

# EST

## Introduction

1. These terms and conditions set out the general terms under which we undertake our business. These terms and conditions should be read in conjunction with the terms of our engagement letter, and apply to your engagement with:

1.1 EST Accountants Limited

1.2 EST CF Limited; and / or

1.3 EST HR Limited  
(together “us” or “we”)

2. We may amend these terms and conditions from time to time. We recommend that you print or save a copy for your own records whenever you enter into or renew a contract with us.

## Services

3. You may request from that we provide other services from time to time, including services listed in the engagement letter. If you do request these services, and if we agree to provide them for you, we will issue a separate letter of engagement accordingly setting out the revised work to be performed.
4. EST Commercial Finance Limited is a non-advisory service.

## Applicable law

5. Our engagement letter and these standard terms and conditions of business are governed by, and should be construed in accordance with the law 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 difference concerning this engagement letter and any matter arising from it. 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.

6. We will not accept responsibility if you act on advice / guidance 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.
7. 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 / guidance is given.

## **GDPR and Data Protection**

8. Both parties will comply with all applicable requirements of any data protection legislation from time to time in force in the UK including the Data Protection Act 1998 or 2018 or any successor legislation (“Data Protection Legislation”). These clauses 7 – 10 are in addition to, and do not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
9. The parties acknowledge that for the purposes of the Data Protection Legislation you are the data controller and we are the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).
10. Without prejudice to the generality of clause 7, you will ensure that you have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to us for the duration and purposes of our engagement.
11. Without prejudice to the generality of clause 7, we shall, in relation to any Personal Data processed in connection with our performance of our obligations under this engagement:
  - 11.1. process that Personal Data provided only on your written instructions unless the we are required by the laws of any member of the European Union or by the laws of the European Union applicable to us to process Personal Data (Applicable Data Processing Laws). Where we are relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, we shall promptly notify you of this before performing the processing required by the Applicable Data Processing Laws unless those Applicable Data Processing Laws prohibit us from so notifying you;
  - 11.2. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by you, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of

technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

11.3. ensure that all personnel who have access to and/or process Personal Data employed by us, are obliged to keep the Personal Data confidential. This will apply to personnel employed by:

10.3.1 EST Accountants Limited

10.3.2 EST CF Limited; and / or

10.3.3 EST HR Limited

Who may from time to time have access to your data; and

11.4. not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

11.4.1. both parties have provided appropriate safeguards in relation to the transfer;

11.4.2. the data subject has enforceable rights and effective legal remedies;

11.4.3. the supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

11.4.4. the supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.

11.5. We verify our clients' identification on a periodic basis using electronic software. We reserve the right to verify your identification on an ongoing basis.

### **Bribery Act 2010**

12. 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.

## **Communication**

13. Unless you instruct us otherwise we may, where appropriate, communicate with you and with third parties via email or by other electronic means. The recipient is responsible for virus checking emails and any attachments.
14. 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 bear 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 paper mail, other than where electronic submission is mandatory.
15. Any communication by us with you sent through the post or DX system is deemed to arrive at your postal address two working days after the day that the document was sent.

## **Confidentiality**

16. Communication between us is confidential and we shall take all reasonable steps to keep confidential your information except where we are required to disclose it by law, by regulatory bodies, by our insurers or as part of an external peer review. Unless we are authorised by you to disclose information on your behalf this undertaking will apply during and after this engagement.
17. We may, on occasions, subcontract work on your affairs to other HR / accountancy, training or employment law professionals. The subcontractors will be bound by our client confidentiality terms.
18. 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.

## **Conflicts of interest**

19. We will inform you if we become aware of any conflict of interest in our relationship with you or in our relationship with you and another client. 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.

20. 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

### **Contracts (Rights of Third Parties) Act 1999**

21. The advice / guidance 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 / guidance, information or material produced as part of our work for you which you make available to them. 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.

### **Disengagement**

22. Should we resign or be requested to resign a disengagement letter will be issued to ensure that our respective responsibilities are clear.

### **Fees**

23. We will provide services to you on the basis as set out in our engagement letter.
24. Where we provide services to you under an annual retainer arrangement we shall specify a recurring monthly charge which shall apply for the duration of each Retainer Period (as defined in the engagement letter) and which we shall bill each month in accordance with the following terms and conditions. We reserve the right to revise the recurring monthly charge each time the Retainer Period is renewed. We reserve the right to increase the charges on an annual basis with effect from the date of this engagement by 3% on all retained work.
25. We will bill monthly and our invoices are due for payment within 30 days from the date of the invoice. Our fees are exclusive of VAT which will be added where it is chargeable. 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.

26. Our hourly rates are available on request.
27. Where requested we may indicate a fixed fee for the provision of specific additional services or an indicative range of fees for a particular assignment based on the hourly rates noted above. 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 that that will be the case. 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.
28. Unless otherwise agreed to the contrary our fees do not include the costs of any third party, counsel or other professional fees.
29. We reserve the right to charge interest on late paid invoices at the rate of 3% above bank base rates under the Late Payment of Commercial Debts (Interest) Act 1998. 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.
30. 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.
31. 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.

### **Implementation**

32. We will only assist with implementation of our advice if specifically instructed in writing.

### **Intellectual property rights**

33. 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. Such documents cannot be passed to a third party for their use without our prior written consent.

### **Interpretation**

34. If any provision of the engagement letter or schedules is held to be void, then that provision will be deemed not to form part of this contract.
35. 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.

