

## Terms and Conditions of Business

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**FSPG, Chartered Accountants** “the firm” or “we” are pleased to set out the Terms and Conditions of Business, which will apply to the work we do for you.

These Terms and Conditions of Business and the Engagement Letter and its Schedules of Services together form the contract between us. Changes to the Terms and Conditions of Business can only be made by the Principal in writing.

If any provisions of these Terms and Conditions of Business or parts of the Letter of Engagement and its Schedules of Services are held to be void, then that provision will be deemed not to form part of this contract and the remainder of them shall be interpreted as if such provision had never been inserted. Nothing in these terms shall exclude, restrict or prevent action in respect of any liability arising from fraud or dishonesty or other liabilities which cannot lawfully be limited or excluded. Nothing in these Terms and Conditions of Business seeks to limit or exclude our liability for death or personal injury caused by negligence, or for fraud or fraudulent misrepresentation.

In the event of any conflict between these Terms and Conditions of Business and the Letter of Engagement and its schedules of Services, the relevant provision in the Letter of Engagement or Schedule of Services will take precedence.

### **1 Applicable law**

1.1 Our engagement letter, the schedules of services and our standard terms and conditions of business are governed by, and should be construed in accordance with English Law. Each party agrees that the Courts of England will have exclusive jurisdiction in relation to any claim, dispute, or difference concerning this engagement letter and any matter arising from it on any basis. Each party irrevocably waives any right to object to any action being brought in those Courts, to claim that the action has been brought in an inconvenient forum, or to claim that those Courts do not have jurisdiction.

### **2 Proceeds of Crime Act 2002 (as amended) and Money Laundering Regulations 2007 (as amended) or replacement legislation (“UK Anti-Money Laundering Legislation”)**

2.1 Our acceptance of this appointment is subject to your complying at all times with any UK Anti-Money Laundering Legislation. This includes providing us with any necessary information or documents that we consider necessary as part of our client due diligence procedures, both at the time of you becoming a client and on an ongoing basis. We may make searches of appropriate databases as part of our due diligence procedures. Copies of our due diligence records will be retained for 5 years after we cease to act for you.

2.2 Where in relation to any dealings with us you act or appear to act for another person the Money Laundering Regulations 2007 (as amended) or replacement Regulations (“the Regulations”) require us to take reasonable steps to identify that person. By signing this engagement letter you confirm that

- (a) you carry out relevant business for the purposes of the Regulations;
- (b) if you seek advice from us in respect of a particular client you will identify that client to us having previously undertaken any client identification procedures which are required under the Regulations; and
- (c) you will provide reasonable evidence of such identification on request.

2.3 Whilst we are under a professional obligation to keep your affairs confidential, we are under a legal duty in certain circumstances to disclose information to the National Crime Agency (“NCA”). You agree to waive your right to confidentiality in such circumstances. It is not our practice to discuss such disclosures with you because of the restrictions imposed by the “tipping-off” provisions of the UK Anti-Money Laundering Legislation and you acknowledge this requirement. We accept no liability to you or any other person for any loss howsoever arising occasioned by our taking any steps which in

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our absolute discretion we consider it necessary to take in order to comply with the UK Anti-Money Laundering Legislation.

be reduced by the amount of the commission or benefits.

### **3 Client Money**

3.1 We may from time to time hold money on your behalf. The 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.

3.2 To avoid excessive administration, interest will only be paid to you where the amount earned on the balances held on your behalf in any year exceeds £25. Interest will not be paid on amounts of less than £10,000 which are held for less than 30 days unless you instruct us otherwise in writing. Where you make such a request the money will be placed into a separate interest bearing client 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.

3.3 We will return monies held on your behalf promptly as soon as there is no longer any reason to retain those funds. If any funds remain in our client account that are unclaimed and the client to whom they relate has remained untraced for 5 years or we as a firm cease to practice then we may pay those monies to a registered charity.

