

## Standard Terms of Business

The following standard terms of business apply to all engagements accepted by A C Mole. All work carried out is subject to these terms except where changes are expressly agreed in writing.

### 1 Professional obligations

- 1.1 As required by the Provision of Services Regulations 2009 (SI 2009/2999), details of the firm's professional registrations can be viewed at [www.auditregister.org.uk](http://www.auditregister.org.uk), under reference number C005392366.
- 1.2 We will observe and act in accordance with the bye-laws and regulations of the Institute of Chartered Accountants in England and Wales (ICAEW) together with their code of ethics which can be found at [www.icaew.com](http://www.icaew.com). We accept instructions to act for you on this basis. In particular you give us authority to correct errors made by HM Revenue & Customs where we become aware of them. We will not be liable for any loss, damage or cost arising from our compliance with statutory or regulatory obligations.

#### Professional Indemnity Insurance

- 1.3 In accordance with the disclosure requirements of the Provision of Services Regulations 2009, our professional indemnity insurer is Arch Insurance (UK) Limited, who can be located at Claims Department, 5<sup>th</sup> Floor, Plantation Place South, 60 Great Tower Street, London, EC3R 5AZ. 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.

### 2 Investment services

- 2.1 Since we are not authorised by the Financial Conduct Authority (FCA) then we may have to refer you to someone who is authorised if you need advice on investments. However, as we are licensed by the ICAEW, we may be able to provide certain investment services that are complementary to, or arise out of, the professional services we are providing to you.
- 2.2 In particular, we may:
  - advise you on investments generally, but not recommend a particular investment or type of investment;
  - refer you to a Permitted Third Party (PTP) (an independent firm authorised by the FCA), assist you and the PTP during the course of any advice given by that party and comment on, or explain, the advice received (but not make alternative recommendations). The PTP will issue you with their own terms and conditions letter, will be remunerated separately for their services and will take full responsibility for compliance with the requirements of the Financial Services and Markets Act 2000;
  - advise you in connection with the disposal of an investment, other than your rights in a pension policy or scheme;
  - advise and assist you in transactions concerning shares or other securities not quoted on a recognised exchange;
  - assist you in making arrangements for transactions in investments in certain circumstances; and
  - manage investments or act as trustee (or donee of a power of attorney) where decisions to invest are taken on the advice of an authorised person.
- 2.3 *(Corporate Clients Only)* We may also, on the understanding that the shares or other securities of the company are not publicly traded:
  - advise the company, existing or prospective shareholders in relation to exercising rights, taking benefits or share options, valuations, and methods of such valuations;
  - arrange any agreements in connection with the issue, sale or transfer of the company's shares or other securities;
  - arrange for the issue of the new shares; and
  - act as the addressee to receive confirmation of acceptance of offer documents etc.



- 2.4 The firm may receive commission from any introduction to a PTP in connection with the above, in which case you will be fully informed of the expected size and nature of such commission at the time of the introduction. Such commission will be held in our client account until we receive instructions from you as to how it should be treated. In the event of no such instructions being received, we may use such monies against any fees that have been outstanding for 30 days or more and concerning which you are not in dispute with us. We may also request that you allow us to retain such commissions to cover our costs in connection with the above, but permission will be sought separately from you in these circumstances.
- 2.5 In the unlikely event that we cannot meet our liabilities to you, you may be able to claim compensation under the Chartered Accountants' Compensation Scheme in respect of exempt regulated activities undertaken.
- 2.6 Where the firm is providing insurance mediation services (including fee protection), we are not authorised by the Financial Conduct Authority. However, we are included on the Register maintained by the Financial Conduct Authority so that we can carry on insurance mediation activity, which is broadly the advising on, selling, and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Institute of Chartered Accountants in England and Wales. The register can be accessed via the Financial Conduct Authority website at [www.fca.org.uk/register](http://www.fca.org.uk/register).

