

## ELWELL WATCHORN & SAXTON LLP

### PRIVACY NOTICE - DIRECTORS, SHAREHOLDERS, PARTNERS AND OWNERS

This document sets out in detail the policy of Elwell Watchorn & Saxton LLP (“the Company”) on the protection of information relating to directors, shareholders, partners and owners of the businesses with which it deals (“Corporate Clients”). Protecting the confidentiality and integrity of personal data is a critical responsibility that the Company takes seriously at all times. The Company will ensure that data is always processed fairly, in accordance with the provisions of relevant data protection legislation, including the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

#### KEY DEFINITIONS

##### Data processing

Data processing is any activity that involves the use of personal data. It includes obtaining, recording or holding information, or carrying out any operation or set of operations, including organising, amending, retrieving, using, disclosing, erasing or destroying it. Processing also includes transmitting or transferring personal data to third parties.

##### Personal data

Personal data is any information by which a living person to whom the data relates can be identified. Personal data can be factual (for example, a name, email address, location or date of birth) or an opinion about that person’s actions or behaviour, such as a disciplinary record. There are also “special categories” of more sensitive personal data which require a higher level of protection.

***The Company necessarily collects personal data about its Corporate Clients and this Privacy Notice explains how we treat that personal data and your rights in relation to it.***

#### PRIVACY NOTICE

This document is the Company’s Directors, Shareholders, Partners and Owners Privacy Notice, it explains your rights in detail. This notice, together with the information contained in the Data Processing Register sets out the information the Company holds about Corporate Clients, the purpose for which this data is held and the lawful basis on which it is held. The Company may process personal information without the client’s knowledge or consent, in compliance with this policy, where this is required or permitted by law.

The Directors, Shareholders, Partners and Owners Privacy Notice will be made available by way of a link contained within our first communication with the Corporate Client. The Data Processing Register is available on request. If the purpose for processing any piece of data about the Corporate Client should change, the company will update the Directors, Shareholders, Partners and Owners Privacy Notice and the Data Processing Register with the new purpose(s) and the lawful basis for processing the data and will notify the Client by email.

#### FAIR PROCESSING PRINCIPLES

In processing Corporate Clients’ personal data, the following principles will be adhered to. Personal data will be:

- Used lawfully, fairly and in a transparent way;
- Collected only for valid purposes that are clearly explained and not used in any way that is incompatible with those purposes;
- Relevant to specific purposes and limited only to those purposes;
- Accurate and kept up to date;
- Kept only as long as necessary for the specified purposes; and
- Kept securely.

#### COLLECTION AND RETENTION OF DATA

##### How is your personal information collected?

The Company will collect personal information about Corporate Clients through the advice process, directly from Corporate Client themselves, and also through accessing publicly available information, such as that held at Companies House. We will be the Data Controller of the information that we collect in this way and are responsible for its security and privacy.

Where we are asked to provide restructuring or cessation advice to a Corporate Client, we will necessarily take steps to identify the owners and controllers of the business concerned, in accordance with the Anti Money Laundering legislation. This process may take place without the knowledge or

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consent of those persons, where the instructions are received from those with management responsibility for the business's operations (typically the directors of the business that approach us for the initial advice).

We currently employ the services of Creditsafe Business Solutions Limited, a credit reference agency, to assist us with performing identification checks on our clients for the purposes of compliance with the Money Laundering Regulations. Any personal information received from Creditsafe Business Solutions Limited will be processed only to confirm your ID to us for the purposes of preventing money laundering or terrorist financing. You can access Creditsafe Business Solutions Limited's privacy policy at <https://www.creditsafe.com/gb/en/legal/privacy-policy.html> where you will find more information regarding Creditsafe Business Solutions Limited's data processing activities.

When appointed as an insolvency Office Holder in respect of a business, the Office Holder will also have access to the information contained in the books and records of that business, though in respect of this information, the Office Holder will not generally be a Data Controller of it, but will be acting as agent on behalf of the business. We may however be subject to a duty of confidentiality in respect of this information (see our Confidentiality and Data Security Policy).

