

## Terms of Business

### **General**

These Terms of Business together with any Letter of Engagement set out the agreement between us (ProTrust Consulting Ltd) (the firm) and you (our client) in respect of the work we will carry out and the charges we will make. They are effective from the outset of our relationship with you and your continuing instructions to us will amount to an acceptance of our terms.

These Terms of Business govern the general relationship between us as a firm and you as a client in respect of all of our firm's services, including:

- Estate Planning Services
- Estate Administration Services; and
- Trust Management Services.

### **Service Standards**

At ProTrust Consulting Ltd our ethos is to provide a friendly, professional, highly efficient and effective personal service to all of our clients at a fair price.

### **ProTrust Consulting Ltd**

ProTrust Estate Planning, ProTrust Estate Administration, ProTrust Trust Management and Robert Cartmell Consulting comprise the trading names of ProTrust Consulting Ltd (formerly Robert Cartmell Consulting Ltd) of registered office 25 North Row, Marble Arch, London W1K 6DJ ("ProTrust Consulting"). We are not a firm of financial advisors regulated by the Financial Conduct Authority ("FCA") and not a firm of solicitors regulated by the Solicitors Regulation Authority ("SRA"). Although we have a background in law and undertake certain legal work, such work undertaken by this firm is non-reserved legal work (such as Wills, associated trusts, Lasting Powers of Attorney, estate administration and trust management) and in all other respects we are an advisory and consultation practice which shall work alongside regulated practices, being solicitors, accountants and independent financial advisors. We operate within the jurisdiction and laws of England and Wales.

### **What do we ask of our clients to help us achieve your goals?**

You will help us to achieve a satisfactory outcome or conclusion to your matter by giving us clear, accurate instructions, supporting documentation and other necessary papers in a timely manner.

Strive to keep us up to date with information and your circumstances.

Please always be honest and straightforward in your communications with us.

Work within the time frames and next stages we plan with you to ensure that our time (and cost to you) is minimised; and

Provide feedback to us when you are happy with our service and if you are not (it will help us better serve you).

### **Scope of Advice**

Our advice will not cover any tax implications unless we are specifically asked to provide such advice. In the event of such tax advice, it shall be advice only and shall not operate as a guarantee of how HMRC will approach or interpret requirements or legislation. Matters such as Inheritance Tax and Trust taxation rates, as well as advice on structural options (including options within Trusts) are all subject to existing and future legislation and interpretation. We shall not be responsible for any advice given to you prior to you entering into a contract to engage the firm in providing such advice.

### **Instructions**

When acting for two or more clients jointly, we will assume that your liability to us will be joint and several and that we may accept instructions from either, both or any of you.

When acting for multiple parties such as a set of trustees or executors or indeed when we act for a Company or Firm, we assume that any of the trustees, executors, directors, proprietors or employees are authorised to give instructions. If this is not

the case you should notify us as soon as possible. We may in all cases, however, take steps to establish who has authority. In all cases, we will accept instructions orally, by email or by normal post.

### **Our Charges**

Our charges are based on either a “time spent” or “fixed fee” basis and will incur VAT at the prevailing rate that applies when the work is done. All our quoted charges will be exclusive of VAT.

### **Time Spent Basis**

For time spent fee-paying matters, all time spent on your file including correspondence (which includes emails); preparing and/or considering documents; telephone and personal attendances with yourself or others; travelling, research, perusal, preparation for meetings etc. will be charged as units of 1/10th of an hour (6 minutes). For example, if a telephone call lasts 5 minutes it will be charged at the rate of 1 unit. Hourly rate charges are reviewed in January each year. We reserve the right to increase rates to reflect increases in overhead costs and inflation. The hourly charging rate for our advisors is a maximum of £295+vat. Lower rates for other administration or advisor support members of the team may apply. This rate is subject to the rate or rates applied to a specific case as may be set out in any client care letter or other costs estimate.

At any stage you are entitled to request in writing an estimate of costs for a particular element of expected work. We will respond according to the circumstances and parameters of the given case/transaction.

We will invoice you periodically throughout the matter or at other times as agreed at the outset of your case.

