client will still have to pay the balance of our charges and expenses. The amount of costs which the client has to pay may be greater than the amount the client can recover from another party to the case.
20. In some circumstances, the Court may order a client to pay some or all of the other party's legal charges and expenses. This is uncommon in family law cases. These costs must be paid in addition to our charges and expenses and our costs to be deducted first from any monies that you pay to us.
21. We maintain compulsory professional indemnity insurance and supplementary insurance with Axis Specialty Europe and Endurance Worldwide Insurance for a total cover for three million pounds sterling and top up insurance for two million pounds sterling totaling five million pounds per claim.
22. To the extent permitted by law our total liability to you in connection with any matter (or series of related matters) will be limited to three million pounds sterling such sum being the limit of the compulsory layer of our professional indemnity insurance. Liability for any consequential or indirect loss (whether or not it might have been foreseeable at the commencement of the matter) is excluded.
23. We shall not be liable to you in relation to the failure of any bank in which client monies are deposited or in respect of any failure by our bank to remit monies to a third party in your transaction sent in good time by us to complete a transaction by a particular contractual cut off time.
24. Where we are acting for more than one person, the limit of liability will be allocated among you. Our liability to you shall also be limited to that proportion of the loss or damage (including interest and costs) suffered by you and which is ordered against us by a court of competent jurisdiction after taking into account the contribution to the relevant loss and damage of any other person responsible and/or liable to you for loss or damage.
25. In signing our Terms and Conditions or continuing to instruct us once you have received our Terms and Conditions you accept that we are a limited liability partnership ("LLP") and, as such, we have an interest in limiting the personal liability and exposure to litigation of our members and employees. You also agree that, should you need to make a claim (whether in contract, tort or otherwise) against us in relation to any piece of work we undertake on your behalf, you will not bring any claim personally against any individual employee or member, but will only make any claim against us as an LLP.
26. Under the principle of force majeure we shall bear no liability for loss, damage, delay howsoever arising caused by circumstances outside its control of whatsoever kind.
27. In the event that commission is received by us from a financial institution, brokers or others, and unless otherwise agreed, we will account to the client for such a part of the commission, if any, as may exceed the amount of any fees or disbursements due to us from the client, whether for the financial services given or any other matter.
28. We have a legal duty to comply with anti-money laundering regulations. In order to comply with the regulations we will require clients to produce proof of identification, enquire as to their personal circumstances, employment and business and require clients to provide proof of the source of any

monies that they provide that will pass through our accounts. Clients should be aware that if we suspect that they are laundering money, we have a duty, without informing clients in advance, to report those suspicions to the authorities. Should we make such a report, we shall not be liable for any loss including consequential loss arising from compliance with our statutory obligations. We also reserve the right to charge clients our fees for undertaking client identification and due diligence enquiries and clients may be asked for a payment on account of costs for this purpose.

29. Please note that we are normally only able to accept cash up to a limit of £250 in any 28 day period and we reserve the right to decline any payment by cash. If clients circumvent this policy by depositing cash direct with our bank we reserve the right to charge for any additional checks we deem necessary regarding the source of the funds.
30. In accordance with the SRA's Accounts Rules 2011 we are required to account to you for interest on money held by us in our client account when it is fair and reasonable to do so. The holding of client money is incidental to the carrying out of clients' instructions. In addition, we are required to hold client money in an instant access account to facilitate transactions. As a result, the rate of interest paid under this policy is unlikely to be as high as those attainable by you. Interest will be paid where the amount of interest calculated exceeds £25.00.
31. Where money is held in relation to separate matters for you we will treat the matters and money as separate, unless the matters are so closely related that they should be considered together.
32. Where client monies are held in our general client account we will pay interest without deducting tax at source. You will be responsible for declaring any interest to HM Revenue & Customs. Where client monies are held in a separate designated client account, interest is usually paid net of basic rate income tax.
33. Interest will be calculated on a daily basis, using the rate of interest offered to business customers on instant access deposit accounts at the bank where we hold general client funds. We will normally account to you for interest at the conclusion of the matter. You may contract out of receiving interest by signing a written agreement with us.
34. Interest will be calculated on cleared client funds. In the case of cheques received, this will be 10 days after the cheque has been deposited with our bank, and for amounts received in cash, or via credit or debit card, standing orders, BACS and CHAPS, interest will accrue from the date of receipt into our account.
35. E-mails are potentially a non-secure means of communication, and may result in a loss of confidentiality. Whilst we are happy to communicate with you by e-mail, if you wish us to do so please note that we will do so solely on the basis that we will not be liable to you for any loss you may suffer if any of the information contained or referred to therein reaches third parties or fails to reach you.
36. Please note that we will not examine any transaction for the taxation aspects and/or the effect of any tax on what you are proposing. If you require advice on the tax implications of any matter on which we are instructed it is recommended that you seek your own tax advice before instructing us to proceed.
37. This firm is committed to promoting equality and diversity in all of its dealings with clients, third parties and employees. We shall endeavour to meet any special requirements as far as possible, to ensure that we provide you with the best service possible.
38. In some circumstances, we may consider we ought to stop acting for the client, for example, if the client cannot give clear and proper instructions on how we are to proceed, or if it is clear that the client has lost confidence in how we are carrying out their work. We may decide to stop acting for the client only with good reason, for example, if they do not pay a bill or comply with our request for payment on account. We must give clients reasonable notice in writing that we will stop acting for them. If the client or we decide that we will no longer act for a client, the client must pay our charges as set out earlier in full.

