

# Terms of Business / Retainer

Last updated January 2019



**4 Probate & Wills**  
4probateandwills.co.uk

## **Both copies are to be signed by the client and the consultant and one copy left with the client**

The following standard terms of business apply to all instructions accepted by the Company. All work carried out in the provision of Will Writing Services is subject to these terms except where changes are expressly agreed in writing. These terms of business form the basis of the contract between the Company and the Client.

### **1. Definitions and Interpretation**

1. In these Terms and Conditions the following terms shall have the following meanings:

“**Calendar Day**” means any day of the year;

“**Cancellation Form**” means the form attached to these Terms and Conditions as Schedule 1;

“**Cancellation Notice**” means the notice attached to these Terms and Conditions as Schedule 1 or such other written document containing the same information, produced by the Customer;

“**Contract**” means the contract for the purchase and sale of the Services under these Terms and Conditions;

“**Customer**” means the individual purchasing the Services from the Seller who shall be identified in the Order;

“**Order**” means the customer’s completed order for the purchase and provision of Services;

“**Payment Information**” means all information required to take the required payments from the Customer and includes, but is not limited to, credit/debit card details and residential address details;

“**Sales Literature**” means the services which the Seller is to provide in accordance with these Terms and Conditions, any specific terms which apply only to those services, and as specified in the Order.

“**Seller**” means the services which the Seller is to provide in accordance with these Terms and Conditions, any specific terms which apply only to those services, and as specified in the Order.

“**Services**” means the services which the Seller is to provide in accordance with these Terms and Conditions, any specific terms which apply only to those services, and as specified in the Order.

2. Unless the context otherwise requires, each reference in these Terms and Conditions to:

1. “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
2. a statute or a provision of a statute is a reference to that statute or provision as amended or reenacted at the relevant time;
3. “these Terms and Conditions” is a reference to these Terms and Conditions and the Schedule as amended or supplemented at the relevant time;
4. a Schedule is a schedule to these Terms and Conditions; and
5. a Clause, Section or paragraph is a reference to a Section of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule.

3. The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.

4. Words imparting the singular number shall include the plural and vice versa.

5. References to any gender shall include the other gender.

### **2. Procedures**

1. On the initial appointment your detailed instructions will be taken and appropriate advice given on matters relating Will Writing Services. Any queries or questions will be answered and a full explanation given on the contents and terminology used in the drafting of your Documents. We may also RECORD the interview for reference and accuracy purposes when drafting the Will. We will always inform you if we are recording the interview and seek your permission to do so. We cannot guarantee the quality of the recording or make it available should it fail.

### **3. The Company undertakes to:**

1. Comply with your instructions with reasonable skill, care and expedition appropriate to your needs.
2. Provide you with the best advice on matters relating to the Will Writing Services. In some cases this may mean advice to draw up other documents, or take other action, which may incur further fees. In such cases full details of such charges will be given to you in advance and you are under no obligation to proceed with any ancillary services offered. However, in some circumstances you may be asked to sign a declaration stating that you are acting against the advice given.

3. Comply with the Clients instructions using all due skill, care and expedition appropriate to the need of the client. Regarding the dispatch of documents Company must adhere to the following timescales unless otherwise agreed in writing with the client at the time that the client's instructions are received. The following timescales take effect immediately upon the Client providing all the information required to complete the agreed instructions.

1. Draft documents available for approval –10 working days
2. Executable documents available for signing and witnessing AFTER drafts are approved – 10 working days
3. Executable documents available for signing and witnessing if drafts are NOT supplied –10 working days
4. Where a Client wishes to receive draft copy via email for approval - 10 working days
5. Dispatch of draft documents via post - 10 working days

4. However where circumstances occur, including those which are beyond the Company's control, which result in the documents being delivered outside the above stated timescales, the client must be informed and upon their request must be provided with a full written explanation for the cause of the delays AND the opportunity to renegotiate or cancel the contract, with a full refund being provided should it be requested by the client.

5. Maintain the strictest confidentiality and not to pass on your details to any other organisation without your express written permission unless legally required to do so and shall comply with all legislation in force relating to data protection. For more information on how we hold your data please view our privacy notice which will be provided to you in addition to these terms of business, and is available on our website at [www.4probateandwills.co.uk](http://www.4probateandwills.co.uk)

6. Offer an attestation service that supervises the signing and witnessing of your Documents at your home. The Company will not take responsibility for ensuring the validity of your Documents where the attestation service has not been taken up and the execution supervised by an agent of the Company. The signing of your Documents must be carried out according to the law of England and Wales in order for your Documents to be valid. All Documents will be supplied to you with full written instructions of how these should be completed and the Company will check the documents for free after they have been signed to ensure validity. It is your responsibility to send the documents to our Company after you have signed them if you would like them checked.

