

## TERMS OF SERVICE

Thank you for becoming a customer of *Evolvitas Law LLC*. Below, we describe some important terms relating to the delivery of our services.

1. **DEFINITIONS.** Throughout this *agreement* the terms that are in italics type<sup>1</sup>, *like this*, (excluding headings) shall have the specific meanings assigned herein. Though not necessarily in italics type, "you" and "your" refer to the person(s) or entity(ies) -- individually and collectively -- named in the *PSP* that engages *Evolvitas Law LLC*, as modified by the *section* below labeled "Entity Representation." Here are the special terms that we will use:
  - A. *Agreement* means the *Terms of Service*, the *Professional Services Proposal*, and any properly executed addenda (including *scope adjustments*), which together shall constitute the entire agreement between you and *Evolvitas Law LLC*.
  - B. *Court* is defined in the *section* labeled "Applicable Law, Jurisdiction, and Venue" below.
  - C. *Entity* is defined in the *section* labeled "Entity Representation" below.
  - D. *Evolvitas Law LLC* means Evolvitas Law LLC, a Colorado limited liability company (formerly known as Korkowski Law, LLC), and its successors and assigns. Though not necessarily in italics type, "we", "us", and "our" refer to *Evolvitas Law LLC*.
  - E. *Organizer* is defined in the *section* labeled "Entity Representation" below.
  - F. *Party* or *parties* refers to you and us.
  - G. *Professional Services Proposal* or *PSP* means a document specifying the particular services you initially engage us to perform and which is subject to these *Terms of Service*.
  - H. *Scope adjustment* is an addendum to this *agreement* that modifies the scope of services we will provide to you.
  - I. *Section* refers to the language following a numbered, all capitalized heading, **LIKE THIS**, and ending with the next such heading, or to the specifically enumerated and identified part thereof.
  - J. *State* is defined in the *section* labeled "Applicable Law, Jurisdiction, and Venue" below.
  - K. *Terms of Service* or *TOS* is the document you are reading now, including any future amendments to it. We may update the *TOS* from time to time by giving notice to you. By approving a *scope adjustment*, you signify your receipt and approval of the most recent *TOS*, a copy of which is available at <http://evolvitas.com/tos/>. We shall provide professional services to you subject to these *Terms of Service*.
  - L. *Venue* is defined in the *section* labeled "Applicable Law, Jurisdiction, and Venue" below.
2. **EXCLUDED FROM REPRESENTATION.** Our representation of you is limited to the transactional or estate planning matters described in the *PSP* or addenda, and we have no duty of representation in any other legal matters you may have. We will not represent you in lawsuits, prosecutions, administrative proceedings, other litigation settings, or in patent matters, though

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<sup>1</sup> In older documents, these terms are in bold faced type.

ancillary advice regarding such matters may be given. Additionally, we are currently authorized to practice law in the State of Colorado only.

3. **FILINGS AND RECORDINGS.** You authorize us to file and record on your behalf all necessary documents within the scope of this *agreement* with appropriate federal, state, and local agencies.
4. **REAL PROPERTY MATTERS.** In the event that the *PSP* provides that we shall represent you with respect to real property matters, unless you otherwise notify us verbally or in writing, you agree to the following:
  - A. We may communicate regarding matters within the scope of our representation of you with any real estate agent that we have a good faith belief is in fact your real estate agent, and you agree to hold us harmless for doing so. In the event of a dispute about this kind of disclosure, you retain the burden to demonstrate that we lacked a good faith belief that the person was in fact your real estate agent.
  - B. We may take direction from your real estate agent with regard to matters within the scope of this *agreement*.
5. **ENTITY REPRESENTATION.** It may become necessary or advisable for you to form a new business entity or for us to transfer our representation under this *agreement* from you to an existing entity of which you (or, if "you" refers to more than one person or entity, each of you) are or will be an organizer, member, partner, or shareholder. In the event that such an entity (the *entity*) is formed or represented in connection with this *agreement*, unless otherwise mutually agreed verbally or in writing, you agree to the following:
  - A. **Customer.** Our customer will be each organizer, member, partner, or shareholder (for simplicity each shall be called an *organizer*) in its capacity as an *organizer* of the *entity*. Subsequent to the *entity's* formation or the transfer of representation by us to the *entity*, for the purposes of this *agreement*, our customer will be solely the *entity*, we will no longer represent any *organizer*, and thereafter the term "you" as used in this *agreement* will refer to the *entity*.
  - B. **More Than One Organizer.** In the event there is more than one *organizer*, the *organizers* and the *entity* acknowledge the following:
    - (1) The interests of the *entity* may not be identical to the interests of each *organizer*.
    - (2) Each *organizer* may have differing or conflicting interests regarding the manner in which the *entity* is formed.
    - (3) Each *organizer* and the *entity* assume responsibility, individually and collectively, for the timely payment of all fees and expenses incurred by us in forming the *entity*, including initial registered agent fees, if applicable.
    - (4) Despite the above disadvantages of joint representation:
      - (a) We believe we can represent all *organizers* even though the representation of each *organizer* may be materially limited by or directly adverse to our responsibilities to the other *organizers* because we reasonably believe the representation of each *organizer* will not be adversely affected.
      - (b) We are familiar with the situation of each *organizer* and the *entity*, making it more economical for the *organizers* to utilize only one firm to represent all *organizers*.
6. **FIXED PRICING.** We do not bill for time. Instead, we use a fixed pricing model that enables you to pay only for the value you receive from us.
  - A. **Scope.** We shall determine with you the scope of the representation that we will provide to you. Pricing shall be based on the scope of the representation and shall be mutually agreed to by the *parties*.



