



## **THE PRIVACY POLICY OF THE RUSHFORTH FIRM LTD.**

*Keeping Confidential Information Confidential*

### **A. CONFIDENTIAL INFORMATION, GENERALLY**

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A.1 Rushforth Firm Ltd. (“the Firm”, “RFL”, or “we”) will keep your confidential information confidential. This memo outlines our privacy policy. Unless you give us permission to reveal confidential information, we will not do so except as required by law.

A.2 In this memo, we use the phrases “confidential information” and “nonpublic personal information” to refer to “personal information” as that phrase is defined in the Nevada Revised Statutes (NRS). NRS 603A.040 reads:

NRS 603A.040 “Personal information” defined. “Personal information” means a natural person’s first name or first initial and last name in combination with any one or more of the following data elements, when the name and data elements are not encrypted:

1. Social security number.
2. Driver’s license number or identification card number.
3. Account number, credit card number or debit card number, in combination with any required security code, access code or password that would permit access to the person’s financial account.

➔ The term does not include the last four digits of a social security number, the last four digits of a driver’s license number or the last four digits of an identification card number or publicly available information that is lawfully made available to the general public.

A.3 There may be other types of information that you provide us — such as children’s birth dates and addresses, the location of a vacation home, information regarding your assets, liabilities, and net worth, and information regarding the disposition of your estate after your death — that you wish us to protect and keep confidential, but you will have to tell us specifically how you want us to protect that information.

### **B. WHAT TYPE OF NONPUBLIC PERSONAL INFORMATION DO WE COLLECT?**

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B.1 The nonpublic personal information that we collect relating to individual clients will vary with the purpose and scope of our representation. Because we are trust and estate attorneys, it is common for us to ask for personal financial information, such as:

- (a) Asset information and your goals and desires relating to its ultimate distribution;

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- (b) Your birth date and social security number;<sup>1</sup>
  - (c) Information regarding family members and family relationships;
  - (d) Information regarding your other advisors;
  - (e) Copies of existing estate-planning documents;
  - (f) Copies of previously filed gift- and estate-tax returns;
  - (g) Copies of marital property agreements; and/or
  - (h) Tax information, including gift and estate taxes.

B.2 If we do legal work that relates to an entity – such as a corporation, partnership, limited-liability company, trust, or estate – you may provide us with tax identification numbers, asset information, ownership information, tax returns, beneficiary information, and financial data.

B.3 You may decline to provide us with any confidential information, but, if you do, any legal advice and counsel will be based on general assumptions, rather than on your specific circumstances.

### **C. WHAT TYPE OF INFORMATION MIGHT WE DISCLOSE, AND TO WHOM?**

C.1 As attorneys, the information you provide us is protected by what is referred to as the “attorney-client privilege”. Under the Rules of Professional Conduct adopted by the Nevada Supreme Court, we are prohibited from sharing your nonpublic private information with anyone without your permission except in vary narrow circumstances related to criminal conduct. We do not disclose personal information about any current or former client except as required or permitted by law or by the Rules of Professional Conduct. The rules relating to confidentiality and to the attorney-client privilege apply to all employees of the Firm, whether or not they are attorneys. Our employees know that their employment will be terminated if they disclose any confidential information.

C.2 At your direction or with your consent, we will disclose personal information if necessary to carry out, administer, or enforce a transaction that you have requested or authorized us to perform. Such disclosures might include giving confidential information to:

C.3 Your financial service providers, such as your accountant, investment advisor, insurance agent, or a financial institution or an individual that you have designated as a fiduciary. “Fiduciary” includes anyone appointed by you to act for you, such as an agent under a power of attorney, the trustee of a trust, the guardian of your estate, and the guardian of your person.

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<sup>1</sup> Providing your social security number is not required unless you ask us to obtain a tax identification number for a trust or business entity, to prepare a gift- or estate-tax return, or to prepare another tax-related form.

C.4 Any person whom we jointly represent with you, such as a spouse, domestic partner, or a significant other, or a business partner.

C.5 Your heirs or beneficiaries (which may be required by law when their interests are irrevocable).

C.6 Any other person or entity to whom you have authorized our making a disclosure, or to whom disclosure is required by law or applicable rules of procedure.

C.7 In the case of court proceedings, such as probate and trust administration cases, the court and anyone else who is entitled by law to such information. Unless, at your request, we obtain court permission to have a document or a case file sealed, all documents filed with the court become public record, and all confidentiality is lost as to that information.

C.8 The Internal Revenue Service (IRS) and other tax authorities.

C.9 Again, disclosures of confidential information are made only with your permission or as required by law.