#### Financial promotions

- 2.7 To enable us to provide you with a proper service, there may be occasions when we will need to contact you without your express permission concerning investment business matters. For example, it may be in your interests to sell a particular investment and we would wish to inform you of this. We may therefore contact you in such circumstances but would only do so in our normal office hours. We shall of course comply with any restrictions you may wish to impose which you notify to us in writing.

### 3 Client monies

- 3.1 We may, from time to time, hold money on your behalf. Such money will be held in trust in a client bank account, which is segregated from the firm's funds. The account will be operated, and all funds dealt with, in accordance with the Clients' Money Regulations of the ICAEW.
- 3.2 In order to avoid an excessive amount of administration, interest will only be paid to you where the amount of interest that would be earned on the balances held on your behalf in any calendar year exceeds £50. Any such interest would be calculated using the prevailing rate applied by National Westminster Bank plc for small deposits subject to the minimum period of notice for withdrawals. Subject to any tax legislation, interest will be paid gross.
- 3.3 If the total sum of money held on your behalf exceeds £10,000 for a period of more than 30 days, or such sum is likely to be held for more than 30 days, then the money will be placed in a separate interest-bearing client bank account designated to you. All interest earned on such money will be paid to you. Subject to any tax legislation, interest will be paid gross.
- 3.4 We will return monies held on your behalf promptly as soon as there is no longer any reason to retain those funds. In the unlikely event of us holding any unclaimed monies we reserve the right to pay such monies to a registered charity in line with the guidelines set out in the Clients' Money Regulations referred to above. We will not do this unless we have been unable to contact you for at least five years and we have taken reasonable steps to trace you and return the monies.

## 4 Fees

- 4.1 Our fees are computed on the basis of time spent on your affairs by the principals and our staff, including subcontractors or consultants where necessary and on the levels of skill and responsibility involved. Disbursements represent travel, accommodation and other expenses incurred in dealing with your affairs.
- 4.2 If it is necessary to carry out work outside the responsibilities agreed with you for each service, we will advise you in advance. Any additional work will involve additional fees. Accordingly, we would like to point out that it is in your interests to ensure that your records etc are completed to the agreed stage.
- 4.3 Where you arrange to pay a proportion of your fee on a monthly standing order, these standing orders will be applied to fees arising from work agreed in any associated engagement letter for the current and ensuing years. This will be based on an assessment of the amount of work and time involved.
- 4.4 Our terms relating to payment of amounts invoiced (fees and disbursements) and not covered by standing orders are strictly 14 days net. If you do not accept that an invoiced fee is fair and reasonable you must notify us within 14 days of receipt, failing which you will be deemed to have accepted that payment is due.
- 4.5 We reserve the right to charge interest on overdue accounts at the current rate under the Late Payment of Commercial Debts (Interest) Act 1998. We also reserve the right to terminate our engagement and cease acting if payment of any fees billed is unduly delayed. The firm accepts settlement of fees by certain credit cards.
- 4.6 If a client company, trust or other entity is unable or unwilling to settle our fees, we reserve the right to seek payment from the individual (or parent company) giving us instructions on behalf of the client, and we shall be entitled to enforce any sums due against the group company or individual nominated to act for you.
- 4.7 Insofar as we are permitted to do so by law or by 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.
- 4.8 In the event that we cease to act in relation to your company's affairs you agree to meet all reasonable costs of providing information to the company's new advisors. In particular you agree to meet these costs where we are required by law to provide information to a successor firm.

## 5 Non-solicitation and liquidated damages

- 5.1 In this clause, the following definitions shall apply:-

'Relevant Period' means the term of our agreement with you;

'Remuneration' means the Restricted Person's annual compensation package including any and all salary, pay, wages, employer pension contributions, potential maximum bonus entitlement (whether contractual or discretionary) and any other financial and non-financial benefits;

'Restricted Period' means the term of our agreement with you and a further period of 6 months after its completion, expiry or termination; and

'Restricted Person' means any person employed or engaged by us at any time during the Relevant Period as an associate, senior manager, manager, or senior and who has or had material contact or dealings with you and any person employed or engaged by us at any time during the Relevant Period in relation to the provisions or receipt of our services.

