

## **Standard Terms of Business**

### **1. Introduction and Definitions**

**1.1** These terms of business (“the Terms”) should be read and construed in conjunction with the Engagement Letter which accompanies or refers to them. Where there is any inconsistency between the Terms and the Engagement Letter, the Engagement Letter will prevail.

**1.2** In the Terms, the following words and phrases shall (where the context so permits) have the following meanings:-

“Client” or “you” means the addressee(s) of the Engagement Letter;

“Restart” “we” or “us” means Restart Business Turnaround Insolvency Limited;

“Restart Group” means any entities for the time being comprised in the group of companies, partnerships and limited liability partnerships;

“Restart Persons” means Restart and each and all of our members, partners, directors, employees, consultants and agents;

“Engagement Letter” means a letter enclosing or referring to the Terms and recording the engagement by you of Restart for the purpose of delivering the Services;

“Services” means the services to be provided by Restart in accordance with the Services Contract; and

“Services Contract” means the contract between the Client and Restart, the terms of which are recorded in the Terms and in the Engagement Letter, together with any documents or other terms applicable to the Services to which specific reference is made in the Engagement Letter or in the Terms.

### **2. Our working relationship**

To achieve the Client’s objectives, it is essential that the Client and Restart work together closely, and that any changes in the Client’s objectives are communicated promptly and clearly to Restart. Such changes may require amendments to the scope of the Services as set out in the Engagement Letter and Restart will issue appropriate amendments to record these changes from time to time. It is the Client’s responsibility, however, to decide the use of and the extent to which it relies upon and implements the recommendations or advice of Restart.

### **3. Services**

The scope of the Services to be provided by us is detailed in the Engagement Letter, as amended or supplemented from time to time. Restart shall not be responsible for providing any service or advice outside that scope unless it agrees to do so in writing.

### **4. Employees of Restart**

From time to time we may delegate tasks to suitably experienced fee earners to enable your work to be carried out in a timely and cost effective manner.

### **5. Data Protection**

Information we hold about you includes personal information such as your name, address and details of your accounting information. This personal information will be held in accordance with the applicable data protection legislation. We will use this information to provide the Services and to deal with enquiries that you may make or authorise. We will only disclose your personal

information to other people or organisations if we have obtained your consent to do so or in exceptional circumstances where we are required or permitted to do so by law.

## **6. Your obligations to us**

**6.1** To enable us to provide the Services to you, you agree to provide us with all relevant information, including any matters or facts which may have any bearing on our acting for you or our provision of the Services so that we can consider whether it is relevant to the conduct of the matter.

It is of particular importance that:

**6.1.1** you provide us in a timely manner with all instructions, information and documents required for us to provide the Services;

**6.1.2** all information which you provide to us is true, accurate and not misleading to the best of your knowledge, information and belief; and

**6.1.3** if there are changes to the information provided to us, you notify us immediately.

Accordingly Restart shall not be responsible for any loss or damage arising from reliance on any information, or for any inaccuracy or other defect in any document, supplied by you.

## **7. Fees**

### **7.1 Basis of our fees**

Our fees will be charged on the basis set out in the Engagement Letter or, if not so set out, on the basis of any other written or verbal agreement made between us. In cases where our charges are based on hourly rates, unless otherwise agreed, our rates are subject to review from time to time and we will keep you informed of any changes which are made.

### **7.2 Fee estimates**

Any fee estimate given by us will be given in good faith but will not be contractually binding unless the Engagement Letter expressly provides that it shall be. It will be subject to the stated exceptions, assumptions and any other factors outside our control and, where it is practicable to do so, we will notify you if it is likely to be exceeded.

### **7.3 Disbursements and expenses**

In addition to our fees, we may incur disbursements, for example, fees payable to experts, agents or other professional advisers instructed by us on your behalf. We will include the full amount of these disbursements on our invoices to you (including VAT as appropriate) along with a description showing the nature of the charges incurred. We reserve the right to raise disbursement only invoices to cover charges incurred at any time and/or to request from you sums on account of disbursements that are likely to be reasonably and properly incurred. If we need to use a firm of experts, agents or other professional advisers, then that organisation may have its own terms of business that will apply to their work. Prior to instructing them we will seek to obtain a quotation or estimate of costs from them together with any applicable terms so that we can provide you with details of these as necessary. We will charge you for incidental expenses including document reproduction, couriers, travel, accommodation and bank transaction costs. All such costs will be clearly itemised on the relevant invoice to you.

