

# Service terms and conditions

## 1 ABOUT YOUR AGREEMENT WITH US

**1.1** These are the terms and conditions on which we supply Services to you. Please ensure that you read these Terms carefully. Check that the details on the Letter of Authority and in these Terms are complete and accurate, before you sign and submit the Letter of Authority.

**1.2** By signing the Letter of Authority, you authorise us to: (a) act on your behalf in relation to dealings with the Business and Financial Ombudsman Service; (b) liaise and exchange your personal information with the Business, the Financial Ombudsman Service and/or their authorised agents on your behalf; and (c) begin supplying the Services to you as described in the Key Facts Document.

**1.3** You may contact us by post, email or telephone using the details set out in the Key Facts Document.

**1.4** In these Terms of Engagement we refer to EMCAS Limited as "us", "we" or "our" and we refer to you as "you" and "your". If you are entering into this Agreement with your spouse or partner, such references are to you jointly.

**1.5** The following terms have the following meanings:

"**Agreement**" the following documents: the Terms; the Key Facts Document; your completed and signed Letter of Authority; and our Privacy Policy;

"**Business**" the organisation responsible for the sale and/or provision of the product(s) and/or services in respect of which you have a Claim;

"**Cancellation Charge**" the charge payable by you for our time spent on your Claim at a rate of £66.00 per hour [plus VAT] and capped at £500.00 [plus VAT] per Claim which will be payable in the circumstances set out in Condition 4.2;

"**Claim**" the claim or claims that you may have against a Business and in respect of which you have requested the Services;

"**Compensation**" any award or refund of monies including gestures of goodwill, interest and/or monies paid into an account or investment fund which comes about as a result of the Service whether such monies are (a) paid directly to you, (b) used to reduce any arrears/ debt you owe to the Business; or (c) paid as an enhancement of a fund, policy or plan. Where such award or refund is revised on appeal, then the revised amount shall be used to calculate our Fee.

"**Cooling-off Period**" has the meaning set out in Condition 3;

"**Fee**" the fee payable by you to us for the Services more particularly described in the Key Facts Document as a percentage of Compensation;

"**Final Decision Letter**" a letter from the Business confirming the outcome of their investigation into your Claim and advising us of your right to refer your Claim to the Financial Ombudsman Service;

"**Financial Ombudsman Service**" the free, independent arbitrary service set up under the Financial Services and Markets Act 2000 to resolve disputes between financial businesses and their customers;

"**Key Facts Document**" the document entitled Key Facts that is specific to the type of Service you have requested from us;

"**Letter of Authority**" the letter sent to you for your signature which authorises us to act on your behalf under the terms of this Agreement;

"**Privacy Policy**" our latest policy stating how we collect and use your personal information. You can find our Privacy Policy on our website at [www.emcasclaims.co.uk](http://www.emcasclaims.co.uk);

"**Service**" the Claims management service we will provide to you in relation to any one or more Claims that you may have against a Business as described in the Key Facts Document;

"**Terms**" this document;

"**VAT**" Value Added Tax which is payable by you on the Service(s) by us at the rate determined from time to time by Her Majesty's Revenue and Customs; and

"**Working Day**" any day other than a Saturday, Sunday or public holiday in the United Kingdom.

## 2 WHEN THIS AGREEMENT STARTS

**2.1** The Agreement between you and us will start on the date we receive the signed and completed Letter of Authority.

**2.2** The Letter of Authority will be deemed to have been received as soon as you submit the Letter of Authority if signed and submitted electronically or on the second Working Day after posting when returned to us in the pre-paid envelope supplied by us.

## 3 YOUR RIGHTS TO CANCEL DURING THE COOLING-OFF PERIOD

You can cancel this Agreement at any time during the "cooling-off period" which 14 days after the day on which your Agreement starts ("**Cooling-off Period**") by giving us notice using any of the contact details set out in the Key Facts Document stating that you wish to cancel your Agreement or by completing and sending the cancellation form. If you cancel the Agreement during the Cooling-off Period you will not be charged for any work that we carry out on your behalf during this time.

