

## STANDARD TERMS OF BUSINESS

The purpose of this schedule is to set out the standard terms of business that apply to all engagements accepted to provide professional services to the above named entity and in the case of a group, each entity within the group being listed in the engagement letter. All work carried out is subject to these terms except where changes are expressly agreed in writing. These standard terms of business are applicable to all types of entities (e.g. companies, LLPs, charities, friendly societies, academies, pension schemes, etc.). Any reference therefore to 'director' or 'company' should be interpreted as appropriate for the entity type (e.g. partner, trustee, governor, charity, LLP, etc.)

By signing our letter of engagement, you have acknowledged that you have been advised to seek independent legal advice in relation to our terms and conditions of service and no reliance shall be placed upon the representations of the firm or its employees and you enter into this agreement on your own legal advice.

### About Wilkins Kennedy LLP

**Wilkins Kennedy LLP is a limited liability partnership registered in England and Wales under number OC370220. Its registered office is at Bridge House, London Bridge, London SE1 9QR. A full list of members of Wilkins Kennedy LLP may be inspected at our registered office.**

References in this document and in our engagement letter to "Wilkins Kennedy", "we", "our", "our firm", "the firm" and "us" are references to Wilkins Kennedy LLP.

We use the word "partner" to refer to a member of the LLP or to an employee of equivalent status.

References in this document and in our engagement letter to our 'network' are references to all wholly owned entities within the same group as Wilkins Kennedy LLP.

### 1 Professional obligations

1.1 As required by the *Provision of Services Regulations 2009* (SI 2009/2999), details of the firm's professional registrations, including audit registration where applicable, can be found at reception in our offices.

1.2 The firm is a member of the Institute of Chartered Accountants in England and Wales (the ICAEW) and its code of ethics can be found at <http://www.icaew.com/en/technical/ethics/icaew-code-of-ethics>.

The professional rules applicable to our audit work in the UK are the Audit Regulations which can be found at <https://www.icaew.com/-/media/corporate/files/technical/audit-and-assurance/working-in-the-regulated-area-of-audit/audit-regulations-and-guidance-effective-01-04-17.ashx?la=en>.

In addition there are the International Standards on Auditing (UK) at <https://www.frc.org.uk/auditors/audit-assurance/standards-and-guidance>. In carrying out our audit work we are subject to the FRC Revised Ethical Standard which can be found at <https://www.frc.org.uk/auditors/audit-assurance/standards-and-guidance/2016-ethical-standards>. These are available in English.

1.3 We will observe and act in accordance with these rules and regulations. We accept instructions to act for you on this basis. In particular you give us authority to correct errors made by HM Revenue & Customs (HMRC) where we become aware of them. We will not be liable for any loss, damage or cost arising from our compliance with statutory or regulatory obligations.

#### **Professional indemnity insurance**

1.4 In accordance with the disclosure requirements of the *Provision of Services Regulations 2009*, details of our professional indemnity insurer including contact details and information on the territorial coverage of that insurance are readily available on request from our Senior Partner at our London Bridge office.

### 2 Investment services

2.1 Since we are not authorised by the Financial Conduct Authority then we may have to refer you to someone who is authorised if you need advice on investments. However, as we are licensed by our professional body, we may be able to provide certain investment

services that are complementary to, or arise out of, the professional services we are providing to you.

2.2 Such advice may include:

- advising you on investments generally, but not recommend a particular investment or type of investment;
- referring you to a Permitted Third Party (PTP) (an independent firm authorised by the FCA), assisting you and the PTP during the course of any advice given by that party and commenting on, or explaining, the advice received (but not making 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;
- advising you in connection with the disposal of an investment, other than your rights in a pension policy or scheme;
- advising and assisting you in transactions concerning shares or other securities not quoted on a recognised exchange;
- assisting you in making arrangements for transactions in investments in certain circumstances; and
- managing investments or acting as trustee (or attorney in respect of a power of attorney) where decisions to invest are taken on the advice of an authorised person.

2.3 For corporate clients 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.

2.4 When referring you to a PTP, we will normally refer you to WK Financial Planning Limited, hereafter referred to as our associate, which is an independent financial advisers.

Our associate is separate from this firm, is an appointed representative of an FCA authorised firm and will be solely responsible for compliance with the FSMA 2000. However, the associate is wholly owned by the firm, so the firm may benefit indirectly from any commission or fees paid to the associate by you or any product provider as a result of any transactions carried out on the advice of the associate. WK Financial Planning Limited will always notify you in writing of the amount and terms of payment and receipt of any such commissions or benefits.

The firm may receive commission from an introduction to a PTP other than WK Financial Planning Limited 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.

