

## **TERMS OF BUSINESS**

Our business relationship with you is described in these Terms of Business which apply to the services we provide to you. In respect of each service, we will supply a schedule describing the work we have agreed to undertake. When you instruct us to act on a new matter we will normally send to you a schedule of the additional service(s) we are to provide. The terms of such schedules, together with these Terms of Business will together form the contract between us.

### **Us**

We are:

Maxwells Chartered Accountants  
4 King Square  
BRIDGWATER  
TA6 3YF  
United Kingdom

We are an English general partnership and our trading name is Maxwells. Our website is [www.maxwellsaccountants.co.uk](http://www.maxwellsaccountants.co.uk)

### **Interpretation**

Any reference in these Terms of Business to the “firm” shall be deemed to mean “Us” and any reference to “Partner” or “Partners” shall be deemed to mean “Director(s)”, “Principal(s)”, or “Members(s)” as appropriate.

Our professional body and their address is:

The Institute of Chartered Accountants in England and Wales  
Chartered Accountants' Hall  
PO Box 433  
London  
EC2P 2BJ

Our professional body recommends that its members should confirm the terms of professional engagement in a formal letter. This letter, and any schedules attached to it, therefore sets out the basis of the work which we are to undertake for you and the fees we are to charge.

It is important that you understand the nature of the relationship which is being established between us and how it operates at a practical level. Accordingly, before signing these Terms of Business and the assignment schedule(s), please carefully read these Terms of Business and the schedule(s) of work assignments setting out the services we are to provide to you. Please let us know of anything you do not understand.

Our Terms of Business include various exclusions and limitations on our liability as well as setting out important matters governing our relationship with you, the Services which we will provide for you and the way in which we conduct business generally and with you.

These terms supersede any previous terms for the period covered. Once agreed these terms will remain effective from the date of signature until it is replaced. You or we may agree to vary or terminate our authority to act on your behalf at any time. Notice of variation or termination must be given in writing and are subject to our standard Terms of Business.

## **1. Professional obligations**

**1.1** We are a Partnership and are registered with the Institute of Chartered Accountants in England and Wales as a firm of Chartered Accountants and can be found on the register at [www.icaew.com](http://www.icaew.com).

**1.2** We confirm that we are licensed to carry on general accountancy and tax practice by the Institute of Chartered Accountants in England & Wales.

**1.3** As a member of the Institute of Chartered Accountants in England and Wales our conduct is subject to its Code of Ethics which can be found at [www.icaew.com/regulations](http://www.icaew.com/regulations).

**1.4** We will observe and act in accordance with the Bye-laws and regulations of the Institute of Chartered Accountants in England and Wales together with their ethical code referred to above. 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.

**1.5** Information required by the *Provision of Services Regulations 2009 (SI2009/2999)*, if not included within these terms and conditions or elsewhere within the engagement letter, is available at our offices at 4 King Square, Bridgwater, Somerset, TA6 3YF.

## **Audit registration**

**1.6** We are a firm of statutory auditors registered to carry on audit work in the UK by the Institute of Chartered Accountants in England and Wales. Details about our audit registration in the UK can be viewed at [www.auditregister.org.uk](http://www.auditregister.org.uk) under reference number C007204565. Our registration in Ireland can be viewed at [www.cro.ie/auditors](http://www.cro.ie/auditors) under reference number EWC007204565.

The professional rules applicable to our audit work in the UK are the Audit Regulations which can be found at [www.icaew.com/en/technical/audit-and-assurance/working-in-the-regulated-area-of-audit](http://www.icaew.com/en/technical/audit-and-assurance/working-in-the-regulated-area-of-audit). In addition there are International Standards on Auditing (UK and Ireland) which can be found by searching [www.frc.org.uk/apb](http://www.frc.org.uk/apb).

In carrying out our audit work we are subject to the Code of Ethics referred to above. With respect to audit work we are also subject to APB Ethical Standards which are available by searching [www.frc.org.uk/Our-Work/Codes-Standards/Audit-and-assurance/Standards-and-guidance/Standards-and-guidance-for-auditors.aspx](http://www.frc.org.uk/Our-Work/Codes-Standards/Audit-and-assurance/Standards-and-guidance/Standards-and-guidance-for-auditors.aspx).

