

**WM CAPITAL MANAGEMENT LTD**  
**UNICORN AIM IHT & ISA PORTFOLIO SERVICE**  
**TERMS & CONDITIONS**



## **1. Introduction**

- 1.1 This document is important and you should read it carefully. You should also read the brochure and application form, which amongst other important items include details of all applicable charges and expenses, the investment objectives and restrictions and a number of important risk warnings.
- 1.2 These terms, together with the brochure and signed application form, constitute our agreement with you. The provisions contained in these terms will take precedence if for any reason there is any inconsistency or conflict between those provisions and the other documents referred to above.
- 1.3 The agreement solely governs the provision of your Unicorn AIM IHT & ISA Portfolio Service. It is a legally binding contract under which we both have rights and obligations.
- 1.4 There are other documents that explain the basis on which we provide our services. However, these do not form part of this agreement. These are available on [www.lighttowerpartners.co.uk/products/](http://www.lighttowerpartners.co.uk/products/)
- 1.5 It is important that you read and understand the agreement and risk warnings and policies referred to above before you complete your application form. If you have any questions, we recommend that you consult a financial adviser who is appropriately qualified and authorised to give investment advice.

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## **2. Meaning of Words used in these Terms**

- 2.1 There are a number of words and phrases which have a specific meaning when used in these terms:
  - “we”, “us”, and “our” refer to the Portfolio Manager WM Capital Management Ltd.
  - “you” or “your” refers to the person(s) named in the application form to whom we are providing services.

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## **3. Nominees & Custodians**

- 3.1 The assets held within your portfolio will be held by James Brearley & Sons Limited, the custodian and nominee to the service.
- 3.2 James Brearley & Sons Limited will treat the cash in your portfolio as “client money” in accordance with FCA rules and will deposit it in one or more segregated, pooled client bank accounts with trust status that are segregated from its own funds.
- 3.3 Before proceeding with an application for a Unicorn AIM IHT & ISA Portfolio Service you should read and understand James Brearley & Sons Limited’s Terms & Conditions, which are available at <https://www.jbrearley.co.uk/individual-investors/downloads/> or on request from LightTower Partners. Use the following web links for each of the important documents to be presented to an investor:-
  - Privacy Policy: <http://jbrearley.co.uk/Privacy%20Policy.pdf>

- Order Execution Policy: <http://jbrearley.co.uk/Order%20Execution%20Policy.pdf>
  - Investor Terms: <https://jbrearley.co.uk/Execution-Only-Dealing-Services-Terms-of-Business-for-Retail-Clients-with-Third-Party-Investment-Advisers-or-Managers.pdf>
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#### **4. Investment Advice**

- 4.1 Neither we, nor any of our associates, will at any stage provide you with any investment or tax advice or personal recommendations in respect of your portfolio or your decision to invest. We shall not be liable for any losses you incur as a result of acting or deciding to act on the advice of any third party, including your adviser, in relation to our services.
  - 4.2 Therefore, we recommend that you seek advice from a financial adviser that is appropriately qualified and authorised to give investment advice
  - 4.3 We reserve the right not to accept your application if you have not received advice from a suitably qualified and authorised adviser.
  - 4.4 We will not accept your application unless it has been submitted by a suitably qualified and authorised introducer.
  - 4.5 If your relationship with your adviser terminates for any reason, you do not have to cancel your Unicorn AIM IHT & ISA Portfolio Service. However, we will charge an additional fee to reflect the potential additional cost to us in providing the service in such situations.
  - 4.6 If your relationship with your adviser terminates for any reason, we recommend that you appoint a new adviser to ensure that your Unicorn AIM IHT Tax & ISA Portfolio Service remains suitable for you.
  - 4.7 We will not be able to provide you with any advice regarding the portfolio and we will not accept further investments from you until you have appointed a new adviser.
  - 4.8 Any information that we provide you with in respect of particular investments, markets or the performance of selected companies should not be viewed as advice or a personal recommendation and is provided strictly for your information only and you should not make any decision based upon that information without consulting a financial adviser.
  - 4.9 We accept no responsibility for monitoring any ongoing service which may be provided to you by your adviser.
  - 4.10 It is your responsibility, or that of your adviser, to ensure that your financial circumstances, objectives and attitude to risk are reviewed regularly and to ensure that your Service remains suitable for your needs.
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#### **5. Discretionary Agreement & Reporting**

- 5.1 By entering into this agreement, you grant WM Capital Management Ltd the exclusive right to manage your portfolio at our sole discretion and without prior reference to you or your adviser and to select and manage investments which we reasonably believe at the time of acquisition to be qualifying investments, subject to the investment objectives and restrictions which apply to your service as set out in the brochure.
- 5.2 The overall objective of the portfolio is to invest in shares listed on the AIM market that qualify for Business Relief. Investors can choose to invest in a portfolio to maximise growth or one which provides a balance between income and growth.