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 in respect of exempt regulated activities undertaken.

2.5 Where the firm is providing insurance mediation services (including fee protection), we are not authorised by the Financial Conduct Authority. However, we are included on the Register maintained by the Financial Conduct Authority so that we can carry on insurance

mediation activity, which is broadly the advising on, selling, and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the ICAEW. The register can be accessed via the Financial Conduct Authority website at [www.fca.org.uk/register](http://www.fca.org.uk/register).

### **Financial promotions**

- 2.6 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. 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 or to one of our associates for introductions to other professionals or in respect of transactions we or such associates arrange for you, in which case you will be notified in writing of the amount and terms of payment. In the absence of any other agreement with us prior to the arrangement of the transaction, you consent to such commission or other benefits being retained by us or, as the case may be, by our associates without any requirement to account to you for any such amounts. The fees that would otherwise be payable by you as described above will not automatically be abated by such amounts although we may, at our discretion, take them into account when determining the fee.

### **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 ICAEW (see clause 1.2).

If you transfer funds to our client account you will be agreeing that we shall not be liable for any monies lost as a result of a banking failure. The Financial Services Compensation Scheme (FSCS) covers deposits belonging to clients who are individuals or small businesses per authorised deposit-taking institution. There are limits to the amounts of compensation that the FSCS will pay (please refer to the FSCS website for current limits). Accordingly, you are responsible for maintaining a record of all balances held by us as your agent and for ensuring that we receive from you any instructions regarding those monies.

- 4.2 In order to avoid an excessive amount of administration, we will not account to you for interest on funds held in our clients' bank account, unless separately agreed or clause 4.3 applies.
- 4.3 If the total sum of money held on your behalf is enough to give rise to a significant amount of interest or is likely to do so, 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.
- 4.4 We will return monies held on your behalf promptly as soon as there is no longer any reason to retain those funds. It is agreed that if we have lost contact with you for a period of one year or more and that we have tried to contact you in writing on at least two occasions regarding any balance of money (not exceeding £500) held in our clients' account belonging to you; that you agree that the money will be donated to a registered charity of our choice.

### **5 Fees**

- 5.1 Our fees are computed on the basis of the time spent on your affairs by the Partners, our staff, sub-contractors or consultants and on the levels of skill and responsibility involved. Our charges will be reviewed from time to time. Unless otherwise agreed our fees and disbursements will be billed at regular intervals during the course of the year and will be due on presentation. Where we have provided a fee estimate, this is an indication, made in good faith and on the basis of the information we have at the time the estimate is given, of our likely fee for carrying out the work concerned. An estimate is subject

to revision and is not a commitment by us to carry out the work for that fee. If it is necessary to carry out work outside the responsibilities agreed with you for each service, we will advise you in advance. Any additional work will involve additional fees. Accordingly we would like to point out that it is in your interests to ensure that your records etc. are completed to the agreed stage.

- 5.2 Additional fees to cover disbursements such as transaction charges, bank fees, governmental levies, duties or fines and all other charges incurred in the course of the provision of the Services together with all other disbursements and out-of-pocket expenses may be made from time to time. Additional charges will be subject to VAT where applicable. We may render invoices/request for payments in advance in respect of any anticipated additional charges.
- 5.3 Any fee budget agreed with you assumes that the information required for our work is available in accordance with agreed timetables and that the necessary personnel are available during the course of our work. If delays or other unanticipated problems occur which are beyond our control this may result in additional fees for which fee notes will be raised on the above basis. We will advise you of any delays as they occur and will estimate their effect.
- 5.4 We may ask that you pay a proportion of your fee on a monthly standing order or that payment is made to us in advance of specific work to be performed. These payments will be applied to fees arising from work agreed in this letter of engagement for the current and ensuing years. Where standing order payments are made they are not necessarily made in settlement of any specific work carried out by the firm but will be treated as part payment thereof.
- 5.5 In the event of non-payment and at our discretion, we shall charge interest at 2% per month or part thereof. In addition, we reserve the right not to undertake any further work on your behalf and in this event you will be advised in writing.
- 5.6 If you disagree with our fees, you must notify us in writing within 14 days of the date of our fee invoice or our request for payment, failing which you will be deemed to have agreed to its terms, and we reserve the right to charge interest as described above on any amount disputed by you should the same be found to have been correctly charged. You agree that you will in any event pay all undisputed amounts in accordance with this Agreement.
- 5.7 We accept settlement of fees by certain debit and credit cards. We reserve the right to recharge to you the costs incurred by us if you settle fees using these methods.
- 5.8 We are entitled to recover on a full indemnity basis any costs incurred by us in collecting overdue payments, including our time charges, the costs and expenses of any third parties we may appoint to collect such amounts. We reserve the rights to retain all documents and any items in our possession relating to any matter until all invoices/request for payments are paid in full.
- 5.9 If an agreement has been made whereby our fees are to be paid by someone other than you, you will nevertheless remain liable for all our fees outstanding and all expenses incurred on your behalf until payment has been made in full.
- 5.10 You agree that we may deduct or cause to be deducted the fees and all additional charges from any monies or assets held by us for you.
- 5.11 Further, we shall be entitled to charge or sell assets under our control belonging to you for the purposes of meeting the outstanding fees.
- 5.12 If a client company, trust or other entity is unable or unwilling to settle our fees, we reserve the right to seek payment from the individual (or parent company) giving us instructions on behalf of the client, and we shall be entitled to enforce any sums due against the group company or individual nominated to act for you, or any other director(s), trustee(s) or other responsible individuals within the organisation defined as having control who we will consider to be personally joint and severally responsible for paying fees (including disbursements) for services provided to the company, trust or other entity unable to pay.
- 5.13 Insofar as we are permitted to so by law or by 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.