### **Fixed Fee Matters**

For matters charged on a fixed fee basis you will be given a price for our costs prior to any work being undertaken on your file. If, however, any unforeseen work becomes necessary (this may be because of unexpected difficulties or if your instructions change substantially or if there are delays in providing information or instructions), we will inform you as soon as we are aware of the impact of any additional work and provide you where practicable with an estimate of any extra charges that may be incurred prior to taking any further action.

At the outset of your matter we will usually seek to agree with you when we will raise our invoice(s).

If your matter is transactional (such as preparation of a Will) and does not proceed to completion due to withdrawal of instructions after work has commenced, we reserve the right to charge an abortive fee plus VAT.

### **Costs Guidance**

For further guidance on our fixed fee and hourly rate charges, please see the respective ProTrust Consulting websites for guidance (“the costs guidance”). The links to these can be found at [www.protrustconsulting.co.uk](http://www.protrustconsulting.co.uk). In the absence of specific agreement as to charges as set out within any Letter of Engagement (LoE) or written estimate of costs (‘Cost Estimate’), the costs and charges that are set out in the costs guidance as may apply at the time of instruction to carry out work shall apply in relation to all relevant area(s) of work for which we are instructed.

### **Money on Account**

At the outset of your matter, we may request money on account of our fees (but this commonly is not our practice for fixed fee matters such as Will preparation) and payment for disbursements that need to be paid to others, for example payments made to HM Courts & Tribunals Service (HMCTS), other professional advisors such as solicitors, accountants and independent financial advisors, legal Counsel, HM Land Registry, Office of the Public Guardian, HMRC etc. Monies held on account of our own fees may be used as a retainer but will be offset against your final bill if necessary.

Unless expressly stated elsewhere in this document or in a LoE or Cost Estimate, you will be responsible for any expenses incurred in your matter. These will include travel expenses and exceptional stationery items. We may have to pay out various other expenses on your behalf that we refer to as “disbursements”. We will not make payments on your behalf unless you have provided us with the funds for that purpose or we have agreed some method of financing your case/matter.

### **Payment Arrangements**

Except in some Estate administration or Trust management matters where our fees may be agreed to be deducted from funds held in the course of administration, payment of the balance of our fees is due within 14 days from the day our invoice is rendered. If payment is not received during that time, we reserve the right to charge interest on your outstanding account from the date it becomes due at the daily rate of 8% and we may suspend any further action on your matter if it is ongoing.

Where an account is overdue we are entitled to retain any files and documents belonging to you which are in our possession until our account is settled. That is commonly known as a "lien". We also reserve the right to cease working on this and any other matters on which we are acting for you.

Our preferred method of receiving payment is by bank transfer to our office or client accounts (details will be supplied). To comply with our Anti-Money Laundering Policy, please note that we are unable to accept cash under any circumstances.

If you have a query in relation to your invoice you should raise this with us immediately the bill is raised. Payment of your fees may be made by a third party; if, however, they fail to pay, you are ultimately responsible for settlement.

#### **Interest on Funds We Hold for You**

Given that our Bank interest rate offers only very minimal interest we are not in a position to pay interest on monies held unless client funds are held with us in excess of 2 months and the total amount of interest attributable exceeds £75. We will not account for interest on money held for the payment of a professional disbursement.

#### **Financial, Solicitor and Accountancy Services**

We are not authorised by the Financial Conduct Authority (FCA) and cannot therefore provide any necessary financial advice. We can provide limited general advice in relation to investments as part of our Estate Planning, Wills and Administration services but such advice will always be on a generic basis and subject to the advice of an advisor that is regulated by the FCA aforesaid or suitable other professional body. Some legal work is reserved legal work (such as conveyancing, court litigation, certain document preparation or probate extraction). We delegate all such work to a regulated firm of solicitors. They shall have an agreement with us to undertake such work for our clients and we pay them to undertake the reserved elements of work for you and they are responsible both to our firm and to you for the work conducted on your behalf. In probate work, we may assist the personal representatives in the matter but the application for the Grant shall be made and lodged as a personal application by the personal representative. For accountancy work, such as the preparation of certain tax returns or taxation advice, we will refer you to a firm of chartered or certified accountants. They will engage separately with you as to the provision of their services.

