

# Whitings LLP

## Chartered Accountants

### Standard Terms and Conditions of Business (Issued 31 July 2023)

The following standard terms of business apply to all engagements accepted by Whitings LLP (trading successor to Whiting & Partners or Whiting & Partners Ltd from 1<sup>st</sup> October 2021). All work carried out is in accordance with our issued Engagement letter and subject to these terms, except where changes are expressly agreed in writing.

#### 1. Professional Obligations

- 1.1 We will observe the Byelaws, regulations and ethical guidelines of The Institute of Chartered Accountants in England and Wales (ICAEW) and accept instructions to act for you on the basis that we will act in accordance with those guidelines. Copies of these requirements are available for inspection in our offices.
- 1.2 You give us the authority to correct errors made by HM Revenue & Customs (HMRC) where we become aware of them.
- 1.3 Where you give us confidential information, we shall at all times keep it confidential, except as required by law, our insurers, or as provided for in regulatory, ethical, or other professional pronouncements applicable to this engagement.
- 1.4 We reserve the right to act during this engagement for other clients whose interests may not be the same as or are averse to yours. We will notify you promptly should we become aware of any conflict of interest to which we are subject in relation to you.
- 1.5 We will endeavour to record all advice on important matters in writing.

#### 2. Investment Services

- 2.1 Although we are not authorised by the Financial Conduct Authority to conduct Investment Business, in accordance with the Financial Services and Markets Act 2000 we are licensed under the Designated Professional Body (DPB) Regulations of the ICAEW to provide certain limited investment services where these are complementary to, or arise out of, the professional services we are providing to you. Details can be found on the Financial Conduct Authority (FCA) website [www.fca.org.uk/register/home](http://www.fca.org.uk/register/home) under C009098434.
- 2.2 In particular, we may:
  - advise you on investments generally, but not recommend a particular investment or type of investment;
  - refer you for a full range of investments to a Permitted Third Party (PTP) (an independent firm authorised by the FCA), assist you and the permitted third party during the course of any advice given by that party and comment on, or explain, the advice received (but not make alternative recommendations). The PTP will issue you with his own terms and conditions letter, will be remunerated separately for his services and will take full responsibility for compliance with the requirements of the Financial Services and Markets Act 2000.
  - Our associated financial services company, Whitings Wealth Management Limited, is one such PTP regulated separately by the Financial Conduct Authority.
  - assist you in making arrangements for transactions in a limited range of investments in certain circumstances;
  - advise and assist you in transactions concerning shares or other securities not quoted on a recognised exchange; and
  - manage investments or act as trustee (or donee of a power of attorney) where decisions to invest are taken on the advice of an authorised person.
- 2.3 *We may also, on the understanding that the shares or other securities of the company are not publicly traded:*
  - *advise the company, existing or prospective shareholders in relation to exercising rights, taking benefits or share options, valuations, and methods of such valuations;*
  - *arrange any agreements in connection with the issue, sale or transfer of the company's shares or other securities;*
  - *arrange for the issue of new shares; and*
  - *act as the addressee to receive confirmation of acceptance of offer documents etc.*

***The above paragraphs in italics apply to corporate clients only (and possibly directors) - not applicable in all other cases.***
- 2.4 The firm may receive commission from any introduction to a PTP in connection with the above, in which case you will be fully informed of the expected size and nature of such commission at the time of the introduction. Such commission will be held in our clients' account until we receive instructions from you as to how it should be treated. In the event of no such instructions being received, we may use such monies against any fees that have been outstanding for 30 days or more and concerning which you are not in dispute with us. We may also request that you allow us to retain such commissions to cover our costs in connection with the above, but permission will be sought separately from you in these circumstances.
- 2.5 Tax planning advice is provided on the basis that it only considers the possible taxation consequences of changes in the underlying portfolio/asset and offers no comment on the possible other merits or limitations applicable to the transaction.
- 2.6 Should you require us to assist in arranging any of your investment business, you must instruct us in writing.
- 2.7 If, at your request, we or our Financial Services Company undertake Investment Business services or corporate finance activities which are not integral to the general professional services rendered to you, this work would be subject to a further engagement letter from us and/or terms of business issued separately by them.
- 2.8 If you are dissatisfied in any way about our services described in this section, you should follow the procedures set out in the 'Help us to give you the right service' section of this letter and, if in the unlikely event that we cannot meet our liabilities to you, you may be able to claim compensation under the Chartered Accountants Compensation Scheme.
- 2.9 All powers of attorney handled by the firm's principals and/or its staff are to be restricted to preclude discretionary management of investments or assets.

## Financial Promotions

- 2.10 To enable us to provide you with a proper service, there may be occasions when we will need to contact you without your express permission concerning investment business matters. For example, it may be in your interests to sell a particular investment and we would wish to inform you of this. We may therefore contact you in such circumstances but would only do so in our normal office hours of 9am to 5.30pm, Monday to Friday, excluding public holidays. We shall of course comply with any restrictions you may wish to impose which you notify to us in writing.

