

TMS Legal Ltd -Terms of Business Agreement ("TOBA")

The terms set out in the Letter of Engagement, Letter of Authority, Power of Attorney, UK GDPR notification and these Terms of Business are the terms and conditions on which TMS Legal Ltd ('the Company' 'we' or 'our' or 'us') will provide its Services to you.

We are a law firm authorised and regulated by the Solicitors Regulation Authority. Our registration number is 645041. We comply with the SRA Standards and Regulations which are available on the SRA website at www.sra.org.uk.

By agreeing to instruct us to pursue your complaint or claim on a Conditional Fee Agreement ("CFA") (otherwise known as being on a No Win: No Fee basis) you understand that you have the option to bring a complaint or claim for redress yourself without the involvement of TMS Legal Ltd.

1. Definitions

'ADR': refers to the **Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations** [SI 2015 No.1392; dated July 2015], enabling you and the Company to submit a monetary financial services disputes to be resolved by the FOS; without having to incur the significant cost, delay and disproportionate up-front expense of having to go to Court in the UK, in circumstances where there is non-Compliance with the Online Dispute Resolution Regulation time line of eight weeks.

'Services':

- Submitting a complaint or claim to the Lender seeking redress for a mis-sold Packaged Bank Account ('PBA').
- Submitting a complaint or claim to the Lender seeking redress for unaffordable lending in relation to overdrafts, credit cards, loans and other types of credit agreements.
- Submitting a complaint or claim to the Lender seeking redress for breach of contract or misrepresentation by a retailer or trader when goods or services were purchased using a credit card.
- Submitting a complaint or claim to the Lender seeking redress for unaffordable lending in relation to a motor finance agreement ('MFA').
- Submitting a complaint or claim to the Financial Ombudsman Service ('FOS') where:
 - there has been no Final Response Letter from the Lender within agree time lines, or
 - the complaint or claim submitted to the Lender has been rejected, or
 - we disagree with the findings of the Lender

but only when we consider it reasonable, meritorious, appropriate and proportionate to do so, and have sufficient information on which to base it.

By signing these Terms of Business you give us express written authority and permission to append to your signed FOS Complaint Form factual information obtained in connection with the submission of the original Complaint to the Lender.

- Where one or more of the above complaints or claims has been successful we may seek to recover from HMRC any interest on basic rate tax deducted from the redress you receive.
 - Unless otherwise instructed by you, TMS will always refer your Complaint to the FOS 8-10 weeks after your Complaint or claim is lodged with a UK Bank (or other lender); that is, if TMS has not received a meaningful Final Response Letter ("FRL") from the Bank or Lender, since Banks and Lenders are required to respond to any Complaint promptly within 8 weeks [FCA Rules], and under English law and sometimes fail to do so; resulting in Complaints taking 8-12 months to resolve instead of 8-12 weeks.
 - Unless otherwise instructed by you, or in "*exceptional circumstances*", TMS will normally accept and recommend that any adjudication by the FOS should be accepted by you without your further instructions.
 - "*Exceptional Circumstances*" would include where the FOS alters or changes its policy position for any reason.
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- **'Client'**: is 'you' or 'your'
 - **'Complaint or Claim'**: is the submission of a complaint or claim to a Lender
 - **'Complaint'**: is "any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide, a financial service, claims management service of a redress determination, which alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience." **[Per FCA Handbook DISP 1.1]**
 - **'FCA'**: is the Financial Conduct Authority
 - **'Financial Ombudsman Service ('FOS')**: is a body which operates a dispute resolution scheme that can resolve disputes with financial companies .
 - **'Financial Product'**: means one or more of the following - a loan, an overdraft, a credit card, a debt, a motor finance agreement
 - **'Lender'**: means a bank, financial institution, building society or other credit provider
 - **'Letter of Authority'/ Power of Attorney** is the form you sign and return to us:
 - Providing written confirmation that you agree to the terms and conditions upon which we are prepared to act for you.
 - giving authority to us to act on your behalf in relation to your complaint or claim as solicitors and agents.
 - **MFA'**: is a motor finance agreement, such as a Personal Contract Purchase, Hire Purchase Agreement, Conditional Sale Agreement, Hire or Lease Agreement.