- 5.3 There is no restriction on the amount invested in any single investment, or on the proportion of your portfolio in any single investment, or any particular type of investment, but it is intended that your portfolio will typically hold between 25 and 45 shares.
- 5.4 If we sell investments on your behalf, there are potential tax implications, which you should speak to your adviser about.
- 5.5 We cannot under any circumstances be held responsible for creating any tax liability.
- 5.6 You acknowledge receipt of and confirm your understanding of the brochure and the risk factors set out in it.
- 5.7 You acknowledge that we have not provided you with advice about the suitability of this product for your requirements.
- 5.8 You warrant that you have legal power and authority to enter into and be bound by the agreement and that all information you have provided to us is true, accurate and complete in all material respects and that you have not omitted any information which may be material in respect of your Unicorn AIM IHT & ISA Portfolio Service. We will have no responsibility or liability to you if the information is untrue, inaccurate, or incomplete in any material way, except in the case of our own negligence, wilful default or fraud. You agree to notify us in writing as soon as reasonably practicable if any information you have provided needs to be updated or is no longer correct.
- 5.9 The investment objectives and restrictions applicable to the Unicorn AIM Inheritance Tax & ISA Portfolio Service, as set out in the brochure, will not be treated as breached as a result of events or circumstances beyond our reasonable control.
- 5.10 You should be aware that the investments in your portfolio are unlikely to be readily realisable, which means that it may be difficult, or in some cases impossible, to sell them.
- 5.11 You will be able to access your portfolio at any time through the James Brearley platform. This will be password protected and will provide information on the valuation of your portfolio, transactions and fees taken. This facility will be available to you when your portfolio has been set up on the platform.
- 5.12 We will also send you, on a quarterly basis, a valuation of your portfolio, a list of all transactions during the period, including fees deducted and a summary of how your portfolio has performed. This will be sent by email or to your IFA to forward to you if you do not provide an email.

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## **6. Variation & Assignment**

- 6.1 We may at any time change these terms by giving you written notice.
- 6.2 You will be given at least 30 days' notice in respect of any changes to these terms, unless the specific circumstances require a shorter or longer period, including where required to do so under the applicable rules.
- 6.3 We may assign this agreement to any appropriately authorised and regulated person, such assignment being effective upon written notice to you.
- 6.4 The agreement is personal to you and you may not assign it.

## 7. Termination

- 7.1 Should we decide to terminate these terms, we will do so by giving you not less than 30 days' prior notice.
- 7.2 Where required to do so by the relevant rules or where it becomes impossible, impractical or unreasonable for us to continue to manage your portfolio, we may terminate these terms immediately, in which case you will be notified in writing. In such circumstances, we will make arrangements to either transfer the assets in your portfolio to you, or appoint another investment manager in our place.
- 7.3 We will terminate your portfolio after two months if it is inactive, where there is a nil balance in the portfolio.
- 7.4 If you wish to terminate your Unicorn AIM IHT & ISA Portfolio you should notify us in writing and your portfolio will be terminated as soon as practically possible. Any transactions already initiated before we receive your instructions will be completed.
- 7.5 We cannot arrange the transfer of the assets within your portfolio with our custodian, until all amounts due to us have been paid, and you have given us written instructions confirming what you would like us to do with your portfolio investments and cash. If qualifying investments are sold, you will lose any potential entitlement to the business property relief.
- 7.6 The agreement, including the payment of all fees by the portfolio, will continue to apply until all outstanding transactions and liabilities have been completed and discharged. Where we are required to sell investments held in your portfolio, this may take place over an extended period of time as there may be limited liquidity in respect of the investments in your portfolio. If we are required to liquidate your portfolio, we cannot guarantee that we will be in a position to obtain the best result for you in accordance with our order execution policy.
- 7.7 After all outstanding transactions have been completed, you will be provided with a closing valuation of your portfolio. Our responsibility for managing your portfolio will then cease entirely. Your investments will continue to be safeguarded by our custodian, in line with their Investor Terms, clause 51 outlining the termination arrangements.
- 7.8 On termination, you will be liable to pay:
- All fees and charges accrued daily up until the date of termination.
  - Any additional expenses necessarily incurred by us in liquidating your portfolio, closing out any transactions, or settling or concluding outstanding obligations incurred by us on your behalf.
  - Our charges in connection with transferring or registering your portfolio into your name as you may direct.
- 7.9 Termination will not affect accrued rights, or any contractual provision intended to survive termination.
- 7.10 You are entitled to withdraw the assets and/or cash from your Unicorn AIM Inheritance Tax & ISA Portfolio Service at any time by instructing us in writing at Customer Service Centre, Unicorn AIM IHT & ISA Portfolio Service, 8 Thorpe Road, Norwich, NR1 1RY.
- 7.11 If rather than having your assets transferred to you, you would prefer that we sell your investments on your behalf (assuming your investments can be sold) and transfer the sales proceeds to you then you must provide written instructions to that effect to the above address.

