

Warners General Terms of Business**Introduction****1. Authorisation**

Warners Solicitors is a trading name of Warners Solicitors LLP, a limited liability partnership registered in Scotland Number SO301921 whose registered office is at 22 St Patrick Square, Edinburgh EH8 9EY. The Firm of Warners Solicitors LLP is authorised by The Law Society of Scotland. We are also authorised in relation to Incidental Financial Business by The Law Society of Scotland. A list of the Partners of the Firm is available on request.

2. Standards

Warners Solicitors LLP abide by the professional practice standards set forth in the Standards of Conduct Practice Rules for solicitors laid down by the Law Society of Scotland. The Standard of Conduct Practice Rules may be inspected by accessing the Law Society of Scotland website – www.lawscot.org.uk

3. Instructions

As your agents we can only act on information and instructions given to us. You should not assume we have knowledge of any factual matters. You can instruct us either verbally or in writing, although we may ask you to confirm verbal instructions to us in writing. If there is any change in your instructions you must notify us immediately.

We will act strictly in accordance with your instructions – either written or verbal. When we are acting on behalf of a couple, particularly in a purchase or sale transaction, then unless you advise us to the contrary or unless it is clearly inappropriate in the particular circumstances, we will proceed on the basis that instructions from one party have the implied approval of the other. If that arrangement is not acceptable to you, you are asked to make that clear in writing at the earliest possible stage.

Your business will be handled by a partner with assistance from any of their Assistants, Associates or Consultants from time to time to whom your instructions should be addressed. Our office opening hours are Monday – Friday 8.30am – 5.30pm.

If we are given instructions by a Limited Company then unless otherwise agreed with you in advance, it is a condition of our accepting those instructions that we may accept instructions from any one of the Directors and that all directors are jointly and severally liable along with the company for payment of our fees and outlays and any interest thereon. It is a further condition of our accepting instructions that you agree to our instructing a company search to demonstrate that the company is in existence. The expense of such a search will be payable by you. You will also be required to produce to us on request a copy of the Memorandum and Articles of Association of the company.

TRANSACTIONAL MATTERS**4. Missives**

The Scottish system of conveyancing is based on a Contract constituted by missives. The expression “missives” means the letters which pass between purchasing and selling solicitors containing the technical Contract Clauses. The English system of “subject to Contract” does not apply in Scotland. In almost every case the missives are signed by the solicitor acting on behalf of the seller and the solicitor acting on behalf of the purchaser, on the verbal instructions of the client. You will therefore be tied in to the Contract by ourselves as your solicitors acting on your verbal instructions without you signing any Contract documentation yourself.

Most solicitors in Scotland, including this Firm, have agreed to proceed with missives based on the “Standard Clauses” procedure. This is an agreed list of Contract Clauses which are standard to all sale and purchase transactions so that only those Clauses unique to your transaction, such as the price, date of entry, items included in the sale and alterations documentation, are adjusted. This leads to much more rapid adjustment of the missives and a consequence of this is that parties are usually tied in to the Contract at a much earlier stage than was the case in previous years. You should therefore never instruct us to submit an Offer for a purchase or accept an Offer for the sale unless you are prepared to be tied into the Contract.

5. The Effect of Conclusion of Missives

When all the points in the Contract are agreed between purchasing and selling solicitors we reach a point known as “conclusion of missives”. This creates a Contract which is binding on both purchaser and seller. This creates an obligation on the purchaser to pay the purchase price on the date of entry. If there is a problem with funding, such as obtaining a mortgage at the required level or with the sale of the purchaser’s property, the purchaser breaches the Contract. It is difficult, if not impossible, to obtain bridging in that situation and the Contract provides that if the purchaser is in breach of Contract the seller can charge interest normally (but not always) at 4% over base rate until the purchaser resolves the difficulties and pays the purchase price. The Contract also provides (where the breach is not resolved by the Purchaser paying the price) that, after fourteen days from the date of entry, if the purchase price is still not paid, the seller can place the property back on the market for sale and sell it for the best purchase price that can reasonably be obtained and recover any shortfall on price, plus marketing and resale legal expenses or interest (but not both) up until the date the new purchaser pays the price from the original purchaser.