- B. **Scope Adjustment.** In the event that you would like us to take on representation of you outside of the original scope, you and we may execute a *scope adjustment* either verbally or in writing. The *scope adjustment* shall describe the new work to be performed and the corresponding terms of payment.
- C. **When Earned.** Unless otherwise agreed by the *parties*, we shall perform the services described in the *PSP* or addenda for the stated price. All payments for any particular service shall be considered earned upon our first act that confers any benefit on you with respect to that service, including reserving service capacity for you or performing any research, preparation, drafting, consultation, or advising. You agree that any and all of our pre-paid consultation plans to which you have agreed confer a benefit on you immediately upon the commencement of each period in which such a service arrangement is in effect.
- D. **Basis.** You agree that the provisions of this *section* are reasonable in light of the need for us to properly allocate our resources among our customers, and you agree that all fees are explicitly based upon your subjective valuation of the corresponding services.
- E. **Expenses.** You may incur charges for services we arrange with third parties or for expenses incurred by us on your behalf, including filing or recording fees. You agree to pay all such charges and expenses as they are billed to you, either by us or by the relevant third party directly. You acknowledge that such charges and expenses are not included in our fixed prices for services to you, unless specifically stated otherwise.
7. **LIMITATIONS ON ADVISORY COUNSEL SERVICES.** The following limitations, unless otherwise waived by us, apply to our Advisory Counsel services:
- A. The documents reviewed pursuant to these services shall be no longer than 15,000 words.
  - B. Unused document reviews shall not accrue.
  - C. We shall be obliged to conduct *basic* statutory or regulatory research on your behalf as you request it. As used herein, the term *basic* is subject to our interpretation and sole discretion, provided that such interpretation and discretion is reasonable. We shall not be obliged to conduct case law research.
  - D. We shall be under no obligation to provide you with legal representation of any kind in any lawsuit, prosecution, or other litigation matter.
  - E. We shall be under no obligation to communicate with third parties on your behalf.
  - F. We require all Advisory Counsel clients to authorize recurring billing on a credit card, debit card, or PayPal account.
8. **ADVANCE FEE DEPOSIT.** To begin or continue representation, we may require an advance fee deposit. We will apply any such deposit to professional fees and expenses as they are incurred.
9. **BILLING.**
- A. We may send you invoices for fees or expenses incurred in the course of representation. Unless stated otherwise in the *PSP*, a *scope adjustment*, or an addendum, payments on invoices are due immediately upon receipt of the invoice and are past due 15 days after the date of the invoice. If an invoice payment is past due, we reserve the right to require an additional fee deposit before performing further work.
  - B. If an invoice remains unpaid, we may withdraw from further representation. When we incur costs to collect the amount due, we shall be entitled to our collection costs and reasonable attorney fees. All amounts on your account remaining unpaid for more than 30 days after invoicing accrue interest at 1% per month and are subject to an additional \$100 late fee per month.
  - C. You authorize us, at our sole discretion, to collect all payments due under this *agreement* via any third party payor--including escrow or real estate closing services--handling disbursements



for transactions related to the services provided pursuant to this *agreement*. However, you remain ultimately liable for all payments due under this *agreement*, regardless of any negligence or carelessness on the part of such third party payor.