### **7.4 Invoicing**

Unless otherwise stated in the Engagement Letter, we will submit invoices as and when we believe it appropriate and these invoices are due to be paid on presentation. If we are holding money on your behalf, we may use such funds (and any accrued interest) in payment or part payment of our invoices.

## **8. Confidentiality**

### **8.1 Confidence**

Subject to clauses 8.2 and 11.2, Restart and Restart Persons will treat all information which is provided to us by you or on your behalf for the purpose of providing the Services as strictly confidential and we will not use or disclose the information except for the purpose of providing the Services (which you acknowledge may require us to disclose information to third parties, including your other advisers). This obligation will not apply to any information which is in or comes into the public domain otherwise than as a result of a breach by us of the Terms, nor does it apply to information which is already lawfully in our possession at the time it is communicated by you to us.

### **8.2 Disclosure**

Notwithstanding clause 8.1, Restart and Restart Persons will be entitled to disclose confidential information relating to or belonging to you to:

- our auditors and any other professional advisers appointed by us from time to time;
- our professional indemnity insurers;
- any other third party to the extent that this is required by law or regulation; and
- members of Restart Group for the purpose of conflict checking and any other bona fide purposes of Restart Group provided that the other members to whom it is disclosed keep it confidential.

### **8.3 Contractual Obligations**

Clauses 8.1 and 8.2 will continue in force beyond the termination or the expiry of the Services Contract.

## **9. Money Laundering**

We are required to carry out identity checks to ensure compliance with money laundering legislation. Please bear with us if you are asked for confirmation of identity. We recognise this takes some time and effort but it is a legal requirement and not something we are able to avoid.

## **10. Electronic Communication**

Unless you instruct us in writing to the contrary, we will use ordinary e-mail to communicate with you and to send you documents. Restart shall not be responsible for any loss or damage arising from the unauthorised interception, redirection, copying or reading of emails, including any attachments, nor shall we be responsible for the effect on any computer system or any loss or damage arising from such effects of any emails, attachments or viruses which may be transmitted by this means (save to the extent that this is caused by our negligence or wilful default).

## **11. File Storage and retention of documents**

**11.1** Generally files and papers relating to work that we carry out for you will be retained by us for 6 years after the date of our ceasing to act in relation to our appointment, after which they will be destroyed. Please note that all of our internal workings papers, such as notes, working drafts and internal communications belong to us and will be retained and/or destroyed by us in accordance with our normal procedures.

**11.2** You agree that we shall be entitled to retain for our own purposes copies of all files and documents created and received by us during the provision of the Services.

## **12. Intellectual Property Rights**

Restart retains all copyright, database rights and other intellectual property rights in all works and other things developed, designed, generated or created by us in the course of providing the Services to you (either before the commencement of or during or after the completion of the provision of the Services) including systems, methodologies, software, know-how, documents and working papers. For the avoidance of doubt, Restart also retains all copyrights, database rights and other intellectual property rights in all reports, written advice, documents and all other materials provided by Restart to you.

## **13. Liability**

### **13.1 Duty of care**

We will use all reasonable skill and care in the provision of the Services. However, we will not be responsible for any losses, penalties, surcharges, interest or additional tax or other liabilities arising from the supply by you or others of incorrect or incomplete information, or your or others' failure to supply any appropriate information or your failure to act on our advice or to respond promptly to communications from us or the tax authorities.

### **13.2 Exclusion and limitation of liability**

The Services are provided to and for the benefit of you as our client, and you alone. Restart accepts liability to you and you alone. Neither Restart nor any Restart Person shall be liable to any other person as a result of you communicating any advice we provide to them. You agree that you will not communicate any such advice to any other person without our consent.

Nothing in the Terms or Engagement Letter will limit any liability that we may have to you in respect of any loss caused by our fraud, fraudulent misrepresentation or reckless disregard of our professional obligations or in any other situation where the law prohibits us from excluding or limiting our liability to you, including in respect of any death or personal injury resulting from our negligence.

The aggregate liability of Restart and Restart Persons in any circumstances whatsoever, and however caused (including as a result of our negligence) for loss or damage arising from or in connection with the provision of the Services shall be limited to the sum specified in the Engagement Letter, or, if no sum is specified, a sum equal to the limit of our professional indemnity insurance at the time the claim is notified to us.

