

Moore and Smalley C.A. Limited (trading as MHA Moore and Smalley)

Standard Terms of Business - Updated July 2018

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

These standard terms of business are applicable to all types of entities (e.g. companies, LLPs, charities, friendly societies, academies, pension schemes, etc.). Any reference therefore to 'director' or 'company' should be interpreted as appropriate for the entity type (e.g. partner, trustee, governor, charity, LLP, etc.)

1 Professional obligations

- 1.1 As required by the Provision of Services Regulations 2009 (SI 2009/2999), details of the firm's professional registrations, including audit registration where applicable, can be found at: <http://www.mooreandsmalley.co.uk/moore-and-smalley/practice-legal-status>
- 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 together with their code of ethics. 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 AIG Europe Limited, of The AIG Building, 58 Fenchurch Street, London, EC3M 4AB. 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.

Provision of probate-type services

- 1.4 We are not licensed 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.

2 Investment services

- 2.1 Moore and Smalley C.A. Limited is a wholly owned subsidiary of Moore and Smalley LLP which is authorised to conduct Investment Business by the Financial Conduct Authority. Moore and Smalley LLP is included on the Register maintained by the Financial Conduct Authority for the activities that it is authorised to carry out. The Register can be accessed at <http://www.fca.org.uk/register>. For designated investment business services we will issue a separate terms of business letter.

Client money

- 2.2 Please note that, in connection with our designated investment business, Moore and Smalley LLP are not authorised to hold client money.
- 2.3 If you have any questions regarding investment business or require any further information please contact us.

3 Commissions or other benefits

- 3.1 In some circumstances, commissions or other benefits may become payable to us or our associates in respect of transactions we or such associates arrange for you. In which case you will be notified in writing of the amount and terms of payment. The fees that would otherwise be payable by you may, by agreement, be abated by such amounts. When we reduce the fees that we would otherwise charge by the amount of the commission retained, we will apply the HMRC concession which allows VAT to be calculated on the net fee after deduction of the commission. You consent to such commission or other

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benefits being retained by us or, as the case may be, by our associates without our being liable to account to you where such commission or benefit is less than £100.

4 Client monies

- 4.1 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 Institute of Chartered Accountants in England and Wales.
- 4.2 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 Royal Bank of Scotland Plc for small deposits subject to the minimum period of notice for withdrawals. Subject to any tax legislation, interest will be paid gross.
- 4.3 If the total sum of money held on your behalf is enough to give rise to a significant amount of interest or is likely to do so, 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.
- 4.4 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.

5 Fees

- 5.1 Except where specific fee arrangements have been agreed with you in the form of a quote, or where fixed fees, annual retainers or fees based on transaction numbers, as for example for payroll preparation, have been agreed, our fees are computed on the basis of time spent on your affairs by the principals and our staff and consultants, and on the levels of skill and responsibility involved, together with disbursements. Disbursements represent travel, accommodation and other expenses incurred in dealing with your affairs.
- 5.2 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.
- 5.3 Our terms relating to payment of amounts invoiced, and not covered by standing order, are that payment is due on receipt of the invoice unless alternative credit arrangements have been made. 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.
- 5.4 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.
- 5.5 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. We accept settlement of fees by certain credit cards.
- 5.6 In the event that this firm ceases to act in relation to your affairs you agree to meet all reasonable costs of providing information to your new advisors. In particular you agree to meet these costs where we are required by law to provide information to a successor firm.

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6 Retention of and access to records

- 6.1 During the course of our work we will collect information from you and others acting on your behalf and will return any original documents to you following the preparation and/or audit of your financial statements and returns. You should retain these records for 6 years from the end of the accounting period (companies); 5 years from 31 January following the end of the tax year to which they relate (unincorporated businesses); or 1 year from the 31 January following the end of the tax year to which they relate (personal, non-business records). You should retain them for longer if HM Revenue and Customs enquire into your tax return.
- 6.2 Whilst certain documents may legally belong to you, unless you tell us not to, we intend to destroy correspondence and other papers that we store, in line with our privacy policy at www.mooreandsmalley.co.uk/legal-notice/#privacystatementfull, other than documents which we consider to be of continuing significance or where we are legally obliged to retain them.