It is therefore essential that prior to submitting an Offer you are confident that your mortgage has been agreed in principle, that you have disclosed any relevant circumstances which may prejudice your ability to obtain a mortgage to whoever is arranging your mortgage and that you are confident that your sale transaction will proceed. If you require we can supply you with details of one of our approved Independent Financial Advisers to assist you in your mortgage application. Please request such information from the fee earner carrying out work on your behalf.

6. Purchases

When we act for two or more people purchasing a property together we will draw up the title on the basis that title will be held in equal shares unless we receive specific instructions to draw up the title in different shares to reflect either an unequal contribution of sums to the purchase or the terms of the Agreement of all purchasers. If one party is contributing more than the other party you are strongly recommended to instruct us to prepare a Co-Purchase Agreement which is designed to protect the investment of both parties. The cost of the Co-Purchase Agreement is £175.00 plus VAT and unless you instruct us to prepare a Co-Purchase Agreement or draw the title in different proportions then the title will be drawn in such a way that when the property is ultimately sold the proceeds of sale will be divided equally between the parties.

7. Survivorship Destination

When the title is drawn up between two people the title can be worded either with or without a survivorship destination. If the title contains a survivorship destination it constitutes an agreement between the parties that if one party dies the property automatically transfers to the survivor. If there is no survivorship destination then on the death of one party the share of the pre-deceased owner goes into the estate of the deceased. If there is no survivorship destination written in to the title, in the case of an unmarried couple where no Will has been left the share of the pre-deceased party will, in most cases, not pass to the surviving party.

In previous years it has been extremely common for survivorship destinations to be included in titles for the sake of simplicity. Survivorship provisions in title deeds can however lead to complications in taxation planning and also practical anomalies so it is more common now to recommend that the question of survivorship is governed not by the title but by a separate Will. A Will can be prepared for you on request at an additional charge. Accordingly, unless you instruct us to the contrary in writing, we will draw the title for a joint purchase without a survivorship destination, that is to say if one party dies before the other, the pre-deceased party’s share will not transfer to the other unless a separate Will is prepared. If you wish us to proceed with a survivorship destination or wish us to prepare a Will, you must inform us of this instruction, in writing, as soon as possible.

8. Papers and Documents

If you are selling a property it is important that you provide us with copies of any documents of guarantee and documentation relating to alterations. If timber specialist treatment has been carried out for rising damp, woodworm or rot you should provide us with the estimate, plan, specification and guarantee and in the case of alterations you should provide us with the Building Warrant, the Plan with the Local Authority Stamp and the Completion Certificate (together with Listed Buildings Consent if appropriate). As these documents relate

to the property they will be passed to the purchasers' solicitors for retention with the title deeds on completion of the transaction. We retain the files for the period of time recommended by the Law Society of Scotland. We reserve the right to destroy files after that time without reference to you.

9. ARTL

ARTL means Automated Registration of Title to Land and this refers to a new procedure which has been introduced by the Registers of Scotland for registering title. A limited number of conveyancing transactions are eligible for processing under the ARTL procedure. Under the ARTL system title is transferred from the seller to the purchaser and the mortgage from the purchaser to the mortgage lender is created electronically by the solicitor acting on behalf of the purchaser with the co-operation of the seller's solicitor.

The purchaser and seller's solicitor perform these functions under a Mandate or written instruction from the clients. In those transactions the seller will sell the property without signing the normal document of transfer known as a Disposition and the purchaser will purchase the property and grant a mortgage over the property without signing the normal mortgage document to the mortgage lender, although the terms of the mortgage deed will be binding on the purchaser. We must reiterate, however, that only a limited number of transactions are eligible for progressing under the ARTL system.

10. Home Reports

We require to commission a Home Report for properties which are placed on the market for sale. We engage the services of a Chartered Surveyor to provide the Survey Report and the Energy Performance Certificate and we will discuss with you the completion of the Property Questionnaire which provides practical information to prospective purchasers. Credit facilities are available to assist with the upfront costs of the Home Report and other marketing costs, such as the ESPC registration fee and other outlays.