## 4 WHAT DO I HAVE TO PAY?

**4.1** If a Claim is successful, the Fee plus VAT will be payable by you to us.

**4.2** If you terminate the agreement in accordance with Condition 7.2(a) or if we terminate the agreement for your breach in accordance with Condition 7.6(a) before we or you have received a Final Decision Letter from the Business or a decision from the Financial Ombudsman Service, you will be charged a Cancellation Charge where you cancel this Agreement. A full breakdown and invoice will be provided to you upon receipt of your notice to cancel.

**4.3** If you fail to pay our Fee or any Cancellation Charge within 28 days of receiving: (a) the Compensation or (b) our cancellation invoice (whichever is earlier), we will charge interest on the amount unpaid at the annual rate of 4 per cent above the base rate of National Westminster Bank plc from the due date until the full amount is paid.

**4.4** If the Business uses your Compensation to repay another debt that you owe them, we will contact you to discuss alternative methods of payment of our Fee as you will still be obliged to pay our Fee.

**4.5** We reserve the right to refer your debt to third parties to pursue you for payment on our behalf.

**4.6** Where interest is included as part of the Compensation, this may be taxable. If tax is payable, you should contact your local tax office and make payment. Our Fee is calculated on the full Compensation but if you provide us with proof that tax has been paid, we will reduce our Fee by deducting the amount you paid in tax from the Compensation and calculating our Fee based upon this figure.

## 5 THE SCOPE OF OUR SERVICES TO YOU

**5.1** When this Agreement starts, we will provide the Services set out in the Key Facts Document.

**5.2** We will not pursue a Claim where in our professional opinion there is no reasonable chance of success. We will notify you within 7 Working Days if we reach this conclusion.

**5.3** We will not offer you any advice concerning your investment, pension, mortgage or protection arrangements. You should seek professional advice from a reputable individual or business which is authorised by the Financial Conduct Authority.

**5.4** We will not offer you any regulated legal advice. You should seek professional advice from a reputable individual or business which is authorised by the Solicitors Regulation Authority.

**5.5** We are not responsible for any failure to perform, or delay in performance of, any of our obligations under this Agreement that is caused by events beyond our reasonable control. Such events might include network failures, war, terrorist activity, riots, malicious damage, fire, flood, storm, nuclear accident or compliance with any new law or governmental order, rule, regulation or direction. You or we may cancel the contract by notice to you if such an event continues for longer than four weeks, in which case you will not be charged any Cancellation Charge.

## 6 YOUR OBLIGATIONS

**6.1** You must comply with any reasonable instruction from us and provide any information listed in the Key Facts Document.

**6.2** In particular, you agree that you will: (a) supply us with any information or authority that we reasonably request relating to your Claim; and (b) ensure that all information that you provide us with is, to the best of your knowledge, accurate and not misleading; (c) inform us as soon as possible of any matters affecting your Claim including any offer of Compensation which is made to you by the Business and supply us with a copy of any offer letter or a letter of authority allowing us to obtain a copy of the letter directly from the Business.

## 7 TERMINATION

**7.1** Unless terminated or cancelled in accordance with these Terms, this Agreement will continue until we have completed the Services which will be when the Claim against the Business succeeds or fails.

**7.2** You may terminate this Agreement by giving us notice using any of the contact details set out in the Key Facts Document either written or verbally: **(a)** if you change your mind at any time after the Cooling-off Period and wish to terminate in which case we will have the right to charge you for the Cancellation Charge or the Fee (if Compensation has been awarded); **(b)** stating details of the reasons for termination in your notice, if (i) we break this contract in any material way and we do not correct or fix the situation within 30 days of you asking us to do so; or (ii) we go into liquidation or a receiver or an administrator is appointed over our assets or if we cease to carry on business, in which case you will not be charged any Cancellation Charge.

**7.3** The cancellation charge will be calculated at £66 + VAT for every hour worked, capped at a maximum of £500 + VAT

**7.4** If you are entering into this Agreement jointly with another person, any notice of termination must be signed by both of you.

**7.5** If this Agreement is cancelled once an offer of Compensation has been made to you, we will charge the Fee in accordance with Condition 4.1 of this Agreement.

**7.6** We may terminate this Agreement at any time with immediate effect by giving you notice if: **(a)** we find you have given us false information or acted fraudulently or if you break the contract in any other material way and you do not correct or fix the situation within 30 days of us asking you to do so, in which case we will have the right to charge you for the Cancellation Charge or the Fee (if Compensation has been awarded); **(b)** you or, if this Agreement has been entered into jointly by two persons, one of you: (i) enter into an Individual Voluntary Arrangement; (ii) have a petition of bankruptcy issued against you; (iii) are adjudicated bankrupt; or (iv) dies.

