

# **OUR SMALL PRINT**

**OUR TERMS OF BUSINESS & THE LEGAL BITS...**

This Small Print sets out the Terms of Business for EMW Law LLP (EMW, we or our) and EMW Law (Scotland) LLP (EMW Scotland, we or our). Where we give advice under Scottish Law, specific reference to the relevant regulatory body or regulations, is clearly identified below. When we provide you with legal services, as a firm regulated by the Solicitor's Regulatory Authority (SRA), we are required to provide you with certain information and be open about the terms that will apply:

- Some terms are set out in our Confirmation of Instructions or COI for short. The COI is our document where we set out what we are going to do, when we are going to do it and how much and when you will pay
- The rest of our terms are set out in this document (Small Print), which is made up of our "Terms of Business" and some information on our legal and regulatory obligations or "The Legal Bits"
- Together, the COI and the Small Print are the legal agreement between us (Agreement)

Sometimes, there can be inconsistencies between the terms set out in the COI and in the Small Print. If this happens the COI will take priority.

## TERMS OF BUSINESS

### 1. YOUR INSTRUCTIONS TO US

We will deal with anyone who appears to us to have permission to instruct us on your behalf. If there is anyone within your business, or acting on your behalf, from whom we should not take instructions, you must tell us in writing.

### 2. INSTRUCTING US WITH OTHERS

Where you are one of several people who have instructed us on the same file, we will act for all of you jointly. Each is responsible for paying all of the fees on that work, not just for their respective shares. If we stop acting for any of you, then the rest will still have to comply with the Agreement.

We cannot keep information we receive from you confidential from the others instructing us.

We can act for all of you (even if there may be potential conflicts of interest) on the basis that you all have a common interest in the instructions which outweighs the potential for conflict. If an actual conflict of interest arises between any of you, we will be unable to continue acting for all of you, at least on that issue where the conflict has arisen.

### 3. WHO WILL DO THE WORK

We will always allocate work to a member of our team with the appropriate expertise and experience. You will have that person's contact details, as well as details of a Principal (our name for a partner) with whom you can raise any issues.

Advice that we give to you is only for your use and benefit. Whilst we do not mind you providing the advice to your other professional advisors to help them advise you too, you must not give the advice to anyone else without asking us first.

### 4. WHO IS RESPONSIBLE FOR THE WORK

EMW is providing legal services to you and it is EMW that is responsible to you. None of the Principals or our employees have any personal responsibility to you, or to any third party, for the services provided.

### 5. AREAS OF EXPERTISE

In our Confirmation of Instructions we will identify areas that are outside the parameters of our engagement with you, because we do not have the professional expertise to advise you on them (such as tax matters and the laws of jurisdictions other than England and Wales). Any guidance we actually offer in relation to these areas is based on our prior knowledge of third party expert advice. Such guidance (a) is no substitute for engaging specific expert advice in these areas, which we would always recommend that you do; and (b) will not constitute us advising on the issue in question.

### 6. EMAILING YOU

We mainly correspond by email. Email is not guaranteed to be secure or reliable, so if you would prefer us not to use email when we write to you, please let us know.

### 7. THIRD PARTY RIGHTS

You are the only person who can enforce the terms of the Agreement against us.

### 8. HOW WE CHARGE

There are a number of factors that we take into account when calculating our fees. These include:

- the time we spend providing legal services to you
- the complexity of the instructions
- the specialist knowledge involved
- the value of the transaction
- the speed within which the services are to be performed

Our hourly rates are reviewed annually on 1 April. We will inform you if our hourly rates increase while we are undertaking instructions on your behalf. Our range of hourly rates for the period beginning 1 April 2019 can be found on our website: [www.emwllp.com/the-small-print](http://www.emwllp.com/the-small-print).

The COI sets out when we can send invoices and when you have to pay them. If you do not pay us on time we may stop work for you and all outstanding invoices will become payable immediately.

You remain responsible for paying our bills if someone else has agreed or is required to pay your legal costs but has not done so.