- **'Redress':**

- is the total compensation offered by your Lender in response to a complaint or claim, and /or
- awarded by the Financial Ombudsman Service, and/or
- any tax recovery we obtain from HMRC on your behalf

Redress includes some or all of the following:

- A refund of premium
- Interest
- Fees and charges
- Overdraft interest
- A reduction, or waiver, to an outstanding debt or overdraft
- A payment as a gesture of goodwill, or for distress and inconvenience
- A refund of tax
- Payments from a credit card company
- Repair costs
- Reimbursements
- Refunded interest on borrowing
- Reworking of a debt
- Removal of interest, fees and charges from an account
- Reduction of outstanding debt
- Write-off of an outstanding balance
- Compensation or other benefits received
- A reduction in the interest rate
- A refund of hidden or secret commission
- A refund of the amount you have been overcharged
- A waiver of any fees or charges

- **'Fees': We operate on a NO WIN NO FEE basis – what does this mean?**

- We will not charge a fee where there has been no redress.

The fees payable to us are calculated as a percentage of the redress, and are inclusive of VAT, this fee depends on which band your compensation payout falls into, with a maximum fee per band, as per below:

| Band | Redress | Percentage rate the Success Fee is calculated on (including VAT) | Maximum Success Fee in band (including VAT) |
|------|--------------------|--|---|
| 1 | £1 to £1,499 | 36% | £504 |
| 2 | £1,500 to £9,999 | 33.60% | £3,000 |
| 3 | £10,000 to £24,999 | 30% | £6,000 |
| 4 | £25,000 to £49,999 | 24% | £9,000 |
| 5 | £50,000 or more | 18% | £12,000 |

FEE EXAMPLES

LOWER EXAMPLE

HIGHER EXAMPLE

| Band | Redress | Fee | Redress | Fee |
|------|---------|---------|----------|---------|
| 1 | £100 | £36 | £1,499 | £504 |
| 2 | £1,600 | £537.60 | £9,999 | £3,000 |
| 3 | £12,000 | £3,600 | £24,999 | £6,000 |
| 4 | £30,350 | £7,284 | £49,999 | £9,000 |
| 5 | £55,000 | £9,900 | £100,000 | £12,000 |

FEE EXAMPLE (in the form of a reduction of a debt/loan or overdraft)

Let us suppose that you are offered a £2,000 reduction in the amount of your debt, loan or overdraft, in response to your claim:

The fee is calculated based on band **2** (see table above): 33.60% (inclusive of VAT)

The fee payable to us will be £672

Your debt, loan or overdraft will be reduced by £2000

FEE EXAMPLE (in the form of a cash payment and a reduction of a debt, loan or overdraft)

Let us suppose that you are offered a £2,000 total redress – in the form of a £600 reduction in your debt, loan or overdraft – and a £1,400 cash payment – in response to your claim:

The fee is calculated based on band **2** (see table above): 33.60% (inclusive of VAT)

The fee payable to us will be £672

Your debt, loan or overdraft will be reduced by £600 – and you will receive £728

2. Responsibilities

We will:

- Treat you fairly and with respect
- Rely on the information and documents you provide us as being accurate and complete
- Pursue a complaint or claim when we have reasonable grounds to do so and sufficient information on which to base it
- Communicate with you in plain language
- Review your matter regularly
- Notify you promptly on receipt of responses from your Lender

You will:

- Provide us with clear and accurate information to be used in pursuing a complaint or claim including bank statements, and access to credit reports and open banking
- Respond to any request for further information without delay
- Inform us immediately of any change of address or contact details including email and telephone number
- Inform us promptly should you receive a Final Response Letter from the Lender or any other correspondence ,and send us a copy if we request it
- Inform us promptly when redress is paid to you directly by the Lender
- Co-operate and not mislead us
- Not negotiate any settlement independently of us. All communications should take place between us and the Lender
- Pay our fees where there has been redress

3. Service levels and frequency of communication

- We will update you by telephone or in writing on your matter regularly. When we use the term ‘in writing’ we include any form of written electronic communication normally used for business purposes, such as emails and texts.
- We will explain to you the work required as your matter progresses.
- We will update you on the likely timescales for each stage of the matter and update you on any material change.
- Our correspondence with you will name an individual whom you can contact to discuss your complaint or claim . Alternatively, you can contact the office manager on: 01202 022350, or by email at info@monneysolicitor.com who has supervisory responsibility for the claims team.

4. Cancellation or Change of Terms by Lenders**• Cancellation of PBA Policies**

You acknowledge that in the event of a successful claim and your Lender making an offer of redress the PBA benefits associated with your account may be downgraded or cancelled and it is your responsibility to arrange replacement cover if required.

