

accountancyEdge

Earn more. Keep more. Enjoy it more.

Standard terms of business

(Last revised 1 June 2016)

1. Applicable Law

This engagement letter, the schedule of services and our standard terms and conditions of business are governed by, and should be construed in accordance with English law. Each party agrees that the courts of England will have exclusive jurisdiction in relation to any claim, dispute or difference of opinion 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.

2. Client identification and Anti Money Laundering Legislation

All Accountancy Service Providers (which includes tax advisers, bookkeepers, payroll bureau) must comply with onerous duties imposed by the Terrorism Act 2000, the Proceeds of Crime Act 2002, the Fraud Act 2006 and the Money Laundering Regulations 2007 (the "Anti Money Laundering Legislation"), which are intended to inhibit the activities of terrorists and other criminals by denying them access to technical expertise. If we fail to perform these duties, we risk imprisonment.

Before we accept your instructions, we may need to obtain 'satisfactory evidence' to confirm your identity and we may use electronic verification for this purpose. We may also need to obtain such evidence after we have begun to act on your instructions. Although a record of our enquiry will be entered on your record it will not affect your credit history.

In certain circumstances, we may also need to obtain evidence confirming the identities of third parties, the source of any funds or other property, the purpose of any instructions or any other matter.

We assume that our clients are honest and law abiding. However, if at any time, there appear to be grounds to suspect (even if we do not actually suspect) that your instructions relate to 'criminal property' or indeed any fraudulent activity, we are obliged to make a report to the Serious Organised Crime Agency ("SOCA") but we are prohibited from telling you that we have done so.

In such circumstances, we must not act on your instructions without consent from the SOCA. If the SOCA do not refuse consent within 7 working days we may continue to act. If the SOCA issue a refusal within that time, we must not act for a further 31 days from the date of the refusal.

'Criminal property' is property in any legal form, whether money, real property, rights or any benefit derived from criminal activity. It does not matter who carried out the criminal activity or how removed the property is from the original crime. Even if you are honest in your dealings, if your property represents a benefit from someone else's crime, we must still make a report.

Activity is considered 'criminal' if it is a crime under UK law, no matter how trivial, and whether carried out in the UK or abroad. For example, tax evasion is a criminal offence but an honest mistake is not.

3. Client money

We may from time to time hold client money on your behalf. Such money will be held in trust in a client bank account, which is segregated from the firm's funds. An example of such funds would be tax repayments claimed on your behalf. In order to avoid excessive administration, interest will only be paid to you where the amount would be in excess of £25 calculated using Bank of England base rate.

4. Commissions and other benefits

In some circumstances we may receive commissions 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.

5. Complaints

We are committed to providing you with a high quality service that is both efficient and effective. However, should there be any cause for complaints in relation to any aspect of our service please contact James Hellyer. We agree to look into any complaint carefully and promptly and do everything reasonable to put it right. If you are still not satisfied you can refer your complaint to our professional body, the Institute of Chartered Accountants in England and Wales.

6. Confidentiality

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 regulatory review. We may utilise the services of various third parties to assist in the work undertaken and we may make available to them confidential client information as necessary. Third parties may include organisations based locally and/or overseas.

All or any specialist third parties involved in your affairs will be bound by our client confidentiality terms.

Unless you inform us otherwise we will presume the right, for the purpose of training or for other business purpose, to mention the fact that you are a client. As stated above we will not disclose any confidential information.

7. Conflicts of interest

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.

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.

8. Data Protection

We confirm that we will comply with the provisions of the Data Protection Act 1998 when processing personal data about you and your family. In order to carry out the services of this engagement and for related purposes such as updating and enhancing our client records, analysis for management purposes and statutory returns, legal and regulatory compliance and crime prevention we may obtain, process, use and disclose personal data about you.

9. Electronic communication and Online filing requirements

Unless you instruct us otherwise we may communicate with you and undertake online filing of documents with third parties on your behalf by electronic means. Recipients are responsible for virus checking and other safeguards applying to electronic storage of data.

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 electronic data. 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 to be borne 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.

For the avoidance of doubt we will take responsibility for the electronic tagging and filing (iXBRL) of financial statements and corporation tax returns, if applicable to your affairs.

10. Fees and payment terms

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.

If we provide you with an estimate of our fees for any specific work, then the estimate will be an approximation rather than a contractually binding amount.