#### **Money Held on your Behalf**

We are not a bank and do not offer general banking facilities. We may hold limited funds purely relating to a specific requirement as part of our instructed work (such as estate administration or trust management for trustees or executors) or on account of costs and disbursements. The Financial Services Compensation Scheme (FSCS) may cover deposits relating to clients who are individuals or small companies of up to £85,000.00 per client per bank. This could also apply to Trustee monies. Our business bank is Metro Bank and if you hold money with Metro Bank other than the money which we may hold for you, then that money will be included in the overall protected amount. In addition, some banks operate under several different brands and you may have money with Metro Bank trading under a different name. You should confirm this with your bank, the Financial Conduct Authority (FCA) or your Independent Financial Adviser (IFA). If Metro Bank (or any other bank with whom funds are held on your behalf) was to fail, we would seek your consent to disclose your details and the total amount held by us on your behalf to the FSCS. If you do not give consent you would not be eligible to receive compensation. Neither we nor any member of our firm would be liable for losses resulting from the failure of the bank even though the amount held through us by the bank on your behalf (or any bank account held by a member of our firm as personal representative or trustee for an estate or trust in which we are instructed) may exceed the protected amount.

#### **Distance Contracts and Home Visits**

Many of our meetings with our clients take place at their home or by a video-conference facility. If we have not met you in any of our offices the Off Premises and Distance Contracts provisions of the Consumer Contracts Regulations 2013 will apply.

You have the right to cancel your instructions within 14 (fourteen) calendar days of entering into the contract with us without giving any reason. To exercise your right to cancel you must inform us of your decision to cancel by a clear statement, e.g. by a letter sent by email, post, or hand delivery to the registered address namely 25 North Row, Marble Arch, London W1K 6DJ confirming that you are cancelling your instructions. To meet the cancellation deadline it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

Many of the instructions for us to act require steps to be undertaken or work to commence within 14 days. You will lose your right to cancel if we have acted on such a request and completed work and where you have notified us in writing or by email to so commence and/or complete our work within this time. If you ask us to begin work on your matter during the cancellation period but then decide to cancel the contract, you will pay us by way of fees an amount in proportion to what has been performed until you communicated to us your cancellation of the contract in comparison with the full cost of the contract. If

you have paid us any money on account this will be refunded after deduction of our fees as above. If your instructions are given to us electronically you acknowledge that this carries an obligation to pay our fees in relation to the matter.

For any meeting, phone or video call, a recording may be taken by the firm for quality and training purposes. By instructing the firm, you confirm your agreement accordingly. Advice given on behalf of the firm by phone or at a meeting or discussion can only be relied upon by you if confirmed by us in writing.

### **Personal Appointments**

Where any individual of this firm is appointed by a client as a trustee or executor (or as an attorney administrator), any work undertaken by them in discharge of their duties whilst at this firm is charged by this firm according to the individual's position and standing within this firm and not by virtue of the nature of the individual's qualification or standing whether as a solicitor or accountant (practising or otherwise) or in respect of any other capacity. This firm undertakes professional estate and trust administration/management services and is entitled to charge for the delegated trustee functions of the lay trustees and/or professional trustee or personal representatives. If the said personal representative (whether attorney representative or otherwise) or trustee is a member of this firm they shall be entitled to work in this firm and perform and discharge such professional trustee functions and be remunerated through the charging of this firm for such work.

### **Confidentiality**

We have a legal obligation to keep your affairs and any information that becomes known to us that we have received from you while acting for you in connection with any matter confidential. Furthermore, if we use outside professionals we ensure that they are under the same obligation to keep your information confidential.

We are subject to audit by our accountants, bookkeepers and auditors who may need to see your file as part of the audit process. They too are obliged to keep details and information they see in our files confidential, as are our insurers if you make a complaint or claim against us.