Additionally, in a formal insolvency process, information may be provided to us by the Official Receiver (in England, Wales and Northern Ireland) and in all cases (both solvent and insolvent) information may also be received from the creditors, debtors and employees of the business, and/or other stakeholders in the process that make such information available to us in the course of administering the affairs of the business.

From time to time, the Company may collect additional personal information in the course of its investigations into a business's affairs. These investigations may involve contacting third parties that are known or suspected to have had business or financial dealings with the Corporate Client or the business, where we consider that the information they may provide could assist us to properly administer the affairs of the business.

### **What information is collected about you?**

We may collect, store, and use the following categories of personal information about you:

- Personal contact details such as name, title, addresses, telephone numbers, and personal email addresses;
- Date of birth;
- Gender;
- Marital status, co-habitees/co-occupants and dependents;
- National Insurance number;
- Occupation and function within the insolvent business;
- Bank account details, payroll records and tax status information;
- Location of employment or workplace;
- Salary/wage details;
- Pension arrangements and benefits;
- Details of any vehicle provided to you by the business;
- Details of any other valuable property (assets) that you have acquired from the business;
- Amounts of any bonuses, dividends or other financial benefits received by you from the business;
- Photo ID produced to confirm your identity;
- Details of any personal guarantees or indemnities you may have given in respect of the business's liabilities
- Any explanation you provide of the reasons for your business's insolvency;
- Details of any proposed role or function you may undertake in respect of a successor business (where appropriate);

In limited circumstances, we may also collect, store and use the following "special categories" of more sensitive personal information:

- Information about your race or ethnicity, religious beliefs, sexual orientation and political opinions (where you volunteer this information, though we will not ask you for it);
- Trade union membership (where you volunteer this information, though we will not ask you for it);

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- Information about your health, including any medical condition, health and sickness records, particularly as it may impact on the manner in which we administer the affairs of the business (in accordance with our Vulnerable Clients Policy);
- Information about criminal convictions and offences where these may be relevant to our investigations into the assets or liabilities of the Corporate Client or the circumstances leading up to its insolvency (where applicable);

### How is information about you used?

Personal information will only be processed when there is a lawful basis for doing so. Most commonly, the Company will use personal information in the following circumstances:

- to provide you with advice about possible restructuring solutions or cessations options for the business;
- to fulfil the legal obligations placed upon an insolvency Office Holder in administering the affairs of the business;
- in connection with legal proceedings (either the insolvency proceeding themselves, such as Liquidation (solvent or insolvent), Administration or Company Voluntary Arrangement, or proceedings related to a formal insolvency, such as the recovery of an asset from a third party);

The Company may also use personal information in the following situations, which are likely to be less common:

- when it is necessary to protect your interests, if you are identified as being subject to a vulnerability (in accordance with our Vulnerable Clients Policy);
- when it is necessary to protect someone else's interests (for instance, if you have or have been alleged to have acted in a violent or abusive manner toward our staff); or
- when it is necessary in the public interest or for official purposes as an Insolvency Office Holder (such as in connection with any corporate governance offences that have or are alleged to have been committed).

A list of each category of personal data we hold, and the lawful basis we believe the Company to have for processing it, may be found in the Data Processing Register.

The situations in which we envisage using your personal information are as follows:

- To formulate any recommendations we may provide about the restructuring solutions or cessation options which may be available to your business;
- Making a decision about the amount you may owe to or be owed by the business;
- Making a decision about what assets you may be required to return to the business;
- Selling or otherwise disposing of the assets of the business;
- When reporting periodically to the people the business owes money to;
- Liaising with any persons that have or may have had dealings with you which are relevant to the administration of the affairs of the business;
- Gathering evidence for possible legal proceedings;
- Reporting upon your conduct in relation to the insolvent business, as required by the Company Directors Disqualification Act 1986 (where appropriate);
- To prevent fraud, money laundering or terrorist financing;
- Any other purpose as may be required by relevant legislation in connection with formal insolvency proceedings or the administration of your business's affairs.