- 5.14 In the event that we cease to act in relation to your company's affairs you agree to meet all reasonable costs of providing information to the company's new advisers. In particular you agree to meet these costs where we are required by law to provide information to a successor firm.

## 6 Retention of and access to records

- 6.1 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/audit of your financial statements/returns. You should retain these records for 6 years from the 31 January following the end of the tax year to which they relate. You should retain them for longer if HMRC enquire into your tax return.

- 6.2 Whilst certain documents may legally belong to you, unless you tell us not to, we intend to destroy correspondence and other papers that we store 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 Conflicts of interest and independence

- 7.1 We reserve the right during our engagement with you to deliver services to other clients whose interests might compete with yours or are or may be adverse to yours, subject to clause 8 below. We confirm that we will notify you immediately should we become aware of any conflict of interest involving us and affecting you unless we are unable to do so because of our confidentiality obligations. We have safeguards that can be implemented to protect the interests of different clients if a conflict arises. 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.

- 7.2 During and after our engagement, you agree that we reserve the right to act for other clients whose interests are or may compete with or be adverse to yours, subject, of course, to our obligations of confidentiality and the safeguards set out in the paragraph on confidentiality below.

## 8 Confidentiality

- 8.1 We confirm that where you give us confidential information we shall at all times keep it confidential, except as required by law or as provided for in regulatory, ethical or other professional statements relevant to our engagement.

- 8.2 You agree that, if we act for other clients who are or who become your competitors, to comply with our duty of confidentiality it will be sufficient for us to take such steps as we think appropriate to preserve the confidentiality of information given to us by you, both during and after this engagement. These may include taking the same or similar steps as we take in respect of the confidentiality of our own information.

- 8.3 In addition, if we act for other clients whose interests are or may be adverse to yours, we will manage the conflict by implementing additional safeguards to preserve confidentiality. Safeguards may include measures such as separate teams, physical separation of teams, and separate arrangements for storage of, and access to, information.

- 8.4 You agree that the effective implementation of such steps or safeguards as described above will provide adequate measures to avoid any real risk of confidentiality being impaired.

- 8.5 We may, on occasions, subcontract work on your affairs to other tax or accounting professionals. We will advise you if this occurs. The subcontractors will be bound by our client confidentiality terms.

- 8.6 If we use external or cloud based systems, we will ensure confidentiality of your information is maintained.

- 8.7 We reserve the right, for the purpose of promotional activity, training or other business purposes, to mention that you are a client. As stated above, we will not disclose any confidential information.

- 8.8 With the exception of any audit or other report which we expressly agree may be provided to third parties, the reports, letters, information and advice which arise as a result of this engagement are given in confidence solely for the purpose of this engagement and are provided on the condition that you undertake not to disclose these, or any other confidential information made available to you by us during the course of our work, to any other party without our prior written consent.

- 8.9 In circumstances where our reports, letters or information will be provided to or used by a third party, you will inform us so that we can stipulate terms regarding such provision or require the third party to enter into a direct relationship with us before any report, letter, information or advice is provided to that third party. Unless the third party agrees appropriate terms with us, we recognise no responsibility whatsoever other than that owed to you in the context of this engagement as at the date on which our report or other advice is given.

We will not be prevented from disclosing confidential information:

- which is or becomes public knowledge other than by a breach of an obligation of confidentiality;
- which is or becomes known from other sources without restriction on disclosure; or
- which is required to be disclosed by law or any professional or regulatory obligation.