- 5.2 In order to protect our legitimate business interests, during the Restricted Period you agree that you will not directly or indirectly, by or through any affiliates, agents or otherwise, or in conjunction with any affiliates, agents or otherwise, whether for your own benefit or for the benefit of any other person, company, limited liability partnership or corporate entity:

- (i) solicit, entice or induce, or endeavour to solicit, entice or induce, any Restricted Person with a view to employing or engaging the Restricted Person, or
- (ii) employ or engage, or offer to employ or engage a Restricted Person

- 5.3 In the event of a breach of clause 5.2 which results in a Restricted Person leaving us and being employed or engaged by you, or a company, limited liability partnership or corporate entity connected to you in any way:

- (i) you shall within 30 days of such employment or engagement being accepted by such person inform us of the Restricted Person's total annual Remuneration in connection with such employment or engagement and shall pay us by way of liquidated damages an amount equivalent to 40% of that total annual Remuneration of the Restricted Person, and;
- (ii) in the event that you have not so informed us within such 30 day period of the Restricted Person's new total annual Remuneration, you shall pay us liquidated damages that shall be calculated as 40% of an amount equal to the Restricted Person's final annual Remuneration as payable by us plus 20%.

- 5.4 The provisions in clause 5.3 shall be without prejudice to our ability to seek damages or claim injunctive relief.

## 6 Retention of papers

- 6.1 You have a legal responsibility to retain documents and records relevant to your financial affairs. During the course of our work we may collect information from you and others relevant to your tax and financial 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: five years and 10 months after the end of the tax year;
- otherwise 22 months after the end of the tax year.

*Companies, Limited Liability Partnerships, and other Corporate Entities:*

- six years from the end of the accounting period.

- 6.2 Although certain documents may legally belong to you, we may destroy correspondence and other papers that we store electronically or otherwise that are more than seven years old, except documents we think may be of continuing significance. You must notify us in writing if you wish us to keep any document for a longer period.

## 7 Conflicts of interest and independence

- 7.1 We reserve the right during our engagement with you to deliver services to other clients whose interests might compete with yours or are or may be adverse to yours, subject to clause 8 below. We confirm that we will notify you immediately should we become aware of any conflict of interest involving us and affecting you unless we are unable to do so because of our confidentiality obligations. We have safeguards that can be implemented to protect the interests of different clients if a conflict arises. 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.

- 7.2 During and after our engagement, you agree that we reserve the right to act for other clients whose interests are or may compete with or be adverse to yours, subject, of course, to our obligations of confidentiality and the safeguards set out in the paragraph on confidentiality below.

## 8 Confidentiality

- 8.1 We confirm that where you give us confidential information, we shall at all times keep it confidential, except as required by law or as provided for in regulatory, ethical or other professional statements relevant to our engagement.

- 8.2 You agree that, if we act for other clients who are or who become your competitors, to comply with our duty of confidentiality it will be sufficient for us to take such steps as we think appropriate to preserve the confidentiality of information given to us by you, both during and after this engagement. These may include taking the same or similar steps as we take in respect of the confidentiality of our own information.
- 8.3 In addition, if we act for other clients whose interests are or may be adverse to yours, we will manage the conflict by implementing additional safeguards to preserve confidentiality. Safeguards may include measures such as separate teams, physical separation of teams, and separate arrangements for storage of, and access to, information.
- 8.4 You agree that the effective implementation of such steps or safeguards as described above will provide adequate measures to avoid any real risk of confidentiality being impaired.
- 8.5 We may, on occasions, subcontract work on your affairs to other tax or accounting professionals. The subcontractors will be bound by our client confidentiality terms.
- 8.6 If we use external or cloud based systems, we will ensure confidentiality of your information is maintained.
- 8.7 We reserve the right, for the purpose of promotional activity, training or other business purposes, to mention that you are a client. As stated above, we will not disclose any confidential information.

## 9 Quality control

- 9.1 As part of our ongoing commitment to providing a high quality service, our files are periodically subject to an independent regulatory or quality review. Our reviewers are highly experienced and professional people and are, of course, bound by the same requirements of confidentiality as our principals and staff.