### 3. Commissions or Other Benefits

- 3.1 In some circumstances, commissions or other benefits may become payable to us in respect of introductions or transactions we arrange for you, in which case you will be notified in writing at the outset of the amount and terms of payment. The fees that would otherwise be payable by you generally as described above may in certain circumstances be abated by such amounts. You consent to such initial and/or ongoing commission or other benefits being retained by us without our being liable to further account to you for any such amounts. For example, if we introduce you to Auditel, providers of comparisons of utility and other services, then we would likely receive a commission based on a small share of your monthly savings throughout the duration of your agreement with that firm.

### 4. Client Monies

- 4.1 We may, from time to time, hold money on your behalf. Such money will be held in trust in a client bank account, which is segregated from the firm's funds. The account will be operated, and all funds dealt with, in accordance with the Clients' Money Regulations of the Institute of Chartered Accountants in England and Wales.
- 4.2 In order to avoid an excessive amount of administration, interest will only be paid to you where the amount of interest that would be earned on the balances held on your behalf in any calendar year exceeds £30. Any such interest would be calculated using the prevailing rate applied by Barclays Bank Plc for small deposits subject to the minimum period of notice for withdrawals. Subject to any tax legislation, interest will be paid gross.
- 4.3 If the total sum of money held on your behalf exceeds £10,000 for a period of more than 30 days, or such sum is likely to be held for more than 30 days, then the money will be placed in a separate interest-bearing client bank account designated to you. All interest earned on such money will be paid to you. Subject to any tax legislation, interest will be paid gross.

### 5. Fees

- 5.1 Our fees are computed on the basis of time spent on your affairs and assignments by the Principals and our Staff/Consultants, on the levels of skill and responsibility involved, and on the importance and value of the advice that we provide, as well as the level of risk. Disbursements represent travel, accommodation and other expenses incurred in dealing with your affairs and will be added to our fee notes where appropriate.
- 5.2 Unless otherwise agreed our fees will be charged separately for each of the main classes of work described above. You will be billed at appropriate intervals during the course of the year. Payment of fees will be due within thirty days of the date of the payment request.
- 5.3 If you do not accept that a rendered fee is fair and reasonable you must notify us within 21 days of receipt.
- 5.4 For illustration purposes, current typical hourly charge-out rates from July 2023 are as follows: -
- |   |            |
|---|------------|
| Partners & Consultants                        | £225       |
| Associates/Directors                          | £185       |
| Managers                                      | £80 - £160 |
| Business support and other professional staff | £25 - £93  |

These typical charge-out rates applicable (excluding VAT) may be amended from time to time in the future; we will be pleased to supply details of current rates upon request. Current rates can also be found on our website [www.whitingsllp.co.uk](http://www.whitingsllp.co.uk).

- 5.5 We will be pleased upon request to provide an estimate of the likely costs involved before commencement of work or any assignment.
- 5.6 Where requested we may indicate a fixed fee for the provision of specific services or an indicative range of fees for a particular assignment. It is not our practice to identify fixed fees for more than a year ahead as such fee quotes need to be reviewed in the light of events, including general inflationary factors. If it becomes apparent to us, due to unforeseen circumstances, that a fee quote is inadequate, we reserve the right to notify you of a revised figure or range and to seek your agreement thereto.
- 5.7 In some cases, you may be entitled to assistance with your professional fees, particularly in relation to any investigation into your tax affairs by HMRC. Assistance may be provided through insurance policies you hold or via membership of a professional or trade body. Other than where such insurance was arranged through us you will need to advise us of any such insurance cover that you have. You will remain liable for our fees regardless of whether all or part are liable to be paid by your insurers.
- 5.8 For normal ongoing continuous supply services, the initial payment request issued will not be a tax invoice for VAT purposes but will include a notional amount for VAT. On receipt of your payment a tax invoice will be issued to enable you to recover input tax where applicable. However, please note that a VAT invoice will be issued in certain rare circumstances for exceptional 'non-continuous' work only, and 30 day payment terms are similarly applicable.
- 5.9 If it is necessary to carry out work outside the responsibilities outlined in this letter it will involve additional time spent on your affairs and will therefore involve higher fees. Accordingly, we would like to point out that it is in your interests to ensure that your records etc. are completed promptly to the agreed stage.
- 5.10 Fees rendered for work done are payable in full (including disbursements) irrespective of whether any report is signed, or accounts are made available, unless otherwise agreed in writing.
- 5.11 There are a variety of ways in which you may pay your fees; this can be done by Cheque or Cash, Electronic bank transfer, Credit Card or our Premium Credit facility see section 28 below. If you wish to pay monthly in advance by Standing Order or Direct Debit, please advise us and we will agree with you an appropriate figure and take your necessary bank details.