- 7.12 Where you instruct us to sell assets, you should be aware that investments may not be readily marketable and the timing of any sale cannot be guaranteed. Ordinarily, investments within AIM companies are usually realised within ten working days, however, large transactions may take longer.
- 7.13 In the event that we are unable to sell your investments within six months of your transaction, they will be transferred to you.
- 7.14 Where you elect to withdraw or transfer investments, third party administration costs and/or custody fees may apply. If you fully withdraw funds from any of your portfolios we may deduct our annual management charge and any accrued adviser charges prior to the closing of the portfolio.
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## **8. The Commencement of Your Unicorn AIM IHT & ISA Portfolio**

- 8.1 We will commence investing your Unicorn AIM IHT & ISA Portfolio when we have received and confirmed acceptance of your completed application form, have successfully undertaken the customer due diligence checks required by the applicable rules and James Brearley & Sons Limited has received your cleared funds.
- 8.2 We reserve the right not to accept your application where doing so may lead to a breach of the applicable rules.
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## **9. Communications**

- 9.1 All of our communications with you and any documentation and information that we provide to you will be in English.
- 9.2 Any instruction in respect of changes to the important information which we hold about you must be given to us in writing at Customer Service Centre, Unicorn AIM IHT & ISA Portfolio Service, 8 Thorpe Road, Norwich, NR1 1RY. This information includes: your address details, your bank details, and any instructions to withdraw money or investments from your portfolio.
- 9.3 You can give us instructions in relation to the provision of our services either in writing or by telephone. Any telephone calls may be recorded and we reserve the right to only act upon such instructions at our discretion, where we believe that the instruction is genuine.
- 9.4 We will rely upon the information that you provide, unless we become aware that the information is inaccurate, incomplete or out of date, which includes the information provided in your application form.
- 9.5 We may not be able to provide services to you if you do not provide us with the information requested in the application form, or any additional information which we request.
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## **10. Trusts & Trustees**

- 10.1 If you are a trustee of a trust, any reference in these terms to you as a client shall be construed, where appropriate, to any one or more of you.
- 10.2 We will hold all trustees jointly and severally liable under this agreement.

- 10.3 We shall be entitled to assume that if you are a trustee(s) of a trust, you have full power to deal in the assets of the portfolio being trust property and we shall not be liable to the beneficiaries of the trust for any action that we properly take on your behalf.
- 10.4 You must inform us promptly when a trustee dies or retires. In this event, the remaining trustees remain bound by these terms. You must also inform us promptly when a new trustee is appointed, and provide us with any documentation that we require to evidence such an appointment.
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## **11. Dealing**

- 11.1 When we execute orders on your behalf whilst carrying out the management of your Unicorn AIM IHT & ISA Portfolio Service, we take all reasonable steps to achieve "best execution". We maintain a best execution policy which is in accordance with our obligations under the FCA rules and which can be requested at any time. By accepting the agreement, you consent to our policy.
- 11.2 Execution of orders within your Unicorn AIM IHT & ISA Portfolio Service will be executed by James Brearley & Sons Limited, which maintains best execution policies in accordance with its obligations under the FCA rules and which can be requested at any time. By accepting the agreement, you consent to their policies.
- 11.3 We may aggregate the orders for your Unicorn AIM IHT & ISA Portfolio Service with those of other customers, associates or persons connected to us, but only in accordance with the applicable rules. It is likely that the effect of such an allocation will not work to your disadvantage. However, occasionally this may not be the case. We will allocate aggregated transactions promptly and on a fair basis, in accordance with our aggregation policy, a copy of which is available upon request.
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## **12. Death**