3.4 You authorise us to make payments by BACS or CHAPS where such payment methods are applicable.

### **4 Commissions or other benefits**

4.1 In some circumstances we may receive commissions or other benefits for introductions to other professionals or in respect of transactions which we arrange for you. Where this happens, we will notify you in writing of the amount and terms of payment and receipt of any such commissions or benefits. The same will apply where the payment is made to or the transactions are arranged by a person or business connected with ours. The fees you would otherwise pay as described in the Letter of Engagement will not

### **5 Quality of Service**

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

### **6 Confidentiality**

6.1 Communication between us is confidential and we shall take all reasonable steps to keep confidential your information except where we are required to disclose it by law, by regulatory bodies, by our insurers, or as part of an external peer review. Unless we are authorized by you to disclose information on your behalf this undertaking will apply during and after this engagement

6.2 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.

6.3 We may, on occasions, consult with other professionals on aspects of your affairs. These other professionals will be bound by our client confidentiality terms.

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

### **7 Conflicts of Interest**

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

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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. If this arises, we will inform you promptly.

- 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 then we will adopt those safeguards. Where possible this will be done on the basis of your informed consent. We reserve the right to provide services to other clients whose interests are not the same as yours or are adverse to yours subject to the obligations of confidentiality referred to above.

### *Internal Disputes within a client*

- 7.3 If we become aware of a dispute between the parties who own are in some way involved in the ownership or management of the business, it should be noted that our client is the business and we would not provide information or services to one party without the express knowledge and permission of all parties. Unless otherwise agreed by all parties we will continue to supply information to the normal place of business for the attention of the directors/proprietors. If conflicting information or instructions are received from different directors/principals in the business we will refer the matter back to the board/proprietors and take no further action until the board/partnership/LLP has agreed the action to be taken.

- 7.4 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 of England & Wales.

## **8 Data Protection Information**

- 8.1 We will make every reasonable effort to keep your data safe, such as encryption and other information security measures. You are encouraged to read our full **Privacy Notice**, and we remind you that under

the General Data Protection Regulation (EU) 2018, you have the right to:

- 8.1.1 Access your data. We will deliver this to you upon request within the ICO's statutory period, in a commonly-read format.
- 8.1.2 Correct your data, should any details be incorrect, incomplete or require an update.
- 8.1.3 Erase or remove your data, which we will do unless there is a compelling reason for us to retain it. We will keep your data until you request that we erase it.
- 8.1.4 Request that we not process your data, which we will do unless there is a compelling reason for us to continue to process it.

- 8.2 In order to request any of the above, or in the event of security or privacy issues, FSPG has a Data Protection Officer that you can contact via 020 7367 4444 or dpo@fspg.co.uk. You also have the right to lodge a complaint with the UK supervisory authority, the Information Commissioner's Office.

- 8.3 We collect, process and share your personal data in order to provide services to you as a client of FSPG, and for various administrative purposes, detailed in the **Privacy Notice**. In addition to those legal bases, FSPG may also process any of your personal data for other reasons where it has received your explicit, freely given consent. Your consent may be withdrawn at any time, where relevant.

## **9 Disengagement**

- 9.1 Should we cease to act for you, where relevant we will normally issue a disengagement letter to ensure our respective responsibilities are clear.

## **10 Electronic Communication**

- 10.1 Unless you instruct us otherwise we may, where appropriate, communicate with you and with third parties by e-mail or by other electronic means. The recipient is responsible for virus checking emails and any attachments.