If a Fixed Price Agreement is in place, the monthly retainer fee we charge is a non-refundable payment for the services we carried out in the previous month. It should not be viewed as an advance payment in either part or whole for future work we may have carried out had the engagement continued.

When the Fixed Price Agreement is terminated by either party, we will normally agree to bring your affairs up to a mutually convenient date and pass that information onto your next accountant if that is required. There may be an additional charge for completing that work.

In some cases, you may be entitled to assistance with your professional fees, particularly in relation to an investigation into your affairs by HM Revenue & Customs. Assistance may be provided through insurance policies you hold or via membership of a professional or trade body. Other than where such cover was arranged by or through ourselves you will need to advise us of any such insurance cover that you have. You will remain liable for our fees regardless of whether all or part are liable to be paid by your insurers.

Our invoices are due for payment upon presentation. 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.

We reserve the right to charge interest on late paid invoices at the rate of 2% per month. 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.

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.

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 giving us instructions on behalf of the client and you agree that we shall be entitled to enforce any sums due.

11. Implementation

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

12. Intellectual property rights

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.

13. Interpretation

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

14. Internal disputes within a client

If we become aware of a dispute between the parties 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. Unless otherwise agreed by all parties we will continue to supply information to the normal place of business for the attention of the directors or proprietors. If conflicting advice, information or instructions are received from different principals in the business we will refer the matter back to the board of directors or the partnership and take no further action until the board or partnership has agreed the action to be taken.

15. Investment advice

As an incidental part of our services, we may advise you on generic investment matters. We are not, however, authorised to undertake specific product advice which should more appropriately be carried out by a suitable Financial Adviser. Should you require any specific investment advice we will introduce you to an authorised professional third party (PTP). The PTP will take full responsibility for all aspects of compliance under any regulations required by the Financial Services and Markets Act 2000. We will act as introducers and are not authorised to offer alternative advice. As a result of our introducing you to a PTP we may receive commission. It is our policy as a firm to remit half of all such commission to you. We will charge only for work carried out assisting the adviser and yourself with tax or other factual information and support.

16. Lien

Insofar as we are permitted to 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.

17. Limitation of liability

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.

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.

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.

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

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.

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.

18. Limitation of Third Party rights

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. 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.

19. Period of engagement and termination

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

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 HM Revenue & Customs 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.

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.

20. Professional rules and statutory obligations

We are a member of the Institute of Chartered Accountants in England and Wales and in our conduct are subject to its Code of Ethics which can be found at www.icaew.com/regulations. This is available in English.

Where we become aware of errors made by HM Revenue & Customs, you give us authority to correct them. We will not be liable for any loss, damage or cost arising from our compliance with statutory or regulatory obligations.

Details of the firm's professional registrations can be found at www.accountancy-edge/icaew.

21. Retention of papers

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 if requested. Documents and records relevant to your tax affairs are required by law to be retained as follows:

Individuals, trustees and partnerships:

- with trading or rental income: 5 years and 10 months after the end of the tax year;
- otherwise: 22 months after the end of the tax year;

Companies:

- 6 years from the end of the accounting period.

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 7 years old. You must tell us if you require the return or retention of any specific documents for a longer period.

22. Tax Credits/Universal Credits

If we agree to advise you on tax credits/Universal Credits we will issue a separate letter or schedule to cover this area. These are, in effect, social security benefits. Your entitlement or otherwise will depend not only on your own circumstances but also those of your household and we would require all relevant information and accordingly are unable to advise appropriately in these matters.

23. Interpretation

If any provision of our engagement letter or these terms of business is held to be void, then that provision will be deemed not to form part of the contract. In the event of any conflict between these terms of business and the engagement letter or appendices, the relevant provision in the engagement letter or schedules will take precedence.

24. Professional Indemnity Insurance

In accordance with the disclosure requirements of the Provision of Services Regulations 2009, our professional indemnity insurer is Novae Underwriting Ltd, Syndicate 2007, 71 Fenchurch Street, London, EC3M 4HH. The territorial coverage is worldwide excluding professional business carried out from an office in the United States of America or Canada and excludes any action for a claim brought in any court in the United States of America or Canada.

If for any reason circumstances arise that may result in a claim to our professional indemnity insurers, you give us your permission to notify them.