- 12.1 Your portfolio will be suspended from the date we receive notification of your death and subject to completion of any transactions already initiated.
- 12.2 Our discretionary management mandate will cease with immediate effect.
- 12.3 If your portfolio has been suspended in accordance with the above we will continue to deduct our annual management charge from your portfolio for administering your portfolio and dealing with any arrangements arising from your death, including closing your account with us.
- 12.4 No instructions will be accepted in respect of withdrawal of funds from the portfolio until title to it has been established at our discretion, at which point your personal representatives may instruct us to sell, transfer or otherwise dispose of your investments.
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### **13. Advisor Fees & Commission**

- 13.1 Your adviser's charges will, depending on the relationship with your adviser, take the form of a commission that is agreed between you and your adviser, and is paid directly from your portfolio, or a separate adviser charge, where a payment will be paid directly from your portfolio to your adviser on your behalf.
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### **14. Portfolio Charges**

- 14.1 The brochure clearly sets out all of the fees and charges that will apply to your portfolio.
- 14.2 A dealing fee is payable to WM Capital Management Ltd, full details of which are set out in the application form and/or brochure.
- 14.3 An annual management charge is payable to WM Capital Management Ltd, which is based on the value of your portfolio and is charged on a monthly pro rata basis.
- 14.4 An initial charge may also be applied to your Service, full details of which are set out in the application form and/or brochure.
- 14.5 You shall pay the fees and charges applicable to our services as set out in the application form and/or brochure. Fees and charges will be charges with appropriate taxes, e.g. VAT, applied.
- 14.6 The annual management charge will be deducted monthly from any cash in your portfolio. In circumstances where there are insufficient monies available to meet our annual management charge then we may at our discretion choose to either roll this up interest free to be deducted proportionally across the portfolio on a later occasion when sufficient monies may be available to cover such charges or liquidate a sufficient amount of assets proportionally across the portfolio in order to meet such charges.
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### **15. Adviser's Charges**

- 15.1 Your adviser will have informed you of the total charges that relate to the advice that they gave you to invest in your Service.
- 15.2 Any initial adviser charges will be deducted from the amount of cash that you subscribe before the balance is invested in your portfolio. The amount deducted will be agreed between you and your adviser.
- 15.3 If you have agreed to pay your adviser on an ongoing basis, these charges will be deducted monthly from any cash in your portfolio and these charges will continue to be paid until you give further instructions or until the value of your portfolio is nil.
- 15.4 You may withdraw your consent to the payment of your adviser's charges at any time in writing. The charges will cease as soon as we receive your instruction but they cannot backdate any instruction.
- 15.5 Your instruction will be valid only from the date of receipt and your adviser will be paid the charges that you authorised up until the date of the receipt of your instructions.

15.6 If you change your adviser and want to start paying charges to your new adviser, you should inform us in writing. As above, your instruction will be valid only from the date of receipt and your adviser will be paid the charges that you authorised up until the date of the receipt of your instructions. Your new adviser's charges will start accruing from the date your instruction is received.

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## **16. Your Status**

- 16.1 In accordance with the Financial Conduct Authority (FCA) rules, we have categorised you as a retail client, thus affording you the highest level of protection under the financial services' regulatory regime in the UK.
- 16.2 You have the right to request a different categorisation and although we will consider your request, we are not obligated to accept it. If we do accept your request, you will lose the protection afforded to you as a retail client.
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## **17. WM Capital Management**

- 17.1 WM Capital Management is incorporated in England and Wales, company number 07042526. Our registered office address is at 80 Coleman Street, London EC2R 5BJ.
- 17.2 WM Capital Management is authorised and regulated in the UK by the Financial Conduct Authority under Firm Reference Number 601025. Details of our registration can be found on the FCA's website at [fca.org.uk](http://fca.org.uk). The FCA's current address is 12 Endeavour Square, London E20 1JN.
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## **18. Conflicts of Interest**