7. Refund any money paid in respect of the preparation of your Will(s) should you change your mind within 14 days from the date of taking your instructions. After the expiration of this period the Company reserves the right to charge you for the advice given and for any work already carried out on your behalf and in accordance with your signed instructions. An itemised bill will be produced for any charge falling due under this term.

8. Where the Company offers a Will storage service, the Company does not accept any liability or obligation to advise you of any changes in legislation or taxation which may affect you either directly or indirectly and may necessitate a review of your Documents. Any Will should be reviewed **BY YOU** the client every three years and on the occasion of any material change in your circumstances, such as divorce, marriage, the birth of children or the inheritance of a large sum of money etc.

9. Where the company cannot legally or practically follow the instructions given by the client, the company must explain any differences between the client's instructions or expectations and the documents to be provided.

#### 4. Notice of the Right to Cancel

1. This Clause shall apply only where the Contract is not entered into at the Company's offices.

2. the Customer has the right to cancel the Contract within the Cancellation Period as determined by The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

3. The Seller is 4 Probate and Wills Limited (Companies House No: 11396478), No.2 @ The Dock, 46 Humber Street, Hull, HU1 1TU

4. For the purposes of this Cancellation Notice, the Reference Number to be quoted in all communications is: 1) As detailed on your invoice/receipt; or 2) where you have not received an invoice/receipt at the time of cancellation, your full name followed by the words "Notice to Cancel" (i.e. John Smith Notice to Cancel"

5. The Customer has the right to cancel the Contract within 14 Calendar Days of receipt of this notice (the "Cancellation Period").

6. The Customer may be required to pay for Services provided if provision of the Services has commenced with the Customer's written agreement prior to the end of the Cancellation Period.

7. In the event that the Customer chooses to exercise their right to cancel within the Cancellation Period, the Cancellation Form attached to these Terms and Conditions as Schedule 1 should be completed in full and returned to the Seller at the address provided in sub-Clause 4.7.1 below.

8. Cancellation Notices must be sent to the Seller at the following addresses:

1. A Cancellation Notice sent by post or delivered by hand must be sent to Emma White, 4 Probate and Wills Limited, No.2 @ The Dock, 46 Humber Street, Hull, HU1 1TU; and

2. A Cancellation Notice sent by email must be sent to: Emma White at [emma@4probateandwills.co.uk](mailto:emma@4probateandwills.co.uk) under no obligation to proceed with any ancillary services offered. However, in some circumstances you may be asked to sign a declaration stating that you are acting against the advice given.

9. Cancellation Notices shall be deemed served upon the Seller:

1. In the case of a Cancellation Notice sent by post, at the time of posting; and

2. In the case of a Cancellation Notice sent electronically, on the day it is sent.

10. Use of the Cancellation Form is optional; however all Cancellation Notices, in whatever format, must be in writing and must contain all information included in Schedule 1.

## 5. Refunds

1. If the Customer chooses to exercise the Right to Cancel in accordance with (and where permitted by) Clause 4 above, the provisions of this Clause 5 shall apply in determining any refund to which the Customer may be entitled.
2. The Customer must inform the Seller of their exercise of the Right to Cancel within the period required by Clause 4.
3. If the provision of Services has commenced, at the Customer's written request, prior to the giving of notice by the Customer and the end of the Cancellation Period, the Seller shall remain entitled to any monies constituting the value of such Services.

1. Where the Customer has already made payment to the Seller, any refund issued shall be less the relevant sum determined under sub-Clause 5.3.
2. Where the Customer is yet to make payment to the Seller, the sum due from the Customer shall be adjusted accordingly.
3. The Seller will inform the Customer in writing of the relevant calculations involved in determining sums deductible or payable under this Clause 5.

4. If the provision of Services has commenced prior to the giving of notice by the Customer and the end of the Cancellation Period without the Customer's written request, the Seller shall not be entitled to any monies constituting the value of such Services.
5. If the Customer requires their Documents urgently and require that the Company commence work prior to the expiration of the cancellation period the Customer can agree to waive their rights under the Regulations by signing a waiver agreement. This will mean that they will be required to pay for any work completed should they decide to reinstate their right to cancel within the 14 days. This should be provided in writing.

## 6. Liability

1. If the Seller fails to perform the Services with care and skill it shall carry out remedial action at no extra cost to the Customer.
2. The Seller shall not be liable to the Customer or be deemed to be in breach of these Terms and Conditions by reason of any delay in performing, or any failure to perform, any of the Seller's obligations if the delay or failure was due to any cause beyond the Seller's reasonable control or where the Customer has failed to meet their obligations under Clause 7 below.

