



**GENERAL TERMS AND CONDITIONS OF BUSINESS (2020) BY
ALLAN McDUGALL McQUEEN LLP
*with Addendum re Sale Transactions***

1. Introduction

These Conditions of Business and our Letter of Engagement set out the working relationship and terms of agreement between us, Allan McDougall McQueen LLP and you, our client. By instructing us you agree to accept these terms and that they remain in force unless or until we mutually agree otherwise.

2. Scope of Work

The scope of work will be as set out in the Letter of Engagement. This will cover, among other things, what we are going to do for you, matters excluded, any key timescales within which we envisage the delivery taking place and the basis on which our fees and costs will be charged and recovered (we may in certain instances issue a separate fee quote to be read along with our Letter of Engagement).

3. Instructions

- 3.1. As your agents we act only on information and instructions given to us. You should not assume that we have knowledge of any factual matters.
- 3.2. If we are acting for more than one person, we may take instructions from one person on behalf of the others and all will be fully liable for any actions taken or fees incurred.
- 3.3. If we are acting for a company or other corporate body, then unless advised otherwise in writing, we shall accept instructions from any Director or other office bearer of the company or body or any other company in its group and from any other person reasonably appearing to us to have its authority to instruct solicitors in the matter concerned.
- 3.4. You may instruct us verbally, by e-mail or in writing although we may ask for formal written confirmation of verbal or e-mail instructions. Unless you expressly notify us to the contrary in writing, we may accept instructions and take action on information sent to us from your e-mail address.

4. Contracts

In Scotland, it is common for your agents to enter into legally binding contracts on your behalf and therefore if there are any changes in your instructions you must notify us immediately to ensure we do not commit you to a contract you have subsequently changed your mind about.

5. UK Anti Money Laundering Regulations and Compliance with Related Statutory and Regulatory Provisions

5.1. We are legally bound at all times to act under the terms of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“the Regulations”). We must apply customer due diligence measures to all new and existing clients and the work we are instructed to carry out for them.

5.2. Customer Due Diligence (CDD) measures:

5.2.1. The Regulations require us to carry out various measures before entering into a business relationship with or carrying out any transaction for any client and to monitor that business relationship on an ongoing basis and ensure that the CDD information we have is up to date. We will not start acting for you or carry out any instructions you give us until you have provided us with sufficient information and documentation to allow us to satisfy the CDD requirements imposed by the Regulations. It is therefore essential that you provide all information and documentation requested as soon as possible. We are required to verify the identity of all clients and certain other parties and we must be satisfied that the person is who they say they are by reference to official documents and records and we must keep copies of those documents and records. In this connection we are required to:

5.2.2. Identify and verify the identity of all clients.

5.2.2.1. Private Individuals – We require evidence of current address and proof of identity by way of a copy passport or photographic driving licence. Please note, we must see the principal documents and not photocopies or scanned versions where we have been unable to successfully electronically verify you, or you are required to do so in terms of our internal risk assessment procedures. In particular situations we can accept copies certified by certain professionals. We are happy to confirm what we can accept in this regard. We may also carry out additional online verification of identity using sources including credit checking agencies. By instructing us you agree to us doing so.

5.2.2.2. Corporate bodies and other organisations – The requirements for corporate entities such as companies, partnerships and trusts are more complex and once we know the nature of the entity for whom we will be acting we will advise what checks we need to make and what documentation we need to see. In the case of corporate bodies (other than private individuals) we require to identify and verify the identity of the Beneficial Owner(s) and/or Directors. Where the Beneficial Owner is another legal person, trust, company, foundation or similar legal arrangement or entity we must establish the ownership and control structure of that entity. In broad terms, a Beneficial Owner is any individual who ultimately owns or controls more than 25% of the shares or voting rights in any body corporate and in the case of a trust means the settler, the trustees and the beneficiaries or in cases where the individuals benefitting from the trust have not been determined, the class of person in whose main interest the Trust has been set up.

5.2.3. Assess and obtain information on the purpose and intended nature of the business relationship or transaction. You will need to tell us what the aims of this business relationship or transaction are.