39. We will retain the client's file of papers for such period as we deem appropriate at our absolute discretion. A client who requires such papers to be kept for any specific period shall give notice in writing to that effect and in the event of such notice being given we reserve the right to require the client to take personal custody of the papers.
40. We are confident of providing a high quality service in all respects. If, however, clients have any queries or concerns about our work, please raise them in the first instance with your solicitor. All solicitors must attempt to resolve problems that may arise with their services. It is therefore important that clients immediately raise any concerns they may have with us. We value our clients and would not wish to think that for any reason they are unhappy with us.
41. This firm aims to provide a truly professional service. If the client does not feel that we achieved this objective, or if they consider that they have cause to complain, then they are entitled to let us know. If the solicitor cannot resolve the client's concerns, they will refer the queries to our Client Relations Partner, Kate Hunt. If Cunningtons are unable to resolve any complaint then the Client should contact the Legal Ombudsman at PO Box 6806, Wolverhampton, WV1 9WJ. There are time limits in terms of raising a complaint through the Legal Ombudsman. You can obtain more information from the Legal Ombudsman website at www.legalombudsman.org.uk or telephone them on 0300 555 0333.
42. The provisions of these Terms and Conditions of Business and our client care letter and/or retainer are between you and Cunningtons and so do not confer any benefit or right to enforce any of its terms on a person who is not a party to this Agreement.
43. Advice that we give you must not be passed to others without our prior written consent. The advice which we give is confidential and for the exclusive use of you as our client.
44. These Terms and Conditions of Business and our client care letter will be governed by English Law and the parties agree to submit to the exclusive jurisdiction of the Courts of England and Wales.
45. Each provision of these Terms and Conditions of Business and the client care letter is severable and distinct from every other provision. If any such provision is or becomes illegal, void or unenforceable the remaining provisions will continue in force as though that provision had not been included.
46. Although your continuing instructions in this matter will amount to your acceptance of these terms and conditions of business, please sign and date these Terms and Conditions and return to us immediately. We can then be confident that you understand the basis on which we will act for you. By signing this form the client is acknowledging that they have read and understood these terms and conditions and agree to instruct us strictly subject to them.
47. If you are signing these Terms and Conditions of Business away from our offices the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 apply to this matter. This means you have the right to cancel your instructions within 14 working days of receiving these Terms and Conditions. You can cancel your instructions by contacting us by post, e-mail or facsimile addressed to the fee earner. Once we have started work on your file you may be charged if you then cancel your instructions. If you would like us to commence work on your file within the next 14 days please tick the box. By doing so you will waive your rights under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

48. **Data Protection Privacy Notice**

We use the information you provide primarily for the provision of legal services to you and for related purposes including:

- updating and enhancing client records
- analysis to help us manage our practice
- statutory returns

- legal and regulatory compliance

Our use of that information is subject to your instructions, data protection law and our duty of confidentiality.

Please note that our work for you may require us to pass on such information to third parties such as expert witnesses and other professional advisers, including sometimes advisers appointed by another party to your matter. We may also give such information to others who perform services for us, such as typing or photocopying. Our practice may be audited or checked by our accountants or our regulator, or by other organisations. We do not normally copy such information to anyone outside the European Economic Area, however we may do so when the particular circumstances of your matter so require. All such third parties are required to maintain confidentiality in relation to your files.

You have a right of access under data protection law to the personal data that we hold about you. We seek to keep that personal data correct and up to date. You should let us know if you believe the information we hold about you needs to be corrected or updated. You also have certain other rights in respect of how we use your data and what we are allowed to keep. Subject to certain circumstances, your main rights are:-

- A right of access to the personal data being processed about you and why;
- A right to rectification of inaccurate personal data;
- A right to erasure of personal data, if it is no longer necessary to retain;
- A right to restrict processing of your personal data;
- A right to ask for your personal data to be transferred to a different data controller;
- A right to object to the processing of your personal data; and
- A right not to be subjected solely to automated decision making or profiling.

You can view our full privacy policy, which includes details of your rights, by visiting our website: www.cunningtons.co.uk.

We have appointed the following person as our representative for the purposes of the Data Protection Act: mark.taylor@cunningtons.co.uk. If you require this policy in any particular format, please contact Mark Taylor on 01376 326868 or write to Mark Taylor at Cunningtons LLP, Great Square, Braintree, Essex, CM7 1UD.

It is important that you understand our full policy, so please take the time to read it before agreeing to it.

We may receive personal data from you for the purposes of our money laundering checks, such as a copy of your passport. These will be processed only for the purposes of preventing money laundering and terrorist financing, or as otherwise permitted by law or with your express consent. You consent to us retaining such data for longer than the five year statutory period, unless you tell us otherwise.

If you send us personal data about anyone other than yourself you will ensure you have any appropriate consents and notices in place to enable you to transfer that personal data to us, and so that we may use it for the purposes for which you provide it to us.

Keeping you informed: We like to send current and previous clients information that we think might be of interest to them. That can include information about legal developments or publicity information about us or our services. Please indicate if you are happy to receive such information from us. You can change your mind at any time, so if you later want to opt out, just let us know. If you do not select an option, we will assume you do not wish to receive such information.

I am happy to receive such information **YES / NO**

I wish you to commence work now: **YES / NO**

I instruct you to carry out legal work on my behalf as requested above in accordance with the terms and conditions set out above.

Signed Printed.....

Dated:

Version 03042019