- 18.1 We have a Conflicts of Interest Policy that sets out the types of actual or potential conflicts of interest which affect our business and how these are managed.
- 18.2 A summary of our conflict of interest policy is available on our website at [www.wmcapitalmanagement.com/disclosures/](http://www.wmcapitalmanagement.com/disclosures/). A full copy of our policy is available on request.
- 18.3 You agree that we or any associate may effect transactions in which we or an associate has directly or indirectly a material interest or a relationship with another party which involves or may involve a potential conflict with our duty to you.
- 18.4 We shall ensure that such transactions are effected on terms that are not less than favourable to you than if the conflict or potential conflict of interest had not existed. Subject to the terms of our policy and subject to any contrary obligation under the FCA rules, neither we nor any of our associates shall be required to account to you for any profit, commission or remuneration made or received from, or by reason of, such transactions.
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## 19. WM Capital Management's Data Protection & Privacy Policy

- 19.1 WM Capital Management Limited may collect, use and store personal information about you and about your relationship with us and our associates. When we do so we are required to comply with General Data Protection Regulation (GDPR) and we assume the role of Data Controller, meaning that we determine the purposes and means of processing your personal data.
- 19.2 WM Capital Management Limited may share your personal data with James Brearley. Clause 44 of their Investor Terms document outlines how they will handle such information, their Privacy Policy providing more details, which is available at <http://jbrearley.co.uk/Privacy%20Policy.pdf>
- 19.3 In the course of providing services to you, we may collect, use and store the following personal data:
- Your contact information.
  - Identity information.
  - Financial information.
  - Employment details.
  - Information about your lifestyle.
  - Health information.
  - Details of any vulnerability.
  - Details of your dependents and/or beneficiaries under a policy.
  - Information about any existing products and policies.
- 19.4 There are certain types of personal data which are considered more sensitive and, therefore, are subject to additional levels of protection under the GDPR. These are known as "special categories of data" and include data concerning your health, racial or ethnic origin, genetic data and sexual orientation. We must have your explicit consent before we can process this type of data.
- 19.5 We may use the information we collect about you for the following purposes:
- Processing your application.
  - Verifying your identity.
  - Meeting our obligations under any applicable rules.
  - Providing the services to you under the agreement.
  - Administering your account and for customer service.
  - Product analysis and market research purposes.
  - To maintain records of any services or advice provided to you by us in order to defend legal claims or complaints.
- 19.6 The lawful bases upon which we collect, use and store your personal data are as follows:
- Performance of a contract; your explicit consent will be required in respect of special category data.
  - Legitimate interests.
- 19.7 We may keep copies of any correspondence you send to us and copies of any documents you provide to us, including those which are used to verify your identity, such as your passport.
- 19.8 We only retain your personal data for so long as it is necessary to fulfill the purpose for which it was collected. We regularly review our retention policy in order to ensure that we do not keep personal data for any longer than necessary or we are legally required to.

19.9 We may share your information with our associates if they provide products or services to you, and in such instances will have a Data Transfer Agreement in place. We may also share your personal data with credit reference agencies and UK and overseas law enforcement agencies or regulatory authorities.

19.10 The information that we hold about you is confidential and will not be used for any purpose other than in connection with the provision of services to you, unless it is information that is already publicly available.

19.11 Under the General Data Protection Regulation, you have legal rights in respect of your personal data, which fall into the following categories:

- To access personal data.
- To correct/erase personal data.
- To restrict how we use personal data.
- To object to how we use personal data.
- To ask us to transfer personal data to another organisation.
- To find out more about how we use personal data.

19.12 Under the right to access, you have the right to obtain the following from us:

- Confirmation that we are processing your personal data.
- A copy of your personal data.

We will not charge a fee to comply with your request, unless we believe it is manifestly unfounded or excessive; in this instance we reserve the right to charge a reasonable fee for the administrative costs of complying with the request. We also reserve the right to charge a reasonable fee if you request further copies of your data following the initial request.

In order to comply with the GDPR, we will act on any access requests without undue delay and at the latest, within one month of receipt. We will calculate the time limit from the day after you receive the request (whether the day is a working day or not) until the corresponding calendar date in the following month. We may need to extend the time it takes to respond to your request by a further two months if your request is complex or if you have made a number of requests. If this is the case, we will let you know within one month of receiving your request and explain why the extension is necessary.