- 5.2.4. Identify and verify the source of clients' wealth and separately the source of any funds to be received by us. This may require us to request copies of bank statements, tax information, employment contracts, pay slips, consultancy agreements or confirmations from accountants, independent financial or tax advisors or other lawyers to enable us to verify the source of your wealth.
- 5.2.5. For the purposes of establishing that the source of funds has been held by you (or any giftor) and not by an undisclosed third party, we require evidence to show that any funds have been held in a UK Bank account (or equivalent UK financial institution), for not less than 3 months prior to the intended use of said funds.
- 5.2.6. Identify any clients who are Politically Exposed Persons (PEPs) and apply an enhanced Client Due Diligence (that is the carrying out of additional checks and verifications) to all such clients. A PEP is an individual who is entrusted with a prominent public function and the definition includes the family members and known close associates of a PEP. We can provide a list of examples of positions and posts the occupiers of which are likely to fall within the definition of a PEP. These include but are not limited to sitting MPs, MSPs and Members of the House of Lords and holders of high ranking judicial or military office. A person remains a PEP for 12 months after ceasing to hold the relevant office. You must advise us if you think you are or may be a PEP.
- 5.2.7. Carry out enhanced CDD where there is a high risk of money laundering or terrorist funding. This includes where:
 - 5.2.7.1. The client is resident or established in a high risk jurisdiction or geographical area, or
 - 5.2.7.2. There is no face to face contact with the client, or
 - 5.2.7.3. The client is a PEP, or
 - 5.2.7.4. A transaction is complex or unusually large, or
 - 5.2.7.5. The client is a legal person or arrangement which is a vehicle for holding personal assets, or
 - 5.2.7.6. The client is a company which has nominee shareholders, or
 - 5.2.7.7. The customer is a business which is cash intensive or the corporate structure of the client is unusual or excessively complex given the nature of the client's business.
- 5.2.8. Identify and verify the identity of any person purporting to act on behalf of a client for example an investment manager, surveyor, other agent or employee of the client who has authority to instruct Allan McDougall McQueen LLP on behalf of the client.
- 5.3. We will not accept any liability for any loss suffered in respect of any delay or failure to carry out your instructions or of us withdrawing from acting for you in circumstances where the reason for this is a failure by you to provide any information or documentation required by us to comply with the foregoing CDD requirements.

5.4. Other matters:

- 5.4.1. The CDD requirements in respect of identifying and verifying the identity of a client or beneficial owner or person giving instructions on behalf of a client set out above must be complied with before the establishment of the business relationship or the carrying out of any transaction. It is therefore important that all required identity and other CDD documentation is provided at the soonest possible opportunity. In particular, please note that we will not be able to accept or pay out any money on your behalf until the relevant CDD procedures have been completed.
- 5.4.2. We cannot accept any payments in cash or by way of Bank Draft or bank branch deposits to any of the firm's bank accounts. Where payment is to be made to any of the firm's bank accounts by bank transfer we require to see evidence of the name, account number and sort code of the account from which the payment is sent in the form of a remittance advice or payment instruction acknowledgement receipt from the bank making the transfer. We cannot accept bank transfers from any third parties including family, friends or related companies without carrying out full CDD on these parties. Any payments into any of the firm's bank accounts which do not comply with the above will be returned to the sending bank. We will not transfer any funds received, from you or on your behalf, which do not comply with the foregoing procedures to any third party even where this may result in a delay in complying with your instructions. Any sums which have to be returned to you such as sums paid to us in error or where excess funds have been received will only be returned to the account they were received from. We will not accept any liability for any loss suffered as a result of any failure to or delay in complying with the foregoing requirements.
- 5.4.3. We are not permitted to hold client money following completion of a matter or transaction unless that money is to be used in connection with another matter or transaction in which we are already instructed by you and the completion of which is due to take place in the foreseeable future.
- 5.4.4. Where a client is unable or fails to provide satisfactory CDD documentation we will not establish a business relationship or carry out any transaction and will terminate any existing business relationship and cease acting.
- 5.4.5. We have to carry out ongoing monitoring and ensure that CDD information is up to date. You must inform us as soon as possible of any change of circumstance such as change of name or residential address, change in source of wealth or the source of funds to be used, or a change in country of residence. In the case of a body corporate (such as a Company, partnership, LLP, association or Trust), you must tell us of any change in the structure, the directors, partners, shareholders or shareholdings or other Beneficial Owners.
- 5.4.6. In any case, before we act for you again we will require proof of identity to be refreshed if the proof that we hold is more 2 years old.
- 5.4.7. We are required to keep copies of all documents acquired as part of the CDD process for a period of 5 years after (in the case of an occasional transaction) the date on which the transaction is complete or in the case of a business relationship that relationship has come to an end. We reserve the right to retain information beyond this time period.
- 5.4.8. Any personal data obtained by Allan McDougall McQueen LLP specifically as part of the CDD process will only be processed for the purpose of preventing money laundering or

terrorist financing or any other purpose referred to in the Regulations. For the purposes of the Data Protection Act 1998 the data controller in respect of any such data is Allan McDougall McQueen LLP.

- 5.4.9. All UK corporate bodies are required in terms of the Regulations to provide us on request with the details and documentation we require to carry out CDD including information identifying its legal or beneficial owners.
- 5.4.10. In terms of the Regulations, the Proceeds of Crime Act 2002 and the Terrorism Act 2000 we must report to government law enforcement agencies any suspicions we have regarding money laundering, terrorist financing or the proceeds of crime. This includes crimes such as tax evasion or tax, benefit or insurance fraud. We are expressly prohibited from notifying any other party of the fact that any such report has been made. Such reports may include a request for consent to continue to act. In the event that such consent is not forthcoming we must withdraw from acting.
- 5.4.11. In view of the increasing incidence and complexity of cybercrime and online fraud, where you tell us of the bank account you wish us to send funds to by phone, email or in a letter, we may contact you on a phone number we have used previously to contact you to verify the account details if we deem it necessary. If we cannot satisfy ourselves that the instruction is genuine and comes from you, we will not process your instruction to transfer the funds until we can confirm the details with you and we will not accept liability for any loss suffered as a result. If you subsequently change the details of the account you request us to transfer funds to, we will apply the same procedure.