Similarly, if you would like to pay by electronic bank transfer please contact our local office or Central Cashiers on 01284 752313, so that we can provide the necessary details/reference.

- 5.12 Our terms relating to payment of fees rendered, and where not covered by pre-agreed advance standing orders where appropriate, are strictly 30 days net.

We reserve the right to charge interest (and compensation for recovery costs) which can be charged on all overdue debts at the rate for the time, currently 8% over base rate, being applicable under the Late Payment of Commercial Debts (Interest) Act 1998.

At the date of this letter, it is our policy to charge interest on all accounts that are more than sixty days in arrears at the end of the calendar month, the charge being calculated from 30 days after the date of the fee note and added monthly to the monthly Statement. We may charge an interim lower rate of interest on Statements at our discretion but where fees remain outstanding in full or in part, we retain the right again at our discretion to revert to the full statutory interest rate from the date the fee originally became overdue for payment. We reserve the right to change this policy at any time.

- 5.13 Apart from the principal service assignments outlined in our main letter of engagement, other specific services may constitute a separate assignment and where appropriate, may be subject to a separate engagement letter at our option. Where appropriate we will discuss an additional fee for such work that is commissioned by you but in the absence of an agreed additional specific figure, such work will be carried out in accordance with our standard time charge-out basis - see above, especially sections 5.1 - 5.4 and 5.9.

## 6. Retention of, and Access to, Records

- 6.1 You have a legal responsibility to retain records and documents relevant to your affairs. During the course of our work, we will collect information from you and others acting on your behalf and will return any original documents to you following the preparation of your accounts and returns.

- 6.2 Whilst certain documents may legally belong to you, we intend to destroy correspondence and other papers that we store, electronically or otherwise, which are more than seven years old, other than documents which we consider to be of continuing significance. If you require retention of any document, you must notify us of that fact in writing.

## 7. Quality Control

- 7.1 As part of our ongoing commitment to providing a quality service, our files are periodically subject to independent internal and external quality reviews. Our reviewers are highly experienced and professional people and are, of course, bound by the same requirements of confidentiality as our principals and staff.

## 8. Probate Services

- 8.1 In the unlikely event that we cannot meet our liabilities to you, you may be able to seek a grant from ICAEW's Compensation Scheme. Generally, applications for a grant must be made to ICAEW within 12 months of the time you become aware, or reasonably ought to have been aware of the loss. Further information about the scheme, and the circumstances in which grants may be made, is available on ICAEW's website: [www.icaew.com/probate](http://www.icaew.com/probate).

- 8.2 If you would like to talk to us about how we can improve our service to you, or if you are unhappy with the service you are receiving, please let us know by contacting the head of legal practice/probate contact partner (Mr Andrew Winearls). We will carefully consider any complaint that you may make about our probate services as soon as we receive it and will do all we can to resolve the issue. We will acknowledge your complaint within five business days of its receipt and endeavour to deal with it within 8 weeks. Any complaint should be submitted to us in writing.

- 8.1 If we do not deal with it within this timescale or you are unhappy with our response you may of course take the matter up with our professional body, ICAEW, and the Legal Ombudsman. To make a complaint to the Legal Ombudsman you must refer the complaint to the Legal Ombudsman no later than:

- One year from the act/omission that forms the basis of your complaint, or;
- One year from when you should reasonably have known there was cause for complaint and make the referral to the Legal Ombudsman within six months of our final written response to you.

The contact details for the Legal Ombudsman are:

- Letter: Legal Ombudsman, PO Box 6806, Wolverhampton, WV1 9WJ
- Email: [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)
- Telephone: 0300 555 0333.

## 9. Help us to Give you the Right Service

- 9.1 If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, please let us know, by telephoning your Contact Partner/Associate, or the Chairman of Whittings LLP, Mr James Cater. Details of your Contact Partner/Associate can be found on your letter of engagement.

- 9.2 We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. If you feel that we have given you a less than satisfactory service, we undertake to do everything reasonable to address your concerns. If you are still not satisfied, you may of course take up matters with the Institute of Chartered Accountants in England and Wales.

- 9.3 In order for us to provide you with a high quality service on an ongoing basis it is essential that you provide us with relevant records and information when requested, reply to correspondence in a timely manner and otherwise follow the terms of the agreement between us set out in this Standard Terms of Business and associated Engagement letters. We therefore reserve the right to cancel the engagement between us with immediate effect in the event of:

- your insolvency, bankruptcy or other arrangement being reached with creditors;
- failure to pay our fees by the due dates;
- either party being in breach of their obligations where this is not corrected within 30 days of being asked to do so.

