

## Standard Terms and Conditions

These terms and conditions should be read alongside the privacy notice.

### 1 Introduction

1.1 These terms and conditions set out the general terms under which we undertake our business and apply to each assignment we work on for you. The specific conditions relating to particular assignments and services will be covered in a separate letter of engagement recording the basis on which we are instructed to act for you ("Letter of Engagement").

1.2 No variation of these terms shall be effective unless such variation is in writing and signed by Clark Hearsey.

1.3 For some non-business related instructions you may have the right to cancel this agreement without charge within 7 working days of the date you instructed us to act for you under the Consumer Protection (Distance Selling) Regulations 2000. If you instruct us to start work within that period you will lose that right to cancel this agreement. If you wish to withdraw instructions you should give us notice by telephone, email or letter. The Regulations also require us to inform you where the work involved is likely to take more than 30 days.

### 2 Consumer Contracts, Cancellation & Distance Selling

2.1 If, during the provision of professional services to you, you need advice or services on areas from us that fall within Consumer Credit activity, we may have to refer you to someone who is authorised by the Financial Conduct Authority (FCA) as we are not authorised to undertake this activity.

2.2 Where we are acting for a consumer we will comply with the provisions of The Consumer Contracts (Information Cancellation and Additional Charges) Regulations 2013.

2.3 Should a consumer wish to terminate our retainer then they have 14 days in which to do so where they have engaged us either off premises or via a distance contract.

### 3 Applicable Law

3.1 These terms and conditions, any Letter of Engagement you receive and our schedule of services are governed by, and should be construed in accordance with the law and practice of England and Wales. Each party agrees that the Courts of England and Wales will have exclusive jurisdiction in relation to any claim, dispute or matter arising from the same. Each party irrevocably waives any right 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.

### 4 Interpretation

4.1 If any provision of these terms and conditions, Letter of Engagement or 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.

4.2 In the event of any conflict between these terms and conditions and the Letter of Engagement, the relevant provision in the Letter of Engagement or schedules will take precedence.

### 5 Your responsibilities

5.1 You are responsible for:

5.1.1 providing us with accurate and prompt instructions, information and materials which are necessary or appropriate for us to provide the services;

5.1.2 ensuring all information and materials provided to us is complete accurate and not misleading;

5.1.3 notifying us promptly of any changes to instructions information or materials previously provided to enable us to provide the services; and

5.1.4 for making correct returns by the due date and for the payment of any tax due on time. Failure to meet deadlines may incur penalties and interest.

### 6 Fees and payment terms

6.1 Our fees may depend not only upon the time spent on your affairs but also on the level of skill and responsibility and the importance and value of the advice that we provide, as well as the level of risk.

6.2 If we provide you with an estimate of our fees for any specific work, then the estimate will not be contractually binding unless we explicitly state in writing that that will be the case.

6.3 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. 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.

6.4 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. You will need to advise us of any such insurance cover that you have. If you require further information about our Tax Investigation Service you should speak to a member of staff. You will remain liable for our fees regardless of whether all or part are liable to be paid by your insurers.

6.5 Our normal hourly rates will apply as advised in the Letter of Engagement. These will be increased annually. We will bill on an interim basis and on completion of each assignment and our invoices will be due for payment within 30 days of the date of the invoice except where otherwise agreed and subject to 6.9. At the end of our financial year we are entitled to bring up to date our invoicing in respect of all unbilled time.

6.6 Our fees are exclusive of VAT which will be added where it is chargeable.

6.7 Unless otherwise agreed to the contrary our fees do not include the costs of any third party, counsel or other professional fees ("Disbursements").

6.8 Any Disbursements we incur on your behalf and expenses incurred in the course of carrying out our work for you will be added to our invoices where appropriate.

6.9 It is our normal practice to ask clients to pay by monthly standing order and to periodically adjust the monthly payment by reference to actual billings. In circumstances where there is a history of poor payment of our invoices we reserve the right to insist on payment by monthly standing order.