C.10 The “attorney-client privilege” can be lost if you provide confidential information to a third party. For example, if you bring a neighbor, your insurance agent, or even a relative who is not also a client to a meeting with us, it is unlikely that you or we will be able to assert the attorney-client privilege as to information disclosed in that meeting. There are exceptions, including exceptions for a person acting as your agent and for a person who assists in translation.

#### **D. SPECIAL RULES FOR FIDUCIARIES**

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D.1 A fiduciary — such as a trustee, executor, guardian, or agent under a power of attorney — and an advisor to a fiduciary — such as a fiduciary’s accountant, investment advisor, or trust protector — has “fiduciary duties” to act for the benefit of one or more other persons.

D.2 If we are engaged to represent you as a fiduciary, we cannot assist you in any action that would constitute a material breach of any of your fiduciary duties. More specifically, we cannot knowingly take any action or assist you in taking any action that would facilitate any harm to the person or persons for whose benefit you are acting.

D.3 Because of that, information or documents that constitute evidence of a material breach of one of your fiduciary duties will not be treated by us as confidential, and you waive any potential attorney-client privilege related to that information or those documents.

D.4 For example, if you are a trustee, and you provide us with documents showing that you used trust funds to pay for a personal vacation in Hawaii, those documents will not be considered confidential, and we may disclose them to the trust beneficiaries or to the court having jurisdiction over the trust.

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**E. SPECIAL RULES FOR NOTARIZED DOCUMENTS**

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If you want one of our employees to notarize a document for you, each person whose signature is notarized will need to produce your driver license or other official form of identification. You will also be required to sign a notary log.

**F. SPECIAL RULES FOR EXPERT WITNESS CASES**

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If one of our professionals is engaged as an expert witness, our notes, our file, and all documents provided to us are subject to disclosure to other parties involved in the case, to the attorneys for the other parties, and to the court. If a professional is engaged as a consultant and not as an expert witness by an attorney or law firm, we will disclose confidential information provided to us as instructed by the attorney or firm for whom we are acting as consultants or as ordered by the court.

**G. HOW DO WE PROTECT THE CONFIDENTIALITY OF YOUR PRIVATE INFORMATION?**

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G.1 While our records and information are accessible to our staff, we have taken reasonable precautions to keep unauthorized persons from accessing confidential information. Client files are stored within locked rooms or locked drawers or cabinets. Computer records are protected both by passwords and a hardware firewall that impedes “hackers” from accessing any data through the Internet. Documents containing confidential information that are to be discarded are shredded by the Firm’s staff. Notwithstanding the foregoing, we cannot guarantee that our file servers or the file servers of our backup servers are impervious to hacking.

G.2 We do not retain credit card information whether you pay online or in the office.

(a) *Online Payments.* We accept online payments (using credit cards and online checks) through <https://www.paypal.me/Rushforth>, which processes all confidential information as encrypted data through PayPal.com. If you pay online, your credit card or checking account information is never provided to us.

(b) *In-Office Payments.* If you give us your credit card in the office or provide information in a phone call, we will use the information you provide, but once the transaction is complete, the payment information is shredded.<sup>2</sup>

G.3 We do not sell or otherwise provide anyone with mailing lists, e-mail address lists, or other contact information, even if that information is publicly available elsewhere. Without your permission, we will not use your name in any business promotion, but we cannot prevent the disclosure of our representation of you if that information appears in documents that become part of a public record, including legal documents recorded with a county recorder’s office or

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<sup>2</sup> For credit card payments processed in the office, the receipt we receive from our processor may contain the last four digits of your card number.

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papers filed as part of a court proceeding. If there is information you feel should be protected from public view, please let us know.

## **H. HOW ARE DOCUMENTS WITH CONFIDENTIAL INFORMATION SHARED?**

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H.1 There are several ways in which documents with confidential information can be shared between us. You can decide what level of security is acceptable to you, but we strongly encourage you not to send us documents containing unencrypted confidential information via e-mail or via a download link that does not require a password for access.

H.2 Our preferred method of sharing files is through ShareFile by Citrix.<sup>3</sup>

(a) *Uploads.* To upload one or more files to us, point your web browser to <https://rushforthfirm.com/sharefile/>. For tracking purposes, you will be prompted to input your name and e-mail address. Each uploaded file is automatically encrypted.

(b) *Secure Messages.* If we want to share a message or one or more files with confidential information, we can use ShareFile to send you a secure e-mail message, which will require you to open the message in a web browser. You can easily reply and attach files securely.