• Cancellation of Financial Products

You acknowledge that the Lender may cancel, suspend, withdraw or change the terms of any of your financial product(s) on receipt of a complaint or claim, and it is your responsibility to arrange replacement

financial facilities if needed.

In the event of a motor finance agreement the Lender may demand the return of a vehicle, and you may need to acquire a replacement.

You acknowledge that the lender may refuse to lend to you in future.

5. Limit of Liability and Professional Indemnity Insurance

- We maintain professional indemnity insurance in accordance with the requirements of the Solicitors Regulation Authority and a copy of our policy schedule is available for inspection by clients at our office. Our liability to you in respect of professional negligence claims is limited to the extent of the coverage we maintain.
- Any advice given to you or work undertaken for you by a director, employee or consultant of the Company will be given or undertaken by that person on behalf of the Company and not in his or her individual capacity. Our directors, employees and consultants do not owe a personal duty of care nor assume any personal responsibility for their advice or other work.

6. Banking and Interest and Cash

- We hold all client money in our client account with a UK clearing bank which is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. We will not be responsible for any loss due to any mistake by or failure of the clearing bank.
- When we hold money for you in our client account we will pay interest to you of a fair and reasonable amount when it is fair and reasonable to do so. However, we do not pay interest if the amount calculated is £50 or less. We will calculate interest at the end of the matter and account to you promptly if any is due. The rate of interest is the base rate of Barclays Bank PLC from time to time.
- Our policy is not to accept cash. If clients circumvent this policy by depositing cash directly with our bank we reserve the right to charge for any additional checks we consider necessary regarding the source of the funds.

7. Fees

- We will notify you of any fees that are payable.
- If redress has been paid to you directly by the Lender, or by HMRC in the event of a tax recovery, payment of our fees is due immediately. If the payment is outstanding for more than 21 days an additional £50 charge may be added to cover administration and collection costs.
- If redress is paid to us by the Lender, or by HMRC in the event of a tax recovery, you agree that we can deduct our fee before forwarding the balance to you.
- We may agree a payment plan with you for up to 3 months to clear an outstanding balance but we

will charge simple interest at 12% per annum.

- Should you owe us any fees you agree that we can deduct this outstanding debt from any redress offered or awarded by a Lender, in respect of another successful complaint or claim, or by HMRC in relation to a tax recovery.
- Payment of our fees is due if redress is offered or awarded following any direct communications you may have had with the Lender, subsequent to the submission of a complaint or claim by us to them.
- Payment of our fees is also due if you enter into a contract with another entity and redress is offered or awarded following submission of a complaint or claim by us to the Lender.
- Should the Lender increase an offer at a later date, perhaps because of a review of the complaint or claim or as a result of an audit, we will charge fees on the additional amount on the same basis and at the same percentage of the redress as previously agreed.
- Should the Lender uphold other complaints or claims as a result of our approach to them we will deal with these cases on your behalf and charge fees on the same basis and at the same percentage of the redress as previously agreed.
- Should you have any outstanding debts at the time we notify you of fees due to us you agree that we will have first charge.
- You have the right to complain about our invoice directly to us (see Complaints Clause 18) and also by applying to the court to assess the invoice under Part 111 of the Solicitors Act 1974. The usual time limit for making such an application is one month from the date of delivery of the invoice. If the application is made after one month but before 12 months from the date of delivery of the invoice, the court's permission is required for the invoice to be assessed. Unless there are special circumstances, the court will not order an invoice to be assessed after:
 - 12 months from delivery of the invoice
 - A judgment has been obtained for the recovery of the costs covered by the invoice
 - The invoice has been paid, even if this is within 12 months

8. Fee sharing

- If you have been introduced to us by a third party we may share our fees with them. They will receive up to 50% of our fees. This has no bearing on the way we handle our complaint or claim for you and our duty to act in your best interests will not be compromised. The amount of redress you receive will not be reduced by any fee sharing agreement.

9. Your Personal Data and Electronic communication

- We take the privacy of your personal data seriously. It is controlled and processed in accordance with the UK General Data Protection Regulation ('UK GDPR'). You give us full authority to disclose and receive information as outlined herein and in our Privacy Policy which can be viewed at www.pba-claims.co.uk. We ask that you read our Privacy Policy carefully. If required, a hard copy is available upon request. Nick Stocks is the data controller for TMS Legal Ltd.