6.10 You authorise us to settle our agreed fees from any money held on your behalf in the client account.

6.11 Where applicable we reserve the right to charge interest on late paid invoices at the rate of 8% above bank base rates under the Late Payment of Commercial Debts (Interest) Act 1998. We further reserve the right to recover all debt collection charges incurred in securing payment of our invoices should payment not be made in accordance with these terms and conditions. We also reserve the right to suspend our services or

to cease to act for you on giving written notice if payment of any fees is unduly delayed. We intend to exercise these rights only where it is fair and reasonable to do so.

6.12 If you do not accept that an invoiced fee is fair and reasonable you must notify us within 21 days of receipt, failing which you will be deemed to have accepted that payment is due.

6.13 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 you agree that we shall be entitled to enforce any sums due against the Group Company or individual nominated to act for you.

6.14 In the case of a dispute over the level of fees charged we reserve the right to require that the matter is dealt with through arbitration. We recommend that arbitration is undertaken by the fee arbitration service provided by ACCA for members. The fee arbitrator will be appointed by the ACCA president; the fee will be as negotiated with the ACCA arbitrator.

## 7 Lien

7.1 Insofar as 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.

## 8 Client monies

8.1 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' Monies Rules of the ACCA. These rules can be found on the ACCA website at <http://www.accaglobal.com/en.html>.

8.2 All client monies will be held in an interest-bearing account. To avoid excessive administration, interest will only be paid to you where the amount earned on the balances held on your behalf in any calendar year exceeds £10.00. 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 we will put the money in a designated interest-bearing client bank account and pay the interest to you. Subject to any tax legislation, interest will be paid gross.

8.3 We will return monies held on your behalf promptly as soon as there is no longer any reason to retain those funds. If any funds remain in our client account that are unclaimed and the client to which they relate has remained untraced for five years or we as a firm cease to practise then we may pay those monies to a registered charity.

8.4 Fees paid by you in advance for professional work to be performed and clearly identifiable as such shall not be regarded as clients' monies.

## 9 Joint Instructions

9.1 Where we accept an assignment for more than one client jointly the rights and obligations of those clients are several save for obligations to pay money to us, which will be joint and several.

9.2 Each joint client irrevocably permits us to disclose to any other of the joint clients at any time any information which we would otherwise be prohibited from so disclosing by virtue of our duty of confidentiality.

## 10 Internal disputes

10.1 If we become aware of a dispute between parties who have instructed us jointly or who own or are in some way involved in the ownership and management of the business, it

should be noted that our client is the business and we would not provide information or services to one party without the express knowledge and permission of all parties.

10.2 Unless otherwise agreed by all parties we will continue to supply information to the business billing address for the attention of the nominated contact.

10.3 If conflicting advice, information or instructions are received from different parties who have instructed us jointly or who own or are in some way involved in the ownership and management of the business we will refer the matter back to all appropriate parties and take no further action until all parties have agreed the action to be taken.

## 11 Investment services

11.1 Investment business is regulated under the Financial Services and Markets Act 2000 and the Financial Services Act 2012.

11.2 Should you require advice on investment business which we are unable to give as we are not authorised by the Financial Services Authority or the Prudential Regulation Authority we can introduce you a suitable independent Permitted Third Party ("PTP").

The PTP will issue you with his own terms and conditions letter, will be remunerated separately for their services and will take full responsibility for compliance with the requirements of the Financial Services and Markets Act 2000 and the Financial Services Act 2012.

If we receive an introductory fee or commission we will inform you when any such sum is received and agree with you how this is to be dealt with at that time.

## 12 Commissions or other benefits

12.1 In some circumstances we may receive commissions and/or other benefits for introductions to other professionals or in respect of transactions which we arrange for you. Where this happens we will notify you in writing of the amount and terms of payment and receipt of any such commissions or benefits. The same will apply where the payment is made to or transactions are arranged by a person or business connected with ours. The fees you would otherwise pay will be reduced by the amount of the commissions or benefits. When we reduce the fees that we would otherwise charge by the amount of commission retained, we will apply the HMRC concession which allows VAT to be calculated on the net fee after deduction of the commission.

## 13 Retention of records

13.1 You have a legal responsibility to retain documents and records relevant to your tax affairs. During the course of our work we may collect information from you and others relevant to your tax affairs. We will return any original documents to you.