## **Insolvency practitioner registration**

**1.7** Michael Berry is licensed to act as an insolvency practitioner in the UK by the Institute of Chartered Accountants in England and Wales.

The professional rules applicable to our insolvency work in the UK are the Insolvency Regulations and Guidance Notes at [www.icaew.com/insolvency](http://www.icaew.com/insolvency) and the Statements of Insolvency Practice.

In carrying out our insolvency work we are subject to the Code of Ethics referred to above. With respect to insolvency work we are particularly subject to a specific part of the Code of Ethics. This together with the Statements of Insolvency Practice can be located by searching [www.icaew.com/en/technical/insolvency/insolvency-regulations-and-standards](http://www.icaew.com/en/technical/insolvency/insolvency-regulations-and-standards).

If you have a complaint relating to insolvency work then this must be directed to the Insolvency Service. The contact details are as follows

Email: [ip.complaints@insolvency.gsi.gov.uk](mailto:ip.complaints@insolvency.gsi.gov.uk) ;

Post: The Insolvency Service, IP Complaints, 3rd Floor, 1 City Walk, Leeds, LS11 9DA;

Telephone: 0300 678 0015

Online

[www.insolvencydirect.bis.gov.uk/ExternalOnlineForms/InsolvencyPractitionerComplaint.aspx](http://www.insolvencydirect.bis.gov.uk/ExternalOnlineForms/InsolvencyPractitionerComplaint.aspx)

### **Probate registration**

**1.8** Maxwells is licensed by the Institute of Chartered Accountants in England & Wales to carry out the reserved legal activity of non-contentious probate in England and Wales.

Details of our probate accreditation can be viewed at [www.icaew.com/probate](http://www.icaew.com/probate) under reference number C007204565.

Work in relation to probate matters is carried out in accordance with the Probate Regulations issued by the Institute of Chartered Accountants in England & Wales. Probate Regulations can be accessed at [www.icaew.com/membership/regulations-standards-and-guidance/reserved-legal-services](http://www.icaew.com/membership/regulations-standards-and-guidance/reserved-legal-services).

### **Professional indemnity insurance**

**1.9** Our professional indemnity insurer (updated November 2020) is Omnyy LLP writing on behalf of Accelerant Insurance Limited and Atrium Syndicate 609, The St. Botolph Building, 138 Houndsditch, London, EC3A 7AG. The territorial coverage is worldwide excluding 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. Applicable law**

**2.1** The terms of business are 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 the engagement letter (including the firm's terms of business) 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 inconvenient forum, or to claim that those courts do not have jurisdiction.

**2.2** Persons who are not party to this agreement shall have no right 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.

**2.3** The advice we give you is for your sole use and is confidential to you and will not constitute advice for any third party to whom you may communicate it. We will accept no responsibility to third parties for any aspect of our professional services or work that is made available to them.

### **3. Changes in the law**

**3.1** 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 or your circumstances.

**3.2** We will accept no liability for losses arising from changes in the law or the interpretation thereof that occur after the date on which the advice is given.

### **4. Interpretation**

If any provision in these terms of business or any associated engagement letter, 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.

### **5. Limitation of liability**

**5.1** We will provide the professional services outlined in this letter with reasonable care and skill. However, we will not be responsible for any losses, penalties, surcharges, interest or additional tax or other liabilities arising from the supply by you or others of incorrect or incomplete information, or from the failure by you or others to supply any appropriate information or your failure to act on our advice or respond promptly to communications from us or the tax authorities.

**5.2** If required, and payment has been made to us, we will re-perform any work which is not in compliance with this undertaking if it is brought to our attention within a reasonable time after the work is performed. You agree that all claims with respect to services be asserted within one year from the date the subject services were performed.

**5.3** You agree to hold harmless and indemnify us, our partners and principals and staff against any misrepresentation (intentional or unintentional) supplied to us orally or in writing in connection with this agreement. You agree to release, indemnify and hold harmless our partners and principals and staff, heirs, executors, personal representatives, successors, and assigns from any liability and costs resulting from knowing misrepresentations by you or your management or from fraud caused by or participated in by management of your company or organisation.