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- 10.2 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 through emails or electronic storage devices. However, electronic communication is not totally secure and we cannot be held responsible for damage caused by viruses or similar damaging items, nor for communications which are corrupted or altered after dispatch. Nor can we accept any liability for problems or accidental errors relating to this means of communication especially in relation to commercially sensitive information. 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 where electronic submission is mandatory.
- 10.3 Any communication by us with you sent through the post or DX system is deemed to arrive at your postal address two working days after the day that the document was sent.
- 11 Fees and payment terms**
- 11.1 Our fees may depend not only upon the time spent on your affairs but also on the level of skill and responsibility and the importance and value of the advice that we provide, as well as the level of risk.
- 11.2 If it is necessary to carry out work outside the responsibilities agreed with you for each service it 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
- 11.3 If we provide you with an estimate of our fees for any specific work, then the estimate will not be contractually binding unless we explicitly state that that will be the case.
- 11.4 Where requested we may indicate a fixed fee for the provision of specific services or an indicative range of fees for a particular assignment. It is not our practice to identify fixed fees for more than a year ahead as such fee quotes need to be reviewed in the light of events. If it becomes apparent to us, due to unforeseen circumstances, that a fee quote is inadequate, we reserve the right to notify you of a revised figure or range and to seek your agreement thereto.
- 11.5 In some cases, you may be entitled to assistance with your professional fees, particularly in relation to any investigation into your tax affairs by HMRC. Assistance may be provided through insurance policies you hold or via membership of a professional or trade body. Other than where such insurance was arranged through us you will need to advise us of any such insurance cover that you have. You will remain liable for our fees regardless of whether all or part are liable to be paid by your insurers.
- 11.6 We will bill you periodically and our invoices will be due for payment within 30 days of issue. Our fees are exclusive of VAT which will be added where it is chargeable. Any disbursements we incur on your behalf and expenses incurred in the course of carrying out our work for you will be added to our invoices where appropriate.
- 11.7 Unless otherwise agreed to the contrary our fees do not include the costs of any third party, counsel or other professional fees.
- 11.8 It is our normal practice to issue 'Applications for Payment' when dealing with continuous or recurring work. The payment terms for 'Applications for Payment' are the same as for invoiced fees. A VAT invoice will be issued to you upon receipt of your payment.
- 11.9 It is our normal practice to ask clients to pay by monthly direct debit and to periodically adjust the monthly payment by reference to actual billings.
- 11.10 We reserve the right to charge interest on late paid invoices at the rate of 4% above bank base rates under the Late Payment of Commercial Debts (Interest) Act 1998. We also reserve the right to suspend our services or to cease to act for you on giving written notice if payment of any fees is unduly delayed. We intend to exercise these rights only where it is fair and reasonable to do so.

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- 11.11 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.
- 11.12 In the event that a limited company, a limited liability partnership or any other entity or association is unable to meet its liability in respect of our outstanding fees as and when they fall due, then the directors and/or members and/or individuals will be personally and jointly and severally liable in respect of our outstanding fees. We also reserve the right to seek payment from the individual (or parent or associated company or partnership or any other entity or association) giving us instructions on behalf of the client and we shall be entitled to enforce any sums due and for payment against them and/or against any individual nominated to act for you and providing instructions to us.
- 12 Implementation**
- 12.1 We will only assist with implementation of our advice if specifically instructed and agreed in writing.
- 13 Intellectual Property Rights**
- 13.1 We will retain all copyright in any document prepared by us during the course of carrying out the engagement save where the law specifically provides otherwise.
- 14 Investment Advice**
- 14.1 Although we are not authorised by the Financial Conduct Authority (“FCA”) to conduct Investment Business, we are licensed by the Institute of Chartered Accountants in England and Wales to provide certain investment services that are complimentary to, or arise out of, the professional services we are providing to you. 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.
- 14.2 Such advice may include the following:-
- a) advising you on investments generally, but not recommending a particular investment or type of investment;
  - b) where you require advice on investment business which we are unable to give as we are not authorised by the FCA we can introduce you to an independent Permitted Third Party (PTP) authorised by the FCA, and assisting you and the PTP during the course of any advice given by the PTP. This may include comment on, or explanation of, the advice received (but we will 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;
  - c) advising on the sale of a contractually based investment other than disposing of any rights or interests which you may have as a member of a personal pension scheme;
  - d) advising and assisting you in transactions concerning shares or other securities not quoted on a recognised exchange;
  - e) managing investments or acting as a Trustee (or done of Power of Attorney) where decisions to invest are taken on the advice of an authorised person;
- 14.3 We may also, on the understanding that the shares or other securities of the company are not publicly traded:
- a) advise the company, existing or prospective shareholders in relation to exercising rights, taking benefits or share options including valuation and methods;
  - b) arrange any agreements in connection with the issue, sale or transfer of the company’s shares or other securities;
  - c) arrange for the issue of new shares; and
  - d) Act as the addressee to receive confirmation of acceptance of offer documents etc.
- 14.4 Whilst we are not authorised by the FCA, we are included on the register maintained by them so we can carry on insurance mediation activity (which is broadly advising on the setting and administration of insurance contracts). This part of our business including arrangements for complaints or redress if