## 7. The Customers Obligations are:

1. To disclose all relevant facts and answers to all the questions asked, and also make the Company aware of any and all facts relating to how urgently the Document may be needed, to allow the Company to provide accurate advice and to produce an effective legal Document within an appropriate and agreed timescale. The Company shall not accept liability in respect of information which was not disclosed, and therefore not documented by the person taking your instructions, and which comes to light at a later date as being of relevance and which may effect the validity or content of your Documents or advice given.

2. To read through the draft Documents provided, to confirm that they correctly reflect your wishes as to the distribution of your estate and that the names and addresses of the persons mentioned in your Documents are correct, adding any missing data not supplied at the time of taking your instructions.

3. To return the Documents together with any amendments to the Company as soon as possible. If you fail to return the Documents to the Company, the Company shall accept no liability for the draft Documents. The Company shall not be responsible for any delay due to your failure to comply with the above.

4. To notify the Company if you do not receive your draft Documents within two weeks of the first appointment, unless otherwise agreed.

5. To pay the fee due for the provision of Will Writing Services in full and in accordance with the terms of our invoice.

6. If you are having the attestation service, you should arrange for the witnesses to be present at the time of the execution of your Will.

## 8. Client Care

1. The Company is committed to providing the Customer with a high quality service. An essential part of that service is that the Company will communicate effectively with the Customer so that they are kept informed of progress.

2. The Company maintains a full complaints procedure to which any complaint should first of all be addressed. If the matter is unable to be resolved to your satisfaction you may refer it, in writing, to the Complaints Department, The Society of Will Writers, Chancery House, Whisby Way Lincoln, LN6 3LQ. The Company complies with the Society's Code of Practice of which a copy is available upon request. A customer satisfaction survey is available from your consultant. The survey is also available online at [www.willwriters.com/satisfactionsurvey.html](http://www.willwriters.com/satisfactionsurvey.html).

## 9. Your Personal Data

1. The Company will keep Customer information passed to it confidential and will not disclose it to third parties except as authorised by the Customer or required by law. In certain circumstances the law requires the Company to disclose information relating to the Customer. If on the Customer's authority the Company are working with other professional advisers, it will assume that it may disclose any relevant aspect of the Customer's affairs to them.

2. All of the personal information which the Company will obtain will either be from the Customer personally, or as a result of specific forms of authority obtained from the Customer as the matter progresses, which will detail both (i) from whom the Company will be requesting the information and (ii) what specific information is to be provided.

3. During the course of the Company's work it may be necessary to discuss the matter with other professionals or experts. The Customer's acceptance of this Contract amounts to the Customer's acknowledgement that the Company will disclose information which it considers necessary to progress the matter, and fulfil the Company's contractual obligations to the Customer or the Customer's contractual obligations to any third party.

4. Where the Customer provides the Company with a fax number or computer network addresses for sending material to, the Company will assume, unless the Customer tells it otherwise otherwise, that the Customer's arrangements are sufficiently secure and confidential to protect the Customer's interests.

5. The Internet is not secure and there are risks if the Customer sends sensitive information in this manner or asks the Company to do so. Data the Company send by email is not routinely encrypted, so the Customer must tell the Company if they do not want them to use email as a form of communication with them or if they require data to be encrypted.

6. The Company will take reasonable steps to protect the integrity of its computer systems by screening for viruses on email sent or received.

They expect the Customer to do the same for their computer systems.

7. The Company promise to respect the data it holds on Customers. The Customer's acceptance of these terms acknowledges that the Company will keep Customer's details on its database, case management systems (or in any other physical or digital form) :

7.1. so that it can provide the Customer with the agreed services, and

7.2. for administration and accounting purposes, and

7.3. so that it can make credit and or identification searches, and

7.4. so that it can retain a true, full and accurate record of any matter which it deals with for the Customer, for its and their reference both whilst the matter is proceeding and for as long following conclusion of the matter as the Company may reasonably feel that it and/or the Customer may have a legitimate interest in possibly having to access and have reference to the same (in most cases 7 years from the date when any document created under the Contract becomes legally ineffective or is actioned), and

7.5. so that it can send the Customer relevant information on its services and on events that may interest the Customer (with their express consent); and

7.6. so that it may seek the Customer's views on the quality of service which it is or has provided to the Customer.

8. All information that the Company hold concerning the Customer as an individual will be held and processed by the Company strictly in accordance with the provisions of the Data Protection Act 2018 and the General Data Protection Regulations (or any statutory or regulatory successors thereto).