**5.4** Except in as may be agreed otherwise, any liability of the Firm, its Partners and staff from actions found against us to pay damages for losses arising as a direct result of breach of contract or negligence on our part in respect of services provided in connection with or arising out of the engagement set out in this letter (or any variation or addition thereto), whether in contract, negligence or otherwise shall in no circumstances exceed the amount of fees which have been paid to us for the work undertaken less all legal and other costs which

we may incur in defending any actions against us. We undertake that we will exercise due care in the performance of our work in accordance with applicable professional standards.

**5.5** It is agreed that our terms of business as contained in this engagement letter are only such as are reasonably necessary for the provision of services by us hereunder but should any of the same be held void, voidable illegal or otherwise unenforceable the same shall be deemed to be re-written with such minimum amendment as is compatible with the same being fully enforceable by us.

**5.6** When we are asked to recommend the services of a third party we shall always do so in good faith. However, no warranty is given in respect of the standing, ability or the quality of the services of any such third party. We do not accept liability for that third party's services and you will have a contract with that third party, but not with us in respect of that third party's goods or services. Accordingly, you will be responsible for the fees and expenses of that third party.

**5.7** We shall not be liable to you if we are unable to perform our services as a result of any cause beyond our reasonable control. In the event of any such occurrence affecting us we shall notify you as soon as reasonably practicable.

**5.8** You agree to release us from liability and to indemnify us in the event that a claim is brought against us by a third-party for misstatements in financial statements, which were caused by false representations made to us by you or members of your management. Accordingly, you agree to indemnify and hold our firm, its partners, and employees harmless from any and all liabilities, costs, and expenses relating to this engagement, and expenses (and those of our lawyers) incurred by reason of any action taken or committed to be taken by us in good faith. In no event will our firm or partners or staff be liable for incidental or consequential damages even if we have been advised of the possibility of such damages.

## **6. Client identification**

In common with all professionals, we are required by the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007 to:

- have customer due diligence procedures in place for all clients;
- maintain appropriate records of identification evidence to support customer due diligence; and
- report in accordance with the relevant legislation and regulations.

In order to comply with the law on money laundering, we need to obtain evidence of your identity as soon as practicable. If we are not able to obtain satisfactory evidence of your identity, we will not be able to proceed with the engagement.

## **7. Conflicts of Interest and independence**

**7.1** 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, 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. If conflicts are identified which cannot be managed in a way that protects your interests, we regret that we will be unable to provide further services.

**7.2** If there is a conflict of interest that is capable of being addressed successfully by the adoption of suitable safeguards to protect your interests, we will adopt those safeguards. In

resolving the conflict, we would be guided by ICAEW's Code of Ethics, which can be viewed at [www.icaew.com/en/membership/regulations-standards-and-guidance/ethics](http://www.icaew.com/en/membership/regulations-standards-and-guidance/ethics)

**7.3** 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 above.

**7.4** If a conflict arises and we cannot continue our engagement with you, you agree to pay our fees for providing the services that we will provide to you up to the termination date, together with any expenses incurred by us in connection with the provision of the services that we will provide to you.

## **8. Fees**

Unless otherwise provided in any schedule of work accompanying these Terms of Business:

**8.1** Fees for our services will be based primarily on time spent and our hourly billing rates current at the time that the services are performed. However, we may take factors other than our time into consideration in determining our fees, including the responsibility assumed, the novelty and difficulty of the technical, financial, accounting or taxation problems involved, unusual efficiency, the time pressure under which the work is performed, the benefit resulting to you, and any unforeseen circumstances arising in the course of the work involved.

**8.2** Unless special arrangements are made, we do not take responsibility for paying fees and expenses of third parties, which will be the responsibility of, and may be billed directly to, you. We reserve the right to ask for advance payment of all client cost disbursements in excess of £100, and may request such advances even if less.

**8.3** Time is normally charged in units of 6 minutes (0.10 hours). Certain time entries may be charged at a minimum time charge (e.g., dealing with telephone calls may have a minimum entry of 0.30 hours and staff/partner time to transmit and supervise facsimiles or opening/storing e-mails may have a minimum entry of 0.20 hours).

**8.4** Unless otherwise agreed, our fees will be charged separately for each of the main classes of work undertaken for you and will be billed as the work is carried out.