### **Dealing with HM Revenue & Customs**

- 9.2 When dealing with HM Revenue & Customs on your behalf we are required to be honest and to take reasonable care to ensure that your Returns are correct. To enable us to do this, you are required to be honest with us and to provide us with all necessary information in a timely manner. For more information about 'Your Charter' for your dealings with HM Revenue & Customs, see [www.hmrc.gov.uk/charter/index.htm](http://www.hmrc.gov.uk/charter/index.htm). To the best of our abilities, we will ensure that HM Revenue & Customs meet their side of the Charter in their dealings with you.

## 10 Help us to give you the right service

- 10.1 We are committed to providing you with a high quality service that is both efficient and effective. If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, please let us know, by telephoning your usual contact or Robert Zelazik or David Perry.
- 10.2 We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. If we do not answer your complaint to your satisfaction, you may of course take up matters with the ICAEW.
- 10.3 In order for us to provide you with a high quality service on an ongoing basis it is essential that you provide us with relevant records and information when requested, reply to correspondence in a timely manner and otherwise follow the terms of the agreement between us set out in this Standard Terms of Business and associated Engagement Schedules. We therefore reserve the right to cancel the engagement between us with immediate effect in the event of:
- your insolvency, bankruptcy or other arrangement being reached with creditors;
  - failure to pay our fees by the due dates;
  - either party being in breach of their obligations where this is not corrected within 30 days of being asked to do so.

## 11 Applicable law

- 11.1 This engagement letter is governed by, and construed in accordance with, English law. The Courts of England 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 it may have 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.
- 11.2 If any provision in this Standard Terms of Business or any associated Engagement Schedules, or its application, are found to be invalid, illegal or otherwise unenforceable in any respect, the validity, legality or enforceability of any other provisions shall not in any way be affected or impaired.

## 12 Changes in the law, in practice or in public policy

- 12.1 We will not accept responsibility if you act on advice previously given by us without first confirming with us that the advice is still valid in light of any change in the law, public policy or your circumstances.
- 12.2 We will accept no liability for losses arising from changes in the law or the interpretation thereof, practice, or public policy that are first published after the date on which the advice is given to the fullest extent permitted by applicable law.

## 13 Internet communication

- 13.1 Unless you instruct us otherwise we may, where appropriate, communicate with you and with third parties via email or by other electronic means. However, internet communications are capable of data corruption and therefore we do not accept any responsibility for changes made to such communications after their despatch. It may therefore be inappropriate to rely on advice contained in an e-mail without obtaining written confirmation of it. We do not accept responsibility for any errors or problems that may arise through the use of internet communication and all risks connected with sending commercially sensitive information relating to your business are borne by you. If you do not agree to accept this risk, you should notify us in writing that e-mail is not an acceptable means of communication. We will never change our bank details without confirming this to you by posted letter. Any emailed or telephoned communications appearing to be from us which are not confirmed by post are fake and we accept no liability for any loss caused to you through accepting such communications as genuine. Similarly, always give us by hand or by post (as well as by email) details of your bank account.
- 13.2 It is the responsibility of the recipient to carry out a virus check on any attachments received.

## 14 Data Protection (All processing except payroll)

- 14.1 In this clause 14, the following definitions shall apply:-

'Client personal data' means any personal data provided to us by your, or on your behalf, for the purpose of providing our services to you, pursuant to our engagement letter with you;

'Data protection legislation' means all applicable privacy and data protection legislation and regulations including PECR, the GDPR and any applicable national laws, regulations and secondary legislation in the UK relating to the processing of personal data and the privacy of electronic communications, as amended, replaced or updated from time to time;

'Controller', 'data subject', 'personal data' and 'process' shall have the meanings given to them in the data protection legislation;

'GDPR' means the General Data Protection Regulation ((EU) 2016/679); and

'PECR' means the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003).

14.2 We shall each be considered an independent data controller in relation to the client personal data. Each of us will comply with all requirements and obligations applicable to us under the data protection legislation in respect of the client personal data.