13.2 When we cease to act for you we will seek to agree the position on access to cloud-accounting records to ensure continuity of service. This may require you to enter direct engagements with the software providers and pay for that service separately. 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: 5 years and 10 months after the end of the tax year;
- otherwise: 22 months after the end of the tax year;

Companies, LLPs and other corporate entities

- 6 years from the end of the accounting period;

13.3 Whilst certain documents may legally belong to you we may destroy correspondence and other papers that we store, electronically or otherwise, which are more than 6 years and 10 months old. This includes your documents if they have not been reclaimed by you within the 6 years and 10 months period. You must tell us if you require the return or retention of any specific documents for a longer period.

13.4 You should retain documents that are sent to you by us as set out in the privacy notice, which should be read alongside these terms and conditions.

## 14 Notification

14.1 We shall not be treated as having notice, for the purposes of our accounts/tax responsibilities, of information provided to members of our firm other than those engaged on the specific assignment (for example, information provided in connection with accounting, taxation and other services).

## 15 Timetable

15.1 The services we undertake to perform for you will be carried out on a timescale to be determined between us on an ongoing basis.

15.2 The timing of our work will in any event be dependent on the prompt supply of all information and documentation as and when required by us.

## 16 Limitation of Third Party Rights

16.1 The advice and information we provide to you as part of our service is for your sole use and not for any third party to whom you may communicate it unless we have expressly agreed in the engagement letter that a specified third party may rely on our work. We accept no responsibility to third parties, including any group company to whom the engagement letter is not addressed, for any advice, information or material produced as part of our work for you which you make available to them. It may not be used or relied upon for any other purpose or by any other person other than you without our prior written consent. A party to this agreement is the only person who has the right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

16.2 If our advice is disclosed to any third party (with or without our consent), then we accept no responsibility or liability to that third party for any consequences that may arise to them, should they rely on the advice.

16.3 If it is proposed that any documents or statement which refer to our name are to be circulated to third parties, please consult us before they are issued.

## 17 Confidentiality

17.1 Communication between us is confidential. We shall take all reasonable steps not to disclose your information except where we are required to and as set out in our privacy notice. Unless we are authorised by you to disclose information on your behalf this undertaking will apply during and after this engagement.

17.2 We may, on occasions, subcontract work on your affairs to other tax or accounting professionals. The subcontractors will be bound by our client confidentiality and security terms.

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

## 18 Electronic and other Communication

18.1 As instructed, we will communicate with you and with any third parties you instruct us to as set out in our Letter of

Engagement and privacy notice via email or by other electronic means. The recipient is responsible for virus-checking emails and any attachments.

18.2 With electronic communication there is a risk of non-receipt, delayed receipt, inadvertent misdirection or interception by third parties. We use virus-scanning software to reduce the risk of viruses and similar damaging items being transmitted through emails or electronic storage devices. However electronic communication is not totally secure and we cannot be held responsible for damage or loss caused by viruses nor for communications which are corrupted or altered after despatch. Nor can we accept any liability for problems or accidental errors relating to this means of communication especially in relation to commercially sensitive material. These are risks you must accept in return for greater efficiency and lower costs. If you do not wish to accept these risks please let us know and we will communicate by hard copy other than where electronic submission is mandatory.

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

18.4 When accessing information held electronically by HMRC, we may have access to more information than we need and will only access records reasonably required to carry out the contract.

18.5 You are required to keep us up to date with accurate contact details at all times. This is important to ensure that communications and papers are not sent to the incorrect address.

## 19 Data Protection

19.1 We confirm that we will comply with the provisions of the General Data Protection Regulation (GDPR) when processing personal data about you, your directors and employees and your/family/ies.

Processing means:

- obtaining, recording or holding personal data; or;
- carrying out any operation or set of operations on personal data, including collecting and storage, organising, adapting, altering, using, disclosure (by any means) or removing (by any means) from the records manual and digital.

The information we obtain, process, use and disclose will be necessary for:

- the performance of the contract;
- to comply with our legal and regulatory compliance and crime prevention;
- contacting you with details of other services where you have consented to us doing so;
- other legitimate interests relating to protection against potential claims and disciplinary action against us.

This includes, but is not limited to, purposes such as updating and enhancing our client records, analysis for management purposes and statutory returns.

