

Essjay Commercial Investigations Ltd

Rivington House, 82 Great Eastern Street, London, EC2A 3JF
Tel: 020 7739 8410, Fax: 020 7739 8683

Terms and Conditions

The following provisions constitute the general conditions of Essjay Commercial Investigations Limited (Company number 4799432) (hereinafter referred to as "ECI") with respect to any firm, company or person to whom services are offered or rendered (hereinafter referred to as "the Client")

- A. These conditions form the basis of a binding agreement and the provisions set out herein shall apply over the full period of any service or services being provided by ECI to the Client.
- B. The services to which these conditions apply are those set out in the form of instruction ("the Work") or such other services that may be agreed in writing to be provided by ECI to the Client.
- C. For debt recovery – ECI shall make every reasonable endeavour to recover sums and debts that are properly owing to the Client, but can give no guarantee or warranty whatsoever as to the likelihood of such recovery and nothing shall be implied directly or indirectly with respect thereto. ECI shall carry on the Work using an appropriate duty of care. In the event of ECI being responsible for an act or omission in this regard, ECI shall where possible make good any such failure or at its discretion reduce or limit its fee to reflect any direct loss suffered by the Client, but notwithstanding the foregoing in no circumstance whatsoever shall ECI be responsible for any loss of profit or any other consequential loss howsoever arising.
- D. Disbursements – all expenses and other ascertainable costs (and any VAT thereon) which ECI is likely to need to pay in acting for the Client shall be paid forthwith upon demand of ECI in advance, such expenses to include, but not be limited to court fees, third party investigation fees, travelling expenses (other than day to day expenses in London). For the avoidance of doubt where such expenses have not been paid as requested, by the Client for any reason whatsoever ECI shall be entitled not to proceed with the Work and any extra costs incurred from any resulting delay shall be the responsibility of the Client.
- E. Payment – invoices submitted by ECI shall be due and payable in full within seven days of the date of the invoice. Where ECI is paid on the basis of a contingency fee as a percentage of monies recovered by ECI, such contingency fee shall be applied to all monies recovered by ECI (irrespective of whether it relates to the sum owed to a client or sums owing for a disbursement or VAT). For the avoidance of doubt where invoices are based on a percentage of amounts which may be recovered by ECI on behalf of the Client and goods are returned, ECI shall be able to recover its fee based upon the cost to the recipient of those goods at the time of the original sale.

Where an invoice is delivered for payment, which remains unpaid for more than 14 days, then ECI shall be entitled to charge interest from the date of the invoice at rate of 5 per centum above the base rate from time to time of Alliance & Leicester Commercial Bank or (where it applies) pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 (as amended), which ever may be greater (when both may be applied).

All invoices shall bear VAT if applicable at the rate that may from time to time be payable.

- F. ECI reserves the right to decline to process any debt that has been passed to it by the Client for recovery or otherwise to act for the Client, without having to state any reason whatsoever
- G. Where for any reason the Client should decide to withdraw the instruction and subsequently and either the Client itself obtains payment or appoints another agent for this purpose who successfully obtains payment ECI shall be entitled to receive the fixed fee as stated on the form of instruction

H. If the Client should require ECI to make a vexatious claim and no claim or right to action exists, ECI shall be entitled to charge for time it incurs at the rate of £75 per hour plus VAT

I. ECI is entitled to its full fees for any debt recovered even where no legal action or other procedures are needed.

J. Settlement – where the Client receives settlement or interim payments are made (whether in money or monies worth) with respect to the Work or any part thereof, the Client shall forthwith notify ECI by facsimile, electronic mail or as a last resort by telephone (and such notification shall also be confirmed by a letter in writing sent by first class post to ECI). Where ECI receives settlement it shall forthwith notify the Client. If no settlement is achieved ECI shall, if the Client so agrees, seek to negotiate a settlement: all time incurred in such negotiation shall, in addition to any other charge payable hereunder, be charged to the Client at the rate of £75 per hour

K. Where letters and other forms of correspondence have not produced payment and the debt remains outstanding upon receipt of written confirmation and required disbursements for court fees and other such costs have been paid, ECI shall prepare draft and issue a claim through the local county court [or High Court].

L. If either ECI or the Client feels its is necessary, a solicitor shall be instructed to act on the Clients behalf in pursuing any claim. All fees and other charges arising from or incurred as a result thereof shall be borne by the Client. ECI shall only act as intermediary between the Client and the said solicitor if expressly requested by the Client and upon receipt of clear written instructions as to how to proceed.

M. ECI may decline to pass its papers and files to the Client or any third party if its fees have not been paid and a lien shall be created on such papers and files which shall be and remain valid until any sums due and owing by the Client have been paid in full. ECI shall further be entitled to charge for the time taken for the preparation of proceedings (including any witness statement) and in any defence at the rate of £75 per hour

N. Where contingency fees referred to in the form of instruction for any reason cease to apply ECI shall be entitled to charge an hourly rate of £75 per hour for all time it incurs in carrying out spent the Work. Such examples may include but not be limited to where the Client decides to pursue debts itself or to transfer files to a solicitor or other third party.

O. ECI reserves the right to vary or revise any commission or charges within any stages of collection by giving prior written notice to Client

P. The directors of the Client hereby jointly and severally guarantee the payment of all commissions or other fees or disbursements due to ECI and shall forthwith upon demand in writing make payment in full for the Client.

Q. Where original documents are passed to ECI this is subject to the strict understanding that this is entirely at the Clients own risk

R. If ECI is owed money by the Client it shall be entitled to deduct the sums owed in whole or part from any other funds it may be holding for the Client for time to time.

S. If the Client for any reason decides to take over from ECI the Work it shall notify ECI in writing and ECI shall within 30 days of receipt thereof return all Client papers to the Client at the Client's cost subject to payment by the Client or any outstanding disbursement or expense due to ECI. If within a period of three months from the date of the return by ECI of the said Client papers amounts owing (for the Work) have for any reason been paid to the Client, then the Clients shall forthwith disclose this to ECI and pay ECI such sum as would otherwise have been payable hereunder (if ECI had itself achieved this result). If amounts owing are paid to the Client after three months but within six months from the date of return of the said Client papers, then the Clients shall forthwith disclose this to ECI and shall pay ECI fifty percentum of such sum as would otherwise have been payable hereunder (if ECI had itself achieved this result).

T. No changes shall be made to these Conditions unless agreed with ECI in writing