**8.5** Our fees do not include disbursements and these plus VAT at the applicable rate will be charged to you. Our VAT registration number is 429 2696 21.

**8.6** It is expected that fee requests will be paid promptly by you. A schedule of the fee charges for routine and special work can be obtained from our office.

**8.7** All our fees are payable on presentation of our Request for Payment.

**8.8** We accept most credit cards. On request arrangements may be made to settle fees by standing order.

**8.9** If you have queries on our charges, you must write to us within 21 days of the date of our fee account otherwise our fee accounts shall not be brought into question and the charges made by us shall remain valid and shall not be commuted.

**8.10** We reserve the right to charge interest (at 2.5% per month), in cases where there is a delay in the settlement of our fee account under the *Late Payment of commercial Debts (interest) Act 1998*.

**8.11** Special work such as fund raising, reports and investigations, investment and tax shelter advice etc. will normally be billed for not only on the basis of time spent, but also having regard to responsibility, expedition and other factors including the value and importance of the assignment.

**8.12** The amount of time spent on a matter will also be influenced by the manner in which you respond to our requests for information. Timely provision of up to date information will help us to spend less time on your matter than would be the case otherwise.

**8.13** Time spent on your matter will include, but is not limited to, meetings with you and others in relation to the matter, time spent travelling and waiting, considering and preparing papers, making and receiving telephone calls, correspondence, sending and receiving e-mails and documenting the arrangements on which we provide services to you and the advice and services we actually provide.

**8.14** Any special fee (such as fixed or capped fee) agreed for a matter will not cover additional work not identified when the arrangement was agreed.

**8.15** In the event that collection procedures are required to obtain payment of fees billed to you by us, you agree to pay all expenses of collection and all legal fees and costs actually incurred by us in connection with such collection. If litigation is required regarding collection of fees, you agree that we will be paid our hourly rates for all time actually expended by us in connection with such action.

**8.16** Fixed Fee Variations - If a fixed fee has been specified for any service we have agreed to provide, such fee shall be based on:

- The assumption that the information you are to provide shall be furnished within such timescale as we have specified to you; and
- The assumption that the information shall be complete and accurate.

In the event that the above requirements are not met, we reserve the right to increase the fixed fee by such amount as shall reflect such factors as our additional time of working and prioritising work to meet filing and other deadlines. You should be aware that fee increases in these circumstances might be equal to or exceed the original fixed fee quote.

**8.17** We would be pleased to estimate from time to time, upon request from you, the total amount of fees for particular matters we may undertake on your behalf. Any fee estimates we provide are a guide to assist you in budgeting, but should not be seen as a definitive quotation unless this is specifically agreed in writing. Estimates are by their nature inexact, and cannot be binding on either of us. Although we may provide estimates of fees or costs that we anticipate will be incurred, these estimates are not intended to be binding, are subject to unforeseen circumstances, and are by their nature inexact.

## **9. Client monies**

**9.1** We may, from time to time, hold monies on your behalf. Such monies will be held in trust in a client bank account, which is kept separate from the firm's funds. The account will be operated, and all funds dealt with, in accordance with the Clients' Money Regulations of our

professional

body.

**9.2** 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 £25. Any such interest would be calculated using the prevailing rate applied by the firm's bankers for small deposits subject to the minimum period of notice for withdrawals. Subject to any tax legislation, interest will be paid gross.

**9.3** If the total monies held on your behalf exceeds £10,000 for a period of more than 7 days or such sum is likely to be held for more than 10 days, then the monies will be placed in an interest-bearing client bank account. All interest earned on such money will be paid to you. Subject to any tax legislation, interest will be paid gross.

## **10. Commissions or other benefits**

In some circumstances introductory commissions or other benefits may become payable to us in respect of introductions we make, in which case you will be notified in writing of the amount and terms of payment. We will account to you for the amount of such commission. You have the right to require us to remit the amounts of the commission to you and we may only deal with these amounts otherwise on your express written consent. We will charge you for the time spent on an introduction and the provision of information (such provision being with your consent) to a PTP.

## **11. Confidentiality**

**11.1** Where you give us confidential information we shall take all reasonable steps to keep confidential your information except where we are required to disclose it by law or as provided for in regulatory, ethical or other professional pronouncements applicable to the engagement.