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something goes wrong is regulated by the ICAEW. The register can be accessed at [www.fca.gov.uk/register](http://www.fca.gov.uk/register).

### *Referral to a Permitted Third Party (PTP)*

14.5 Should you require advice on investment business which we are unable to give as we are not authorised

by the Financial Services Authority, we can introduce you to a suitable PTP.

14.6 The PTP will issue you with his 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. We will act as introducers but would be pleased to comment on, or explain any advice received and if required attend any meetings with you. If dissatisfied, you may have access to the Chartered Accountants.

Compensation Scheme in respect of exempt regulated activities undertaken.

14.7 We will inform you when any introductory fee or commission is received and agree with you how this is to be dealt with at that time.

14.8 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. We shall, of course, comply with any restrictions you may wish to impose which you notify to us in writing.

### *Quality of Service*

14.9 If you are dissatisfied in any way with our services described in this section, you should follow the procedures set out in the "Quality of Service" section below. You may have access to the Chartered Accountants Compensation Scheme in respect of exempt regulated activities undertaken.

## **15 Lien**

15.1 Insofar as we are permitted to so by law or professional guidelines, we reserve the right to exercise a lien over all funds, documents and records in our possession relating to all engagements for you until all outstanding fees and disbursements are paid in full.

## **16 Limitation of Third Party Rights**

16.1 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 or any replacement legislation. This clause does not affect any remedy that exists independently of the Act.

16.2 If we become liable for to any third party in respect of any opinion, certificate or report given by us which is inaccurate or misleading as a direct result of your failure to provide us with complete and accurate and timely information that can reasonably be expected to have a material impact on our opinion, certificates or reports then you are liable to indemnify us against any liability which we may have arising from such failure to supply complete, accurate and timely information. This clause does not affect any remedy that exists independently of the Act.

## **17 Use of our work by third Parties.**

17.1 It may be envisaged that reports, letters and information or advice provided to you will be provided to or used by a third party other than you or your client. Our work is not, unless there is a legal or regulatory requirement, to be made available to third parties without our express 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. Where we agree to a specified third party being able to rely on our work

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we reserve the right to agree with you the terms on which the report, letter information or advice is to be provided to the third party and may require that a separate engagement letter with us is signed by the third party.

17.2 If we become liable to any third party in respect of any opinion, certificate or report given by us which is inaccurate or misleading as a direct result of your failure to provide us with complete, accurate and timely information that could reasonably be expected to have a material impact on our opinions, certificates or reports then you are liable to indemnify us against any liability which we may have arising from such failure to supply complete, accurate and timely information.

### **18. Use of our name in statements or documents issued by you**

18.1 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.

### **19. Introductions to Promoters of Tax Schemes**

19.1 If we consider there may be a tax scheme that could be beneficial in respect of advice being sought, we may bring the scheme to your attention. In doing so, we will only be acting as an introducer and all advice in relation to the scheme will be provided by the promoter.