FINANCIAL MATTERS

11. Fees and Outlays

We shall provide you with an illustration of the anticipated fees and outlays at the outset of the transaction. Fees for estate agency transactions are generally assessed as a percentage of the sale price achieved and for this reason the actual fee charged may therefore be higher or lower than the fee originally quoted. The estate agency fee shall be chargeable in full at the point we receive an offer for the property which is either acceptable to you or would be acceptable to you except for the fact that you otherwise decide not to proceed with the sale. In this event the estate agency fee shall remain payable in full.

The fees for conveyancing are based on the transaction proceeding as a standard conveyancing transaction with no unforeseen difficulties. Sometimes during the course of a conveyancing transaction complications can arise which can create considerable additional work which could not be contemplated at the time the original quotation was provided. In those circumstances there will be an increase of fees to be charged. Examples of conveyancing complications with associated and anticipated increases in fees are as follows, (these fees may be higher or lower depending on the amount of time spent in resolving the difficulty, the complexity of the work and experience and skills required to resolve the problem):

Organising Closed Bridging (where available) -	£100.00 plus VAT
Organising Open Bridging (where available) -	£200.00 plus VAT
Dealing with Statutory Notices identified -	£50.00 plus VAT per notice
Alterations – Co-ordinating Window Inspection (clear) -	£45.00 plus VAT
Co-ordinating Window Inspection (failed) -	£65.00 plus VAT
Obtaining missing warrant documentation from Archives -	£65.00 plus VAT
Co-ordinating Damp and Timber Specialist -	£75.00 plus VAT
Organising Roofing Contractor -	£75.00 plus VAT

Organising Electrical or Gas Compliance Certificate -	£75.00 plus VAT
Organising Council Inspection (clear) -	£75.00 plus VAT
Organising Council Inspection (failed) -	£145.00 plus VAT
Dealing with Council Tax Mandates -	£95.00 plus VAT
Discharge of Second Charge -	£150.00 plus VAT
Dealing with Discharge of Inhibition. -	£225.00 plus VAT
Drawdown of Help to Buy ISA -	£50.00 plus VAT

Shortly before the date of entry for all purchase transactions, you will receive an updated financial summary showing the final figures involved in the transaction. If this shows that funds are required from your own resources these must be paid to us at least five working days before the date of entry if you intend to pay by cheque or the day before the date of entry if you propose to pay by same day telegraphic transfer.

The fee which we charge will cover work up to completion of the sale or purchase and normal routine conveyancing work thereafter, such as delivery of the title deeds to a lender. If additional work becomes necessary after the date of entry, for example if the central heating system is faulty and a claim is made in this connection we will, of course, normally charge separately for that according to the amount of work involved. As a matter of goodwill we generally do not charge for the first two letters in relation to such complaints. Thereafter we will charge at an hourly rate of £175 plus VAT. Warners Solicitors LLP VAT registration number is 300731611.

12. Terms of Payment

Invoices for fees and outlays in relation to conveyancing transactions which proceed to settlement are payable on the date of entry. We will deduct all fees and outlays from funds in our possession and account to you for the balance. It should be noted that in a Scottish conveyancing transaction the purchase price is normally paid by cheque. We therefore cannot account to you or re-pay your mortgage until the cheque clears with us, normally four working days after the date of entry. As soon as the cheque clears we will account to you and re-pay the mortgage using the cleared funds which are then available to us.

Please note that any payments of free proceeds will only be made to the client or clients directly. We will not accept instructions to make payments to third parties.

Along with our fee we will issue a statement detailing financial dealings on your behalf. Where outlays have been incurred, we will require repayment of them within seven days of receipt by you of a request. We will try to estimate outlays in advance.

We may require you to settle accounts and repay outlays during the course of transactions. In such a case interim statements of fees will be issued. Large outlays will require to be paid to us before they are due to be paid out by us.

All telegraphic transfers of funds will attract a charge of £30 or if greater the Bank's prevailing rate.

Where we act for you in an estate agency only capacity, for example where you wish to use our expertise in the marketing of the property but wish to instruct a local or family solicitor to undertake the conveyancing, by instructing us in relation to the marketing of the property you are also deemed to instruct the conveyancing solicitor to pay our fees and outlays relative to the estate agency from the net free proceeds of sale of the property.

