



SHOOSMITHS LLP:

CONVEYANCING TERMS & CONDITIONS 2.2018

(LARGER PRINT VERSION CAN BE PROVIDED ON REQUEST)

CLIENT AGREEMENT

1. Shoosmiths LLP is a limited liability partnership registered in England and Wales (registered number OC374987). Our registered office is at Witan Gate House, 500-600 Witan Gate West Milton Keynes, MK9 1SH. We are authorised and regulated by the Solicitors Regulation Authority. Shoosmiths, is a trading names of Shoosmiths LLP. References to 'we', our' or 'us' are to Shoosmiths LLP. We use the term 'partner' to refer to a member of Shoosmiths LLP or an employee who is a lawyer of equivalent standing.
2. Our services will be provided in accordance with our initial letter to you and these Terms and Conditions, which should be read in conjunction with the letter confirming your instructions. Our agreement with you is subject to English Law and the courts of England & Wales shall have exclusive jurisdiction. If we merge with another firm or transfer our business to another entity, all benefits, rights and liabilities arising from or under this contract will automatically transfer to the new entity. You acknowledge that you are instructing Shoosmiths as a firm and that no special duty is owed to you by any partner or employee of Shoosmiths. Any advice given to you by a partner or employee of Shoosmiths is done so on behalf of Shoosmiths and not in his or her own individual capacity.
3. A Case Handler will be appointed to handle your transaction who will be supervised by a Conveyancer. These staff are not necessarily solicitors, but they are trained to advise you on the conveyancing process and the governing law for residential property. They will, in turn, be supervised by partners from Shoosmiths, who are Solicitors. We reserve the right to delegate tasks to suitably experienced staff to enable your work to be carried out in a timely and cost effective manner. The partners and staff in Shoosmiths' conveyancing department are specialists qualified to advise you in property law.
4. Our core hours of business are 9am to 5:30pm Monday to Friday inclusive. We offer extended coverage from our Northampton office on Saturdays from 9.30am to 4.30pm and on Sundays from 10am to 3.30pm. We do not open on all Bank Holidays, and work reduced hours on some Bank Holidays and in the Christmas week. The Case Handler responsible for your transaction will be part of a team, who are collectively responsible to staff their team throughout our core hours of business. We do not operate an out of hours answer phone service.
5. If you have instructed us following the referral of an estate agent, broker, house builder or similar introducer, our client relationship is with you and not the referrer. Any financial relationship with the referrer will be set out in our introductory letter. You are free to choose your conveyancing firm. We work to serve your best interests by providing independent and confidential legal advice and you should feel free to raise questions on any aspect.
6. You should consult other suitably qualified professionals for advice on non-legal matters such as the condition of the property, its services and market value, environmental issues, or for specific financial, investment or tax advice (other than Stamp Duty Land Tax), as to which see paragraph 13. We cannot advise you on the relative merits of your chosen mortgage or insurance products or whether the terms of those products are representative of those currently available in the market. These matters should be discussed with a Financial Advisor if you have any concerns.

YOUR RESPONSIBILITIES

7. Where a property is held jointly or is to be purchased jointly, we may accept and act on instructions from any joint owner or joint purchaser of the property and you agree to be bound by those instructions. Where a property is to be purchased by a company we will accept instructions from an authorised Director or the Company Secretary.
8. You should carry out your responsibilities in accordance with this agreement and as we request of you from time to time. You should bring to our attention immediately information or any discovery which you consider to be inconsistent with our understanding of your transaction, or any change in your circumstances, which may have a bearing on our acting for you or our provision of advice. It is particularly important that you provide us with instructions, information and requested forms and documents in a timely manner and that all information provided by you is true and accurate and not misleading to the best of your knowledge, information and belief. We cannot be held liable for any loss or damage arising from information or for inaccuracy or other defect in any document supplied by you.

COMMENTS ON OUR SERVICE

9. We aim to provide you with a high quality service. If you believe that the service could be improved or you are dissatisfied with our fees or any other aspect then please raise this matter with your supporting Case Handler or Conveyancer in the first instance. If you feel that this is inappropriate or they fail to resolve your concerns then please raise the matter with their supervising Partner. In the event that you wish to take matters further then you should write to David Parton, the Partner with responsibility for the Conveyancing Department, at Shoosmiths, The Lakes, Northampton NN4 7SH. A copy of our complaints procedure is available on request and is available on our website. If we are unable to resolve your complaint within eight weeks of receiving full details, you have the right to refer it to the Legal Ombudsman which is an out of court complaints and redress scheme. A time limit of six months from our final response to you usually applies. The Legal Ombudsman can accept a complaint within six years of the act / omission or three years from when you should have reasonably known about the problem. The Ombudsman can be contacted on 0300 555 0333, by email at enquiries@legalombudsman.org.uk or by post at PO Box 6806 Wolverhampton WV19WJ. Alternative approved complaints bodies such as ProMediate www.promediate.co.uk exist, which are competent to deal with complaints about legal services, if we both agree, but as you are able to use the services of the Legal Ombudsman we are content to promote their scheme