## **Internal disputes**

36. If you are business and we become aware of a dispute between the parties who own or are in some way involved in the ownership and management of that 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. Unless otherwise agreed by all parties we will continue to supply information to the business for the attention of the Nominated Person (as defined in the engagement letter). If conflicting advice, information or instructions are received from different authorised individuals within the business we will refer the matter back to the Nominated Person and take no further action until the Nominated Person has confirmed the action to be taken.

## **Lien**

37. 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.

## **Limitation of liability**

38. We limit our liability to £500,000 (Five Hundred Thousand Pounds) and this excludes liability to third parties. These are important provisions which you should read and consider carefully.
39. 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.
40. 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 / guidance or a failure to provide us with relevant information.

41. 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 this engagement letter if the delay or failure is caused by circumstances outside our reasonable control.

42. Exclusion of liability relating to the discovery of fraud etc

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 wrongly misrepresented to us or from fraudulent acts, misrepresentation or wilful default on the part of any party to the transaction and their directors, officers, employees, agents or advisers. 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.

#### 43. 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 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.

#### 44. Limitation of aggregate liability

Where the engagement letter specifies an aggregate limit of liability, then that sum shall be the maximum aggregate liability of this firm, its partners agents and employees to all persons to whom the engagement letter is addressed and also any other person that we have agreed with you may rely on our work. By signing the engagement letter 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 engagement letter. You have agreed that you will not bring any claim of a kind that is included within the subject of the limit against any of our principals, members or employees on a personal basis.

### **Period of engagement and termination**

45. Unless otherwise agreed in the engagement letter our work will begin when we receive your implicit or explicit acceptance of that letter. You shall be deemed to have accepted the terms of this letter unless you communicate otherwise to us in writing. Except as stated in that letter we will not be responsible for periods before that date.
46. Each of us may terminate this agreement by giving not less than 30 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 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.
47. 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.

### **Provision of Services Regulations 2009**

48. We hold professional indemnity insurance. Details about the insurer and coverage can be found at our offices

### **Quality of service**

49. 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 Kate Matthews / Barry Esterhuizen / Mark Watts.
50. We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you.

### **Complaints – Commercial Finance**

#### **51.**

- 51.1 EST Commercial Finance Limited are committed to providing products and services of the highest standard. If for any reason, you feel you are not entirely satisfied with any aspect of our service, please let us know straight away.

Our Compliance Manager Tina Esterhuizen will investigate your complaint competently, diligently and impartially.

How to make your complaint:

Firstly, let us know what has happened. You can email us or write to us.

Our contact information is detailed at the bottom of this document.

We will need to know:

- Your name and address.
- Your company name and address.
- Details of how we can contact you.
- A clear description of your complaint and whether any 3rd party is involved.
- Details of what you would like us to do to resolve your complaint.
- If appropriate, copies of any relevant supporting documentation.

### **What happens next?**

#### **52.**

- 52.1 We will contact you within five working days to let you know we are considering your complaint and clarify any points where necessary. If we can resolve your complaint within 3 working days, we will send you a Summary Resolution Communication. This is a written confirmation, which confirms that you made a complaint and that we now consider the matter resolved.

- 52.2 If you subsequently decide that you are dissatisfied with the resolution of the complaint, you may be able to refer the complaint to the Financial Ombudsman Service, the NACFB or the ICO, dependent upon the circumstances surrounding the case.
- 52.3 We will indicate within the communication whether we consent to waive the relevant time limits as set out in the FCA handbook (Dispute Resolution) if this is applicable.
- a. We will keep you regularly updated about what's happening and discuss our findings. We will consider all the available evidence, the circumstances, relevant laws or regulation, as well as guidance from the Financial Ombudsman Service where applicable. When we have investigated your complaint, we will write to you to let you know our final response. This detailed letter will tell you what we have found, what we plan to do and how we came to our decision. If it is going to take us more than eight weeks to resolve your complaint, from when you first contacted us, we will update you on our progress and explain why it is still ongoing.

**Address:** EST Commercial Finance Limited  
Henstaff Court,  
Llantrisant Road,  
Groesfaen,  
Cardiff  
CF72 8NG

**Contact Number:** 02921 303888  
**Email:** [tina@est-accountants.co.uk](mailto:tina@est-accountants.co.uk)

53. If you are not satisfied with how we dealt with your complaint or you are not happy with our decision and wish to take it further, you may be able to contact the Financial Ombudsman Service (FOS) regarding your complaint provided that the complaint concerns a regulated activity and you fall within the classification of an "eligible complainant". FOS contact details are:

**Address:** Financial Ombudsman Service (FOS)  
Exchange Tower  
London  
E14 9SR

**Consumer helpline:** 0800 023 4567 or 0300 123 9123  
**Switchboard:** 0207 964 1000  
**Fax:** 0207 964 1001  
**Email:** [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

## **Reliance on advice**

51. We will endeavour to record all advice on important matters in writing. Advice / guidance given orally is not intended to be relied upon unless confirmed in writing. Therefore, if we provide oral advice / guidance (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 / guidance to be confirmed by us in writing.

## **Third parties**

52. Any advice / guidance we give you will be supplied on the basis that it is for your benefit only and shall not be disclosed to any third party in whole or part without our prior written consent. 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. If our advice / guidance 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.
53. 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.

## **Timetable**

54. The services we undertake to perform for you will be carried out on a timescale to be determined between us on an ongoing basis.
55. 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.

## **Variation of these terms and conditions**

56. We may revise these terms and conditions from time to time in our ultimate discretion. If we do revise these terms and conditions we will post the revised version to our website along with the date of the most recent change. It is your responsibility to access and check the Terms that are in force at that time that you enter into or renew any contract with us as the terms and conditions that are in force at that time will apply to any such contract from the date that it is entered into or renewed (as the case may be).