- 9.4 If there is a conflict of interest that is capable of being addressed successfully by the adoption of suitable safeguards to protect your interests, then we will adopt those safeguards. Where possible this will be done on the basis of your informed consent. We reserve the right to act for other clients. Where conflicts are identified which cannot be managed in a way that

protects your interests then we regret that we will be unable to provide further services. If this arises, we will inform you promptly.

9.5 In addition, this agreement may be terminated for any reason if 31 days' notice is given.

## 10. Applicable Law

10.1 This engagement letter and our standard terms and conditions of business are governed by and construed in accordance with English law. The Courts of England will have exclusive jurisdiction in relation to any claim, dispute or difference concerning this engagement letter and any matter arising from it. Each party irrevocably waives any right it may have to object to any action being brought in those courts, to claim that the action has been brought in an inappropriate forum, or to claim that those courts do not have jurisdiction.

## 11. Electronic Communication and Data Transfer, Methods and Media

11.1 In recent years there has been a move towards greater transmission electronically to and from Government, quasi Government bodies, commercial organisations and other third parties and this will in future be one of the normal methods of communication we use, unless we are specifically instructed otherwise. We may also transmit information, fee notes and statements to you electronically from time to time, unless we are specifically instructed otherwise, using your last known email/electronic address.

11.2 Internet communications including emails are capable of data corruption and interception by third parties, especially if unencrypted, and therefore we do not accept any responsibility for changes made to such communications after their despatch. It may therefore be inappropriate to rely on advice contained in an e-mail without obtaining written confirmation of it. We do not accept responsibility for any errors or problems that may arise through the use of internet communication/emails and all risks connected with sending and/or receiving commercially sensitive information relating to your office/your business are borne by you. If you do not agree to accept this risk, you should notify us in writing that internet/e-mail is not an acceptable means of communication. We will then communicate by paper mail, other than where electronic submission is mandatory.

11.3 Any communication by us with you sent through the paper mail post system is deemed to arrive at your postal address two working days after the day that the document was sent.

11.4 It is the responsibility of the recipient to carry out a virus check on any e-mail and attachments received, or internet based connection.

11.5 Transfer of information/data to or from our offices or held in our offices on a clients unencrypted data storage device is potentially not secure upon loss of such a device or digital storage media of any type. We do not accept responsibility for any loss of such unencrypted data and all risks relating to such unencrypted personal data or commercially sensitive information relating to your affairs/your business are borne by yourself if made available by you to us.

11.6 Electronic communications, including but not limited to telephone calls, facsimile, portal and email messages, maybe be intercepted, monitored, recorded and stored in accordance with the Regulation of Investigatory Powers Act 2000, the Telecommunication (Lawful Business Practices) (Interception of Communications) Regulations 2000 and the Data Protection Legislation for the purposes of quality assurance, system security, detection and prevention of crime and for other operational reasons.

## 12. Data Protection

12.1 In this clause 12, the following definitions shall apply:

- 'client personal data' means any personal data provided to us by you, or on your behalf, for the purpose of providing our services to you, pursuant to our engagement letter with you;
- 'data protection legislation' means all applicable privacy and data protection legislation and regulations including PECR, the GDPR, the Data Protection Act 2018 and any other applicable national laws, regulations and secondary legislation in the UK relating to the processing of personal data and the privacy of electronic communications, as amended, replaced, or updated from time to time;
- 'controller', 'data subject', 'personal data', and 'process' shall have the meanings given to them in the data protection legislation;
- 'GDPR' means the General Data Protection Regulation ((EU) 2016/679); and Data Protection Act 2018
- 'PECR' means the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003).

12.2 We shall each be considered an independent data controller in relation to the client personal data. Each of us will comply with all requirements and obligations applicable to us under the data protection legislation in respect of the client personal data.

12.3 You shall only disclose client personal data to us where:

- (i) you have provided the necessary information to the relevant data subjects regarding its use (and you may use or refer to our privacy notice available on our website at [www.whitingsllp.co.uk](http://www.whitingsllp.co.uk) for this purpose);
- (ii) you have a lawful basis upon which to do so, which, in the absence of any other lawful basis, shall be with the relevant data subject's consent; and
- (iii) you have complied with the necessary requirements under the data protection legislation to enable you to do so.

12.4 Should you require any further details regarding our treatment of personal data, please contact our Data Protection Point of Contact, Mr Andrew Winearls.

12.5 We shall only process the client personal data:

- (i) in order to provide our services to you and perform any other obligations in accordance with our engagement with you;
- (ii) in order to comply with our legal or regulatory obligations; and
- (iii) where it is necessary for the purposes of our legitimate interests and those interests are not overridden by the data subjects' own privacy rights. Our privacy notice (available at [www.whitingsllp.co.uk](http://www.whitingsllp.co.uk)) contains further details as to how we may process client personal data.