For the purposes of carrying out our responsibilities in this engagement, we shall not be treated as having notice of information, which may have been provided to individuals within this firm who are not involved in this engagement.

## 9 Quality control

- 9.1 As part of our ongoing commitment to providing a high quality service, our files are periodically subject to an independent regulatory or quality review. Our reviewers are highly experienced and professional people and are, of course, bound by the same requirements of confidentiality as our principals and staff.

### Dealing with HMRC

- 9.2 When dealing with HMRC on your behalf we are required to be honest and to take reasonable care to ensure that your returns are correct. To enable us to do this, you are required to be honest with us and to provide us with all necessary information in a timely manner. For more information about 'Your Charter' for your dealings with HMRC, see [www.hmrc.gov.uk/charter/index.htm](http://www.hmrc.gov.uk/charter/index.htm). To the best of our abilities, we will ensure that HMRC meet their side of the Charter in their dealings with you.

## 10 Help us to give you the right service

- 10.1 We are committed to providing you with a high quality service that is both efficient and effective. 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 contacting the partner in charge of the work we perform for you.

- 10.2 We aim to provide you with a fully satisfactory service and your client service partner will seek to ensure that this is so. If, however, you are unable to deal with any difficulty through him/her and his/her team please contact our Senior Partner at our London Bridge office. We undertake to look into any complaints promptly and to do what we can to resolve the position. If you are still not satisfied you may of course take up the matter with the ICAEW.

- 10.3 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 schedules. 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.

10.4 The notice period that you are required to give us is set out in our engagement covering letter.

## 11 Applicable law

11.1 This engagement letter is governed by, and construed in accordance with the law as stated in England. The Courts 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.

11.2 If any provision in this Standard Terms of Business or any associated engagement schedules, or its application, are found to be invalid, illegal or otherwise unenforceable in any respect, the validity, legality or enforceability of any other provisions shall not in any way be affected or impaired.

## 12 Changes in the law, in practice or in public policy

12.1 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, public policy or your circumstances.

12.2 We will accept no liability for losses arising from changes in the law or the interpretation thereof, practice or public policy that are first published after the date on which the advice is given to the fullest extent permitted by applicable law.

## 13 Internet communication

13.1 Unless you instruct us otherwise we may, where appropriate, communicate with you and with third parties via email or by other electronic means. However, internet communications are capable of data corruption 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 and all risks connected with sending commercially sensitive information relating to your business are borne by you. If you do not agree to accept this risk, you should notify us in writing that e-mail is not an acceptable means of communication. We will never change our bank details without confirming this to you by posted letter. Any emailed or telephoned communications appearing to be from us which are not confirmed by post are fake and we accept no liability for any loss caused to you through accepting such communications as genuine. Similarly, always give us by hand or by post (as well as by email) details of your bank account.

13.2 It is the responsibility of the recipient to carry out a virus check on any attachments received.

## 14 Provision of client portal service via the cloud

### *Secure client portal via our website (part of the Cloud)*

14.1 We will provide a free voluntary client portal service to allow the secure exchange of documents between you and the firm.

14.2 You should use this service for file transport only, you cannot rely on this service as a permanent means of file storage or backup. We purge all data from the portal on a regular basis.

14.3 Other than where there is a lawful basis for transferring personal data to us, you agree that you will have secured consent to transfer personal data to us prior to doing so.

14.4 You undertake to use the system for acceptable use, which includes:

- not to transmit any viruses, Trojans, keyloggers or other harmful code;
- not to transmit any unlawful information or content;
- not to allow access to the service to any third party; and

- not to use the software to provide services to other parties.

14.5 You are responsible for:

- ensuring that your network and systems meet any necessary performance requirements;
- maintaining your network and telecommunication links; and
- compliance with any applicable terms as shown on the site itself which may be updated from time to time.

14.6 You are obliged to keep all passwords and login details secure and not to share with others. We will keep all passwords and login details secure, and only disclose to staff that require access.

14.7 If one of your staff who has access to the portal leaves, you are responsible for asking the firm to reset the password for your account.

14.8 We undertake to use all reasonable endeavours to obtain from the Cloud Supplier a signed confidentiality agreement with the firm to ensure compliance with other relevant clauses in these terms of business concerning our fees, confidentiality, internet communication, all relevant data protection legislation and general limitation of liability.

14.9 The firm cannot be held liable for any failures to deliver services due to transmission errors or unavailability of telecoms networks, or due to the failure or unavailability of any infrastructure. We are also not liable for any loss of or corruption to your data or if the service is interrupted due to your breach of our terms.

14.10 If you determine to cease using the services of the firm, you will inform the firm immediately. On receiving such notification we will immediately cancel all user access to your portal and discuss with you the way ahead.