FEES

10. Wherever possible, our conveyancing work is carried out on the basis of a fixed fee. Within this fixed fee we include all conventional work associated with a typical conveyancing transaction. Occasionally, our clients require other legal services to assist them in their transaction. Wherever possible we will endeavour to provide you with a fixed fee for these additional legal services before undertaking these services on your behalf. Leasehold transactions (which include properties held jointly with Housing Associations) attract a supplemental fee due to the extra work involved which is set out on our fee illustration. A schedule of our typical prescribed additional charges is sent out with our terms and conditions. The schedule is for illustrative purposes only and is not exhaustive.
11. Mortgage lenders need specific work carried out before granting or redeeming a mortgage. Whilst this work is carried out for their benefit, they require you to be responsible for the fees for this work. Our fees for carrying out their instructions will be set out on our fee illustration. We have a duty to fully reveal to your lender all relevant facts about a purchase and mortgage. This may include any differences between your application and information we receive during the transaction and any cashbacks or incentives that the seller is offering to you. Your acceptance of these terms and conditions will be interpreted as your continued consent to make such disclosure as we consider necessary to your lender.
12. Should you require additional legal services which need us to refer you to another department within Shoosmiths then that department will confirm its own terms and conditions and basis for charging you. There will be no allowance for their time within our conveyancing quotation.

13. We will advise you on the basic Stamp Duty Land Tax implications of a purchase transaction. This assumes that you will be acquiring the property in your individual capacity (and not through a company) and that the property to be purchased will either be the only residential property you will own or will be the replacement of your main residence. In the event that this is not the case, we will be able to provide you with additional Stamp Duty Land Tax advice, including in relation to the application of the additional rates of Stamp Duty Land Tax legislation and whether any relief from tax can be claimed. This advice will be in addition to the conventional work associated with a typical conveyancing transaction and we will endeavour to provide you with a fixed fee for this service before undertaking work on your behalf
14. Value Added Tax (VAT) will be added to our fees at the prevailing rate. We will in each case produce a VAT invoice, but this must by law, be addressed to the client for whom we have performed the service. Where a third party is to pay our fees the third party will not usually be able to recover the VAT element. Our VAT number is GB 119 5708 56.
15. Any fee illustration provided to you by us is based upon available information at the time of provision. It may make reference to payments made to third parties on your behalf in the course of your transaction. These may be significant, including Stamp Duty Land Tax, Land Registration Fees, local authority and other searches. It is not always possible to be aware at the outset of all such payments.
16. Any estimate given for additional work to be carried out is not intended to be fixed unless it is expressly stated as such. In the absence of such a statement it will be our best estimate of likely cost based upon the facts then known.
17. On a conventional conveyancing transaction our fees become due from exchange of contracts (or completion if no exchange is necessary).
18. When we receive instructions from, or on behalf of, more than one person or company to deal with any particular matter, each person or company for whom we are acting will be separately responsible for payment of the full amount of our fees and expenses.

WHEN MONEY IS REQUIRED

19. We may ask you to make a payment on account of expenses. If you fail to do so, we may cease to progress your transaction until payment is received. You will remain liable for payment of expenses incurred, whatever the outcome of your transaction.
20. Payments may be made by credit card for initial searches and landlord enquiries only. Larger sums such as a contract deposit, balance of funds, and Stamp Duty Land Tax liabilities must be settled by debit card to £20,000 or direct funds transfer to our nominated account for larger payments.
21. Where money is required from you it is essential that this is cleared in our client account the day before we are required to use it. We do not recommend and may not accept payment of substantial sums by personal cheque because of the uncertainty on clearance
22. Money paid to us in advance will be held in a client account separately from the firm's own money, subject to our right to transfer and use the same in payment of our fees and expenses. Client money is held by us in accordance with the provisions of the Solicitors Regulation Authority Accounts Rules. We will account to you for a sum in lieu of interest on any money held on your behalf in accordance with those rules. Whilst we always use reasonable endeavours to ensure client money held by us is invested in appropriate banks or other financial institutions, we do not accept any liability for any losses or associated costs which may arise as a result of any failure, restructuring or insolvency of any financial institution used.
23. We will not accept payments from anyone other than our clients or their lender. It is the firm's policy not to accept cash. In the case of corporate clients, payments must be received from the company bank account. Payments from the personal accounts of Directors or the Company Secretary will not be accepted.