You cannot pay our invoices with cash.

We may charge interest if you are late paying our invoices. This will be at the annual rate of 8% above the Bank of England base rate, from the date payment is due until payment is made.

We will ask you to pay in advance, unless we agree otherwise, for any third party expenses that we will incur on your behalf. We call these expenses disbursements.

There are some services we charge a fixed price for. This fixed fee incorporates both the time and cost to us and the cost charged to us by our suppliers. A list of these charges can be found at [www.emwllp.com/the-small-print](http://www.emwllp.com/the-small-print).

Any money left on our client account when our work is complete will be returned to you. There may be times when we ask you to pay money upfront for our fees.

### 9. OUR PRICE GUARANTEE

We are confident that you will be happy with the service we provide, and we provide a service level guarantee to ensure that (although there are a few conditions). If you are not happy with the service we provide then we will allow you to deduct up to 10% from the payment of your final bill provided that:

- You notify us of the concern you have with the service we provide in writing (email is fine) within 7 days of the event(s) leading to that concern
- Your concern relates to the service we have provided – it cannot be because you did not like the advice or were hoping we'd say something different
- Your concern relates to something that is within our reasonable power to control
- You agree to meet with us, within 21 days of raising your concern, to discuss the concern you've raised in person, and allow us to seek to address it with you before you deduct anything from our final bill

If the above apply and, provided you notify us promptly (as above) and meet with us to discuss the situation, and you feel we have not properly addressed your concern then you are free to deduct up to 10% from your payment of our final bill (applying a discount you feel appropriate up to a maximum of 10%). You must then pay the discounted bill in full within 7 days of the meeting referred to above. The discount shall only apply to our legal fees and not any disbursements incurred, which will remain payable in full.

## 10. OUR EMPLOYEES

If you solicit or entice any of our employees away from our employment to work for you or any third party (a Leaver), then you will pay us an amount equal to the actual costs we incur in recruiting a replacement member of staff at any time within 6 months after the date upon which the Leaver leaves our employment.

## 11. ENDING THE AGREEMENT

You may end the Agreement at any time for any reason.

We may end the Agreement at any time on reasonable notice so long as we have a good reason to do so. Examples include:

- if you do not accept the important elements of our advice or the relationship of trust and confidence between us breaks down
- if a conflict of interest arises
- if you do not provide us with instructions or information that we need
- if we stop carrying out a particular service or are otherwise unable to provide you with an adequate service
- if we reasonably believe you may be unable or unwilling to pay our fees; or if you do not pay our invoices or any advance payments we ask for
- if we are taking a risk on recovery of our full costs (for example, if we are working on a conditional fee arrangement or a fixed or capped fee) and, in our opinion, a client paying our full costs would not have proceeded with the case

If the Agreement ends for any reason before we complete our work, we may charge for all work up to the date that the Agreement ends. We may also charge you at our hourly rates for any work done after the Agreement ends but arising from it, such as removing our name from a court record, complying with undertakings, storing, retrieving or copying papers, replying to audit or tax enquiries, complying with legal or regulatory requirements, answering your questions or giving evidence in proceedings

arising from your case.

If you choose to instruct alternative legal advisors at the end of the Agreement, you can request that we pass your files to them. We will do so if you make this request in writing and if all of our outstanding invoices payable by you or by third parties on your behalf have been settled in full, in cleared funds.

## THE LEGAL BITS

### 12. IF YOU NEED TO COMPLAIN

Our complaints policy is available on our website, or in hard copy on request. We have 8 weeks to deal with your complaint. If, after this time, you are still not happy you can speak to:

- The Legal Ombudsman, PO Box 6806, Wolverhampton, WV1 9WJ; on 0300 555 0333 or via its website [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk), where we act on matters governed by the laws of England and Wales
- The Scottish Legal Complaints Commission (SLCC), The Stamp Office, 10-14 Waterloo Place, Edinburgh, EH1 3EG; enquires@scottishlegalcomplaints.org.uk; on 0131 201 2130 or via its website [www.scottishlegalcomplaints.org.uk](http://www.scottishlegalcomplaints.org.uk), where we act on matters governed by the Laws of Scotland.