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 If a conflict of interest should arise, either between two or more of our clients, or in the provision of multiple services to a single client, we will take such steps as are necessary to deal with the conflict. In resolving the conflict, we would be guided by the code of ethics of the Institute of Chartered Accountants in England and Wales which can be viewed as part of the Regulations and Guidance at: www.icaew.com/regulations.
- 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 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 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.

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9 Quality control

9.1 As part of our on-going 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. To the best of our abilities, we will ensure that HM Revenue & Customs meet their side of the Charter in their dealings with you.

9.3 To reduce the possibility of an inaccuracy penalty being charged by HM Revenue & Customs, you will remain responsible for maintaining good quality supporting records for each return, for providing us with all relevant information and explanations and for acting on any advice that we give 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 contacting Mr Graham Gordon.

10.2 We undertake to look into any complaint carefully and promptly and 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 the matter with the Institute of Chartered Accountants in England and Wales.

10.3 If you wish to register a complaint, please contact us:

- a in writing – writing to Graham Gordon, MHA Moore and Smalley, Richard House, 9 Winckley Square, Preston, PR1 3HP.
- b by phone – telephone 01772 821021

10.4 In order for us to provide you with a high quality service on an on-going 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 letters. 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 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.

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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 We may communicate with you and with third parties via email, web portals, messaging systems or other electronic means. The internet is susceptible both to error of destination and to delay and as such we disclaim liability for all loss arising from such error or delay. We do not accept responsibility for data shared by you to us or third parties, nor are we responsible for the actions of third parties. Internet communications are capable of data corruption and interception and we do not accept any responsibility for changes made to communications by rogue third parties. We may follow up advice with a confirmation letter on our letterhead which may itself be delivered electronically. We accept no liability for any loss or damage caused to you by your accepting messages or advice which you later discover we have not sent you or which have been altered by others. You must therefore thoroughly check that a message or advice is genuine before accepting such advice. It is the responsibility of the recipient to carry out security checks on any attachments received. We will never change our bank or contact details without confirming this to you by post on our official letterhead.

14 Data Protection

- 14.1 To enable us to discharge the services agreed under our engagement, and for other related purposes including updating and enhancing client records, analysis for management purposes and statutory returns, crime prevention and legal and regulatory compliance, we may obtain, use, process and disclose personal data about you/your business/company/partnership/its officers, employees, shareholders and other related individuals. The personal data we hold, the lawful purposes we hold and process it for and the nature of that data by category of person can be understood by reviewing our privacy policy which can be found at www.mooreandsmalley.co.uk/legal-notice/#privacystatementfull . Alternatively, a pdf version of our privacy policy can be requested by contacting us.
- 14.2 You will ensure that any disclosure of personal data to us complies with current data protection legislation. If you supply us with any personal data or confidential information you shall ensure you have a lawful basis to provide it to us and will fully indemnify and hold us harmless if you do not have a lawful basis and as a consequence that causes us loss. If you are supplying us with a data subject's personal data on the basis of a power of attorney or as a deputy appointed by the court, you must produce to us an original or certified power of attorney or any other court document on demand. You must ensure you have provided the necessary information to the relevant data subject regarding its use.

15 Limitation of third party rights

- 15.1 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.
- 15.2 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, 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.

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16 Client identification

- 16.1 In common with other professional firms, we are required by the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2017 to:
- maintain identification procedures for clients and beneficial owners of clients, persons who exercise ultimate control, significant control, members, trustees, beneficiaries, members and persons acting 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 discussion with you regarding such matters.

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

17 Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standards

- 17.1 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.
- 17.2 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.

18 General Limitation of liability

- 18.1 We will provide services as outlined in this letter 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.
- 18.2 You will not hold us, our principals/directors 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, misrepresentations or wilful default on the part of any party to the transaction and their directors, officers, employees, agents or advisers. 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.
- 18.3 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.
- 18.4 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

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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 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 spent in defending it and our legal fees on an indemnity basis.