14.11 The firm reserves the right to modify these terms and conditions under which the portal is offered, and will provide you with due notice before implementation.

### *Secure client portal via a third party website (part of the Cloud)*

#### *a) Accounting software*

14.12 You will agree with the Cloud Supplier the specific accounting software that you wish to be hosted in the Cloud. We are happy to assist you with the selection of the specific accounting software that is appropriate to your needs, though the final decision is yours. This service is provided for a set-up fee agreed in advance.

14.13 Though we will have access to your accounting system hosted by the Cloud Supplier, we would emphasise that we cannot undertake to discover any shortcomings in the third-party software, your systems or any irregularities on the part of your employees or others, although we will advise you of any such circumstances that we encounter if requested to prepare your accounts.

14.14 We will invoice you each month for the provision of the service by the Cloud Supplier. You will pay our monthly fee on a timely basis to ensure continued provision of the service by the Cloud Supplier. Should there be a delay in payment of our fee according to our credit terms we reserve the right, after a written warning has been issued, to withdraw the service until our fees have been paid.

14.15 You will enter into a Service Level Agreement with the Cloud Supplier regarding the uptime availability and the provision of maintenance, support and security, in particular the frequency of back-ups provided. Should you have any concerns on these matters, please contact us.

14.16 If you wish to disengage from this service, on giving the notice period specified in our letter of engagement, we will liaise with the Cloud Supplier for you to receive a back-up of your data as at the end of the notice period, subject to you meeting their conditions.

#### *b) Other software*

14.17 Though we will have access to software hosted by the Cloud Supplier, we would emphasise that we cannot undertake to discover any shortcomings in the third-party software, your systems or any irregularities on the part of your employees or others.

#### *c) Accounting and other software*

- 14.18 You will be responsible for the maintenance of your records in the Cloud.
- 14.19 Other than where there is a lawful basis for transferring personal data to the Cloud, you agree that you will have secured consent to transfer personal data to the Cloud prior to doing so.
- 14.20 You undertake to use the system for acceptable use, which includes:
- not to transmit any viruses, Trojans, keyloggers or other harmful code;
  - not to transmit any unlawful information or content;
  - not to allow access to the service to any third party; and
  - not to use the software to provide services to other parties.
- 14.21 You are responsible for:
- ensuring that your network and systems meet any necessary performance requirements;
  - maintaining your network and telecommunication links; and
  - compliance with any applicable terms as shown on the site itself which may be updated from time to time.
- 14.22 You are obliged to keep all passwords and login details secure and not to share with others. We will keep all passwords and login details secure, and only disclose to staff that require access.
- 14.23 If one of your staff who has access to the portal leaves, you are responsible for asking the firm to reset the password for your account.
- 14.24 We undertake to use all reasonable endeavours to obtain from the Cloud Supplier a signed confidentiality agreement with the firm to ensure compliance with other relevant clauses in these terms of business concerning our fees, confidentiality, internet communication, all relevant data protection legislation and general limitation of liability.
- 14.25 The firm cannot be held liable for any failures to deliver services due to transmission errors or unavailability of telecoms networks, or due to the failure or unavailability of any infrastructure. We are also not liable for any loss of or corruption to your data or if the service is interrupted due to your breach of our terms.
- 14.26 The firm reserves the right to modify these terms and conditions under which the portal is offered, and will provide you with due notice before implementation.

## 15 Data protection

- 15.1 In this clause 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. This includes, but is not limited to, personal data in respect of you, your business/company/partnership/its officers, employees and shareholders as appropriate;

‘data protection legislation’ means all applicable privacy and data protection legislation and regulations including PECR, the GDPR and any 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’, ‘personal data breach’, ‘process’ and ‘supervisory authority’ shall have the meanings given to them in the data protection legislation;

‘GDPR’ means the General Data Protection Regulation ((EU) 2016/679); and

‘PECR’ means the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003).

### a) Clients that are entities

- 15.2 We shall each be considered an independent data controller in relation to 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.

- 15.3 You shall only disclose client personal data to us where:

- 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 at <https://www.wilkinskennedy.com/privacy-statement/> for this purpose);
- 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
- you have complied with the necessary requirements under the data protection legislation to enable you to do so.

- 15.4 You will fully indemnify and hold us harmless if you do not have such consent and that causes us loss. If you are supplying us with client personal data on the basis of a power of attorney for anyone, you must produce to us an original or certified power of attorney on demand.