### **Data Protection**

We will require you to disclose personal sensitive information to enable us to provide you with accurate and meaningful legal advice and documentation. When instructing us in a specific task your consent is provided to us to process that personal sensitive information by the fact that you have instructed us in the conduct of such work. You acknowledge that it can be good practice to hold that information on file for potential review and updating by newsletter or other communications with you from us in relation to estate planning or trust administration work carried out by this firm.

The personal data that you provide to us will be held and processed by us strictly in accordance with the EU General Data Protection Regulation 2018 ("GDPR") or applicable data protection legislation as enacted from time to time. We will only collect your personal data fairly and lawfully for specified purposes. We do not share your personal data to third parties for marketing purposes. In some circumstances your personal sensitive information will be provided to other professionals to enable your instructions to be completed, but your permission will be sought at that time. We sometimes use your personal data to analyse our client base and to improve our service. We hold your personal sensitive information electronically and in some cases in paper format. Your electronic information is stored in a password cloud-based software programme. Your information may be retained for your lifetime and then for 12 years following your death or until you ask us to cease working with you. At that time your paper documentation will be transferred to another professional as you request or it will be destroyed. Your information held electronically will be deleted at a reasonable time following your instructions ceasing save where there is any ongoing duty of care. If you wish us to delete your information at any time please email us at [info@protrustconsulting.co.uk](mailto:info@protrustconsulting.co.uk). If you prefer us not to use your personal data in any way or if you wish to limit your personal data, please note that we may not be able to carry out your instructions and our relationship may need to be terminated.

### **Money Laundering Regulations**

Like banks, building societies, solicitors and accountants, we obtain evidence of the identity of our clients. It is good practice to do so but it also serves to confirm legitimacy of instructions. Additionally, the evidence of identity must comply with anti-money laundering regulations where applicable. We will require photographic evidence in the form of a copy of your passport or driving licence and a copy of a utility bill in your name for the address where you currently live. This should be dated within the last three months. If you are unable to attend the office, the copies must be certified by a solicitor or by the Post Office (which offers a certification service). In some matters, we may be required to obtain online money laundering and fraud checks against your name, for which a small charge will be made. In estate administration and trust management matters, we will require Due Diligence and ID to be taken for all named beneficiaries of such Trust or estate. Identity verification checks may be undertaken which can include electronic searches of the electoral roll and the use of credit reference agencies, which will result in a soft footprint on your credit records. This footprint is not visible to other financial service providers and does not affect your credit rating in any way. In accordance with the Data Protection Act 2018 acceptance of these terms and conditions

represents your permission for us to access this information. Please note that we are regulated by HMRC in respect of AML regulation requirements.

As in the confidentiality paragraph above, we have a legal obligation to keep your identity confidential. However, this is subject to a statutory exception to disclose client information to the Serious and Organised Crime Agency if it knows or suspect that a transaction on behalf of a client involves money laundering.

### **Equality & Diversity**

We are committed to eliminating unlawful discrimination on grounds of age, disability, race, religion or belief, sex, sexual orientation, gender reassignment, marriage or civil partnership and we promote equality and diversity for clients, employees, suppliers and all other third parties.

### **Conflict of Interest**

We will check for conflicts of interest before we are able to accept your instructions and if a conflict arises prior to accepting your instructions or during the course of your matter, we will discuss the position with you. In order to protect your interests we may not be able to continue to act for you.

### **Correspondence/Email**

Unless you specifically instruct us not to do so, and if you communicate with us by email or provide your email address, we will assume that you are happy with us to communicate with you by unencrypted email and that we will not normally confirm the same information by post. In respect of work and charges, email correspondence and communications by email are treated in the same way as formal postal or written communications. You should be aware that there is a risk that emails (in particular when unencrypted) may be intercepted, delayed or corrupted or may fail to be delivered.

We make reasonable attempts to exclude from our emails any virus or other defect that might harm a computer or IT system. You undertake to act likewise with any electronic communications you send to us. Neither you nor we shall have any liability to each other in respect of any claim or loss arising in connection with such a virus or defect in an electronic communication other than where such claim or loss arises from bad faith or wilful default.