12.6 For the purpose of providing our services to you, pursuant to our engagement letter, we may disclose the client personal data to our regulatory bodies or other third parties (for example, our professional advisors or service providers). The third parties to whom we disclose such personal data may be located outside of the European Economic Area (EEA). We will only

disclose client personal data to a third party (including a third party outside of the EEA) provided that the transfer is undertaken in compliance with the data protection legislation.

- 12.7 We may disclose the client personal data to other third parties in the context of a possible sale, merger, restructuring or financing of or investment in our business. In this event we will take appropriate measures to ensure that the security of the client personal data continues to be ensured in accordance with data protection legislation. If a change happens to our business, then the new owners may use our client personal data in the same way as set out in these terms.
- 12.8 We shall maintain commercially reasonable and appropriate security measures, including administrative, physical and technical safeguards, to protect against unauthorised or unlawful processing of the client personal data and against accidental loss or destruction of, or damage to, the client personal data.
- 12.9 In respect of the client personal data, provided that we are legally permitted to do so, we shall promptly notify you in the event that:
- (a) we receive a request, complaint or any adverse correspondence from or on behalf of a relevant data subject, to exercise their data subject rights under the data protection legislation or in respect of our processing of their personal data;
  - (b) we are served with an information, enforcement, or assessment notice (or any similar notices), or receive any other material communication in respect of our processing of the client personal data from a supervisory authority as defined in the data protection legislation (for example in the UK, the Information Commissioner's Officer); or
  - (c) we reasonably believe that there has been any incident which resulted in the accidental or unauthorised access to, or destruction, loss, unauthorised disclosure, or alteration of, the client personal data.
- 12.10 Upon the reasonable request of either yourself or Whittings LLP, we shall each co-operate with the other and take such reasonable commercial steps or provide such information as is necessary to enable each of us to comply with the data protection legislation in respect of the services provided to you in accordance with our engagement letter with you in relation to those services.

#### **Additional Data Manipulation**

- 12.11 In addition, in respect of certain aspects of this engagement we both acknowledge that for the purposes of the data protection legislation, you are the Data Controller, and we are also a Data Controller.

This relates to our access, processing, amendment, transfer, use and subsequent manipulation of your data including that contained on proprietary software and cloud based packages used for financial records and other administration purposes, such as Xero or Quickbooks, for the purposes of commencement of providing further professional services as outlined in our engagement letter such as, but not limited to bookkeeping and adjustments, VAT Returns and preparation of Management and Statutory Accounts.

Such cloud packages being subscribed for either directly by yourselves or via Whittings LLP as your agent.

- 12.12 In respect of these additional services, where involving client personal data, unless otherwise required by applicable laws or other regulatory requirements, we shall:
- (a) process the client personal data only in accordance with your lawful written instructions, in order to provide you with the services pursuant to our engagement with you and in accordance with applicable data protection legislation;
  - (b) disclose and transfer the client personal data to our regulatory bodies or other third parties (for example, our professional advisors or service providers) as and to the extent necessary in order to provide you with the services pursuant to our engagement with you in relation to those services;
  - (c) disclose the client personal data to courts, government agencies and other third parties as and to the extent required by law;

#### **Additional Data Processing**

- 12.13 In addition, in respect of certain aspects of this engagement we both acknowledge that for the purposes of the data protection legislation, you are the data controller, and we are also a Data Controller and at times also a Data Processor.

This relates to our access, processing, amendment, transfer, use and subsequent manipulation of your data including that contained on proprietary software and cloud based packages used for financial records and other administration purposes, such as Xero or Quickbooks, for the purposes of providing base services such as invoice processing, data capture, bookkeeping and payroll as well as for supply of further professional services as outlined in our engagement letter such as, but not limited to bookkeeping and adjustments, VAT Returns and preparation of Management and Statutory Accounts.

- 12.14 In respect of specific base Data Processing functions the additional client personal data, unless otherwise required by applicable laws or other regulatory requirements, shall be used by us to:
- (a) process the client personal data only in accordance with your lawful written instructions, in order to provide you with the services pursuant to our engagement with you and in accordance with applicable data protection legislation;
  - (b) disclose and transfer the client personal data to members of our firm's network, our regulatory bodies or other third parties (for example, our professional advisors or service providers) as and to the extent necessary in order to provide you with the services pursuant to our engagement with you in relation to those services;
  - (c) disclose the client personal data to courts, government agencies and other third parties as and to the extent required by law;
  - (d) maintain written records of our processing activities performed on your behalf which shall include:
    - (i) the categories of processing activities performed;
    - (ii) details of any on cross border data transfers outside of the European Economic Area (EEA); and
    - (iii) a general description of security measures implemented in respect of the client personal data;
  - (e) maintain commercially reasonable and appropriate security measures, including administrative, physical and technical safeguards, to protect against unauthorised or unlawful processing of any client personal data and against accidental loss or destruction of, or damage to, such client personal data.
  - (f) return or delete all the client personal data upon the termination of the engagement with you pursuant to which we agreed to provide the services;
  - (g) ensure that only those personnel who need to have access to the client personal data are granted access to it and that all of the personnel authorised to process the client personal data are bound by a duty of confidentiality;
  - (h) notify you if we appoint a sub-processor (but only if you have given us your prior written consent, such consent not to be reasonably withheld or delayed) and ensure any agreement entered into with the relevant sub-processor includes similar terms as the terms set out in this clause 12;