### 13. LEXCEL

We are accredited with “Lexcel”, the Law Society’s legal practice quality mark for excellence in legal practice management and client care. To maintain this accreditation, external organisations may have to carry out audits or quality checks on your file. We require these external organisations to keep your file confidential.

### 14. OUR FINANCIAL RESPONSIBILITY TO YOU

If we do not do what the Agreement says we will do or if we fall short of our duty of care to you, we will accept responsibility for any loss or damage you suffer that is foreseeable. We won’t however accept responsibility for any loss or damage that is not foreseeable. Loss or damage is foreseeable if it is either:

- an obvious result of us not complying with the Agreement or us breaking our duty of care to you; or
- something that we could have anticipated at the time we entered into the Agreement

In addition, we will not accept financial responsibility to you for loss of profit, loss of business, interruption to your business, or loss of any business opportunities.

We do not exclude or limit in any way our financial responsibility to you for:

- death or personal injury caused by our negligence
- for our reckless disregard of our professional obligations; or
- our fraud

Where we act on matters governed by the laws of England and Wales our total financial responsibility to you for each claim or series of connected claims arising under or connected with the Agreement will not exceed £3 million.

Where we act on matters governed by the laws of Scotland our total financial responsibility to you for each claim or series of connected claims arising under or connected with the Agreement will not exceed £2 million.

If we have to accept any responsibility to anyone other than you as a result of you instructing us, or there is any suggestion that we should have that responsibility, you will reimburse us and our members and employees for any loss or damage suffered because of those third parties making a claim against us.

You will also reimburse us for any loss or damage that we suffer as a result of any claim brought by you or anyone connected to you, to the extent that our responsibility for that claim would have been excluded by or would have exceeded any cap on our financial responsibility in the Agreement had the claim been brought by you.

### 15. SEVERABILITY

If any court or other competent body decides that any provision (or part of it) of the Agreement is unlawful, unenforceable or invalid, the remainder of the Agreement will continue in full force and effect.

### 16. THE FINANCIAL CONDUCT AUTHORITY (FCA)

We are not authorised by the FCA. However, we are included on the register maintained by the FCA so that we can carry on insurance mediation activity, which is broadly advising on, selling and administration of insurance contracts.

The relevant register is called the EPF register. This part of our business, including arrangements or redress if something goes wrong, is regulated by the Solicitors’ Regulation Authority (or Council for Licensed Conveyancers). The register can be accessed via the Financial Conduct Authority website at [www.fca.org.uk/register](http://www.fca.org.uk/register).

### 17. UNDERTAKINGS

We often have to provide undertakings on behalf of our clients. These are commitments that are binding on us to do

things on your behalf (for example to send money or documents to a third party). When we have given an undertaking on your file, we may have to ignore any instructions that you then give us which would result in us being in breach of the undertaking. You agree to do whatever we need you to do in order that we comply with the undertaking.

## 18. KNOWING WHO YOU ARE?

Before we can do any work for you, we are legally required to verify your identity. By accepting the terms in our Small Print you are agreeing that we can:

- use your personal information (name, address, date of birth etc) for identification purposes; and
- provide your personal information to any relevant third parties, such as credit reference agencies

We will tell you exactly what information we will need from you to enable us to complete this process. Any online verification search we carry out will leave a footprint on your credit file; this may be seen by other organisations; it will have no effect on your credit rating.

## 19. YOUR INFORMATION AND PROTECTING YOUR DATA

We are required by law under the General Data Protection Regulations (GDPR) to process and hold your personal data in a specific way. To find out more about how we process your personal data please see our privacy policy which can be found at [www.emwllp.com/privacy](http://www.emwllp.com/privacy). We will keep any information that we have about you and your affairs in the strictest confidence. We will only provide this information to a third party if we have to by law; because of the work we are doing for you; to the extent we are allowed to do so in the Agreement, or if you have told us we can disclose it.