9. The Company will not, without the Customer's consent, supply the Customer's name and address (and/or email address) to any third party except where:

9.1. It is necessary as part of the legal services that the Company undertakes for the Customer; or

9.2. The Company engage third party services in order to obtain feedback from the Customer relating to its services , or (with the Customer's consent) to distribute marketing materials to the Customer. In these situations the Company will always ensure that it has contractual agreements in place with such third parties which are compliant with the Data Protection Act 2018, and/or the General Data Protection Regulations, and provide the highest standard of protection

for the Customer's data, even if such data is to be sent outside of the EEA.

9.3. The Company is required to do so under the terms of Contract.

10. The Company will become subject to periodic checks by The Society of Will Writers' approved consultants and assessors. This could mean that the Customer's file is selected for checking, in which case the Company would need the Customer's consent for the checking to occur. All such checks are conducted by individuals who have provided the Company with a confidentiality agreement. The Customer's acceptance of this Contract amounts to consent to make its file available for checking. If the Customer does not want the Company to make its file available for checking the Customer must notify the Company immediately and it will mark the file accordingly. If the Customer refuses to give consent to checks, the refusal will not affect the way its matter is handled in any way.

11. In the event that 4 Wills and Probate Limited, or any part of the business currently trading under that name (Including any book of work consisting of one or more Customer files) is (or is potentially to be) acquired by a third party, personal data held by 4 Wills and Probate Limited about its Customers may be reviewed by any potential acquirer (subject to appropriate data protection measures being put in place) and will be transferred as part of the assets of the acquirer firm.

12. All calls to and from the Company's main office telephone numbers, and all interviews between the Company and the Customer, may be recorded for monitoring and training purposes. These recordings will be dealt with in the same way as any other confidential information passed to the Company, as detailed above.

13. The Customer has a right under the Data Protection Act 2018 and/or General Data Protection Regulations to :-

13.1. be informed about the collection and use of its personal data in a transparent manner ;

13.2. access its personal information, including a description of the data that the Company holds on it (or a copy of any recorded call involving the Customer). Should the Customer have any queries concerning this right, it should contact the Company Director Emma White.

13.3. (in limited circumstances) have its personal data erased;

13.4. (in limited circumstances) request the restriction or suppression of its personal information;

13.5. obtain and reuse its personal data for its own purposes across different services;

13.6. (in limited circumstances) object to the processing of its personal information;

13.7. be made aware of any automatic decision making or profiling undertaken by the Company or those it engages to provide its service to the Customer, using the Customer's personal information. The Company confirm that the Customer's personal information will not be held for this purpose, save as expressly authorised by the Customer as the Contract work progresses;

13.8. lodge a complaint with the Information Commissioners Office in respect of any breach relating to its personal information. Their helpline number is 0303 123 1113.

**Please read the above terms carefully and ensure you understand before signing.**

I/We accept the above terms of business and agree to abide by them and to be bound by them. We acknowledge that we have received a copy of this agreement.

By Ticking this box I/We accept that 4Probate and Wills Ltd can contact me/us from time to time in relation to our products and services.

Testator 1 ..... Date .....

Testator 2 ..... Date .....

Company Representative ..... Date .....

**Authority to commence work during the cancellation period.** Estate planning services provided by **4 PROBATE AND WILLS LTD.**

I understand that under The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. I have the right to cancel this contract within 14 days beginning when the contract is entered into. I wish you to commence work on this contract before the expiration of the cancellation period: I understand that if I subsequently cancel the contract within the cancellation period I will be under a duty to pay in accordance with reasonable requirements of the cancelled contract for work undertaken prior to the cancellation.

Testator 1 ..... Testator 1 ..... Date .....

Last updated 01/01/2019



**SCHEDULE 1 - Cancellation Notice**

This Cancellation Notice is set out in the form required by Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. If you wish to cancel the contract you MUST DO SO IN A CLEAR STATEMENT and deliver personally or send (which may be by electronic mail) this to the Company at their address below. You may use this form if you want to but you do not have to. (Complete, detach and return this form ONLY IF YOU WISH TO CANCEL THE CONTRACT.) Send to: 4 Probate and Wills Limited, 2 @ The Dock, 46 Humber Street, Kingston-upon-Hull, HU1 1TU or email emma@4probateandwills.co.uk

I/We (delete as appropriate) hereby give notice that I/we (delete as appropriate) wish to cancel my/our (delete as appropriate) contract

Reference ..... Can be found on your receipt/invoice – otherwise please provide your full name followed by the words “Notice to Cancel”

Name .....

Address .....

Testator 1 ..... Testator 1 ..... Date .....