(c) *Personal ShareFile Folder.* If more than just a file or two will be involved, we will create one or more secure file folders just for you, and we will send you an invitation to log into ShareFile. You will use the link in the e-mail to access the account for the first time. For subsequent visits, you will log in at <https://upload.rushforthfirm.com/>. Subfolders can be created to share with selected other persons, such as other advisors or your beneficiaries. You will select your own password, and you will be able to upload and download files securely. This is a convenient way to share all files, not just those containing confidential information. If we have not created a ShareFile folder for you, just ask us to do it.

H.3 When we need to share a large number of files or we need to share files on an ongoing basis, we prefer using a shared folder in ShareFile, as mentioned in paragraph H.2(c), above.

H.4 Aside from ShareFile, there are a number of document-sharing options, and each has its own advantages and disadvantages. Documents in a digital format (i.e., computer files) are usually preferred over printed documents. (File formats we can accept are mentioned in subsection H.6, below.)

(a) *Personal Delivery.* You can deliver documents to us personally at our office, and you can request that we have documents to you personally by an employee or local courier service (for which you will be charged). Computer files can be shared by

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<sup>3</sup> See <https://rushforthfirm.com/sharefile/>.

providing us those files on a USB flash drive, and we can provide a flash drive to you if you want one.

(b) *U.S. Postal Service; Courier Services.* Because the interception of mail is unlikely, regular mail is considered relatively secure for sending printed documents, and sending documents by courier services like UPS and FedEx is considered equivalent. If additional security is desired, you can ask us to require an adult signature or your signature only.

(c) *E-mail and Fax.* E-mail messages and fax transmissions are not considered very secure unless the content is encrypted. E-mail is transmitted over the Internet and is potentially subject to interception. Faxes sent to us are also received by us as unencrypted PDF files via e-mail, and so they are not any more secure than unencrypted e-mail messages. We rarely send faxes to clients who regularly use e-mail. We are happy to receive faxes, but we prefer to receive scanned documents as e-mail attachments because of the increased clarity.<sup>4</sup>

(d) *Download Link.* To share a file, you can provide us with a download link created through Adobe Send & Track, Dropbox, OneDrive, Box, or another file-sharing service, but the file transmission is not secure (unless the file itself is encrypted) because anyone with the link can access the file. Sending a file download link via e-mail is not much different than sending the file as an e-mail attachment, but it is appropriate where the file is large and contains no confidential information.

H.5 Unless you instruct us otherwise:

(a) To send you printed documents, we will use USPS, UPS, or FedEx. This includes documents that contain confidential information.<sup>5</sup>

(b) For documents sent via the Internet:

(i) When we are sending you files that do not contain confidential information, our standard procedure for clients who use e-mail is to send unencrypted PDF files as e-mail attachments. This may include business-formation documents, estate-planning documents, and court documents for a probate or trust-administration case.

(ii) When we are sending you a message or one or more files that contain confidential information, our standard procedure is to use a ShareFile encrypted e-mail message, as mentioned in subsection H.2, above. If you request,

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<sup>4</sup> If you send faxes, using “fine” mode can improve the quality of the image.

<sup>5</sup> Confidential information refers to “personal information” as defined in NRS 603A.040, which is quoted in subsection A.2, above.

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we can send a password-protected file as an e-mail attachment<sup>6</sup>, but ShareFile is much more secure and convenient.

(iii) If you use your work e-mail account to send or receive messages, your employer may have policies that allow the employee or others access to those messages and all attachments.

(c) Documents shared by giving or receiving USB drives or other removable storage media are only as secure as the media. Encryption and security for the medium used will add to its inaccessibility.

H.6 Whether you provide us documents by hand-delivering a USB drive, as e-mail attachments, or by uploading them to ShareFile, we can accept and send e-mail messages in almost any format, including PDF, DOC, DOCx, ODT, WPD, XLS, or QPW files. We can also accept collections of documents in ZIP files. If you provide us documents that are password protected or otherwise encrypted, we suggest that each required password or decryption key be provided us separately from the documents. If you use ShareFile, password protection or other encryption is not necessary.

## **I. CONCLUSION**

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You get to decide how documents containing your confidential information will be shared, but we will use the default methods described above unless you specifically instruct otherwise. If you send us or ask us to send you confidential information by any method other than personal delivery, you are assuming the risk that the confidential information could be intercepted by third parties.

### **RUSHFORTH FIRM LTD.**

5550 Painted Mirage Road, Suite 320, Las Vegas, NV 89149-4584

702-255-4552 (Office) | 702-255-4677 (Fax)

[office@rushforthfirm.com](mailto:office@rushforthfirm.com)

<https://rushforthfirm.com> | <https://rushforthfirm.info>

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<sup>6</sup> For password-protected files, a separate e-mail message will be sent with a password that is converted into a graphic file so that it is not immediately recognized as text if the transmission is intercepted by a hacker, but optical character recognition (OCR) software may be able to decipher the password.