19.13 WM Capital Management Ltd is registered with the Information Commissioners Office for the protection and security of personal data.

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## 20. Our Liability

- 20.1 Nothing in these terms or the agreement is deemed to limit any liability we may owe you under the applicable rules.
- 20.2 We will act in good faith and with due diligence in managing your portfolio in accordance with the agreement. We accept responsibility for loss to you only to the extent that such loss is due to our negligence, wilful default or fraud.
- 20.3 We will not be liable for any loss in value which your portfolio suffers, or for our failure to perform investment transactions for the account of your portfolio, in the event of any failure, interruption or delay in the performance of our obligations resulting from acts, events or circumstances that are not reasonably within our control. Acts, events or circumstances that are not reasonably within our control may, for instance, include:
- The acts or regulations of any governmental, supranational body or authority.
  - Breakdown, failure or malfunction of any telecommunication or computer service or services.
  - Disruptions to stock markets.
  - Force majeure events, terrorism or war.
- 20.4 We accept no responsibility for any loss of tax benefits that you may suffer as a result of any transactions that we carry out for your portfolio. Moreover, we shall not be liable for any loss or damage of any direct or indirect or consequential nature caused by the retraction of HMRC of its approval of any ISA or any changes in law.
- 20.5 Where we are liable to you under this agreement, subject to the provisions above, our liability shall be limited to the replacement of the assets or cash held in your portfolio (including interest) lost or foregone as an immediate result of our action or failure to act.
- 20.6 We will not be liable for any consequential, indirect, special, incidental, punitive or exemplary loss, liability or cost which you may suffer or incur arising out of our acts or omissions however that loss, liability or cost is caused and regardless of whether it was foreseeable or not. This means that we will not be liable for any losses that are indirectly associated with the specific incident which has caused you to claim.
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## 21. Complaints

- 21.1 If you have a complaint you can contact the compliance officer by phone on 0207 6535806, at 8 Thorpe Road, Norwich, NR1 1RY by email at [simon@wmcapitalmanagement.co.uk](mailto:simon@wmcapitalmanagement.co.uk) or in writing to the Compliance Officer. You can request a copy of our Complaints Procedure at any time.
- 21.2 If we are unable to resolve a complaint, it may be referred to the Financial Ombudsman Services (FOS), which is an independent body set up to settle disputes between customers and financial services providers. The FOS can be contacted at Exchange Tower, London, E14 9SR. Further information can be found at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk).
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## 22. The Financial Services Compensation Scheme

- 22.1 We participate in the Financial Services Compensation Scheme (FSCS). As a retail client you may be eligible to claim compensation from the FSCS in certain circumstances if we, any approved bank, our nominee company, or eligible Administrator and custodian are in default. Not every investor is eligible to claim under the FSCS. Most types of investment business are covered in full for the first £85,000 of any eligible claim. Further information can be found at [fscs.org.uk](http://fscs.org.uk).
- 22.2 We may send any communications to you at the address which you provide in the application form. You may communicate with us at Customer Service Centre, Unicorn AIM IHT & ISA Portfolio Service, 8 Thorpe Road, Norwich, NR1 1RY.
- 22.3 Notice sent by first class post is deemed to have arrived on the second business day after posting. Notice sent by fax or email or hand delivered is deemed to be delivered immediately, or on the next business day if sent after 5 pm on a business day or on a day which is not a business day.
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## 23. Interpreting these Terms

- 23.1 This agreement is based upon our understanding of current law and the applicable rules. It is governed by and is construed to be in accordance with English law. The English Courts have nonexclusive jurisdiction in respect of any claim between you and us.
- 23.2 Nothing in this agreement shall exclude or restrict any obligation which we may have to you under the applicable rules.
- 23.3 Neither party intends any provision of this agreement to be enforceable by any other person than themselves or their permitted successors or assigns, unless provided expressly to the contrary under the agreement. Save as otherwise provided under this clause, a person who is not a party to the agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- 23.4 If any part of the wording of these terms will become or is declared to be illegal, invalid or unenforceable for any reason, such part or wording will be deleted and will be divisible from the rest of these terms, which will continue in force. Our failure to exercise or delay in exercising a right or remedy provided by these terms or by law does not constitute a waiver of other rights or remedies.
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