We use the personal data primarily for the provision of legal services to you in relation to your complaint or claim and for related purposes including:

- Contacting you in relation to your complaint or claim and responding to your enquiries
 - Processing your complaint or claim
 - Contacting and responding to third parties on your behalf in relation to the complaint or claim, for example, Lenders, the Financial Ombudsman Service and HMRC.
 - Updating and enhancing client records
 - Administration and billing
 - Management of our business
 - Statutory returns
 - Legal and regulatory compliance including auditing and investigation(s)
 - Debt collecting
 - Prevention of fraud, money laundering and terrorism
 - Verifying your identity and contact details
- Please note that telephone calls are recorded for quality, training and compliance purposes.
 - You agree to accept the risks of using electronic communication, including but not limited to the risks of viruses, interception, unauthorised access, delay, misrouting and break down of service providers.

10. Storage

- We hold personal data for as long as is necessary to fulfil the purpose for which we collected such information (or for any compatible purpose), including for the purposes of satisfying any legal, accounting or regulatory requirement, and limitation periods for taking legal action.
- Any original documents we obtain from you will be scanned and returned to you within 14 days of receipt.

11. Prevention of Money Laundering

- We are professionally and legally obliged to keep your affairs confidential. However, solicitors may be obliged by statute to make a disclosure to the National Crime Agency and other relevant authorities where they know or suspect that a transaction may involve money laundering or terrorist financing. If we make a disclosure in relation to your matter, we may not be able to tell you that a disclosure has been made or the reason for it. We may have to stop working on your matter and may not be able to tell you why.

- We also have to obtain satisfactory verification of the identity of our clients and undertake client due diligence. This may be necessary even if we have acted for you before or you are personally known to us. In the absence of such verification at the start of our relationship we are unable to act for you. We will conduct an electronic verification of your identity and proof of address by searching various data sets. We may additionally ask you to provide documents as proof of your identity and address.

12. Confidentiality

- Any information not in the public domain or known to us, that we receive from you whilst acting for you in connection with any matter, is confidential. However, in some circumstances we may be required to disclose confidential information and documents to the court or to regulatory or fiscal authorities. Should we be so required we will, to the extent we are permitted, endeavour to give you advance notice of the disclosures we are obliged to make.
- Please note that by accepting our terms and conditions you are consenting to the inspection of your file should it be selected for audit or regulatory compliance checks.

13. Equality and Diversity

- We are committed to the principles of equality and diversity and to observing all legislative requirement regarding these principles.
- The company is committed to a policy of non-discrimination, non-victimisation and non-harassment in all its professional dealings with employees, directors, clients and third parties and will not discriminate, victimise or harass any person in these groups on the grounds of: race or racial group (including colour, nationality and ethnic or national origins), sex (including marital status, civil partnership, gender reassignment, pregnancy, maternity and paternity), religion or beliefs, age or disability.

14. Vulnerability

- We are committed to the early identification and protection of vulnerable clients. A copy of our vulnerability policy is available on request.

15. Conflict of Interest

- We will check for conflicts of interest before taking on work and whilst we are retained by you. Where a conflict arises between your interests and the interests of another client of the firm during the course of a matter, we will discuss the position with you and determine the appropriate course of action. In order to protect your interests, we may not be permitted to continue to act for you.

16. Authorisation to commence work

- You expressly request and authorise us to begin working on your complaint or claim before the end of the statutory cancellation period referred to in clause 17 below. You understand that by giving this authorisation you cease having the right to cancel the contract if our service has been fully performed.

17. Cancellation and Termination

- You have the statutory right to cancel this contract within 14 days of agreeing to it. You can request cancellation by email at info@money solicitor.com or by writing to us at TMS Legal Ltd, Arena, 9 Nimrod Way, Ferndown, BH21 7UH or by using the enclosed cancellation form. Use of the cancellation form is not obligatory.
- You may also cancel this contract after the statutory cancellation period but our fees are still payable where there has been redress - whether prior to, or subsequent to, the notice of cancellation.
- We may decide to stop acting for you, but only with good reason: for example, if you do not pay an invoice, if you provide us with misleading information, if you act in an offensive or abusive manner, or if we conclude that we have no substantive grounds on which to pursue or continue a complaint or claim or that such complaint or claim is unlikely to be successful.

18. Complaints

- We endeavour to provide a good quality service with efficiency and courtesy. It is our aim that our clients should be satisfied with all aspects of the work undertaken by us.
- However, if you are unhappy with any aspect of our service, or the amount of our invoice, please contact the operations manager by writing to TMS Legal Ltd, Arena, 9 Nimrod Way, Ferndown, BH21 7UH or by telephone 01202 022350 or by email to info@money solicitor.com. A copy of our complaints handling procedure is available on request
- We undertake to investigate any complaint carefully and promptly and will provide our final written response to you within 8 weeks. If we have not resolved it within this time you may complain to the Legal Ombudsman.