6. Fees

- 6.1. Fees will be calculated on the basis set out in your initial contact with Allan McDougall McQueen LLP.
 - 6.1.1. In some transactions it is not possible to quote precise fees as the amount of work is not known at the outset. In such cases we will provide an estimate only at that point for initial budgeting/purchase ordering purposes. Any estimate of fees given will not be binding unless it is expressly stated to be a fixed fee quotation. In ongoing matters, we will supply updated estimates as agreed in the Letter of Engagement.
 - 6.1.2. Fees incurred are payable whether or not a matter is successfully concluded or completed and we will charge for the work undertaken by us.
 - 6.1.3. Fee rates are reviewed periodically and, subject to any provisions in the Letter of Engagement, we will inform you of any change of rates in advance of that revision taking effect.
- 6.2. Fixed Fees
 - 6.2.1. Where a fixed fee quotation has been given, the fee will be as quoted.
 - 6.2.2. If additional work is instructed by you, becomes necessary and performed by us outwith the scope of a fixed fee quotation you may be required to pay an additional fee based on the amount of the additional work involved. We will endeavour to provide an estimate of that additional fee at the point the revised or additional instruction is received from you or when identified by us as necessary.

6.3. Hourly and Daily Rate Fees

- 6.3.1. Fees will be calculated on the basis of hourly rates applied to the time spent working on the matter. Rates depend on the seniority and specialised knowledge of the appropriately qualified member of our staff. We seek to have the work carried out by the individual who can provide the necessary service at the more efficient rate for the client.
- 6.3.2. The time includes that spent on considering and drafting documents, advising, reporting, dealing with correspondence, telephone calls, e-mails, preparing for and attending meetings and making notes of meetings, researching the law, attending court and travelling. Hourly rates are calculated in units of one tenth of an hour (i.e. 6 minutes). Details of these rates are set out in the Letter of Engagement where appropriate.

6.4 Commission

6.4.1 In accordance with standard commercial practice, we will often instruct third party suppliers to provide services to you, which are chargeable as outlays. In certain cases we will receive a supplier discount or commission payment for volumes and cases instructed. In these circumstances, we will have right to retain as our sole property and for our sole benefit all such commissions, discounts and or payments received from said suppliers and no remittance will be made to you in respect of same.

7. **Outlays, Other Expenses and VAT**

- 7.1. Fees quoted or estimated exclude outlays and other expenses which we incur on your behalf or in the course of providing you with agreed services.
- 7.2. Outlays incurred by us, specifically on your behalf, such as court costs, fees payable to advocates instructed by us on your behalf, search fees, registration fees, LBTT and property advertisements are due for immediate payment by you. If outlays are incurred by us without VAT being charged, we reserve right to charge VAT on provision of same.
- 7.3. Other expenses incurred in the process of providing you with our services and advice are due for payment along with fees unless agreed otherwise.
- 7.4. We reserve the right to require advance payments from you to cover expected fees and outlays. If payment is not made we may withdraw from acting for you.
- 7.5. V.A.T. will be due and charged at the appropriate rate on all fees, outlays and expenses.

8. **Court Costs**

If you instruct us in a matter which goes to Court, you may be found entitled to expenses from another party. Our fees remain payable whether or not courts costs are actually recovered. Experience shows it is unlikely that any amount recovered will be sufficient to meet all your costs. You should therefore assume that even if your action is successful, there will be additional costs payable to us over and above anything that may be recovered from the other party.

9. **Payment of Fees and Outlays**

- 9.1. Fees are payable on issue of the Fee Note. Fee Notes may be issued at stages of the transaction or on completion of the transaction, however we will issue interim fee notes monthly unless another basis is agreed with you.
- 9.2. Where you have provided us with debit or credit card details as a method of payment, we will apply for payment 3 days after date of issue to you of the Fee Note or Statement of Outlays. No charge is made for payment by means of an approved debit card. An administration fee of 2% of the total amount is payable on all credit card transactions.
- 9.3. We may deduct from any monies held for you any fees and outlays due to us.
- 9.4. We reserve the right to charge interest on fees (including VAT) and outlays if not paid within thirty days of the relevant invoice date. The rate payable will be at the Royal Bank of Scotland base rate applicable on each day plus 5%. We may also suspend or cease any further work on your behalf if payments are not made within terms.
- 9.5. When you and others are joint clients you will each be jointly and severally liable for fees and outlays which means that we may recover the full amount from any one of you. This also applies where you are representing a company or other corporate body in which you have a significant financial interest: as the individual instructing us, you are liable for our fees and outlays if the corporate body fails to make due payments.
- 9.6. Where it has been agreed that a third party will pay for certain elements of fees and expenses and the third party fails to make payment, you remain liable to us for such payments.
- 9.7. As per Clause 6.4 above, we shall have a right to retain for our sole benefit all and any commissions, payments or supplier discounts paid by third party suppliers .

