



# Wilson & Roe

## Terms of Business

### 1. Introduction

Within this document, “we” and “our” relates to Cerberus HCE Limited t/a Wilson & Roe and “you” and “your” relates to you, the client, who has instructed us to carry out the services.

“Terms” mean the terms and conditions expressly set out within this document and includes any other terms set out or referred to in other written communication from an authorised member of our team. These terms supersede any prior version and apply to all services that you instruct us to provide and cannot be varied or amended except by us in writing. Please carefully read this document as this will form the basis of our working relationship. If you have any questions or concerns, please do not hesitate to contact us.

- a) Wilson & Roe is a trading style of Cerberus HCE Limited (registered company number: 13460661). Our registered office is situated at 26 Missouri Avenue, Salford, M50 2NP.
- b) The services include but are not limited to: the enforcement of judgment debt; the enforcement of orders for possession; the forfeiture of commercial leases; the recovery of commercial rent arrears (CRAR); the service of documents and other related work.
- c) A member of our team will be appointed to you who will be responsible for the management of your cases with us.
- d) Our agreement to carry out the services on your behalf takes effect from the date we receive your instruction.

### 2. Regulatory Information

- a) We are regulated by the Enforcement Conduct Board.
- b) High Court Enforcement Officer is authorised by the Lord Chancellor of Great Britain pursuant to paragraph 2 (1) Schedule 7 of the Courts Act 2003 and Regulation 6 of the High Court Enforcement Officers Regulations 2004 to execute the enforcement of judgments and/or orders of the High Court and County Court of England & Wales. They are regulated by the Ministry of Justice.
- c) Enforcement Agents (Bailiffs) are certificated under the Certification of Enforcement Agents Regulations 2014. An Enforcement Agent is authorised to enforce a Writ to recover a sum of money, and any power conferred by a Writ of Possession or Delivery to take control of goods and sell them to recover a sum of money by using the Schedule 12 Tribunals, Courts and Enforcement 2007 procedure.
- d) We act in compliance with the Taking Control of Goods: National Standards 2014 and Enforcement Conduct Board Standards.

### 3. Our Responsibilities

- a) To follow and abide with all legislation, including but not limited to: the Tribunals, Courts and Enforcement Act 2007, the Taking Control of Goods Regulations 2013 and the Taking Control of Goods (Fees) Regulations 2014.
- b) To comply with all relevant and up to date legislation concerning GDPR and data protection laws in England and Wales.
- c) In consideration of you agreeing to disclose confidential information to Wilson & Roe, we undertake to keep the confidential information secret and confidential, in accordance with all UK data protection legislation. Our obligation shall continue for 6 years from the date of your instruction.
- d) To make a record of your cases whilst conducting the services on your behalf, making it available to you upon request and providing you with a regular report on our progress.
- e) To raise with you any issues or concerns that may be found in respect of your cases.
- f) To ensure that our staff have the necessary skills, training and qualification in their respective roles to enable them to deliver a high level of service, in a timely manner, and with the appropriate care and attention.
- g) To instruct delegated services, on your behalf, where we consider appropriate.

### 4. Our Rights

- a) We reserve the right to refuse your instruction.
- b) We reserve the right to close your case if, in our professional opinion, we deem it unenforceable or unethical to proceed. For example, a decision may be taken to cease enforcement action against a debtor if they are vulnerable or if enforcement of the matter may cause risk to our staff or any other party.
- c) Please note that we are unable to provide a refund of any fees paid to HM Courts and Tribunal Service (“HMCTS”).

### 5. Your Responsibilities

- a) To provide us with accurate information and documentation, ensuring that it is up to date, which will assist us with the delivery of the services to you.
- b) By instructing us, you confirm that:
  - I. The information you have provided is correct.
  - II. In consideration of Wilson & Roe agreeing to disclose confidential information to you, you undertake to Wilson & Roe that you shall keep the confidential information secret and confidential, in accordance with all UK data protection legislation. Your obligation shall continue for 6 years from the date of your instruction.
  - III. You accept any responsibility for information that proves to be incorrect.
  - IV. You are not aware of any other action being undertaken that may prevent or hinder us from carrying out the services.
  - V. You and the judgment creditor agree to refer all contact, including offers of payment, from the debtor to Wilson & Roe whilst we are instructed to ensure that we can correctly and efficiently enforce the case.
  - VI. We are authorised on your behalf to enter into a payment arrangement in cases where we are unable to collect payment in full.
  - VII. You will notify us immediately should you become aware of any court order amending, staying or setting aside the terms of any order of judgment upon which we are instructed.
- c) You are expected to check these terms as and when they are revised on our website and take notice of any changes or notices published elsewhere in our communications, which may include regulatory changes.

### 6. Fees

- 1. Writs of Control and Commercial Rent Arrears Recovery (“CRAR”).
  - a) The fees which are applicable for Writs of Control and CRAR can be found and are regulated by the Taking Control of Goods (Fees) Regulations 2014 and subsequent amendments.
  - b) The fee payable to HMCTS to obtain a Writ is payable by you, on cases where we:
    - I. receive a judgment or an order from you where it is necessary to transfer the matter to the High Court for enforcement.
    - II. receive a High Court judgment or order.
    - III. we are instructed to obtain a Writ of Execution pursuant to paragraph 2 (1) Schedule 7 of the Courts Act 2003.
  - c) To assist and expedite the process, we may choose to forward the Court fee payment to HMCTS on your behalf. By instructing us and sending to us a judgment or order for enforcement, you agree to reimburse us for any fees paid in advance to HMCTS on the associated cases.
  - d) In the event that the Court does not take payment via PBA and an invoice is raised, you will still be liable for the Court fee.