If you instruct us to act in the marketing of your property and if the property does not sell or your circumstances change and you elect to withdraw the property from the market, you will be liable to pay a marketing fee of £250 plus VAT plus any unpaid outlays we have incurred on your behalf such as the ESPC registration fee, advertising costs, Home Report costs and any other charges incurred, within seven days of your instruction to withdraw the property from the market.

If during the time that your property is on the market with Warners Solicitors LLP you opt not to accept an offer at, or in excess of, the Home Report valuation and you subsequently decide to withdraw your property from the market, you will be liable for the full estate agency fee quoted for your sale.

Where we are acting for you in a sale, any net free proceeds will normally be remitted to your nominated bank account four working days after your sale completes. This reflects the fact that it is usual for transactions to complete by solicitors cheque which, whilst providing guaranteed funds, nevertheless require clearance time before funds can be transferred on.

Where we act for you and you agree that we should refer your details to an independent financial adviser for independent financial advice we will do so without charge however we may receive a commission equivalent to up to 30% of the commission which the independent financial adviser receives in respect of the work that he/she or they have carried out on your behalf.

Warners may also receive commissions from third parties including surveyors, searchers and property website providers.

Clients of Property Law Centre should note that a case management fee of £249 plus VAT on purchases will be paid to that Company by ourselves for all work carried out on our behalf. Clients of Property Law Centre should also note that a case management fee of £150 plus VAT on sales will be refunded to that Company by ourselves for all work carried out on our behalf. In addition, the quoted marketing fees for all Property Law Centre clients will be apportioned between Warners and Property Law Centre. The first £600 plus vat will be charged by Warners with the balance split equally between both companies.

13. Money Laundering Regulations

To enable us to comply with the Money Laundering Regulations 2017 we have to have on file evidence of identity. Please let us have your passport or driving licence and a recent gas, electricity, telephone bill, mortgage statement or Council Tax Demand which is not more than 3 months old. Please bring these in to any of our offices and a member of staff will be happy to copy them for you. Please note that each party must bring in the appropriate identification in person – it is NOT sufficient for identification to be supplied by someone other than the client in question. Similarly, where identification relates to a joint transaction both parties must attend our offices to provide their respective documents. One party cannot supply identification for both clients with the other party remaining absent. Where funds are being received either directly or indirectly from a third party it will be necessary to obtain both identification and evidence to demonstrate the source of the funds and the source of the wealth in respect of that third party. Please note that failure to provide all necessary evidence in respect of identification and source of wealth and funds documentation may result in a delay in settlement of your transaction.

In addition to receiving your ID, we also require all clients to complete our standard form client questionnaire. This contains a request for various pieces of personal information sufficient to allow us to prepare a client profile in order that we can fulfil our regulatory requirements. All such information shall be held by us as private and confidential and will not be released to any third parties.

We will require to comply with the Terrorism Act 2000, Proceeds of Crimes Act 2002, Money Laundering Regulations 2017 and Counter-Terrorism Act 2008 and we will require to source all funds remitted to us. We cannot act for you without being satisfied on these issues. We may not settle a transaction unless you timeously provide us with the relevant information requested. Please therefore respond to these requests immediately. We will not be liable for loss or delay if you do not co-operate. We will not accept any payments in cash in excess of one thousand pounds (£1000) as this will have adverse safety and insurance implications for us. In addition we shall be required to report any suspicious activity to the National Crime Agency in terms of the relevant legislation.

Where funds are being received by us, either directly or indirectly, from a third party we shall require to obtain ID in respect of that third party in the same manner as if that third party was our client. In addition, we shall also require to source all funds remitted to us by the said third party. We will not be able to proceed with any transaction, or act for any party, where are not satisfied in respect of any such third party payments. This matter may cause a delay in settlement and therefore you are urged to deal with any requests to support third party payments as a matter of urgency. Where funds are being made, either directly or indirectly, by a third party, we shall charge a fee of £75 plus vat in respect of each third party in relation to the investigation

required to identify both the third party and the source of both the third party's wealth and funds. The said charge will be over and above and compliance fee mentioned in any fee quote. Further, in the event that additional works are required making the investigation more complicated, we reserve the right to charge an additional fee although we will advise you of any such further fee in advance.