**11.2** We may also disclose your confidential information to our insurers, advisors and external file reviewers.

**11.3** We reserve the right, for the purpose of promotional activity, training or for other business purpose, to mention that you are a client. As stated above we will not disclose any confidential information.

**11.4** We may, on occasions, subcontract work on your affairs to other tax or accounting professionals. The subcontractors will be bound by our confidentiality terms.

## **12. Data Protection**

**12.1** In this clause 12, the following definitions shall apply:

'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’, 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).

**12.2** 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.

**12.3** You shall only disclose client personal data to us where:

- 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.maxwellsaccountants.co.uk](http://www.maxwellsaccountants.co.uk) for this purpose)
- 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
- you have complied with the necessary requirements under the data protection legislation to enable you to do so.

**12.4** Should you require any further details regarding our treatment of personal data, please contact our Data Protection Point of Contact; Clive Hall-Tomkin at [mail@maxwellsaccountants.co.uk](mailto:mail@maxwellsaccountants.co.uk).

**12.5** We shall only process the client personal data:

- in order to provide our services to you and perform any other obligations in accordance with our engagement with you;
- in order to comply with our legal or regulatory obligations; and
- 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.maxwellsaccountants.co.uk](http://www.maxwellsaccountants.co.uk) contains further details as to how we may process client personal data

**12.6** 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.

**12.7** 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:

- 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;
- 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

- 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.

**12.8** 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.

### **13. Internal dispute within a client**

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 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/trustees. If conflicting advice, information or instructions are received from different directors/principals/trustees in the business, we will refer the matter back to the board of directors/the partnership/the board of trustees and take no further action until the board/partnership has agreed the action to be taken.

### **14. Help Us to Give You the Best Service**

**14.1** If at any time you would like to discuss with us how our service to you can be improved, or if you are dissatisfied with the service you are receiving, please let us know as soon as may be reasonably practical by telephoning Debbie Willis or Clive Hall-Tomkin on 01278 423008.

**14.2** We undertake to look into any complaint carefully and promptly, and do all we can to explain the position to you. If we have given you less than satisfactory service, we undertake to do everything reasonable to put it right.

**14.3** You also have the right to register a complaint direct with The Institute of Chartered Accountants in England and Wales whose address and details are given at the beginning of these Terms of Business.

### **15. Timing of our services**

If you provide us with all information and explanations on a timely basis in accordance with our requirements, we will plan to undertake the work within a reasonable period of time to meet any regulatory deadlines. However, failure to complete our services before any such regulatory deadline would not, of itself, mean that we are liable for any penalty or additional costs arising.

### **16. Quality control**

**16.1** As part of our ongoing commitment to providing a 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.

**16.2** When dealing with HMRC 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 HMRC, visit [www.gov.uk/government/publications/your-charter](http://www.gov.uk/government/publications/your-charter). To the best of our abilities, we will ensure that HMRC meet their side of the Charter in their dealings with you.

## **17. Retention of papers**

**17.1** 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:**

- a) with trading or rental income: five years and 10 months after the end of the tax year
- a) otherwise: 22 months after the end of the tax year.

### **Companies, Limited Liability Partnerships, and other corporate entities:**

- b) six years from the end of the accounting period.

**17.2** 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 or, if less, two years after the date when you cease to become our client, except documents we think may be of continuing significance. You must tell us if you wish us to keep any document for any longer period.

## **18. Reliance on advice**

We will endeavour to record all advice on important matters in writing. Advice given orally is not intended to be relied upon unless confirmed in writing. Therefore, if we provide oral advice (for example, during the course of a meeting or a telephone conversation) and you wish to be able to rely on that advice, you must ask for the advice to be confirmed by us in writing.

## **19. 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 to enforce any of its terms, and no rights or benefits are conferred on any third party under the Contracts (Rights of Third Parties) Act 1999.

## **20. Investment advice**

**20.1** Like many other accountancy firms, we are not authorised under FSMA. This is because, as a professional services firm which is regulated and supervised by a designated professional body and which does not conduct mainstream “regulated activities”, we benefit from a specific exemption under FSMA which permits us to carry on regulated activities which are reasonably regarded as a necessary part of the other services we provide.