- e) If we are successful in recovering the outstanding sum in full, our fees are payable and will be paid by the debtor from the monies recovered. During our instruction, if the debtor or a third party makes payment directly to you or the claimant in respect of the outstanding sum, you will become liable for payment of our fees that otherwise would have been recoverable from the debtor and we will invoice you accordingly.
- f) Where a payment arrangement is entered into with a debtor or third party, before we pay any monies collected to you, we will retain the Compliance Fee of £79.00 + VAT (£94.80 inc. VAT), in accordance with the Taking Control of Goods (Fees) Regulations 2014. The remaining monies collected will be distributed proportionally between us and you. If the payment arrangement is in excess of £50 per month, the payments will be distributed 70/30 to you. If they are less than £50, then they will be distributed 50/50.
- g) In circumstances where the outstanding sum is only partially paid, our fees will be calculated on a pro-rata basis.
- h) Where no monies are recovered, the Compliance Fee of £79.00 + VAT is payable by you.
- i) All monies recovered under a Writ of Control must be retained by us for a period of 14 days in compliance with the Insolvency Act 1986.
- j) We will hold any part payment recovered until the amount payable to you reaches a sum of £50.00, unless otherwise expressly agreed by us.
- k) If a Stay of Execution is granted on a case, any monies or assets recovered will be held by us until the outcome of the hearing and processed accordingly.
- l) We reserve the right to off-set any monies held on account by us against unpaid invoices.
- m) Where our invoices remain unpaid beyond the agreed terms, we reserve the right to refuse to undertake any further work on your behalf and cancel our agreement to provide services.

#### **7. Writs of Control, CRAR and VAT**

- a) You are required to inform us upon instruction whether the Judgment Claimant is VAT registered and able to reclaim VAT under the normal HMRC rules. Once the Notice of Enforcement has been issued, this answer cannot be changed as it determines how VAT is collected.
- b) If the Judgment Creditor is eligible to reclaim VAT, we will deduct a sum equivalent to that payable on our fees and disbursements from the funds recovered from the Judgment Debtor and pay this to HMRC. An invoice addressed to the Judgment Creditor will be provided and will be marked as 'paid', along with the remaining balance of the recovered funds.
- c) If the Judgment Creditor is not eligible to reclaim VAT, we will collect a sum equivalent to that payable on our fees and disbursements from the Judgment Debtor and pay this sum to HMRC.
- d) Where VAT cannot be deducted from money recovered from the Judgment Debtor, an invoice will be raised which will be payable by you.

#### **8. Property Services**

- a) Where we are instructed to transfer up and/or obtain a Writ of Execution (pursuant to paragraph 2 (1) of Schedule 7 of the Courts Act 2003), the fee payable to HMCTS to obtain the Writ is payable by you.
- b) Our fee for enforcing a Writ of Execution is subject to VAT which is payable by you.
- c) On cases, where an initial risk assessment indicates that a reconnaissance of the land is required, a further fee is payable and this fee will be subject to VAT.
- d) All disbursements are payable by you. These can include, but are not limited to: locksmith, recovery vehicles, storage, auctioneers and specialist contractor costs.

- e) Where enforcement is delayed or cancelled by you or any other party, within 2 business days of the appointment or after service of the relevant notice; we reserve the right to charge 75% of any fixed fee we have already quoted to you or 100% of the first hour fee, where we have quoted an hourly rate.
- f) Where our agents have been forced to withdraw from enforcement due to circumstances outside of our control, we reserve the right to charge you for a further attendance which may require additional support and/or a court order dispensing with notice.
- g) Where we are instructed to provide security services, a minimum term will apply as set out in writing by us to you.

#### **9. Our Liabilities**

- a) These terms do not affect our liability to you in any way for personal injury or death arising from our negligence, or our liability for misrepresentation made by one of our employees or agents which cannot be excluded by law.
- b) We do not warrant that property or land upon which we are instructed to attend is free from contamination or that any structure is compliant with regulation.
- c) You agree not to bring any claim for any losses against any staff member, agent, director or consultant and that any claim must be brought against us as a company.
- d) We will not be liable for any loss of income, profits, reputation, customers, use or opportunity; including without limitation negligence, wilful act or default.
- e) We do not provide legal advice and any instruction to us to act as legal representatives, or as Harrison Drury & Co Solicitors, is for the purpose of assisting with the transfer up of a court judgment to the High Court for enforcement or Writ application only. Accordingly, you hereby authorise us to make such applications to court in your name for those purposes only. Any advice given relates strictly to the services we provide.
- f) We accept no liability for the content or interpretation of regulatory documents.
- g) We accept no responsibility for any actions you may take or loss you incur as a result of any communication provided by us.
- h) We hold public liability and professional indemnity insurance, details of which may be obtained upon request.

#### **10. General**

- a) In the event of late payment of any invoice, we reserve the right to charge administration fees and default interest at the rate of 4.00% above Bank of England base rate on any balance outstanding.
- b) You must send any notices to us at our registered office. Any notice to be given by us will be sent to your last known postal address or email address.
- c) We have been approved by Alcumus ISOQAR Limited for the ISO 9001 Certificate (Management Systems) to provide High Court Enforcement and Property Services in England & Wales.

#### **d) Governing law**

These terms and conditions and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

#### **e) Jurisdiction**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these terms and conditions or its subject matter or formation.

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Wilson & Roe is a trading style of Cerberus HCE Limited.  
Company registration: 13460661. VAT registered: 383 2730 91