- (i) where we transfer the client personal data to a country or territory outside the EEA to do so in accordance with data protection legislation;
  - (j) notify you promptly if:
    - we receive a request, complaint or any adverse correspondence from or on behalf of a relevant data subject, to exercise their data subject rights under the data protection legislation or in respect of the client personal data; or
    - we are served with an information or assessment notice, or receive any other material communication in respect of our processing of the client personal data from a supervisory body (for example, the Information Commissioner's Officer);
  - (k) notify you, without undue delay, in the event that we reasonably believe that there has been a personal data breach in respect of the client personal data;
  - (l) at your cost and upon receipt of your prior written notice, allow you, on an annual basis and/or in the event that we notify you of personal data breach in respect of the client personal data, reasonable access to the relevant records, files, computer or other communication systems, for the purposes of reviewing our compliance with the data protection laws.
- 12.15 Without prejudice to the generality of clause 12.2, you will ensure that you have all necessary appropriate consents and notices in place to enable the lawful transfer of the client personal data to us.
- 12.16 Should you require any further details regarding our treatment of this additional personal data, please again contact our data protection contact, Mr Andrew Winearls.
- 13. Third Parties**
- 13.1 The services, work, and advice which we give to you are for your sole use and should not be used for any other purpose or made available, unless there is a legal or regulatory requirement, to any other person without our express written consent. In the event that it is communicated to any third party by you then it does not constitute advice from our firm to any third party to whom we owe no duty of care, and we will not be liable for any reliance it chooses to place upon such information nor for any loss, damage or expense of whatsoever nature thereby arising. We accept no responsibility to third parties for any aspect of our professional services or work that is made available to them.
- 14. Contracts (Rights of Third Parties) Act 1999**
- 14.1 Persons who are not party to this agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 15. Money Laundering**
- 15.1 In common with all accountancy and legal practices the firm is required by the Proceeds of Crime Act 2002, Criminal Finances Act 2017 and the Money Laundering Act, Terrorist Financing and Transfer of Funds (Information on the Payer) 2017 and amendment Regulations 2019 to:
- Maintain identification procedures for all new and existing clients;
  - Maintain records of identification evidence obtained;
  - Make searches of appropriate databases; and
  - Report in accordance with the relevant legislation and regulations.
- 15.2 We have a duty under s.330 of the Proceeds of Crime Act 2002 to report to the Serious Organised Crime Agency (SOCA) if we know, or have reasonable cause to suspect, that you, or anyone connected with your business, are or have been involved in money laundering. Failure on our part to make a report where we have knowledge or reasonable grounds for suspicion would constitute a criminal offence.
- 15.3 The offence of money laundering is defined by s.340(11) of the Proceeds of Crime Act 2002 and includes concealing, converting, using, or possessing the benefits of any activity that constitutes a criminal offence in the UK. It also includes involvement in any arrangement that facilitates the acquisition, retention, use or control of such a benefit. This definition is very wide and would include amongst others such crimes as deliberate tax evasion, deliberate failure to inform the tax authorities of known underpayments or excessive repayments, fraudulent claiming of benefits or grants; or obtaining a contract through bribery.
- 15.4 We are obliged by law to report any instances of money laundering to SOCA without your knowledge or consent. In fact, we may commit the criminal offence of tipping off under s.333 of the Proceeds of Crime Act 2002 if we were to inform you that a report had been made. In consequence, neither the firms' principals nor staff may enter into any correspondence or discussions with you regarding such matters.
- 15.5 We are not required to undertake work for the sole purpose of identifying suspicions of money laundering. We shall fulfil our obligations under the Proceeds of Crime and Money Laundering Acts in accordance with the guidance published by The Institute of Chartered Accountants in England and Wales.
- 16. Registered Office**
- 16.1 If we have agreed to act as your Registered Office, we will endeavour to communicate matters received by us in a timely fashion to you. This may be by postal service or otherwise and we cannot accept responsibility for failure to deliver or consequences arising from non-receipt.
- 16.2 In the event that we are unable to contact you, or you cease to be a client of our firm, we reserve the right at our sole discretion to change the Registered Office address to your last known correspondence or physical location address.
- 17. Limitation of Liability**
- 17.1 We will provide our professional services with reasonable care and skill. Our liability to you is limited to losses, damages, costs, and expenses caused by our negligence or wilful default. However, we will not be held responsible for any losses, damages, costs, penalties, surcharges, interest, additional tax liabilities or expenses 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 respond promptly to communications from us or other relevant authorities.