In regard to our professional obligations we are a member firm of the Association of Chartered Certified Accountants (ACCA). Under the ethical and regulatory rules of ACCA we are required to allow access to client files and records for the purpose of maintaining our membership of this body.

Further details on the processing of data are contained in our privacy notice, which should be read alongside these terms and conditions.

## 20 Money Laundering Regulations 2017

20.1 In accordance with the Proceeds of Crime Act, The Terrorism Act, Money Laundering Regulations 2017 and The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 you agree to waive your right to confidentiality to the extent of any report made, document provided or information disclosed to the National Crime Agency (NCA).

20.2 You also acknowledge that we are required to report directly to the NCA without prior reference to you or your representatives if during the course of undertaking any assignment the person undertaking the role of Money Laundering Reporting Officer becomes suspicious of money laundering.

## 21 Client identification and verification

21.1 As with other professional services firms, we are required to have appropriate risk based policies and procedures for assessing and managing money laundering risks: this applies at the start of any business relationship and through the lifetime of the relationship. This includes undertaking appropriate customer due diligence. We may request from you, and retain, such information and documentation as we require for these purposes and/or make searches of appropriate databases. If we are not able to obtain satisfactory evidence of your identity, we will not be able to proceed with the engagement.

21.2 Copies of such records created as part of the client due diligence process, including any non-engagement documents relating to the client relationship and ongoing monitoring of it, will be retained by us for a period of five years after we cease to act for the business unless we are required to retain them under statutory obligation, or to retain them for legal proceedings, or you consented to the retention in which case the records will be retained for not more than 10 years.

## 22 Implementation

22.1 We will only assist with implementation of our advice if we are specifically instructed to do so in writing.

## 23 Intellectual property rights

23.1 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.

## 24 Limitation of liability

24.1 We will provide our services with reasonable care and skill. Our liability to you is limited to losses, damages, costs and expenses directly caused by our negligence or wilful default.

24.2 Exclusion of liability for loss caused by others

We will not be liable if such losses, penalties, surcharges, interest or additional tax liabilities are due to the acts or omissions of any other person or due to the provision to us of incomplete, misleading or false information or if they are due to a failure to act on our advice or a failure to provide us with relevant information.

In particular, where we refer you to another firm whom you engage with directly, we accept no responsibility in relation to their work and will not be liable for any loss caused by them.

24.3 Exclusion of liability in relation to circumstances beyond our control

We will not be liable to you for any delay or failure to perform our obligations under these terms and conditions or Letter of Engagement if the delay or failure is caused by circumstances outside our reasonable control.

24.4 Exclusion of liability relating to non-disclosure or misrepresentation

We will not be responsible or liable for any loss, damage or expense incurred or sustained if information material to the service we are providing is withheld or concealed from us or misrepresented to us.

This exclusion shall not apply where such misrepresentation, withholding or concealment is or should (in carrying out the procedures that we have agreed to perform with reasonable care and skill) have been evident to us without further enquiry beyond that which it would have been reasonable for us to have carried out in the circumstances.

24.5 Indemnity for unauthorised disclosure

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.

## 25 Limitation of aggregate liability

25.1 The aggregate liability, to you and any third party and whether in contract, tort or otherwise of this firm, its partners, employees and agents for any losses in any way connected with any of the services provided to you under these terms and conditions or Letter of Engagement (and including interest) shall not exceed the amount stated in the Letter of Engagement, or if no sum is specified the sum of £500,000 (Five Hundred Thousand Pounds)

25.2 Where the Letter of Engagement specifies an aggregate limit of liability, then that sum shall be the maximum aggregate liability of this firm, its partners, employees and agents to all persons to whom the Letter of Engagement is addressed and also any other person that we have agreed with you may rely on our work. By signing the Letter of Engagement you agree that you have given proper consideration to this limit and accept that it is reasonable in all the circumstances. If you do not wish to accept it you should contact us to discuss it before signing the Letter of Engagement.

25.3 You agree that you will not bring any claim whether in contract, tort, under statute or otherwise against any employee or agent of Clark Harsey on a personal basis and those employees and agents shall be entitled to rely on the terms of this agreement insofar as they limit their liability.