14.3 You shall only disclose client personal data to us where:

- (i) you have provided the necessary information to the relevant data subjects regarding its use (and you may use or refer to our privacy notice available at [www.acmole.co.uk/Privacy-Notice.aspx](http://www.acmole.co.uk/Privacy-Notice.aspx) for this purpose);
- (ii) you have a lawful basis upon which to do so, which, in the absence of any other lawful basis, shall be with the relevant data subject's consent; and
- (iii) you have complied with the necessary requirements under the data protection legislation to enable you to do so.

14.4 Should you require any further details regarding our treatment of personal data, please contact our head of privacy.

14.5 We shall only process the client personal data:

- (i) in order to provide our services to you and perform any other obligations in accordance with our engagement with you;
- (ii) in order to comply with our legal or regulatory obligations; and
- (iii) where it is necessary for the purposes of our legitimate interests and those interests are not overridden by the data subjects' own privacy rights. Our privacy notice (available at [www.acmole.co.uk/Privacy-Notice.aspx](http://www.acmole.co.uk/Privacy-Notice.aspx)) contains further details as to how we may process client personal data.

14.6 For the purpose of providing our services to you, pursuant to our engagement letter, we may disclose the client personal data to our regulatory bodies or other third parties (for example, our professional advisors or service providers). The third parties to whom we disclose such personal data may be located outside of the European Economic Area (EEA). We will only disclose client personal data to a third party (including a third party outside of the EEA) provided that the transfer is undertaken in compliance with the data protection legislation.

14.7 We shall maintain commercially reasonable and appropriate security measures, including administrative, physical and technical safeguards, to protect against unauthorised or unlawful processing of the client personal data and against accidental loss or destruction of, or damage to, the client personal data.

14.8 In respect of the client personal data, provided that we are legally permitted to do so, we shall promptly notify you in the event that:

- (a) we receive a request, complaint or any adverse correspondence from or on behalf of a relevant data subject, to exercise their data subject rights under the data protection legislation or in respect of our processing of their personal data;
- (b) we are served with an information, enforcement or assessment notice (or any similar notices), or receive any other material communication in respect of our processing of the client personal data from a supervisory authority as defined in the data protection legislation (for example in the UK, the Information Commissioner's Officer); or
- (c) we reasonably believe that there has been any incident which resulted in the accidental or unauthorised access to, or destruction, loss, unauthorised disclosure or alteration of, the client personal data.

14.9 Upon the reasonable request of the other, we shall each co-operate with the other and take such reasonable commercial steps or provide such information as is necessary to enable each of us to comply with the data protection legislation in respect of the services provided to you in accordance with our engagement letter with you in relation to those services.

## 15 **Data Protection – Payroll Services**

*Where we process payroll data on your behalf, we are acting as data processor on your behalf. If this is the case the following data protection clauses apply.*

15.1 *In this clause [15]:*

*'Client personal data' means any personal data provided to us by you, or on your behalf, for the purpose of providing our services to you, pursuant to our engagement letter with you;*

*'Data protection legislation' means all applicable privacy and data protection legislation and regulations including PECR, the GDPR and any applicable national laws, regulations and secondary legislation in the UK relating to the processing of personal data and the privacy of electronic communications, as amended, replaced or updated from time to time;*

*'Controller', 'data subject', 'personal data', 'personal data breach', 'processor', 'process' and 'supervisory authority' shall have the meanings given to them in the data protection legislation;*

*'GDPR' means the General Data Protection Regulation ((EU) 2016/679); and*

*'PECR' means the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003).*

15.2 *We shall both comply with all applicable requirements of the data protection legislation. This clause 14 is in addition to, and does not relieve, remove or replace, either of our obligations under the data protection legislation.*

15.3 *We both acknowledge that for the purposes of the data protection legislation, you are the data controller and we are the data processor. Schedule A sets out the scope, nature and purpose of processing by us, the duration of the processing and the types of personal data and categories of data subject.*

15.4 *In respect of the client personal data, unless otherwise required by applicable laws or other regulatory requirements, we shall:*