- 17.2 Many clients have a specific Limitation of Liability or financial cap for compensation claims against the firm in respect of losses, damages, costs and expenses caused by our negligence or wilful default. Where this cap is operative, details are included within the body of the main engagement letter.
- 17.3 Where a financial cap applies, it is the maximum amount in the event of any one claim arising. However, if the relevant events or circumstances of each claim are connected, or for instance a similar matter was repeated say 3 times in a period, then they would be viewed by us as associated errors and be treated as a linked 'single claim'.
- 17.4 You will not hold us, our principals, associates, directors and staff responsible, to the fullest extent permitted by law, for any loss suffered by you arising from any misinterpretation (intentional or unintentional) supplied to us orally or in writing in connection with this agreement.
- 17.5 You have agreed that you will not bring any claim in connection with services we provide to you against any of our individual partners, associates, directors, or employees personally.
- 18. Intellectual Property Rights**
- 18.1 We will retain all copyright in any document prepared by us during the course of carrying out the engagement save where the law specifically provides otherwise.
- 19. Lien**
- 19.1 Insofar as we are permitted to do so by law or professional guidelines, we reserve the right to exercise a lien over all funds, documents and records in our possession relating to all engagements for you until all outstanding fees and disbursements are paid in full.
- 20. Whittings' Entity Status**
- 20.1 Whittings LLP is a limited liability partnership trading from 1<sup>st</sup> October 2021 when the business trades and activities of Whiting and Partners and Whiting and Partners Ltd were restructured into Whittings LLP with the engagement contract between you and them, which incorporates these terms and conditions, transferring to Whittings LLP and you.
- 20.2 Upon possible future restructuring and converting of Whittings LLP, in whole or part, to another entity the contract between us, which incorporates these terms and conditions, will transfer to the new entity and you agree the performance by the new entity of the contract will be in lieu of performance by Whittings LLP.
- 21. Interpretation**
- 21.1 If any provision of this engagement letter or enclosed schedules is held to be void, then that provision will be deemed not to form part of this contract and the remainder of this agreement shall be interpreted as if such provision had never been inserted.
- 21.2 In the event of any conflict between these terms of business and the engagement letter or appendices, the relevant provision in the engagement letter or schedules will take precedence.
- 22. Changes in the Law**
- 22.1 We will not accept responsibility if you act on advice previously given by us without first confirming with us that the advice is still valid in light of any change in the law or your circumstances.
- 22.2 We will accept no liability for losses arising from changes in the law or the interpretation thereof that occur after the date on which the advice is given.
- 23. The Provision of Services Regulations 2009 ('Services Directive')**
- 23.1 In accordance with our professional body rules, we are required to hold professional indemnity insurance. Details about the insurer and coverage can be found by enquiry at reception at our offices together other service-related administration details listed there.
- 23.2 Whittings LLP are registered to carry on audit work in the UK and Ireland by ICAEW. Details of our audit registration can be viewed at [www.auditregister.org.uk](http://www.auditregister.org.uk) for the UK under reference number C009098434.
- 23.3 Whittings LLP are licensed by ICAEW to carry out the reserved legal activity of non-contentious probate in England and Wales. Details about our probate registration can be viewed at [www.icaew.com/probate](http://www.icaew.com/probate), under reference number C009098434.
- 24. Period of Engagement and Disengagement**
- 24.1 Unless otherwise agreed in the engagement covering letter our work will begin when we receive your implicit or explicit acceptance of that letter. Except as stated in that letter we will not be responsible for periods before that date.
- 24.2 Each of us may terminate this agreement by giving not less than 31 days' notice in writing to the other party except where you fail to cooperate with us or we have reason to believe that you have provided us or HMRC with misleading information, in which case we may terminate this agreement immediately. Termination will be without prejudice to any rights that may have accrued to either of us prior to termination.
- 24.3 In the event of termination of this contract, we will endeavour to agree with you the arrangements for the completion of work in progress at that time, unless we are required for legal or regulatory reasons to cease work immediately. In that event, we shall not be required to carry out further work and shall not be responsible or liable for any consequences arising from termination.
- 24.4 Should we resign or be requested to resign we will normally issue a disengagement letter to ensure that our respective responsibilities are clear.
- 24.5 Should we have no contact with you for a period of 60 days or more we reserve the right to issue to your last known address a disengagement letter and thereafter cease to act.