10. **Clients' Money**

- 10.1. Where the interest likely to be accrued on money received on your behalf exceeds £100 we will set up a specific deposit account in your name. This interest is payable to you. Where interest is not likely to exceed £100, the funds are held in a general account and interest is not payable to you.
- 10.2. Where we hold money on your behalf, we currently have arrangements with Royal Bank of Scotland plc but may, from time to time, select other financial institutions.
- 10.3. In the event of insolvency of banks or other financial institutions there are limits on the deposit amounts which are guaranteed under the Government backed Financial Service Compensation Scheme. From 30 January 2017 this covers individuals for certain amounts up to £85,000 with higher levels for some temporary high balances. Further information on this is available on the FSCS website at <http://www.fscs.org.uk> or by calling them on the Freephone number [0800 678 1100](tel:08006781100) or writing to them at: Financial Services Compensation Scheme, 10th Floor, Beaufort House, St Botolph Street, London, EC3A 7QU.
- 10.4. In the UK there have been instances of clients having funds diverted fraudulently and not being received by the solicitor as intended. This is generally as a result of fraudulent e-mails. In the unlikely event that you receive an e-mail from us advising of a change in our bank details for you to send funds to, please contact our switchboard on 0131 225 2121 and ask to speak to our Cashroom or to the person in the firm you have been dealing with. They will be able to confirm whether or not this is genuine before you make any funds transfer.

11. Transaction Settlements

Property and other transactions are usually settled by our making payments on your behalf from our Clients' Account. To comply with Law Society of Scotland Rules we must have cleared funds in that account. You must ensure we have these cleared funds in our Client Account prior to the settlement. You may do so by direct bank transfer or cheque but you should note that cheques can take up to one week to clear. If we do not have cleared funds we will not be able to settle the transaction on the due date in which event you may be in breach of your contract.

12. Property Sales

If you are selling a property, we are obliged to provide a guarantee at completion of the sale that there is nothing on record that shows you are not the rightful owner and you have the right to sell free of any mortgage or other rights anyone else might have over the property. This guarantee is backed by our Professional Indemnity Insurance; however it is a condition of the insurance that you must advise us of all Mortgages, Standard Securities, Charges or Inhibitions affecting you or the property or anything else you have signed that gives someone else rights over your property, e.g. in connection with a loan. You must tell us about any or all of these and if you are in any doubt about this, please consult us immediately.

13. Personal Data

13.1. We will comply with the EU General Data Protection Regulation and the Data Protection Act 2018 in handling and using the personal information that you provide to us as part of representing you in your case. We will only use such personal information where we have an appropriate legal basis and to provide you with legal services, communicate with you and to comply with the legal and regulatory requirements (including Law Society of Scotland requirements) that apply to us as a firm of solicitors in Scotland.

13.2. We will only share your personal information with other parties with your consent, but we may share your personal information with our service providers (to maintain the systems on which your personal information is stored), our debt recovery agents (if you do not pay our fees) and law enforcement agencies (in the event of actual or suspected criminal activity).

13.3. We will only keep your personal information for as long as we are instructed to provide legal services to you and to comply with the legal and regulatory requirements that apply to us. You have the right to request the following in relation to the personal information that we hold about you.

13.3.1. A copy of your personal information and to check that we are holding and using it in accordance with legal requirements.

13.3.2. Correction of any incomplete or inaccurate personal information that we hold about you.

13.3.3. Deletion of your personal information where there is no good reason for us continuing to hold and use it. You also have the right to ask us to do this where you object to us holding and using your personal information.

13.3.4. Temporarily suspend the use of your personal information, for example, if you want us to check that it is correct or the reason for processing it.

13.3.5. The transfer of your personal information to another organisation.

13.4. You can also object to us holding and using your personal information where our legal basis is a legitimate interest (either our legitimate interests or those of a third party).

13.5. You have the right to make a complaint to the Information Commissioner's Office – the UK regulator for data protection – about how we hold and use your personal information. The ICO's contact details are as follows:

Telephone: 0303 123 1113

Website: <https://ico.org.uk/concerns/>

14. Communications with You

On the whole, we will communicate with you by e-mail. On occasion, or if you do not have access to e-mail, we will communicate by post. We will be entitled to take e-mail instructions from you or either one of you. In the event that our client is a Company or a partnership, we shall be entitled to accept instructions from any one Director or the Secretary or any single Partner. On occasion we shall be entitled to request that your instructions are signed. Accordingly, it is essential that you should give us instructions quickly following a request for same. In order to do this, it is essential that you should remain in contact with us during the course of this transaction. If you will be unavailable at any time, please advise us. If your contact details change at any point, it is your responsibility to ensure we have up to date contact details.