**20.2** Our role is to provide the services as designated in the schedule(s) of services we are to provide and it is not part of our function to give financial or business advice on the merits of entering into any investment transaction or to act as broker or arranger of transactions. In providing our services we will assume that your decision to negotiate and enter into any particular transaction has been and will be made solely on the basis of your own evaluation of the same. It is not part of our role to communicate to you or on your behalf invitations or inducements to engage in any investment activity nor to refrain from doing so. No communication from us, whether written or oral and in whatever form it is received, is intended or should be construed as such an invitation or inducement.

**20.3** Although we are not authorised by the Financial Conduct Authority to conduct Investment Business, we are licensed by our professional body to provide certain limited investment services where these are complementary to or arise out of the professional services we are providing to you. Examples of such services are where we may:

- advise on investments generally but not to recommend a particular investment or type of investment;
- advise you in connection with the disposal of an investment, other than your rights in a pension policy or pension 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.

**20.4** If you are a company, we may also (but only if the share or securities of the company are not publicly traded on a stock exchange):

- advise the company, the existing or prospective shareholders in relation to exercising rights, taking benefits or undertaking share option valuations and methods;
- arrange and/or advise on any agreements in connection with the issue, sale, transfer or other transmission of the company's shares or other securities;
- arrange for the issue of new shares;
- act as the addressee to receive confirmation of acceptance of offer documents.

If we are requested to provide any of the investment services outlined above, we will issue a separate work assignment schedule which will record what we have agreed with you.

**20.5** If, during the provision of professional services to you, you need advice on investments, we may refer you to a Permitted Third Party (PTP), an independent financial adviser who is authorised by the Financial Conduct Authority. We may assist you and the PTP during the course of any advice given by the PTP and comment or explain the advice given but we are not able to make alternative recommendations. The PTP will treat you as their client, and take full responsibility for compliance with the regulations of the Financial Conduct Authority.

**20.6** We can also offer you the services of an associated company, Maxwells Financial Management Limited (MFM). The aim of this company is to offer access to Independent Financial Advice to those clients who need it. As part of this service we may, from time to time, pass information about clients and their businesses to MFM in order that a complete picture of their affairs can be obtained. This will involve access to audit (where applicable),

accounting and correspondence files, together with any other information that we feel may be of relevance.

*If you do not wish MFM to have access to any information about you or your business please notify us by contacting the partner responsible for this engagement.*

## **21. Electronic and other Communication**

**21.1** Unless you instruct us otherwise, we may, if appropriate, communicate with you and with third parties by email or other electronic means. The recipient is responsible for virus checking emails and any attachments.

**21.2** 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 in emails or by electronic storage devices. Nevertheless, electronic communication is not totally secure and we cannot be held responsible for damage or loss caused by viruses or for communications which are corrupted or altered after despatch. Nor can we accept any liability for problems or accidental errors relating to this means of communication, especially in relation to commercially sensitive material. These are risks you must bear in return for greater efficiency and lower costs. If you do not wish to accept these risks, please let us know and we will communicate by paper mail, other than when electronic submission is mandatory.

**21.3** Any communication by us with you sent through the postal [or DX] system is deemed to arrive at your postal address two working days after the day the document was sent.

## **22. Consumer Protection (Distance Selling) Regulations 2000**

Where these Regulations apply to the work we undertake for you, by instructing us to carry out that work, you agree that we should commence that work on your behalf. You acknowledge that on our commencing that work you will be incurring fees attributable to that work. Because we will have commenced work at your request, you may not cancel your contract with us in relation to that work after it has begun and our fees for that work will be payable by you. Although in our retainer letter we may endeavour to complete a particular piece of work by a particular time, there is no maximum time limit for performance of our services.

## **23. Intellectual property rights and use of our name**

**23.1** 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.

**23.2** You are not permitted to use our name in any statement or document 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.

## **24. Period of engagement and termination**

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

**24.2** Each of us may terminate our agreement by giving not less than 21 days' notice in writing to the other party except if you fail to cooperate with us or we have reason to believe that you have provided us (or HMRC) 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 before termination.

## **25. Lien**

Insofar as we are permitted to 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.

## **26. Compensation Scheme**

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.

## **27. Foreign Account Tax Compliance Act (FATCA) and common Reporting Standards**

**27.1** 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.

**27.2** 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.