## **25. Conflicts of Interest**

- 25.1 We will inform you if we become aware of any conflict of interest in our relationship with you, or in relationship with you and another client/party. We have safeguards that can be implemented to protect the interests of different clients if a conflict arises.
- 25.2 Where conflicts are identified which cannot be reasonably managed in a way to protect your interests, such as by the clients/parties obtaining independent advice, then we regret that we will be unable to provide further services. If this arises, we will inform you promptly.
- 25.3 If there is a conflict of interest that is capable of being addressed successfully by the adoption of suitable safeguards to protect your interests, then we will adopt those safeguards. Where possible this will be done on the basis of your informed consent. We reserve the right to act for other clients whose interests are not the same as or are averse to yours subject of course to the obligations of confidentiality referred to above.

## **26. Tax Arrangements**

- 26.1 Whilst it is often fair and reasonable to arrange your personal and financial affairs so as to achieve potential modest tax liabilities, HMRC have a range of powers to ensure such UK tax planning falls within legislated approved boundaries, even though these boundaries may sometimes not too clearly be defined or matters of differing interpretation and eventual mediation.

Tax schemes, including packaged products, may be acceptable in some circumstances but you will still need to provide us with the Disclosure of Tax Avoidance Schemes (DOTAS) details and official DOTAS scheme number as full disclosure is required on your annual Self-Assessment Tax Return. Other financial arrangements, often not carried out primarily for tax mitigation, may be challenged for tax reasons under General Anti Abuse Regulation (GAAR) if they it is thought by HMRC that they do provide a tax advantage and also need to be disclosed on your annual Tax Return at the time they are arranged.

We will provide general guidance upon request on any such plans or arrangements or their aftereffects, but this is a fluid area with tax legislation and case law ever developing so it is important that you contact us to establish current practice before finally entering any arrangement or scheme.

Some topics may be affected retrospectively or retroactively by such ongoing developments, and we accept no liability for such changes and any effect they have to you or others; if this is feasible you should bear in mind the potential adverse consequences before entering any arrangement.

- 26.2 We do not give definitive advice regarding Stamp Duty or Stamp Duty Land Tax and associated matters. Independent advice should always be sought on these Government levies in all cases from those suitably qualified such as a solicitor.
- 26.3 We do not give definitive advice regarding Tax credit and other welfare benefits and /or charges and application to the relevant Government department regarding entitlement is recommended.
- 26.4 It is mandatory to register for VAT in the UK within one month if you carry out a trade or business and you exceed the annual registration threshold - being £85,000 as from April 2019. This is calculated on a cumulative rolling 12 month basis. It is your responsibility to monitor this on a regular monthly basis and make appropriate application for registration to HM Customs and Revenue when appropriate, or request in writing that we do so on your behalf; failure to do so will result in financial penalties and interest charges.
- 26.5 HMRC have introduced an additional earlier tax return to report Capital Gains Tax arising on UK property sales/disposals which is required to be submitted within 60 days of the completion of the transaction.

## **27. Taxation Services Geographical Restriction**

- 27.1 Tax services and/or advice provided relates only to taxation matters covered by UK Tax Return and UK Inheritance Tax of persons completing such UK Tax Returns plus UK domiciled persons, irrespective of where their assets are located in the world. Person refers to any individual, partnership, corporate body, Trust or other entity.
- 27.2 Persons with assets located outside UK or beneficially entitled to income/gains/wealth created arising from such assets and also those domiciled, or previously resident, outside the UK may need to additionally complete Tax Returns for other national authorities; such persons should seek specialist advice from Agents and others providing appropriate taxation services relating to the relevant jurisdictions outside the UK.
- 27.3 Under FATCA legislation some Trust investment assets, whether located within or outside UK, may need to be registered with/notified to tax authorities both within and outside the UK; such Trusts should seek specialist advice from their investment managers and also from others providing appropriate taxation services relating to the relevant jurisdictions outside the UK.

## **28. Consumer Credit Arrangements**

- 28.1 We are regulated by the Institute of Chartered Accountants in England and Wales to provide certain credit-related services where these are complementary to or arise out of the professional services we are providing to you. Such services may include accountancy, taxation, audit or other services. If during the provision of professional services to you, you need advice beyond what we are permitted to do, we may have to refer you to someone who is authorised by the Financial Conduct Authority, as we are not.

## **29. Changes to Arrangements**

- 29.1 We will write to you periodically to update and refresh our contractual arrangements for the nature and scope of our Engagement with you and will include a copy of our current Standard Terms and Conditions. We reserve the right to amend these Standard Terms and Conditions which may be updated in detail in the meanwhile from time to time to comply with legislative and other practice changes; the current issue will be found on our website [www.whitingsllp.co.uk](http://www.whitingsllp.co.uk). Example of such recent or forthcoming changes relate to, but are not limited to, the introduction by HMRC of Making Tax Digital, FRS 102 & 105 (accounting standards for Small, Medium and Micro entities), GDPR (new Data Protection Act), and 30, now 60, day CGT returns for UK property disposals.