### If you fail to provide personal information

If you fail to provide certain information when requested, we may take steps to compel you to provide it in Court and/or to acquire the information we need to properly administer the affairs of an insolvent business from third parties.

### Change of purpose

Information provided by you or collected from third parties will only be used for the reason which we collected it, unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose.

Please note that we may process your personal information without your knowledge or consent, in compliance with the above rules, where this is required or permitted by law.

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### **Special categories (sensitive) personal data**

Some categories of personal data are considered by law to be particularly sensitive and are therefore classed as “special categories” of personal data. These relate to a person’s racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership, physical or mental health conditions, sexual life, sexual orientation, biometric or genetic data. This type of data is afforded additional protection.

What constitutes special categories of data and how it is processed and protected is explained in greater detail in our Special Category Data Policy and Vulnerable Clients Policy.

There are a number of situations where we might possess special categories of data about you:

- When advising you about the suitability of a possible restructuring solutions or cessation options, you will be invited to provide us with any special category information that you would like to be taken into account by us in providing you with our advice. In particular, you may wish to provide us with information about any health, social or other personal issue that has had an impact upon your ability to continue to manage a business or to repay money that you owe to an insolvent business, or under a guarantee or indemnity in respect of that business’s debts. Such information is provided voluntarily by you and with your explicit consent. This information is only disclosed to third parties with your express permission and your consent to our holding or using this information can be withdrawn at any time.
- When you want the people that the insolvent business owes money to, to take your personal circumstances into account when deciding upon a restructuring proposal you wish to put to them, you may be asked if you would like to consent to the disclosure of special category information to them. In these circumstances, your express permission to making this disclosure may be sought, which you may wish to refuse.
- When we are administering the affairs of an business (in Liquidation (solvent or insolvent) , Administration, Administrative Receivership, Receivership or Company Voluntary Arrangement), we may need to assess whether you are subject to a particular circumstance, vulnerability (including a lack of mental capacity) or any other special factor which should be taken into account by us when making decisions about how we administer the affairs of the business. This information may have been provided by you directly, or may have been brought to our attention by a third party (such as the Official Receiver, a relative or family member, or someone the business owes money to). Depending upon the nature of the information we receive, we may not need your consent to have or use this information, where it is relevant to the performance of our functions as an insolvency Office Holder.
- We may possess special category information where it is needed in relation to legal claims or proceedings relating to the affairs of the business. Depending upon the nature of the information we receive, we may not need your consent to have this information.
- When such information is needed in the public interest, such as where you lack the mental capacity to deal with the affairs of the business or where a lasting power of attorney has been provided to another person in respect of your affairs, we do not require your consent to have this information;

### **Information about criminal convictions**

The Company envisages that it may hold information about criminal convictions where these are relevant to the causes of failure of the insolvent business or the performance of the functions of an insolvency Office Holder. If it becomes necessary to do so, the Company will only use this information where it has a legal basis for processing the information. This will usually be where such processing is necessary to carry out the role and function of an insolvency Office Holder.

The Company may also use information relating to criminal convictions where:

- it is necessary in relation to legal claims;
- it is necessary to protect your vital interests (or someone else’s vital interests) and you are not capable of giving consent;
- Where it is relevant to the statutory reporting obligations of an insolvency Office Holder;

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- you have already made the information public or the information is otherwise in the public domain.

The Company will only collect information about criminal convictions if it is appropriate given the nature of the role of a restructuring advisor or insolvency Office Holders. Relevant convictions would typically be those relating to theft, fraud or dishonesty, money laundering or terrorist financing.