- a. *process the client personal data only in accordance with your lawful written instructions, in order to provide you with the services pursuant to our engagement with you and in accordance with applicable data protection legislation;*
- b. *disclose and transfer the client personal data to our regulatory bodies or other third parties (for example, our professional advisors or service providers) as and to the extent necessary in order to provide you with the services pursuant to our engagement with you in relation to those services;*
- c. *disclose the client personal data to courts, government agencies and other third parties as and to the extent required by law;*
- d. *maintain written records of our processing activities performed on your behalf, which shall include: (i) the categories of processing activities performed; (ii) details of any cross border data transfers outside of the European Economic Area (EEA); and (iii) a general description of security measures implemented in respect of the client personal data;*
- e. *maintain commercially reasonable and appropriate security measures, including administrative, physical and technical safeguards, to protect against unauthorised or unlawful processing of any client personal data and against accidental loss or destruction of, or damage to, such client personal data;*

- f. return or delete all the client personal data upon the termination of the engagement with you pursuant to which we agreed to provide the services;
- g. ensure that only those personnel who need to have access to the client personal data are granted access to it and that all of the personnel authorised to process the client personal data are bound by a duty of confidentiality;
- h. notify you if we appoint a sub-processor (but only if you have given us your prior written consent, such consent not to be reasonably withheld or delayed) and ensure any agreement entered into with the relevant sub-processor includes similar terms as the terms set out in this clause 14;
- i. where we transfer the client personal data to a country or territory outside the EEA to do so in accordance with data protection legislation;
- j. notify you promptly if:
  - i) we receive a request, complaint or any adverse correspondence from or on behalf of a relevant data subject, to exercise their data subject rights under the data protection legislation or in respect of the client personal data; or
  - ii) we are served with an information or assessment notice, or receive any other material communication in respect of our processing of the client personal data from a supervisory body (for example, the Information Commissioner's Office);
- k. notify you, without undue delay, in the event that we reasonably believe that there has been a personal data breach in respect of the client personal data;
- l. at your cost and upon receipt of your prior written notice, allow you, on an annual basis and/or in the event that we notify you of personal data breach in respect of the client personal data, reasonable access to the relevant records, files, computer or other communication systems, for the purposes of reviewing our compliance with the data protection laws.

15.5 Without prejudice to the generality of clause 15.2, you will ensure that you have all necessary appropriate consents and notices in place to enable the lawful transfer of the client personal data to us.

15.6 Should you require any further details regarding our treatment of personal data, please contact our head of privacy.

## 16 Limitation of third party rights

- 16.1 Persons who are not party to this agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 16.2 The advice we give you is for your sole use, is confidential to you and will not constitute advice for any third party to whom you may communicate it, unless we have expressly agreed in writing that a specified third party may rely on our work. We will accept no responsibility to third parties, including any group company to whom the engagement letter is not addressed, your spouse nor any family member of yours or your employer, for any aspect of our professional services or work that is made available to them.

## 17 Client identification

- 17.1 In common with other professional service firms, we are required by the proceeds of Crime Act 2002 and the Money Laundering Regulations 2017 to:-
  - maintain identification procedures for clients, beneficial owners of clients, and persons purporting to act on behalf of clients;
  - maintain records of identification evidence and the work undertaken for the client; and

- report, in accordance with the relevant legislation and regulations.

We have a statutory obligation under the above legislation to report to the National Crime Agency (NCA) any reasonable knowledge or suspicion of money laundering. Any such report must be made in the strictest confidence. In fulfilment of our legal obligations, neither the firm's principals nor may staff enter into any correspondence or discussions with you regarding such matters.

- 17.2 If we are not able to obtain satisfactory evidence of your identity and where applicable that of the beneficial owners, we will not be able to proceed with the engagement.