- 15.5 We shall only process client personal data:

- in order to provide our services to you and perform any other obligations in accordance with our engagement with you (contract as the lawful basis for processing client personal data);
- in order to comply with our legal or regulatory obligations (legal obligation as the lawful basis for processing client personal data); and
- where it is necessary for the purposes of our legitimate interests and those interests are not overridden by the data subjects’ own privacy rights (legitimate interest as the lawful basis for processing client personal data).

Our privacy notice, available at <https://www.wilkinskennedy.com/privacy-statement/> contains further details as to how we may process client personal data.

- 15.6 For the purpose of providing our services to you, pursuant to our engagement letter, we may disclose 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). 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 data protection legislation. You consent to such data export. Where cloud based services are used you are subject to our cloud services terms and conditions in clause 14. If we use a service provider, this will be set out in the relevant service appendix to our engagement letter or we will notify you separately in writing.

- 15.7 We may disclose 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 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.

- 15.8 We shall maintain commercially reasonable and appropriate security measures, including administrative, physical and technical safeguards, to protect against unauthorised or unlawful processing of client personal data and against accidental loss or destruction of, or damage to, client personal data.

- 15.9 In respect of client personal data, provided that we are legally permitted to do so, we shall promptly notify you in the event that:

- 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 data protection legislation or in respect of our processing of their personal data;
- 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 client personal

data from a supervisory authority as defined in data protection legislation (for example in the UK, the Information Commissioner's Officer); or

- 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, client personal data.

15.10 Upon the reasonable request of the other, 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 data protection legislation in respect of the services provided to you in accordance with our engagement letter with you in relation to those services.

**b) Clients who are individuals**

15.11 We shall only process your personal data:

- in order to provide our services to you and perform any other obligations in accordance with our engagement with you (contract as the lawful basis for processing your personal data);
- in order to comply with our legal or regulatory obligations (legal obligation as the lawful basis for processing your personal data); and
- where it is necessary for the purposes of our legitimate interests and those interests are not overridden by the data subjects' own privacy rights (legitimate interest as the lawful basis for processing your personal data).

Our privacy notice, available at <https://www.wilkinskennedy.com/privacy-statement/> contains further details as to how we may process your personal data.

15.12 For the purpose of providing our services to you, pursuant to our engagement letter, we may disclose your personal data to members of our firm's network, our regulatory bodies or other third parties (for example, our professional advisors or service providers). The third parties to whom we disclose your personal data may be located outside of the European Economic Area (EEA). We will only disclose your personal data to a third party (including a third party outside of the EEA) provided that the transfer is undertaken in compliance with data protection legislation. You consent to such data export. Where cloud based services are used you are subject to our cloud services terms and conditions in clause 14 above. If we use a service provider, this will be set out in the relevant service appendix to our engagement letter or we will notify you separately in writing.

15.13 We may disclose your 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 your 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.

15.14 We shall maintain commercially reasonable and appropriate security measures, including administrative, physical and technical safeguards, to protect against unauthorised or unlawful processing of your personal data and against accidental loss or destruction of, or damage to, your personal data.

15.15 In respect of your personal data, provided that we are legally permitted to do so, we shall promptly notify you in the event that 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, your personal data.

**c) All clients**

15.16 Should you require any further details regarding our treatment of personal data, please contact our data protection officer at: [dataprotectionofficer@wilkinskennedy.com](mailto:dataprotectionofficer@wilkinskennedy.com)

**16 Limitation of third party rights**

16.1 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.

16.2 The advice we give you is for your sole use and is confidential to you and will not constitute advice for any third party to whom you may communicate it, unless we have expressly agreed in writing that a specified third party may rely on our work. We will accept no responsibility to third parties, including any group company to whom the engagement letter is not addressed, your spouse nor any family member of yours or your employer, for any aspect of our professional services or work that is made available to them.

**17 Client identification**

17.1 In common with other professional firms we are required by the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2017 to:

- maintain identification procedures for clients, beneficial owners of clients, and persons purporting to act on behalf of clients;
  - maintain records of identification evidence and the work undertaken for the client; and
  - report, in accordance with the relevant legislation and regulations.
- We have a statutory obligation under the above legislation to report to the National Crime Agency (NCA) any reasonable knowledge or suspicion of money laundering. Any such report must be made in the strictest confidence. In fulfilment of our legal obligations, neither the firm's principals nor may staff enter into any correspondence or discussions with you regarding such matters

17.2 If we are not able to obtain satisfactory evidence of your identity and where applicable that of the beneficial owners, we will not be able to proceed with the engagement.

17.3 You agree that we may use personal information provided by you in order to conduct appropriate identity and anti-fraud checks. Personal information that you provide may be disclosed to a credit reference or fraud prevention agency that will check details against any particulars on any database (public or otherwise) to which they have access. Personal information may be retained by the credit reference or fraud prevention agency for the purpose of future identity and anti-fraud checks. A record of the search will be retained. This information provided by you is used by us only to confirm your identity and no credit check is being performed by us. Accordingly, your credit rating will not be affected.