Correspondence sent to you by post to an address provided by you will be deemed to have been delivered 5 days from the date of posting, by fax on the day and at the time of transmission and by email on the day and at the time it is transmitted to the relevant electronic mailbox.

### **Client Satisfaction**

Our aim is to ensure that you receive an efficient and effective service. If you are unhappy with the service that we have provided and this cannot be resolved during the normal course of communications with us, you may raise the matter in writing (or by email) to our registered address. We will then investigate your concerns with a view to resolving these amicably at a meeting or discussion and in default of resolution, then we shall reply by further written communications. If an amicable solution cannot be agreed you can write to us for details of our formal complaints procedure.

### **Responsibility and Liability**

In the event of a claim being made, you agree not to bring a claim against any of our individual Directors, Partners, Employees or Consultants and this extends to where any such person (being a member of this firm) has instructed this firm in the course of delegated trustee or executor responsibilities. This does not exclude liability against the Company. The liability of the Company shall not exceed £1,000,000 (one million pounds) unless we expressly state a higher amount in writing. We will not be liable for any consequential, special, indirect or exemplary damages, costs or losses or any damages, costs or losses attributable to lost profits or opportunities. We can only limit our liability to the extent the law allows. In particular, we cannot limit our liability for death or personal injury caused by our negligence.

### **Risk**

Virtually all transactions and legal matters involve some element of risk. We plan our work to reduce the legal risks to you, taking into account what is usual in matters of this nature. We will advise you of any unusual legal risks we identify but risks can never be eliminated. Whilst we may give the benefit of our experience on non-legal matters, the assessment or control of commercial and financial risk is your own responsibility.

### **Responsibilities to HMRC**

In respect of estate or trust administration matters upon which we are instructed, you shall ensure that any tax returns are correct and submitted to HMRC in a timely manner and any tax due is paid on time. This is subject to when we are specifically instructed to advise and attend to HMRC submissions or where we hold monies and make payments on your behalf.

## **Concerns about Barristers, Solicitors or Other Professionals**

Any barrister, solicitor, accountant or other professional we instruct on your behalf should have their own complaints process. If you are not happy with their service, you can complain to them directly. But please let us know so that we can try to assist you in resolving the complaint. We should be able to inform you how to make your complaint if they have not given you that information themselves.

## **Future Instructions**

Unless otherwise agreed in writing or email, these Terms of Business will apply to all future instructions you give us on this or any other matter.

## **Termination**

You are entitled to terminate your instructions to us at any time and this instruction to terminate acting for you must be confirmed in writing. Within 7 days of receiving your instructions to terminate, we will render you a final bill for our fees and disbursements incurred if these have not already been settled and we will return your original papers and documents to you when payment of our invoice has been received in full.

There may be occasions where we consider that we should stop acting for you, for example, if you do not provide clear instructions or if you do not settle interim invoices. If we discover a conflict of interest, we will give you notice in writing that we will stop acting for you.

It is likely that the Consumer Contract (Information, Cancellation and Additional Charges) Regulations 2013 applies to this contract and we and you are bound to the terms thereof. In that event you will have a right to cancel an order for services from us within a period of 14 days from entering the agreement. If by your conduct or express request, our service is required to commence within the period of 14 days, you will of course still have the right to cancel but you must pay for the value of the service that is provided up to the point you cancel.

## **Storage and File Retrieval**

We have a "green policy" of paperless storage of clients' correspondence files. This assists us in providing speedy responses, as well as efficient documentation and advice to you. Following completion of your matter, should you require return of original deeds or copy documents/correspondence they will be sent to you, after which any paper file will be stored electronically and any original paper file of ours will be destroyed. Your computer file will then be stored for a minimum of 7 years. Any original documents such as Deeds, certificates or policies will be either returned to you or stored in safe custody by us. Should you ask us to store Deeds/Wills etc. we will make a charge for this but will confirm this with you before you proceed. We will require 3 working days' notice if you wish to retrieve your file or stored Deeds/Wills and you will be required to sign a receipt when removing them.

[ProTrust Consulting Ltd](#)