All formal identification and source of funds and wealth evidence will be retained by us indefinitely on file (both paper and electronic) as part of our audit checks.

We shall carry out verification of client's identity against all of our clients as well as other checks including checks against HM Treasury Financial Sanctions List (the "Sanctions List") and the register of Politically Exposed Persons ("PEPs register"). In carrying out any such checks we will use the services of third party suppliers. Third party suppliers will require that we provide clients full names and address, as well as details of documentation (passport and driving licence numbers), telephone numbers, national insurance numbers as well as details of other documentation which you have provided to us as part of our money laundering compliance requirements. We will provide all and any such information to any third party suppliers, in so far as it is required, to allow us to obtain verification checks in respect of your identification, and that you are not registered against the Sanctions List and the PEPs register.

14. Client Money

In accordance with the Solicitors Accounts rules, all money we hold for clients is maintained in a separate designated client account. We bank with the Allied Irish Bank, 19 Charlotte Square, Edinburgh

GENERAL MATTERS

15. Environmental Matters

Please note that we were not qualified and therefore not able to comment on environmental matters and as such could not provide any advice relating thereto.

16. Insurance

Buildings insurance must be in place as at the date of entry (or in the case of a purchase from the local authority, as at the date of conclusion of missives). Unless you specifically request us to do so we will not arrange Buildings Insurance. The property must be insured to the full reinstatement value in the Valuation Report by the date of entry. In addition, you must ask whoever is arranging the Buildings Insurance to endorse the interest of the mortgage lender on the Policy. This means that the insurance company must be aware of the identity of the mortgage lender and provide an endorsement on the Policy to this effect. You then exhibit this to the mortgage lender. Failure to adhere to this procedure is a very common reason for a delay in obtaining mortgage funds.

17. Confidentiality

Information of a confidential nature concerning you will be kept strictly confidential. However, if we are working on a matter in conjunction with your other advisors we will assume, unless you notify us to the contrary, that we may disclose any such information to and discuss it with such advisors as appropriate.

18. Internal Transactions

Sometimes transactions arise which involve parties who are both clients of this firm, or are related. These are called internal transactions. The Law Society of Scotland Guidelines state that there is no objection to the same firm acting on behalf of both purchaser and seller on the following basis:

1. provided both purchaser and seller are existing clients or are related;
2. provided the same individual solicitor does not act for both parties;
3. provided that both parties are comfortable with the situation;
4. provided that no conflict of interest exists or arises during the course of the transaction.

If a conflict of interest develops during the course of such a transaction then of course we will notify you and you will be recommended to obtain independent legal advice.

19. Taxation Implications

Almost any legal transaction whether of a private or business nature can affect the amount of tax or other government duties which you may have to pay in either the short or long term. However, we will not offer tax advice other than to assist those clients who are involved in a Purchase of Property with the preparation and submission of a Land and Buildings Transaction Tax (LBTT) return to Revenue Scotland. While we are able to offer guidance on the level of LBTT and any related Additional Dwelling Supplement (ADS) payable and will submit the LBTT return and the payment of any (LBTT/ADS) tax due on your behalf to Revenue Scotland we are not tax experts and ultimately you as the Purchaser remain legally responsible for fulfilling both of these actions accurately and on time, where required to do so. Consequently and subject to the foregoing we shall not be responsible for any failure to offer tax advice or any incorrect opinion passed on a tax matter. While we do not give tax advice, where you are selling a property which you do not live in and/or which forms part of an investment or where you are purchasing a property as an investment there will in all probability be implications for Capital Gains Tax and we would recommend that you take advice from a specialist tax accountant as early as possible.