## 18 Foreign Account Tax Compliance Act (FATCA) and common reporting standards

- 18.1 Unless agreed specifically in a separate engagement letter, we are not responsible for your compliance with the International Tax Compliance (United States of America) Regulations 2013, produced as a result of FATCA. In particular, we are not responsible for the categorisation of any UK entity into either a Financial Institution (FI) or an active or passive Non-Financial Foreign Entity (NFFE) nor, if a Financial Institution, for its registration with the US Internal Revenue Service (IRS) and subsequent submission of the required annual returns to HM Revenue & Customs.
- 18.2 However, if requested to do so we can provide advice on the completion of the forms supplied by Financial Institutions under these Regulations, or under Common Reporting Standards, and used by them to determine the status of an entity. We can also provide advice on setting up the appropriate systems to identify and report on your clients or beneficiaries who are foreign citizens affected by FATCA or Common Reporting Standards.

## 19 General limitation of liability

- 19.1 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. However, to the fullest extent permitted by law, we will not be responsible for any losses, penalties, surcharges, interest or additional tax liabilities where you or others supply incorrect or incomplete information, or fail to supply any appropriate information or where you fail to act on our advice or respond promptly to communications from us or the tax authorities. Further, we will not be liable to you for any delay or failure to perform our obligations if the delay or failure is caused by circumstances outside our reasonable control. Subject to clause 17.5 below, our liability to you shall be limited as set out in our engagement or other client letter.
- 19.2 You will not hold us, our principals and staff, responsible, to the fullest extent permitted by law, for any loss suffered by you arising from any misrepresentation (intentional or unintentional) supplied to us orally or in writing. 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 advisors. However, 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.
- 19.3 You agree that you will not bring any claim in connection with services we provide to you against any of our partners or employees personally.
- 19.4 Our work is not, unless there is a legal or regulatory requirement, to be made available to third parties without our written permission and we will accept no responsibility to third parties for any aspect of our professional services or work that is made available to them. 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 and our legal fees on an indemnity basis.

19.5 Nothing in this agreement shall exclude or limit our liability for death or personal injury caused by negligence nor for fraudulent misrepresentation or other fraud which may not be as a matter of applicable law be excluded or limited.

## **20 Intellectual property rights and use of our name**

20.1 We will retain all intellectual property rights in any document prepared by us during the course of carrying out the engagement except where the law specifically states otherwise. You may only use such rights to the extent we agreed when engaged to provide services to you and may not resell or sub-licence such rights without our further prior consent.

20.2 You are not permitted to use our name in any statement or document that you may issue unless our prior written consent has been obtained. The only exception to this restriction would be statements or documents that in accordance with applicable law are to be made public.

## **21 Draft/interim work or oral advice**

21.1 In the course of our providing services to you we may provide advice or reports or other work products in draft or interim form, or orally. However, final written work products will always prevail over any draft, interim or oral statements. Where you request it, we will provide you with written confirmation of matters stated orally.

## **22 Interpretation**

22.1 If any provision of our Engagement Letter or Standard Terms of Business is held to be void for whatever reason, then that provision will be deemed not to form part of this contract, and no other provisions will be affected or impaired in any way. In the event of any conflict between these Standard Terms of Business and the Engagement Letter or Schedules, the relevant provision in the Engagement Letter or Schedules will take precedence.

## **23 Internal disputes within a client**

23.1 If we become aware of a dispute between the parties who own the business, or who are in some way involved in its ownership and management, it should be noted that our client is the business (unless we have agreed otherwise) 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 registered office/normal place of business for the attention of the directors/proprietors. If conflicting advice, information or instructions are received from different directors/principals in the business, we will refer the matter back to the board of directors/the partnership and take no further action until the board/partnership has agreed the action to be taken. In certain cases we reserve the right to cease acting for the business/client entirely.

## **24 Disengagement**

24.1 If we resign or are asked to resign, we will normally issue a disengagement letter to ensure that our respective responsibilities are clear.

## **25 Probate-type services**

25.1 We are not licenced or authorised for the reserved legal activity of non-contentious probate. Consequently any work we do for you on closely aligned activities, such as estate administration or inheritance tax advice, will not be covered by the ICAEW Probate Compensation Scheme and you will not have access to the Legal Ombudsman, nor is our advice covered by legal professional privilege.