You should also ensure that you can make yourself available to sign documentation for your transaction in case this needs to be signed in person. If time is available, we shall forward the documentation by post provided we feel that there is sufficient time for this course.

We will deal with matters as expeditiously as possible. However, you will appreciate that we are often delayed in dealing with matters due to the actions or inaction on the part of other parties. We will chase for progress on a reasonable frequency.

15. Termination

Either you or we may end our appointment at any time. If the appointment is ended all fees (including any cancellation fee quoted) and outlays are due for payment immediately. We reserve the right to retain papers, titles and any other documents pending payment of outstanding sums due. Consumer contract regulations may provide you with additional rights of terminating or cancelling our appointment, and if that is the case we will advise you of your rights in or along with the Letter of Engagement.

16. Auditor

We expect to provide you with high quality services within fees and terms agreed between us, however, in the event that you do not accept the amount of any fee charged, it can be referred to the independent decision of the Auditor of the Court of Session. Please be aware that the Auditor charges a fee for his services and you will be responsible for the cost of this unless the Auditor decides otherwise.

17. Complaints

- 17.1. We aim to provide a high-quality service to all our clients. However, if you are dissatisfied with any aspect of the service provided, please raise the matter as soon as possible with the Partner responsible who will endeavour to resolve the issue. If you are still not satisfied please write to the Client Relations Partner, Allan McDougall McQueen LLP, 3 Coates Crescent, Edinburgh, EH3 7AL specifying your complaint. The Client Relations Partner will then deal with the matter in accordance with the standards laid down by the Law Society of Scotland.
- 17.2. A copy of our complaint process is available on request from the Partner responsible or the Client Relations Partner at the address above.
- 17.3. In the event that you remain dissatisfied with the outcome you are entitled to refer the matter to the Scottish Legal Complaints Commission (SLCC), The Stamp Office, 10-14 Waterloo Place, Edinburgh EH1 3EG, Tel: 0131 201 2130 or via email address: enquiries@scottishlegalcomplaints.org.uk. Such reference to the SLCC must be made within one year of the service ending or the event giving rise to the complaint occurring. This period has been extended to three years for services commencing after 1 April 2017.
- 17.4. We recognise that Alternative Dispute Resolution Regulations have implemented ADR/EDR Directive 2013/11/EU to promote alternative dispute resolution as a means of redress for consumers in relation to unsatisfactory services. We have, however, chosen not to adopt an ADR process and if you have any concerns about the services you receive from us you should contact the Client Relations Partner as above.

18. **Provision of Advice Through Firm Only**

All services and advice supplied by us are the responsibility of Allan McDougall McQueen LLP only and no liability shall attach to any individual whether partner, member, consultant, associate or employee of Allan McDougall McQueen LLP who may have supplied or been involved in supplying any services or advice.

19. **Storage and Destruction of Papers and Documents**

We will normally keep our file of papers for 5 years (or another period as may otherwise be stated in the Letter of Engagement) in either a physical or electronic format, however we may thereafter destroy it. We will destroy the original documents for files when the file is closed and only copies of certain documents held on our case management system will be available. There is a risk that in any subsequent dispute or court case electronic copies may not have the same status as original documents potentially reducing their evidential value. Should we thereafter receive a mandate to provide a copy of documents held on our case management file, we will print off the relevant parts of the file and there will be a charge (currently £100 plus VAT) for the paper copies being produced. This fee will be payable before the copies are produced.

We will not destroy documents (such as Wills, Titles and Securities) that you ask us to keep in our custody.

The firm does not presently intend to destroy any of its electronic documentation even after the Law Society's recommended retention periods. However, this policy could change in the future.

20. **Post Settlement Claims**

In certain instances we are required to deal with post settlement claims. This might arise if you are a purchaser and there is a claim that you wish us to intimate under the Missives or if you are a seller and we receive an intimated claim from the purchasing solicitors. Our policy is that we will intimate the

first claim letter (provided your instructions are received timeously within the time period provided in the Missives and provided you have given us sufficient notice to enable us to do so) at no additional charge. Likewise, if we receive a claim under the Missives, we will forward this to you at no additional charge. If we require to be involved in any further discussion, telephone attendance, e-mail or in writing in connection with the matter, we will be entitled to charge an additional fee at the rate of £250.00 plus VAT per hour for said work. This will be subject to a minimum charge of £100.00 plus VAT. You are asked to make clear in writing or by e-mail to your conveyancer whether you wish us to be engaged in this matter on receipt or on submitting a claim, failure to provide instruction means we will not take the matter further. If we receive instructions to continue, we will assume that you wish us to deal with the matter on your behalf and are agreeable to the charges set out herein.