## 26 Reliance on advice

26.1 We will endeavour to record all advice on important matters in writing. Advice given orally is not intended to be relied upon unless confirmed in writing. Therefore, if we provide oral advice (for example during the course of a meeting or a telephone conversation) and you wish to be able to rely on that advice, you must ask for the advice to be confirmed by us in writing. However, bear in mind that advice is only valid at the date it is given.

## 27 Conflicts of interest

27.1 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.

27.2 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 adverse to yours subject of course to the obligations of confidentiality referred to above

## 28 Bribery Policy

28.1 In accordance with the requirements of the Bribery Act 2010 we have policies and procedures in place to prevent the business and its partners and staff from offering or receiving bribes.

## 29 Period of engagement and termination

29.1 Unless otherwise agreed in the Letter of Engagement or covering letter our work will begin when we receive your implicit or explicit acceptance of that letter and these terms and conditions. Except as stated in that letter we will not be responsible for periods before that date.

29.2 Each of us may terminate this agreement by giving not less than 21 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.

29.3 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.

29.4 If you engage us for a one-off piece of work (for example advice on a one-off transaction or preparation of a tax return for one year only) the engagement ceases as soon as that work is completed. The date of completion of the work is taken to be the termination date and we owe you no duties and we will not undertake further work beyond that date.

29.5 Where recurring work is provided (for example ongoing compliance work such as the completion of annual tax returns) the engagement ceases on the relevant date in relation to the termination as set out above. Unless immediate termination applies, in practice this means that the relevant termination date is:

- 21 days after the date of notice of termination; or
- a later agreed date

We owe you no duties beyond the date of termination and will not undertake any further work.

## 30 Disengagement

30.1 Should we resign or be requested to resign we will normally issue a disengagement letter to ensure that our respective responsibilities are clear.

30.2 Should we have no contact with you for a period of two years or more we may issue a disengagement letter to your last known address and hence cease to act.

30.3 On termination of the engagement you may appoint a new adviser. Where a new adviser requests professional clearance and handover information we reserve the right to charge you a reasonable fee for the provision of handover information.

## 30 Quality of service

31.1 We aim to provide a high quality of service at all times. If you would like to discuss with us how our service could be improved or if you are dissatisfied with the service that you are receiving please let us know by contacting either Victoria Hearsey or Steve Clark.

31.2 We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. If we do not answer your complaint to your satisfaction you may take up the matter with the ACCA. This should be done promptly and in any event no later than 6 months after exhausting our procedures.

## 32 Professional rules and statutory obligations

32.1 We will observe and act in accordance with the by-laws, regulations and ethical guidelines of the Association of Chartered Certified Accountants (ACCA) and will accept instructions to act for you on this basis.

32.2 You are responsible for bringing to our attention any errors, omissions or inaccuracies in your returns that you become aware of after the returns have been submitted in order that we may assist you to make a voluntary disclosure.

32.3 In particular, you give us the authority to correct errors made by HMRC where we become aware of them. In addition, we will not undertake tax planning which breaches professional conduct in relation to taxation. We will therefore comply with the general anti-abuse rule and the targeted anti-avoidance rule. We will not be liable for any loss, damage or cost arising from our compliance with statutory or regulatory obligations. You can see copies of these requirements at our offices.

32.4 The requirements are also available online at [www.accaglobal.com/en.html](http://www.accaglobal.com/en.html).

32.5 The implications of professional body membership as it relates to GDPR are set out in the privacy notice, which should be read alongside these standard terms and conditions of business.

## 33 Authorisation and registration

33.1 Clark Hearsey is an unlimited liability partnership registered with the Association of Chartered Certified Accountants as chartered certified accountants and can be found on the register of members at <http://members.accaglobal.com/en/find-an-accountant>.

Registration number 2189560

## 34 Provision of Services Regulations 2009

34.1 In accordance with our professional body rules we are required to hold professional indemnity insurance. Details about the insurer and coverage can be found at our offices.

**Clark Hearsey**  
**Fairfield Enterprise Centre**  
**Lincoln Way**  
**Louth**  
**Lincolnshire LN11 0LS**

**Telephone: 01507 617724**

VAT registration number 997 6689 18

[www.clarkhearsey.co.uk](http://www.clarkhearsey.co.uk)