- 18.5 Having considered both your circumstances and our own, and having discussed it with you, we confirm that this firm's aggregate liability, whether to yourselves or to any other party, of whatever nature, whether in contract, tort or otherwise, for any losses whatsoever and howsoever caused, arising from, or in any way connected with this engagement shall not exceed £5m. This limitation shall not apply to any audit reporting services in this engagement, where under professional guidelines of our institute, and in law, no limitation of liability may exist, but shall apply in full to all other aspects of this engagement.
- 18.6 We acknowledge that the limit in respect of our total aggregate liability will not apply in any acts, omissions or representations that are in any way criminal, dishonest or fraudulent on the part of the firm, its principals or employees.
- 18.7 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 as a matter of applicable law be excluded or limited.

19 Intellectual property rights and use of our name

- 19.1 We retain all the 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 sublicense such rights without our further prior consent.
- 19.2 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.

20 Draft/interim work or oral advice

- 20.1 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.

21 The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 – 'The Regulations'

- 21.1 The Regulations apply where a contract for the provision of services is initially agreed with an individual (consumer) at a meeting except for meetings in the offices of Moore and Smalley LLP.
- 21.2 Under The Regulations Moore and Smalley LLP are required to provide to the individual at the meeting a Notice of Right to Cancel, however, in order to minimise administrative costs, this Notice has been incorporated into these standard terms of business and the engagement letter to which the terms relate, if applicable. These terms of business and engagement letter, if applicable, therefore replace the required Notice of Right to Cancel under the Regulations.
- 21.3 Under The Regulations the individual has the right to cancel the contract within 14 days of the receipt of this Notice and to do so must deliver or send a written cancellation notice to Moore and Smalley LLP, or the notification can be sent by email if preferred.
- 21.4 The Regulations also apply where a contract for the provision of services is initially agreed with an individual (consumer) either by telephone or email.

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21.5 Under The Regulations the individual has the right to cancel the instructions to Moore and Smalley LLP within 14 working days of the receipt of these standard terms of business and engagement letter, and to do so should notify the firm by post or fax.

22 Provision of cloud-based services

22.1 Where the firm provides accounting software in the Cloud, this will be provided by a third party (the 'Cloud Supplier'). The third party has signed a confidentiality agreement with the firm to ensure compliance with the relevant clauses in the firm's standard terms of business above (i.e. Our fees (5), Confidentiality (8), Internet Communication (13), Data Protection (14) and General limitation of liability (18)),

22.2 The service provided by the Cloud Supplier will be a discrete web based hosted facility, and you agree that access will also be provided to the firm and the third party.

22.3 The firm cannot be held liable for any interruption of service provided by the Cloud Supplier. However, we will liaise with them to help ensure that normal service is resumed as soon as possible.

22.4 For the purposes of these terms and conditions "cloud-based software" shall include, but not be limited to, Xero, Sage One Accounting and Intuit Quickbooks Online.

22.5 Where we are accessing cloud-based software as a registered user under your subscription in order to provide bookkeeping services to you, we will comply with the third-party product terms and conditions applicable to us as a registered user of the service under your subscription. Under these circumstances you will own the subscription of the cloud-based software and retain control of the product. Input and processing on the software will be in accordance with the bookkeeping terms detailed in the schedule of services included with this engagement letter that clarifies which parties will be performing which functions. Should we disengage at any point in the future it will be your responsibility to remove MHA Moore and Smalley as registered users under your subscription.

22.6 Where you are accessing cloud-based software as a registered user under our subscription, you agree to the terms and conditions applicable to the product being used. Full details of the terms and conditions of the service provider can be reviewed on the relevant service provider's website. You agree that you will review and comply with all third-party product terms and conditions applicable to you as a registered user of the service. Under these circumstances we will own the subscription of the cloud-based software and retain control of the product, although the data linked to it will belong to you. Input and processing on the software will be in accordance with the bookkeeping terms detailed in the schedule of services included with this engagement letter that clarifies which parties will be performing which functions. Should we disengage at any point in the future we can discuss arrangements for the transfer of this subscription and ongoing payment of fees should you wish to continue with its use, or the provision of the history of your data as processed in a pdf document format if not. Should you not wish to continue with the use of the product we reserve the right to invoice you for the full subscription price plus an administration fee.

23 Interpretation

23.1 If any provision of our engagement letter or terms of business is held to be void, then that provision will be deemed not to form part of this 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.

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24 Internal disputes within a client

- 24.1 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.

25 Disengagement

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

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