21. Limitations and exclusions

21.1. Unless expressly stated in the Letter of Engagement the work will not include:

21.1.1. Monitoring or reminding you of warranty periods or other notice periods. In particular, purchasers who are buying or renting land and buildings in Scotland are obliged to make a Land and Buildings Transaction Tax (LBTT) Return to Revenue Scotland and to pay any LBTT assessed on the transaction. If we are acting for you as a purchaser or tenant, we will prepare and submit the LBTT return on your behalf at the time the property is purchased, or the Lease is completed, provided that you have put us in funds to meet the LBTT payable in full. The Tenant under a Lease is obliged to make three yearly updated Returns to Revenue Scotland and pay any additional LBTT assessed. Penalties apply if these returns are not submitted on time. Whilst we are happy to provide advice and assistance in completing these returns, we will not provide reminders of the due dates and accept no responsibility for failure to submit a return on time. It will be for the client to ensure that they make their own arrangements to ensure that the three yearly return is submitted on time.

21.1.2. Corporate or other tax or fiscal duty advice (other than Land and Buildings Transaction Tax in relation to property transactions). We will assume you have considered the tax consequences of any transaction you instruct us to carry out and that you do not require us to provide or source tax advice on such matters.

21.2. We will use reasonable skill and care in the provision of our services. This may involve the consideration of the level of risks or prospects of success and you accept this is done on the basis of information available to us. Any decision on accepting any such risk is for you alone.

21.3. We are not liable for any advice or opinions or the costs thereof given to you by third parties whether or not recommended by us.

21.4. Our services are provided for you as our client only and no other person may use or rely on them nor derive any rights from them.

21.5. Drafts or other provisional advice should not be relied upon as our final view of any matter.

21.6. Our advice is given in accordance with the law as it exists at the time that the service is provided. We will not be responsible for any changes after the advice was given.

21.7. Nothing in these Conditions of Business shall limit or exclude our liability for:

21.7.1. Death or personal injury caused by our negligence,

21.7.2. Fraud or fraudulent misrepresentation, or

21.7.3. Any other liability which cannot be limited or excluded by applicable law.

21.8. Subject to paragraph 20.7 above, we shall not be liable to you, whether in contract, delict (including negligence), for breach of statutory duty or otherwise, for:

21.8.1. loss of profits, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of or damage to goodwill, loss of use or corruption of software, data or information, or any indirect or consequential loss.

21.9. Subject to paragraph 20.8 above, unless we expressly agree another limit with you in writing, our aggregate liability in respect of any claim, circumstance or series of related claims or circumstances, whether in contract, delict (including negligence), for breach of statutory duty or otherwise shall be limited to £2,000,000.

21.10. We are not liable for any indirect loss or damage or any loss of profit or other consequential loss.

21.11. We are not liable for the loss of money held on your behalf with any bank or other financial institution if such loss arises from the insolvency or other failure to make payment on the part of such bank or institution for reasons outwith our control.

22. **Incidental Financial Business**

22.1 The Firm of Allan McDougall McQueen LLP is licensed by the Law Society of Scotland to carry on Incidental Financial Business under the Society's Practice Rule C2: Incidental Financial Business.

22.2 The Firm of Allan McDougall McQueen LLP is not authorised by the Financial Conduct Authority under the Financial Services and Markets Acts 2000.

22.3 The Firm of Allan McDougall McQueen LLP has Professional Indemnity Insurance under the Law Society of Scotland's Master Policy. The current level of indemnity under the Master Policy is £2m per claim. The Firm of Allan McDougall McQueen LLP is also covered by the Scottish Solicitor's Guarantee Fund which is a fund established under Section 43 of the Solicitors (Scotland) Act 1980 for the purposes of making grants in order to compensate persons who, in the opinion of the Council of the Law Society of Scotland have suffered pecuniary loss by reason of dishonest on the part of a Scottish solicitor in connection with the practice of a solicitor.

23. **Other Jurisdictions**

23.1. The scope of our advice extends only to matters of (1) Scots Law, and (2) other laws which have direct application within the Scots Law jurisdiction. Where we give advice in relation to matters which are subject to laws of any other jurisdictions, we cannot accept responsibility or liability for the same. In these cases, we will give advice strictly on the basis we are providing objective commercial advice to help enable you to consider in what form (if any) you require additional advice from persons in that other jurisdiction.

23.2. We can introduce relevant persons qualified in other jurisdictions, however in all cases, your engagement of their services whether directly or indirectly through us is a matter of separate contract and you will be liable for their fees and costs and we do not accept any liability or responsibility for their advice under other jurisdictions or laws out-with Scotland.

24. **Scots Law**

Scots Law governs the provision of all services to you and all actions on your behalf, whether or not you are based in Scotland or the services or actions take place in Scotland. The Scottish Courts shall have exclusive jurisdiction to deal with any dispute or matter arising from such services or actions.

ADDENDUM TO THE GENERAL TERMS OF BUSINESS RE A SALE TRANSACTION

These additional Terms of Business should be read in conjunction with our General Terms of Business and deal with additional matters arising out of the sale of a Property (inc Estate Agency matters)

Timescales and Nature of Communication

There will be periods when you will hear nothing from us, however this is normal and does not mean that we are not progressing your transaction. It will always be our aim to conduct your sale transaction as quickly and efficiently as possible. It is the nature of a conveyancing transaction that there are bursts of activity from time to time but gaps while we await information from another party such as other solicitors, surveyors, mortgage lenders, public registers, etc. We cannot be responsible for any failures caused by any of our suppliers. **If you have any concerns, please contact the person dealing with your case.** We shall notify you of the person allocated to deal with your transaction as soon as we are able.