17.4 In addition, we may also request similar information in order to conduct appropriate identity and anti-fraud checks on management and beneficial owners as we consider necessary. You agree to inform such persons of these checks as described in clause 17.3 above.

**18 Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standards**

18.1 Unless agreed specifically in a separate engagement letter, we are not responsible for your compliance with the *International Tax Compliance (United States of America) Regulations 2013*, produced as a result of FATCA. In particular, we are not responsible for the categorisation of any UK entity into either a Financial Institution (FI) or an active or passive Non-Financial Foreign Entity (NFFE) nor, if a Financial Institution, for its registration with the US Internal Revenue Service (IRS) and subsequent submission of the required annual returns to HMRC.

18.2 However, if requested to do so we can provide advice on the completion of the forms supplied by Financial Institutions under these Regulations, or under Common Reporting Standards, and used by them to determine the status of an entity. We can also provide advice on setting up the appropriate systems to identify and report on your clients or beneficiaries who are foreign citizens affected by FATCA or Common Reporting Standards.

## 19 General limitation of liability

- 19.1 We will provide our 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, to the fullest extent permitted by law, we will not be responsible for any losses, penalties, surcharges, interest or additional tax liabilities where you or others supply incorrect or incomplete information, or fail to supply any appropriate information or where you fail to act on our advice or respond promptly to communications from us or the tax authorities. Further, we will not be liable to you for any delay or failure to perform our obligations if the delay or failure is caused by circumstances outside our reasonable control. Subject to clause 19.6 below, our liability to you shall be limited as set out in clause 20.
- 19.2 You will not hold us, our (principal(s)/director(s)) and staff, responsible, to the fullest extent permitted by law, for any loss suffered by you arising from any misrepresentation (intentional or unintentional) supplied to us orally or in writing. This applies equally to fraudulent acts, misrepresentation or wilful default on the part of any party to the transaction and their directors, officers, employees, agents or advisers. However, this exclusion shall not apply where such misrepresentation, withholding or concealment is or should (in carrying out the procedures which we have agreed to perform with reasonable care and skill) have been evident to us without further enquiry.
- 19.3 You agree that you will not bring any claim in connection with services we provide to you against any of our partners or employees personally.
- 19.4 In particular, the fact that an individual member, employee, agent or consultant signs in his or her own name any letter, email or other document in the course of carrying out that work does not mean he or she is assuming any personal legal liability.
- 19.5 Our work is not, unless there is a legal or regulatory requirement, to be made available to third parties without our written permission and we will accept no responsibility to third parties for any aspect of our professional services or work that is made available to them. You agree to indemnify us and our agents in respect of any claim (including any claim for negligence) arising out of any unauthorised disclosure by you or by any person for whom you are responsible of our advice and opinions, whether in writing or otherwise. This indemnity will extend to the cost of defending any such claim, including payment at our usual rates for the time that we spend in defending it and our legal fees on an indemnity basis.
- 19.6 Nothing in this agreement shall exclude or limit our liability for death or personal injury caused by negligence nor for fraudulent misrepresentation or other fraud which may not as a matter of applicable law be excluded or limited.

## 20 Financial limitation of liability

- 20.1 We have discussed with you the extent of our liability to you in respect of the professional services described within our engagement letter (the professional services), comprising the Engagement Covering Letter, Agreement of Terms and the relevant Appendices.
- 20.2 Where we are providing statutory audit services, the terms of the limitation of our liability in respect of our audit work is set out in the audit appendix to our engagement letter.
- 20.3 For all causes of action accruing in any 12 month period, the first such period commencing on the date of our engagement letter, our total liability (regardless of the number of persons who comprise our client for any particular matter) shall be limited to the lower of the figures produced by the operation of clauses 20.4 and 20.5. This provision, and the provisions of the following paragraphs, shall not apply to any liability:
- for work requiring us to report as statutory auditors (see clause 20.2);
  - for work required to be carried out by us under the rules of the US Securities and Exchange Commission;
  - for death or personal injury or other liability for which exclusion or restriction is prohibited by law; or

- to liability arising as a result of fraud on our part.

In no event shall we be liable for any special, indirect or consequential loss or damage of any kind howsoever arising, whether or not such loss or damage is foreseeable, foreseen or known.