### **How long is information about you kept?**

The Company will only retain Client's personal information for as long as necessary to fulfil the purposes it was collected it for, including for the purposes of satisfying any legal, regulatory, accounting, or reporting requirements. Details of retention periods for different aspects of personal information are set out in the Data Processing Register and Data Retention and Destruction Policy.

In most insolvency matters, there is a statutory retention period of 6 years from the conclusion of the administration.

When determining the appropriate retention period for personal data that is not fixed by statute, the Company will consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of personal data, the purposes for which the personal data is processed, whether the Company can achieve those purposes through other means, and the applicable legal requirements.

### **Consent to data processing**

The Company requires your consent to process your data when you approach us for advice about restructuring solutions or cessation options. In all other circumstances, the Company does not require consent to process most types of personal data, as there will either be a contractual requirement upon us (once you have appointed us to advise you) or where we are administering an appointment under the Insolvency Act 1986, we will be performing the statutory function of an insolvency Office Holder.

The Company will not usually need consent to use special categories of personal data or information about criminal convictions in order to carry out legal obligations or exercise specific rights in the field of insolvency administration.

In limited circumstances, for example where you are asking the people an insolvent business owes money to take your personal circumstances into account, you may be asked for written consent to process sensitive data. In those circumstances, you will be provided with full details of the information that is sought and the reason it is needed, so that you can carefully consider whether to consent. It is not a condition of us providing you with restructuring advice or insolvency services that you agree to any request for consent.

Where the Company has obtained consent to the collection, processing and transfer of personal information for a specific purpose, the data subject has the right to withdraw future consent for that specific processing at any time (although a consent to a prior disclosure cannot be withdrawn once the disclosure has been made). Once the Company has received notification of withdrawal of consent it will no longer process information for the purpose or purposes originally agreed to, unless it has another legitimate basis for doing so in law.

### **Automated decision making**

Automated decision-making takes place when an electronic system uses personal information to make a decision without human intervention. The Company does not envisage that any decisions will be taken by the Company about Corporate Clients using automated means, however they will be notified if this position changes.

## **DATA SECURITY AND SHARING**

### **Data security**

The Company has put in place appropriate security measures to prevent personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. Details of these measures are contained in our Confidentiality and Data Security Policy.

In summary, access to personal information is limited to those Staff Members, agents, contractors and other third parties who have a business need to know. They will only process personal information on the Company's instructions and are subject to a duty of confidentiality. The Company expects Staff

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Members handling personal data to take steps to safeguard personal data in line with this and the Confidentiality and Data Security Policy.

### Data sharing

The Company requires third parties to respect the security of personal data and to treat it in accordance with the law. Personal data about Corporate Clients will only be shared to the extent that it is lawful and necessary.

The Company may share Client's data with third-party service providers where it is necessary to administer a business's affairs, in connection with legal claims or where the Company has another legitimate interest in doing so (subject at all times to Client confidentiality).

The following activities are commonly carried out by third-party service providers:

- Legal advice
- Debt collection
- Valuation services
- Asset uplift and sale at public auction
- Securing trading premises
- Specialist industry support (e.g. veterinary services/quantity surveying services)

Occasionally, we may share your personal information with other third parties, for example in the context of the possible sale or restructuring of the business. We may also need to share your personal information with a regulator or to otherwise comply with the law.

### Transfer of data outside the EU

We do not anticipate the transfer of your data outside the EU. The Company holds personal data in its physical files and on its Microsoft Azure servers. You will be notified in the event the Company intends to transfer your data outside of the EU.

## CORPORATE CLIENT'S RIGHTS

### Accuracy of data

The Company will conduct regular reviews of the information held by it to ensure the relevancy of the information it holds. Corporate Clients should inform the Company of any changes to their current circumstances. Where a Corporate Client has concerns regarding the accuracy of personal data held by the Company, they should contact their Case Administrator to request an amendment to the data.