10. **ONLINE PAYMENTS.** You may be able to make payments to us via certain online payment services. If you make any payment to us via such online payment services, you acknowledge that these methods necessarily involve some disclosure to third parties of confidential information. By making such an online payment, you nevertheless consent to disclosure of your confidential information to third parties to the extent necessary to process any payment made via the online services.
11. **EMAIL USE.**
  - A. You hereby grant permission to us to use your email address(es) for important matters that relate directly to the services that we provide to you hereunder.
  - B. You hereby grant permission to us to use your email address(es) for other promotions or non-essential purposes. However, if at any time you wish to be removed from our email list for these non-essential purposes, click "unsubscribe" in the email message you receive or otherwise let us know you would like to be removed, and you will not receive further such messages until you grant us permission to put your email address(es) back on the list.
  - C. We will never sell, rent, or provide your email address(es) to others without your permission unless required by law to do so.
12. **TERMINATION.** Any *party* may terminate this *agreement* at any time by providing written notice to the other *parties*. In rare circumstances, we may need to terminate our relationship with you if there is a non-waivable conflict of interest in representing both you and another customer.
13. **MODIFICATION.** We may modify the *TOS* at any time, provided that such modification shall not be effective until we have given you notice of such modification. The *PSP* may be modified at any time by a written or verbal agreement approved by all *parties*.
14. **TERM.** This *agreement* shall continue in perpetuity, unless otherwise modified or terminated.
15. **CONSIDERATION.** This *agreement* is entered into for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.
16. **DEFAULT.** Upon default by any *party*, the non-defaulting *party* or *parties* shall have all remedies available at law and equity.
17. **WRITINGS.** Unless otherwise indicated, any provision of this *agreement* that requires an agreement or consent in writing includes writings in electronic form.
18. **LIMITATION OF LIABILITY.** To the extent allowed by law, no *party* shall be liable to another *party* for lost profits or for indirect, consequential, or punitive damages in relation to this *agreement*.
19. **WAIVER.** No *party* shall be deemed to have waived any right or remedy under or with respect to this *agreement*, including by forbearance, unless such waiver or consent is expressed in a writing signed by such *party*, except as otherwise provided herein. A waiver or consent given in one instance shall not operate or be construed as a waiver or consent in any other instance.
20. **SET OFF.** No *party* shall have the right to withhold or set off any payments due to another *party* hereunder, except as otherwise provided herein.
21. **SEVERABILITY.** If any provision of this *agreement* is held to be invalid or unenforceable, such holding shall not be deemed to render any other provision hereof invalid or unenforceable.
22. **HEADINGS, PRONOUNS, ETC.** Headings contained in this *agreement* shall not be considered in construing this *agreement*. The words "herein," "hereof," and "hereunder" refer to this *agreement* in its entirety. The word "include" and its derivatives are not intended to exclude or limit. Words in



the singular include the plural, words in the plural include the singular, and words importing a gender include all genders, as the context requires.