Under GDPR we are not allowed to hold data for longer than necessary. Therefore any data that we hold will be deleted after a set period of time, in accordance with our regulatory obligations. At the end of each piece of work we will tell you when such data will be destroyed; at this stage you will have an opportunity to request an electronic copy of the data we hold for your own retention.

If we think that a transaction may involve criminal activity (e.g. money laundering or terrorist financing/activity), we may have to make a disclosure to the National Crime Agency. If we make a disclosure, we may not be able to tell you. We may also have to stop working on your file for a period of time and not be able to tell you why, nor will we be able to accept responsibility to you for the consequences of having to do so.

## 20. YOUR MONEY

Money that we hold on your behalf is held in a client account with Barclays Bank, and is kept separate from our own money. If you want money to be held at an alternative bank you must instruct us to do so in writing.

Money that EMW hold is protected under the SRA Accounts Rules 2011 (SAR) and SRA Compensation fund. It will earn interest at the rates set out in the SAR, subject to minimum amounts and time periods.

Money that EMW Scotland holds is protected under the Solicitors (Scotland) Accounts Rules 2001 (SSAR) and Solicitors Guarantee Fund.

Our bank account details will not change during the course of a transaction. If you receive an email that appears to be from EMW providing a change in bank details it is unlikely to be genuine and you are responsible for contacting us by telephone to confirm the correct details. We will not accept liability if you transfer money to an incorrect account.

Unless we fail to do what we say we will or if we breach the SAR, we are not responsible for the loss of client money or delays in money transmission.

If we have less than £50 of your money remaining in our client account after we have finished the work, we will make every effort to return it to you. If we cannot, we will donate the amount to our chosen charity.

## 21. EMW - LAW AND JURISDICTION

All work undertaken on your behalf is governed by the laws of England and Wales. EMW is authorised and regulated by the Solicitors Regulation Authority (SRA). The professional Code of Conduct

can be access from the SRA website at [www.sra.org.uk/handbook](http://www.sra.org.uk/handbook).

The courts of England shall have non-exclusive jurisdiction.

## 22. EMW SCOTLAND - LAW & JURISDICTION

EMW SCOTLAND is a multi-national practice which is authorised and regulated by the Law Society of Scotland.

Any matters that we are instructed on under Scottish Law are handled by our Scottish Lawyer through this firm unless specifically stated to be otherwise, the terms of this document apply to EMW Scotland.

The professional rules and guidance which apply to our Scottish lawyer can be found at [www.lawscot.org.uk/rules-and-guidance](http://www.lawscot.org.uk/rules-and-guidance).

All other terms, unless specifically defined, are as above.

## 23. IF YOU ARE AN INDIVIDUAL

If we are giving you advice in your personal capacity as an individual, under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, you have the right to cancel your contract with us within 14 days of the date of our COI without giving a reason. For the purposes of this clause, where we refer to your contract, we mean the COI. You can cancel your contract by submitting a Model Cancellation Form, which can be found on our website [www.emwllp.com/media/60564/model-cancellation-form.pdf](http://www.emwllp.com/media/60564/model-cancellation-form.pdf) before the expiry of the cancellation period. You are not required to use the Model Cancellation Form, but if you do not, you must make it clear that you are cancelling the contract before the expiry of the cancellation period.

By accepting the terms of our COI you are instructing us to commence work for you straight away. This means that we will be starting work during the cancellation period. You agree that even if you exercise your right to cancel your contract after we have commenced work, you must pay our fees for the work carried out up to the point that you exercise your right to cancel.

© November 2019

**IF YOU HAVE ANY QUESTIONS ABOUT OUR SMALL PRINT, PLEASE CALL KAREN VOLLER ON 0345 074 2451 OR EMAIL [KAREN.VOLLER@EMWLLP.COM](mailto:karen.voller@emwllp.com)**

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Call: 0345 070 6000

[www.emwllp.com](http://www.emwllp.com)

Gatwick • London • Milton Keynes