Our Responsibilities to You

We will, following successful negotiation of a sale, either by us dealing with estate agency work for you or through another agent or privately by you, deal with the conveyancing of that property for you. We will report to you at various stages in the transaction on the terms of the missives.

The work will be carried out for you either by one of our solicitors or by a paralegal. We do not allocate work to a conveyancer until you have agreed a date of entry. This is to ensure that no conveyancer is overloaded with transactions and cannot offer an efficient service. Immediately after you are successful in selling your property, your Sales Negotiator will notify you of the identity and contact details of your conveyancer.

The contract between us for the sale of this property will terminate once settlement has been effected and any ancillary matters have been finalised. Any claims in terms of the missives will not form part of this contract.

We will co-ordinate settlement on the due date in so far as these arrangements are in our control. We cannot guarantee the time at which any settlement will take place. We will make serious efforts to ensure that we are in a position to settle early in the day, however we cannot be responsible for delays by other solicitors. You will be required to ensure that a set of keys are in our hands two working days before settlement to enable us to deliver them to the purchaser following settlement.

Missives

These are formal letters which pass between solicitors including the offer and the acceptance of said offer. When all the terms are agreed then the purchase is "concluded".

Please note – **you do not have to sign missives** – you will be bound by our signing the letters on your behalf. You will require to be regularly available to give us instructions during your transaction. We will check with you throughout the negotiation of the missives and will give you a final opportunity to withdraw from the transaction before missives are concluded. Please note, however, that missives can be concluded by the Purchasing agents outwith our control.

There is now a standard form of contract for property purchases and sales in most of Scotland which is used by many firms of Solicitors. To see the Scottish Standard Clauses please check the website of The Law Society of Scotland. The Scottish Standard Clauses are hopefully self-explanatory, however if you have any questions regarding the terms of the Standard Clauses please check the Client Guide on the Law Society's website or if you still have queries, advise us so that we can discuss them with you. You will be able to obtain access to

these documents using a computer at the local library. It is likely that any offers received will be in the form of the Scottish Standard Clauses. The objective of the Scottish Standard Clauses is to enable early conclusion of missives.

If you withdraw from a sale after the conclusion of missives you will be liable to pay damages to the purchaser of the property. These damages will include any losses which the purchaser makes as a result of your failure to complete on time or at all. **This is a situation you do not want to find yourself in.** Full details of the damages which you could be asked to pay are included in the Standard Clauses.

Fees

We will give you a detailed estimate of the likely fees and outlays in this matter. This estimate will be for a normal transaction. This will be provided by letter which will be either e-mailed or posted to you. **Please note, however, that fees and outlays can change during the course of a transaction – normally outwith our control.** We reserve the right to charge increased fees where the transaction becomes protracted or complicated due to unforeseen events. We will advise you in the event that this seems likely to occur. Your fees, VAT and all outlays must be paid to us not later than the working day prior to settlement of your sale. We shall be entitled to delay settlement in the event that we do not hold sufficient funds to meet all of the outlays including fees and VAT.

In accordance with standard commercial practice, where we instruct third party suppliers to provide services to you, which are chargeable as outlays, and we receive a supplier discount or commission payment, we will have right to retain said payments, commissions or discounts as our sole property and for our sole benefit.

If we undertake any conveyancing work on a transaction which subsequently does not complete, our fees or a reasonable proportion thereof, will remain payment dependent upon the amount of work carried out to the date of termination of the transaction. Further, if you withdraw your property from the market before a sale is achieved, you will pay us a withdrawal fee of a minimum of £250 + VAT.

Statutory Notices

Sometimes these will come to light during the course of a transaction. They are notices by the Council requiring work to happen to the roof or other common parts of a building. If any notices come to our attention during your transaction, the practice in Edinburgh is as follows:

- (a) If the invoice has been issued at the date of the transaction, the Seller will remain liable and no retention should be made.
- (b) If the work has been undertaken but no invoice has been issued, the purchasing solicitors will most likely request estimates of the cost and will retain the amount of the highest of these plus the Council's administration fee of 15% +VAT and normally an additional sum of 25% until the work is completed. There is no guarantee that this will be enough to pay the bill. The Council would send the purchaser an account when the work is completed as they are the owner at that time. They must pay it although they are entitled to recover it from you as the seller. If you already have estimates for any outstanding notices, please let us have these as soon as possible. If you do not, we can arrange for these to be provided at additional cost.
- (c) If the work has not been undertaken and is not proposed to be undertaken, the Purchaser shall become liable and you will have nothing to pay. You should advise us of the nature of any such works so that we can notify the surveyors and account is taken in the valuation given.