24. Where monies are received through a bank transfer system, we reserve the right not to use such monies until we have sufficient information to identify the source of funds and allocate the payment to a client and a specific matter.
25. If money is received and needs to be returned, we reserve the right to return the money to the same account from which it came. We will not transfer money overseas, or to a third party.
26. Where you are obtaining a mortgage to assist with any purchase, or are re-mortgaging your property, the lender requires that we submit a certificate confirming that the title is in order and requesting the mortgage funds be sent to us. Your lender will accept that certificate as also being confirmation that you wish to proceed with the mortgage under the European Mortgage Credit Directive which gives you a 7 day reflection period to decide whether to accept the offer. We will treat your continued instructions to us to progress your transaction to completion as also being your instructions to us that you wish to proceed with the mortgage and give this confirmation to your lender on your behalf. Any mortgage advance will be requested by us for the working day before the anticipated completion date to give us the best opportunity to send out money before a contract deadline. Any interest charged by your lender from the date of release of funds to us will be your responsibility.
27. In situations, where we request mortgage funds on your instructions on a speculative basis for your proposed target completion date but the target date is not achieved, you alone will be responsible for any resulting administrative and interest costs charged by your lender.

YOUR AGREEMENT TO INDEMNIFY US

28. You agree to indemnify us against any liability or expense, which we are legally obliged to pay or incur as a result of acting for you.

FINANCIAL SERVICES AND INSURANCE MEDIATION SERVICES

29. We are authorised and regulated by the Financial Conduct Authority (FCA); our firm reference number is FRN707461. Details can be found on the Financial Services Register at <https://register.fca.org.uk/>. We offer consumer credit and mortgage recoveries services. We are also able to offer a limited range of investment and general insurance services to clients if the services are an incidental part of the professional services we have been engaged to provide. In providing those incidental services, we comply with the Solicitors Regulation Authority (SRA) rules.
30. On occasion, where title issues are identified on a property transaction which are capable of remedy with legal indemnity insurance, and this solution would generally be recognised as acceptable to an institutional lender, then we reserve the right to recommend what we believe to be the most expedient and cost effective solution, using insurance as appropriate, to deal with the identified title defect. We generally obtain our policies from preferred reputable providers, where they are able to provide suitable cover. We only select products from a limited number of insurers but we are not contractually obliged to conduct business in this way. We may charge a fee for producing the policy by prior agreement with you to cover our administrative costs in obtaining the policy. We will set out our understanding of your needs on the basis of the information you have provided and our reasons for recommending a policy. We hope that the reasons we have given are clear but if you have any points you want to discuss, please contact us.

CONVEYANCING SEARCHES AND INSURANCE

31. We have arrangements with a number of reputable commercial search organisations for the provision of our conveyancing search information. Where you have been introduced to us by an estate agent, that introducer may request that we use their preferred search companies. You are not obliged to use their preferred provider. In the absence of any specific request, we will assume that you are content for us to request conveyancing searches on your behalf from such providers that we consider appropriate. In the event that any third party search provider's search results prove to be inaccurate, your recourse would be via their insurance cover, and we will not accept any liability for the information provided.

LIABILITY

32. All reasonable skill and care will be used in the provision of our services to you. Our advice may involve us expressing an opinion as to accepting an element of commercial or legal risk. Where this is the case you accept that this is an expression of opinion and not a statement of fact. Any subsequent decision by you must remain your responsibility. We cannot accept responsibility for changes in the law or its interpretation that occur subsequent to our advice being delivered to you or which could not reasonably be known by us at the time. We only limit our liability to the extent the law allows.
33. Advice given by us in the course of a matter is provided to you and you alone and only in relation to the particular circumstances of your instructions. We do not accept any liability for the use of any such advice by any other person without our express prior written consent. The Contracts (Rights of Third Parties) Act 1999 is excluded from this agreement.
34. Our liability to you for a breach of your instructions is limited to £3 million. We will not be liable for any indirect or consequential loss, or for any loss of profits or opportunities. Where you instruct other professional advisers in conjunction with your transaction, you agree that our position in the event of a claim will not be adversely prejudiced by any arrangement or limitation agreed with another of your professional advisers in respect of their potential liability. We can only limit our liability to the extent that the law allows. In particular we do not limit our liability for death or personal injury caused by our negligence, fraud or reckless disregard of our professional obligations.

PROFESSIONAL INDEMNITY

35. Shoosmiths maintains professional indemnity insurance in accordance with the rules of the Solicitors Regulation Authority. Details of our insurer and the territorial coverage are available on our web site at www.shoosmiths.co.uk.

COPYRIGHT REMAINS WITH US

36. We retain copyright in documents prepared by us but where documents are prepared for your use, we grant you an irrevocable, royalty free licence to use those documents for the purpose for which they were prepared.