23. **NO THIRD PARTY BENEFICIARIES.** This *agreement* creates no rights benefiting third persons, and no third person shall have any right to enforce any provision hereof, except as may be specifically provided herein.
24. **REMEDIES.** Each remedy provided herein is distinct from and cumulative to all other rights or remedies herein or afforded by law or equity, and may be exercised concurrently, independently, or successively.
25. **MEDIATION.** Except where impracticable, the *parties* shall submit any and all controversies or claims arising out of or relating to this *agreement*, or the breach thereof, to mediation. The *parties* shall jointly appoint an acceptable mediator and shall share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved within thirty (30) days of the date written notice requesting mediation is delivered by one *party* to every other *party*. This *section* shall not alter any date in this *agreement*, unless otherwise agreed by the *parties*.
26. **BINDING ARBITRATION.**
- A. Any and all controversies or claims arising out of or relating to this *agreement*, or the breach thereof, if not resolved via mediation, shall be submitted to, and conclusively determined by, binding arbitration in accordance with this *section*. The provisions of this *section* shall not preclude any *party* from seeking injunctive or other provisional or equitable relief in order to preserve the status quo of the *parties* pending resolution of the dispute, and the filing of an action seeking injunctive or other provisional relief shall not be construed as a waiver of that *party's* arbitration rights.
- B. The arbitration of any dispute between the *parties* to this *agreement* shall be governed by the rules of the American Arbitration Association (AAA). In the case of any dispute between the *parties* to this *agreement*, any *party* shall have the right to initiate the binding arbitration process provided for in this *section* by serving upon the other *party* or *parties* a demand for arbitration. Within thirty (30) days of service of a demand for arbitration by any *party* to this *agreement*, the *parties* shall endeavor in good faith to select a single arbitrator. In the absence of a selection, AAA shall appoint an arbitrator. Such arbitration shall proceed in the *State* named below, and shall be governed by the laws of the *State*.
- C. If the arbitrator(s) finds any disputed claim to be meritorious, the arbitrator(s) shall have the authority to order legal relief, equitable relief, or both appropriate to the claim; provided that in no event shall the arbitrator(s) have authority to award punitive or exemplary damages.
27. **APPLICABLE LAW, JURISDICTION, AND VENUE.** In the event any *party* commences a judicial action or proceeding relating to this *agreement*, this *section* shall apply to such action or proceeding; provided that nothing in this *section* shall be deemed to invalidate the mediation or arbitration requirements above. This *agreement* shall be governed by the laws of the *State* named below. Exclusive jurisdiction and venue of all actions relating to this *agreement* shall be in the *venue* named below. Each *party* submits to the personal jurisdiction of the *venue* and waives any and all rights to object to such jurisdiction. If jurisdiction is not obtainable by the *venue*, all actions relating to this *agreement* shall be brought in the *courts* named below.
- A. The *State* shall be: Colorado.
- B. The *venue* shall be: District Court of Gunnison County, Colorado.
- C. The *courts* shall be: District Courts of Colorado or the United States District Court for Colorado.
28. **ATTORNEY FEES.** In the event there is any litigation or arbitration arising out of this *agreement*, the court or arbitrator(s) shall award to the substantially prevailing *party* its reasonable costs and expenses, including attorney fees.



29. **ASSIGNMENT.** This *agreement* shall be binding upon and shall inure to the benefit of the *parties*, their respective heirs, personal representatives, successors, and assigns. No *party* shall assign this *agreement*, or any interest therein, or payments due under this *agreement*, without the written consent of every other *party*, except as otherwise provided herein. No *party* shall sublet or license to any third *party* any portion of the real, personal, or intangible property subject to this *agreement*, or any rights hereunder without the written consent of every other *party*, except as otherwise provided herein. Any such unauthorized assignment, sublease, or license shall be void and of no effect.
30. **NOTICES.** Unless otherwise specifically permitted by this *agreement*, all notices required by this *agreement* shall be in writing and may be delivered electronically or physically. Electronic notices shall be effective when sent. Physical notices shall be conclusively presumed to be received three (3) business days after deposition, with sufficient payment, in the U.S. Mail or with a commercial carrier; provided that physical hand delivery without the use of the U.S. Mail or a commercial carrier shall be effective when hand delivered. Each *party* shall be responsible for providing the other *party* or *parties* with accurate and timely written contact information, though electronic contact information shall not be required.
31. **FORCE MAJEURE.** No *party* shall be liable to another *party* for any delay or failure to perform that results from causes outside its reasonable control.
32. **CONSTRUCTION.** This *agreement* is the result of substantial negotiations between or among the *parties*, and the authorship of this *agreement* shall be immaterial. This *agreement* shall not be strictly construed against any *party*.
33. **TIME OF ESSENCE.** Time is of the essence for this *agreement*.
34. **CONSISTENCY.** In the event there is a conflict between or among the *TOS*, the *PSP*, and any addenda (including *scope adjustments*), later executed addenda shall govern over previously executed addenda, all addenda shall govern over the *PSP* and the *TOS*, and the *PSP* shall govern over the *TOS*.
35. **FURTHER ACTION.** Each *party* shall take such further action to execute and deliver such additional instruments as the other *party* or *parties* may, from time to time, reasonably request in order to effectuate this *agreement*, or to otherwise accomplish the purposes of this *agreement*.
36. **COUNTERPARTS.** This *agreement* may be executed in any number of counterparts or duplicates, each of which shall be deemed an original and all of which shall constitute the same instrument. Physical and electronic copies of this document shall be effective and enforceable as originals, and third parties shall be entitled to rely on such copies of this document for the full force and effect of all stated terms.
37. **AUTHORIZED REPRESENTATIVES.** The persons executing this *agreement* warrant that they have the requisite authority to do so.

**Thank you for your confidence in *Evolvitas Law LLC*.**