20. Client Care

We are committed to providing a high quality service. If you have any concerns, however, as to the manner in which the transaction is being, or was, handled or the fee that has been charged your complaint should, in the first instance, be directed to the partner responsible for the matter. Thereafter if you are not satisfied our Client Relations Partner, Scott Brown, will ensure that any complaint is properly and objectively investigated and dealt with and that you are fully advised of all your rights. If, however, after investigation by the Client Relations Partner you are still not satisfied, you are at liberty to refer the matter to The Scottish Legal Complaints Commission, 10-14 Waterloo Place, Edinburgh EH1 3EG. The SLCC website is www.scottishlegalcomplaints.com.

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 this firm you should contact the firm's Client Relations Partner.

21. Termination of Agency

We expect to continue to act on any matter on which we have accepted instructions until the matter is completed, unless either of us bring those instructions to an end earlier. We will not normally withdraw from acting unless a conflict of interest arises or we consider that it would not be in your best interests for this Firm to continue to represent you, for example if there was a breakdown in the essential element of trust and confidence between us. If instructions are terminated you will only be liable for the payment of our fees and outlays to the date of termination of the instructions together with any fees or outlays for work necessary in connection with the transfer of the matter to another advisor of your choice. We will be entitled to retain all files, documents and other papers held by us on your behalf until all outstanding fees and outlays have been paid in full.

22. E-mail/Internet Use

E-mail is increasingly being used for business communication. We will be happy to accept and act on instructions from you or any duly authorised party by e-mail. You will be bound legally by any such instructions and will be liable for all fees and outlays which flow from them. It should be noted that the internet is not a secure environment and may be open to abuse and accordingly we will not be liable to you for any losses suffered by you in any way as a result of our communicating with you or anyone purporting to be you by e-mail.

As part of our standard conveyancing purchase processes we will send you a cash statement setting out the funds we require to receive from you to cover your deposit and the fees and outlays. When these are sent to you we will also send you our bank details to allow you to make the transfer payment. It is very important that, before you send any money to us, you telephone us to confirm the details you have received are correct. Please under no circumstances rely upon the bank details we have provided without first verifying the details with us. This is a security measure designed for your protection. There have been instances of criminal activity

where solicitor emails have been intercepted and bank details changed so that funds are ultimately sent to an account unconnected with the solicitor concerned. Please note also that we have no intention of changing our bank details. If you receive an email to this effect, it is likely to be fraudulent and you should check with us immediately by telephone. We cannot accept responsibility if your transfer money to an incorrect account.

23. Professional Indemnity

Warners Solicitors LLP carries professional indemnity insurance in the sum of £10,000,000 sterling. Details of the material terms of our professional indemnity governing our contract with you can be inspected at our registered office upon request.

24. Contract

These Terms of Business are of contractual affect and should be read carefully. If you are in any way unsure as to the nature and effect of the Terms of Business please notify us immediately and we will be happy to provide clarification. By instructing us to act you shall be deemed to have read and accepted these General Terms of Business.

25. Data Protection

During the course of our engagement you may disclose personal data to us in order that we may provide our services to you. The processing of personal data is regulated in the UK by the General Data Protection Regulation EU 2016/679 as supplemented by the Data Protection Act 2018 together with other laws which relate to privacy and electronic communications. In this clause, we refer to these laws as "Data Protection Law". In providing our services, we act as an independent controller and are, therefore, responsible for complying with Data Protection Law in respect of any personal data we process in providing our services to you. Our privacy notice which can be accessed at [/privacy-policy/](#) explains how we process personal data. You are also an independent controller responsible for complying with Data Protection Law in respect of the personal data you process and, accordingly, where you disclose personal data to us you confirm that such disclosure is fair and lawful and otherwise does not contravene Data Protection Law. Terms used in this clause bear the same meanings as are ascribed to them in Data Protection Law.

26. Cladding & Fire Safety

In 2019 there was a shift in policy such that the majority of lenders now require a External Wall System (EWS1) report detailing the fire safety of modern, flatted accommodation. Warners will relay information in this regard to the best of our ability however we are not experts in building construction or fire safety and we are wholly reliant on the guidance provided to us by relevant specialists. As such the Firm will not accept liability for the accuracy of said information.

Any actions taken by you in this area including but not limited to the commission of an EWS1 report, or reliance on the information contained in such reports, remain the responsibility of you as the client.