## 8 OUR LIABILITY TO YOU

**8.1** We do not exclude or limit our liability for fraud or for death or personal injury resulting from our negligence.

**8.2** Your legal rights (which include, for example, that we will provide the Service with reasonable care and skill and within a reasonable time) are not affected by anything in this Agreement. For more information about your statutory rights, contact your local Citizens Advice Bureau or Trading Standards Office.

**8.3** If we breach this Agreement, save for the types of liability which we will not limit or exclude as set out in Conditions 8.1 and 8.2: **(a)** we limit our total aggregate liability to you under this Agreement in any year to a maximum of £5,000,000; and **(b)** we are only responsible for loss or damage you suffer that is a foreseeable result of our breach of the Agreement or our negligence but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of our breach or if they were contemplated by you and us at the time we entered into this Agreement.

## 9 YOUR PERSONAL INFORMATION AND CONFIDENTIALITY

**9.1** We are registered under the Data Protection Act 1998. The storage and use of personal details that we hold about you is governed by the Data Protection Act 1998. The personal information which you provide to us will be used in accordance with the Data Protection Act 1998 and our Privacy Policy.

**9.2** Information we hold about you will not be disclosed to anyone other than: (a) where we are legally required to disclose; (b) where we consider it reasonably necessary to disclose the information to our carefully chosen suppliers, advisers and sub-contractors to use your personal details in order to provide the Services to you, to exercise our rights under this Agreement and also to monitor, develop and improve our Services including the computer and software systems used to provide those Services; (c) to pass on your personal information to the Business, their respective professional advisors or the Financial Ombudsman Service as is required for the purposes of performing our obligations under this Agreement.

## 10 CHANGES TO THIS AGREEMENT

**10.1** We may revise this Agreement from time to time in the event of changes in relevant law and regulatory requirements. We will write to you to advise you of any such changes.

**10.2** If you will be caused significant disadvantage by any change (for example, we increase our fee) we will notify you of that change at least 40 days before it takes effect. We will give you written notice by post or by email.

**10.3** If we cannot advise you of the change at least 40 days before it takes effect (for example because of regulatory change at short notice), we will advise you of the change as soon as we reasonably can.

**10.4** If you are caused significant disadvantage by any change, you may terminate the Agreement by notice to us in accordance with Condition 7.2. A Cancellation Charge will not be payable in these circumstances.

## 11 COMPLAINTS

If at any time you are not happy with the Service that we have given you, please contact us using the details set out in the Key Facts Document so that we can do our best to resolve the problem for you. We have a written complaints procedure which is available either by visiting our website at [www.emcasclaims.co.uk](http://www.emcasclaims.co.uk) or by requesting it directly from us using the contact details set out in the Key Facts Document. If we are unable to resolve your concerns within a reasonable timescale then you can refer your complaint to the Legal Ombudsman. The Legal Ombudsman can investigate complaints up to six years from the date of the problem happening or within three years of when you found out about the problem. If you wish to refer your complaint to the Legal Ombudsman this must be done within six months of our final response to your complaint. If you would like more information about the Legal Ombudsman you can contact them in writing to: Legal Ombudsman, PO Box 6804, Wolverhampton, WV1 9WG. You can also contact the Legal Ombudsman by telephone 0300 555 0333 between 8.30am to 5.30pm and via email at [cmc@legalombudsman.org.uk](mailto:cmc@legalombudsman.org.uk).

## 12 OTHER MATTERS

**12.1** We may transfer our rights or obligations under this Agreement to someone else. We will always notify you in writing if this happens, but this will not affect your rights under these Terms. From the date of the transfer, your rights under or in connection with the Agreement, insofar as they relate to issues that arise after the transfer date, will be against the other person and not us.

**12.2** If any court or other competent authority finds any of the terms of this Agreement to be invalid or unenforceable, the other terms of this Agreement will not be affected.

**12.3** This Agreement is governed by and interpreted in accordance with the laws of England. Any dispute in connection with this Agreement will be subject to the exclusive jurisdiction of the English courts unless you choose the courts of your home in Scotland or Northern Ireland.