### Your rights

Under certain circumstances, Corporate Clients have the right to:

- **Request access** to personal information (commonly known as a "subject access request").
- **Request erasure** of personal information.
- **Object to processing** of personal information where the Company is relying on a legitimate interest (or those of a third party) to lawfully process it.
- **Request the restriction of processing** of personal information.
- **Request the transfer** of personal information to another party.

If a Corporate Client wishes to make a request on any of the above grounds, they should contact their Case Administrator, in writing (email is acceptable for this purpose). You will usually be entitled to know what personal information we hold about you.

Please note that, depending on the nature of the request, the Company may have good grounds for refusing to comply. If that is the case, you will be given an explanation by the Company.

- **Advice Clients:** If we have provided you with advice about restructuring options or cessation options, you will have a number of rights available to you, which may include access, restriction or transfer and to a lesser degree, erasure.
- **Insolvency Clients:** Where we are formally appointed to administer the affairs of a business (in Liquidation (solvent or insolvent), Administration, Administrative Receivership, Receivership or Company Voluntary Arrangement), there are certain periods that the law requires us to maintain information about the case (typically 6 years from the conclusion of the administration). Full details of relevant retention periods are listed in our Data

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Processing Register. Where we are formally appointed to administer the affairs of a business, we are unlikely to be able to agree to a request to erase, restrict or transfer your information, but will explain this to you in further detail should such a request be made.

- **Legal Claims:** Where legal claims are involved, we may not be able to provide you with access to all of the information we hold, as some of it will be subject to legal professional privilege.

### Accessing the information we hold

Corporate Clients will not normally have to pay a fee to access personal information (or to exercise any of the other rights). However, the Company may charge a reasonable fee if the request for access is clearly unfounded or excessive. Alternatively, the Company may refuse to comply with the request in such circumstances.

The Company may need to request specific information from the Corporate Client to help confirm their identity and ensure the right to access the information (or to exercise any of the other rights). This is another appropriate security measure to ensure that personal information is not disclosed to any person who has no right to receive it.

## COMPLIANCE WITH DATA PROTECTION

### The Company's responsibility for compliance

Given the size of the Company, it has not been deemed necessary to formally appoint a Data Protection Officer. Oversight of data privacy throughout the Company and its operations rests collectively with our Partners.

In appointments under the Insolvency Act 1986, ultimate responsibility rests with the named Licensed Insolvency Practitioner that has been appointed in respect of an entity's affairs. If you have any questions about this policy or how the Company handles personal information, they should contact the Case Administrator in the first instance. If you are dissatisfied with the response they receive (or no response is received), you should contact the Licensed Insolvency Practitioner appointed in respect of the case.

You have the right to make a complaint at any time to the Information Commissioner's Office (ICO), the UK supervisory authority for data protection issues.

### Data security breaches

The Company has put in place procedures to deal with any data security breach and will notify Corporate Clients and any applicable regulator of a suspected breach where legally required to do so. Details of these measures are contained in the Company's Data Breach Policy.

In certain circumstances, the Company will be required to notify regulators of a data security breach within 72 hours of the breach.

If you have any concerns about the security of the personal data we hold about you, or suspect that a data breach has occurred, you should contact your Case Administrator at first instance. If you are dissatisfied with the response you receive (or no response is received), Corporate Clients should contact the Licensed Insolvency Practitioner appointed in respect of the case.

### Privacy by design

The Company will have regard to the principles of this policy and relevant legislation when designing or implementing new systems or processes (known as "privacy by design"). The importance of data privacy has already been reflected and incorporated into all of our policies, processes and notices, including those in respect of:

- Confidentiality and Data Security Policy
- Data Breach Policy
- Data Retention and Destruction Policy
- Data Subject Access Policy
- Data Protection in Formal Appointments Policy
- Privacy Notices
- Special Category Data Policy
- Supplier Oversight Policy

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- Vulnerable Clients Policy

### **CHANGES TO THIS PRIVACY NOTICE**

The Company reserves the right to update this privacy notice at any time, and we will provide you with access to a new privacy notice when we make any substantial updates.