19.2 If we attend any meetings with you and the promoter, our attendance will be restricted to making available financial information and information about your tax affairs requested by the promoter, and to understanding how the scheme will be reflected in your subsequent tax returns.

19.3 We will not be carrying out any due diligence regarding the advice from the promoter and can accept no responsibility for any consequences of your decision to accept the advice of the promoter and make use of the scheme proposed by them.

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

20.1 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.

20.2 Each of us may terminate our agreement by giving not less than 21 days' notice in writing to the other party except where you fail to cooperate with us or we have reason to believe that you have provided us or 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 prior to termination.

20.3 In the event of termination of our contract, we will endeavour to agree with you the arrangements for the completion of work in progress at that time, unless we are required for legal or regulatory reasons to cease work immediately. In that event, we shall not be required to carry out further work and shall not be responsible or liable for any consequences arising from termination.

### **21. Professional rules and statutory obligations**

21.1 We will observe and act in accordance with the by-laws, regulations and code of ethics of the Institute of Chartered Accountants in England and Wales and will accept instructions to act for you on this basis. In particular you give us the authority to correct errors made by HMRC 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. You can see copies of these requirements in our offices. The requirements are also available on the internet at [www.icaew.com/regulations](http://www.icaew.com/regulations).

21.2 We confirm that we are Statutory Auditors eligible to conduct audits under the Companies Act 2006.

#### *Dealing with HMRC*

21.3 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 provide us with all necessary information in a timely manner.

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For more information about 'your charter'

for your dealings with HMRC, see [www.hmrc.gov.uk/charter/indexation](http://www.hmrc.gov.uk/charter/indexation). To the best of our abilities, we will ensure that HMRC meet their side of the Charter in their dealings with you.

- 21.4 We will take account of the checks and steps suggested by HMRC in their 'Agent Toolkits'. While use of the Toolkits is voluntary, we will ensure that our quality control procedures match or enhance the suggestions in the Toolkits so that, in the unlikely event that HMRC consider any of our tax returns with which we assist to be inaccurate, we will be able to help you demonstrate to HMRC that reasonable care has been taken in the preparation of the return, thereby significantly reducing the possibility of an inaccurate penalty. You will remain responsible for maintaining good quality supporting records for each return for providing us with all relevant information

and explanations and acting on any advice that we give you.

### 22 Quality control

- 22.1 As part of our ongoing commitment to providing a quality service, our files are periodically reviewed by an independent regulatory or quality control body. These reviewers are highly experienced and professional people and, of course, are bound by the same rules for confidentiality as our principals and staff.

### 23 Reliance on advice

- 23.1 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.
- 23.2 Any oral advice given will be on the basis of the information provided to us being complete and accurate and it is your responsibility to ensure that this is the case.

- 23.3 We can accept no responsibility whatsoever for any advice provided, either orally or in writing, on the basis of incomplete or inaccurate information

### 24 Retention of papers

- 24.1 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: 5 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:*

- 6 years from the end of the accounting period;

- 24.2 Whilst 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 tell us if you wish us to keep any document for any longer period.

### 25 The Provision of Services Regulations 2009

- 25.1 We are registered to carry on audit work in the UK by the Institute of Chartered Accountants in England and Wales. Details of our audit registration can be viewed at [www.auditregister.org.uk](http://www.auditregister.org.uk) under reference number C008324633.
- 25.2 Our professional indemnity insurance certificate is on display in our office. Details of our insurers are available on request.



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### **26. Bribery Act 2010**

26.1 In accordance with the Bribery Act 2010 we have policies and procedures in place to prevent the business and its directors and staff from offering or receiving bribes.

### **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 (USA) Regulations 20B, provided 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 a FI, for its registration with the US internal Revenue Service (IRS) and subsequent submission of the required annual returns to HMRC.

27.2 However, if requested to do so we can provide advice on the completion of the forms issued by the FI's

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.