The Legal Ombudsman's contact details are:

- By post: PO Box 6167, Slough, SL1 0EH
 - By email: enquiries@legalombudsman.org.uk
 - By phone: 0300 555 0333
- You need to bring a complaint to the Legal Ombudsman within 6 months of receiving a final written response from us about your complaint.
 - The Legal Ombudsman expects complaints to be made within one year of the act or omission about which you are concerned, or within one year of you realising that there was a concern.
 - Alternative complaints bodies exist which are competent to deal with complaints about legal services should both you and the company wish to use such a scheme. A list of those that we recommend is available on request.
 - The Legal Ombudsman is there to deal with concerns about the level of service received. If your concern is related to behaviour, for example dishonesty, or that you have been treated unfairly because of your age, disability, or other characteristic, you can raise your concerns with the Solicitors Regulation Authority. Full details on how to do this can be found on their website at

19. Applicable Law

- The contract and any dispute between us shall be governed by and construed in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the English courts.

I /We agree to and accept the terms and conditions set out in the Terms of Business above and in the Letter of Engagement, Letter of Authority, Power of Attorney and UK GDPR notification

Client 1

Print Full Name:

Signature: **X**

(Signature required in above Box)

Dated:

Client 2

Print Full Name:

Signature: **X**

(Signature required in above Box)

Dated:

NOTICE OF RIGHT TO CANCEL

You have the right to cancel this contract within 14 days of agreeing to it at no charge. You can request cancellation by email at info@moneysolicitor.com or by writing to us at TMS Legal Ltd, Arena, 9 Nimrod Way, Ferndown, BH21 7UH or by using the cancellation form.

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CANCELLATION FORM

To: TMS Legal Ltd

I / We* hereby give notice that I / We* cancel my / our* contract for the supply of services by TMS Legal Ltd.

Name:

Address:

Signature:

Date:

* Delete as appropriate.

You can return this form by:

- Post to: TMS Legal Ltd, Arena, 9 Nimrod Way, Ferndown, BH21 7UH
- E mail: info@moneysolicitor.com

Complaints Procedure

- We endeavour to provide a good quality service with efficiency and courtesy. It is our aim that our clients should be satisfied with all aspects of the work undertaken by us.
- We aim to resolve complaints as quickly and efficiently as possible while at the same time gaining a complete understanding of the client's complaint points and addressing each one.
- A complaint can be made verbally or in writing. For example it can be by letter, telephone, e-mail or by any other contact medium we have available.
- Our contact details are:
 - By Post: TMS Legal Ltd, Arena, 9 Nimrod Way, Ferndown, BH21 7UH
 - email: info@moneysolicitor.com
 - By phone: 0800 0073 777
- Once a complaint has been received a letter or electronic acknowledgement of the complaint will be sent within **5 business days** by Simona Zaharia, the Operations Manager, who is responsible for investigating your complaint.
- Within 4 weeks of the complaint being received we will send either a final response letter addressing all your complaint points, or a holding response advising you as to why the complaint has not been resolved.
- If a holding response is sent an indication will be given as to when our final response letter will be sent to you, but it will be within 8 weeks from the date of the receipt of the original complaint.
- Within 8 weeks from the date of receipt of your complaint we will send you a final response letter addressing all your complaint points.
- If we have not resolved the complaint to your satisfaction you have the right to complain to the Legal Ombudsman, an independent complaints body established under the Legal Services Act 2007.
- The Legal Ombudsman expects complaints to be made within one year of the act or omission about which you are concerned, or within one year of you realising that there was a concern.
- You must also refer your your concerns to the Legal Ombudsman within 6 months of the date of our final response letter to you.

- The Legal Ombudsman can be contacted:
 - By post: P.O Box 6167, Slough, SL1 0EH
 - By email: enquiries@legalombudsman.org.uk
 - By phone: 0300 555 0333

- Alternative complaint bodies exist that are competent to deal with complaints about legal services should both you and TMS Legal wish to use such a scheme. A list of those that the company recommends are available on request.

- Please note that the Legal Ombudsman is there to deal with concerns about the level of service received. If your concern is related to behaviour, for example dishonesty, or that you have been treated unfairly because of your age, disability, or other characteristic, you can raise your concerns with the Solicitors Regulation Authority. Full details on how to do this can be found on their website: www.sra.org.uk