Payment of Funds to us

Please note, if there is a shortfall in sums required to redeem your mortgage and pay the expenses of the sale, you will require to let us have these funds as soon as possible. We will notify you as soon as we become aware that a shortfall will exist. It is important that you action the terms of this notification, otherwise your transaction may not settle, and you may be charged damages by the purchaser.

If you require to make a payment to us in these circumstances, your payment should be made to our bank account. We shall supply details of our bank account at the time. The shortfall should be paid by debit card or by bank transfer not later than 3 business days before settlement or 10 working days before settlement if payment is to be made by cheque.

Payment of Sale Funds to you

If your sale transaction is settled by solicitors' cheque, funds remaining from your sale after settlement and repayment of your loan will be paid **by CHAPs or Faster Payment** 7 working days after the transaction settles. As the sale price of the property arrives by cheque, this must clear through our bank before we can issue these payments.

If your sale transaction is settled by CHAPs, we will make efforts to pay off your loan and send any sums due to you by CHAPs or Faster Payment not later than the banking day following settlement. We will not be liable for any failure by the Banks to transmit funds in accordance with our instructions.

We will charge our standard fee for Bank Administration Fees (currently £25 + VAT). We shall be entitled to deduct our fees and outlays from any sums due to you. We shall retain the sum of £100 to meet any final expenses and charges and shall return any balance to you once the whole matter is completed.

Please note that we bank with the Royal Bank of Scotland plc and funds received from you will be banked in our client account with them. If you consider that your monies are not sufficiently protected by the UK Government Bank deposit Guarantee Scheme, you should inform us. However, if you wish us to lodge the funds in a different bank on your behalf, you should note that there will be an additional charge for making these arrangements (currently £100 +VAT). For the avoidance of doubt, we will not be responsible for the failure of our bank.

Tax Advice

We will be unable to give you any advice in relation to tax matters or any potential individual tax consequences of your sale transaction.

Post Settlement Claims

Any such claims will be notified free of charge. Any subsequent action will form a separate contract between us and a fee scale agreed at the time. If we are unable to assist, for example, litigation is necessary for recovery, we will recommend an alternative firm.

Cancellations

Where you have instructed us to act as an Estate Agent, you may be entitled to withdraw from this contract in terms of the Consumer Contract (Information Cancellation & Additional Charges) Regulations 2013 and the Consumer Rights Act 2015. By completion of our Instruction Form, you specifically agree that you are dispensing with the 14 day cancellation period. Notwithstanding this, we will permit cancellation without cost unless we have incurred an outlay or have commenced any work on your behalf.

Confidentiality

Any information provided by you will be treated in confidence and will only be disclosed to parties authorised by you or as required by the Law Society of Scotland or the courts.

Destruction of Files

We will destroy files after the periods recommended by the Law Society. This will mean, in the case of sales; after 3 years. We will assume that you consent to such destruction unless you inform us otherwise and will not contact you further in this connection.

Should we receive a mandate to provide a copy of your file, we will print off the file and there will be a charge (currently £100 plus VAT) for the paper copies being produced. This fee will be payable before the copies are produced.

Communications with you

On the whole, we will communicate with you by e-mail. On occasion, or if you do not have access to e-mail, we will communicate by post. We will be entitled to take e-mail instructions from you or either one of you. In the event that our client is a Company or a partnership, we shall be entitled to accept instructions from any one Director or the Secretary or any single Partner. On occasion we shall be entitled to request that your instructions are signed. Accordingly, it is essential that you should give us instructions quickly following a request for same. In order to do this, it is essential that you should remain in contact with us during the course of this transaction. If you will be unavailable at any time, please advise us. If your contact details change at any point, it is your responsibility to ensure we have up to date contact details.

You should also ensure that you can make yourself available to sign documentation for your transaction in case this needs to be signed in person. If time is available, we shall forward the documentation by post provided we feel that there is sufficient time for this course.

We will deal with matters as expeditiously as possible. However, you will appreciate that we are often delayed in dealing with matters due to the actions or inaction on the part of other parties such as surveyors, other solicitors, search companies or other bodies. We will chase for progress on a reasonable frequency.

Contact Details of our Offices

Bruntsfield
103 Bruntsfield Place
Edinburgh
EH10 4EQ
0131 228 1926

Dalkeith
93 High Street
Dalkeith
EH22 1JA
0131 663 7261

Gorebridge
26 Main Street
Gorebridge
EH23 4BY
01875 821960

Newington
55 Mayfield Road
Edinburgh
EH9 3AA
0131 666 2424

Chesser
2B New Mart Road
Edinburgh
EH14 1RL
0131 622 1771

Penicuik
20 High Street
Penicuik
EH26 8HW
01968 675694

You should ask your sales negotiator and/or your conveyancer for details of their direct dial number and their individual e-mail address as this will make communications quicker and more efficient. Please note

that all e-mails and telephone calls will be answered just as quickly as we are in a position to give you a substantive answer. On occasion, this may mean that there is a delay in replying to you.