TERMINATION AND SUSPENSION OF SERVICE

37. You may terminate your instructions to us in writing at any time. We may decide to stop acting for you where we have reasonable grounds to do so. In this event an explanation of the reasons will be provided. We reserve the right to suspend or terminate our service if any of our invoices are unpaid or any sums requested to be paid on account are not paid in accordance with our Terms & Conditions.
38. If our instructions are terminated we are entitled by law to retain your papers and documents if there is any money owing to us or there is any liability outstanding for which we remain without recourse. In the event of termination a final invoice for any outstanding expenses will be delivered which is payable upon receipt.

STORAGE AND DESTRUCTION OF PAPERS & DOCUMENTS

39. Your file of papers on completed transactions will be retained for at least seven years on the understanding that we have your authority to destroy it after this period of time without further reference to you. We reserve the right to destroy correspondence files without notice where your transaction aborted prior to exchange of contracts (or completion if no exchange of contracts necessary). This does not apply to documents or deeds deposited with us for safe custody.

40. We archive our files off site with a storage company at no additional cost to you. We do not normally charge you for retrieving papers or documents from storage if it is in relation to continuing or new instructions. However we reserve the right to make a charge, other than in such circumstances, based upon time spent producing stored papers or documents together with time spent reading, corresponding or other work necessary to comply with your instructions. We also reserve the right to make a reasonable charge for copies of correspondence or documents requested of us once we have closed and stored your file.

BSI QUALITY ASSURANCE

41. Shoosmiths are certificated to the International Quality Standard BS EN ISO 9001. To maintain this certification, we need to disclose some of our files to outside assessors. This process is confidential and the assessors are not permitted to take copies of files or disclose the contents. The assessors' role is solely designed to ensure that our procedures are being followed. Please let us know immediately if you would object to your file being disclosed to the assessors as part of this process.

DATA PROTECTION

42.

We will always treat your personal data with respect. For more information about how we use your personal data, please visit our Privacy Notice which can be found on our website or if you prefer, we will send you a copy in the post. The Privacy Notice complies with the General Data Protection Regulation. Please read it carefully as it contains details of how we collect your personal data, types of personal data we process about you, how and why we use your personal data, others who may receive or have access to your personal data, our data retention and storage policies, your rights, the security we put in place to protect your personal data, and marketing, communications and "cookies".

MONEY LAUNDERING PREVENTION

43. Evidence of a new client's identity will be required in accordance with the Money Laundering Regulations. We will also require evidence of the identity of any third party upon whom we are relying to successfully implement your instructions. In addition we will usually need to make enquiries regarding the purpose of your transaction and the source of any funds being used. We reserve the right to make electronic checks to satisfy identification requirements, which will leave a footprint on your credit file but will not have any effect on your credit rating. All personal data remains subject to the Privacy Notice.
44. If we have a suspicion of money laundering we are required to disclose this to the authorities, overriding our duties of confidentiality to you. In the event of such a disclosure being made we do not accept any liability for consequential damages arising from compliance with the appropriate legislation. We may not be able (and cannot be required) to inform you that a disclosure has been made or of the reasons for it because the law prohibits 'tipping off'.

CYBER CRIME

45. Cyber crime, particularly crime relating to the transfer of money, is on the increase. To reduce the risk of cyber crime and the possible interception of e mails, we recommend that if you need to send us your bank details you do this by post wherever possible. If this is not feasible and you use e mail to send us your bank details please telephone us to confirm the details. If we have supplied you with our bank details and you receive a subsequent e mail about a change to these details, please telephone us immediately.

CONFIDENTIALITY

46. Information received as a result of your instructions will be treated in confidence in accordance with our professional conduct rules. However we will be entitled to disclose confidential information to our insurers, our auditors, and any other third party to the extent required by law or regulation, or where we consider it appropriate to ensure the successful implementation of your instructions. This term will continue in force beyond the termination or expiry of this agreement.
47. Because of the unregulated nature of the internet, any e-mail received could conceivably be copied, read and tampered with. Though the chance of interception may be small, the risk could be great. By accepting our terms and conditions, with e-mail as a method of communication between us, you agree that risk of loss of confidentiality or third party tampering is yours.

FORCE MAJEURE

48. We will not accept any liability for any delay or failure to fulfil our obligations under this contract as a result of causes beyond our reasonable control. Such causes include but are not limited to fire, floods, acts of God, acts and regulations of any government or authority, war, riot, strike, lockouts and industrial disputes.

EQUALITY AND DIVERSITY

49. We are committed to promoting equality and diversity in all of our dealings with clients, third parties and employees. We are able to explain our policy to you.