- 20.4 Subject to the provisions of clause 20.5 below, our liability in respect of breach of contract or breach of duty or fault or negligence or otherwise whatsoever arising out of or in connection with this engagement shall be limited to a multiple of twenty times the value of our paid fees in connection with the engagement on which the claim arises to cover claims of any sort whatsoever, including interest and costs to a maximum limit of £1 million.

Any claim for breach of contract, breach of duty or fault or negligence or otherwise whatsoever arising out of or in connection with this engagement shall be brought against us within four years of the act or omission alleged to have caused the loss in question.

- 20.5 Our liability to you in respect of breach of contract or breach of duty or fault or negligence or otherwise whatsoever arising out of or in connection with this engagement shall be limited to a just and equitable proportion of the total loss or damage after taking into account contributory negligence and the responsibility of any other party (regardless of the ability of any other party to make payment).

## 21 Intellectual property rights and use of our name

- 21.1 We will retain all intellectual property rights in any document prepared by us during the course of carrying out the engagement except where the law specifically states otherwise. You may only use such rights to the extent we agreed when engaged to provide services to you and may not resell or sublicense such rights without our further prior consent.
- 21.2 You are not permitted to use our name in any statement or document that you may issue unless our prior written consent has been obtained. The only exception to this restriction would be statements or documents that in accordance with applicable law are to be made public.

## 22 Draft/interim work or oral advice

- 22.1 In the course of our providing services to you we may provide advice or reports or other work products in draft or interim form, or orally. However, final written work products will always prevail over any draft, interim or oral statements. Where you request it, we will provide you with written confirmation of matters stated orally.

## 23 Interpretation

- 23.1 If any provision of our engagement letter or terms of business is held to be void for whatever reason, then that provision will be deemed not to form part of this contract, and no other provisions will be affected or impaired in any way. 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.

## 24 Internal disputes within a client

- 24.1 If we become aware of a dispute between the parties who own the business, or who are in some way involved in its ownership and management, it should be noted that our client is the business (unless we have agreed otherwise) and we would not provide information or services to one party without the express knowledge and permission of all parties. Unless otherwise agreed by all parties, we will continue to supply information to the registered office/normal place of business for the attention of the directors/proprietors. If conflicting advice, information or instructions are received from different directors/principals in the business, we will refer the matter back to the board of directors/the partnership and take no further action until the board/partnership has agreed the action to be taken. In certain cases we reserve the right to cease acting for the business/client entirely.

## 25 Retention of papers

- 25.1 You have a legal responsibility to retain documents and records relevant to your financial affairs. During the course of our work we may collect information from you and others relevant to your tax and

financial affairs. We will return any original documents to you if requested. Documents and records relevant to your tax affairs are required by law to be retained as follows:

*Individuals, trustees and partnerships:*

- with trading or rental income: five years and 10 months after the end of the tax year;
- otherwise: 22 months after the end of the tax year.

*Companies, Limited Liability Partnerships, and other corporate entities:*

- six years from the end of the accounting period.

25.2 Although certain documents may legally belong to you, we may destroy correspondence and other papers that we store electronically or otherwise that are more than seven years old, except documents we think may be of continuing significance. You must tell us if you wish us to keep any document for any longer period.

## **26 Disengagement**

26.1 If we resign or are asked to resign, we will normally issue a disengagement letter to ensure that our respective responsibilities are clear.

## **27 Probate-type services**

27.1 As we are not licensed or authorised for the reserved legal activity of non-contentious probate, any work we do for you on closely aligned activities, such as estate administration or inheritance tax advice, will not be covered by the ICAEW Probate Compensation Scheme and you

will not have access to the Legal Ombudsman, nor is our advice covered by legal professional privilege.

## **28 Changes in members/successor firm**

28.1 The continuing validity of this agreement will not be affected by any change in the members of the firm. If we merge with another firm or transfer substantially all of our business to a partnership, a limited liability partnership or company, then you agree that we may transfer our engagement with you on substantially the same terms (so far as applicable) to the successor enterprise. We shall write and tell you if this happens.

## **29 Our employees**

29.1 You shall not entice or endeavour to entice away from us or employ any person under a contract of employment with us, without our prior consent, during the period of the engagement or within a period of twelve months from the date of termination of the engagement, whether alone or jointly with or as principal partner, agent, director, employee or consultant of any other person, firm or corporation, and whether directly or indirectly in competition with any of our businesses carried on during the period of engagement or within a period of twelve months of the termination of the engagement.

29.2 In the event of one of our employees accepting an offer of employment with you or any entity connected with you (including employment or use whether under a contract of service or for services), a fee shall be payable by you to us calculated at the rate of 25% of the employee's first year salary package (including benefits). A motor car provided to the employee will be assessed as additional remuneration. VAT will be charged in addition to the fee.