The extent to which any loss or damage will be recoverable by you from us will also be limited so as to be in proportion to our contribution to the overall fault for such loss or damage, taking into account any contributory negligence by you and any negligence by your other advisers and/or third party responsible to you and/or liable in respect of such loss or damage.

## **14. Complaints procedure**

If you have any concerns at any time about the service that we are providing to you, please in the first instance take this up with the Client Director whose name has been notified to you in the Engagement Letter. If you are not satisfied with the response given by him or her (or if you want to complain about him or her) we have a formal complaints procedure, a copy of which will be provided upon request.

## **15. Termination**

Restart reserves the right to cease to act on your behalf if we consider this appropriate (for example, in circumstances where you are in breach of the terms of the Services Contract). If we propose to exercise this right, we shall so as far as reasonably practicable consult with you. We will charge you for all work completed up to the date of termination of the Services Contract on a pro rata basis.

## **16. General**

## **16.1 Governing law and jurisdiction**

**16.1.1** The Services Contract shall be governed by and interpreted in accordance with English Law. You irrevocably agree that the English Courts shall have exclusive jurisdiction over any dispute which may arise out of or in connection with the Services Contract.

**16.1.2** The agreement contained in the preceding paragraph is included for our benefit and for the avoidance of doubt we reserve the right to bring proceedings in any other Court of competent jurisdiction and you irrevocably waive any objection to, and agree to submit to, the jurisdiction of such courts. The taking of proceedings by us in one or more jurisdictions will not preclude the taking of steps in any other jurisdiction, whether concurrently or not.

**16.1.3** You agree that any judgment or order of any court referred to above will be conclusive and binding and may be enforced in the courts of any other jurisdiction.

## **16.2 Sub-contracting and novation**

In appropriate circumstances Restart will use third parties (including, where appropriate, other members of the Restart Group) to assist us in providing any part of the Services. Any reference to our employees in the Services Contract includes these third parties.

## **16.3 Force Majeure**

Neither you nor Restart can be held liable for any delay or failure to fulfil our respective obligations under the Services Contract as a result of causes beyond our reasonable control. Such causes include, but are not limited to, fire, floods, acts of God, acts and regulations of any governmental or supranational authority, war, riots, strikes, lockouts and industrial disputes.

## **16.4 Waiver**

Any delays in enforcing the terms or conditions of the Services Contract will not affect or restrict any of the rights and powers arising under the Services Contract. Either party will only be taken to have released its rights under the Services Contract if it has confirmed such release in writing to the other.

## **16.5 Third Party Rights**

A person who is not a party to the Services Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any term of the Services Contract.

## **16.6 Severability**

If any part of the Terms or the Engagement Letter are found by any court or authority of competent jurisdiction to be illegal, invalid, or unenforceable then that provision will, to the extent required, be severed and will be ineffective but without affecting any other provisions which will remain in full force and effect.

## **16.7 Notices**

Any notice to be given under the Services Contract shall be given in writing and delivered by pre-paid first-class post (or prepaid overseas equivalent) to, or by hand at, our respective addresses appearing in the Engagement Letter (or such other addresses as may have been notified in writing). Notices shall be deemed to be given in the case of delivery personally on delivery and in the case of posting (in the absence of earlier receipt) 48 hours after posting (6 days if sent by overseas first-class post equivalent.)

## **17. Entire Agreement**

The Services Contract constitutes the entire agreement between Restart and you in respect of the Services. Restart and you both acknowledge (respectively) we and you have not entered into this Services Contract on the basis of, and have not relied upon any statement, representation, warranty or other provision except those expressly included in this Services Contract. No remedy shall be available in respect of any statements, representation or warranty other than a remedy available under this Services Contract. The proceeding two sentences shall not apply to any statements, representation or warranty made fraudulently.

**18. Licensing Authority**

Gareth Graham Self is authorised to act as an insolvency practitioner in the United Kingdom by the Insolvency Practitioners Association of 46 New Broad Street, London, EC2M 1JH.

**19. Professional Liability Cover**

We maintain professional indemnity insurance cover provided by Omnyy LLP, 9<sup>th</sup> Floor, John Stowe House, 18 Bevis Marks, London EC3A 7JB.