

**PINFIELDS LIMITED**  
**TERMS OF BUSINESS OCTOBER 2018**

**1. Changes in the Law**

We will not accept responsibility if you act on advice given by us on an earlier occasion without first confirming with us that the advice is still valid in the light of any change in the law or your circumstances.

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

**2. 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.

**3. Quality of Service**

We aim to provide the best possible service to our clients. If you would like to discuss how our service could be improved please let us know by telephoning Paul Tivey.

We undertake to look into any complaint carefully and promptly and do all we can to explain the position to you. We will do everything reasonable to put matters right. Prompt communication enables us to take prompt action on your behalf.

Should you at any stage, feel that you have not received an adequate response to a complaint the circumstances should be brought to the attention of the senior partner.

If we do not answer your complaint to your satisfaction you may take up the matter with The Institute of Chartered Accountants in England and Wales.

**4. Professional Rules and Practice Guidelines**

We will observe the Bye-laws, regulations and ethical guidelines of our professional institute and accept instructions to act for you on the basis that we will act in accordance with these guidelines. In particular you give us authority to correct HM Revenue & Customs' errors. A copy of these guidelines is available for your inspection in our offices.

**5. Quality Control**

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

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.

**6. Applicable Law**

This engagement letter shall be governed by and construed in accordance with English law. The Courts of England shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning the engagement letter and any matter arising from it. Each party irrevocably waives any right it may have to object to an 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.

**7. Contracts (Rights of Third Parties) Act 1999**

A person who is 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 that exists or is available otherwise than pursuant to that Act.

**8. Data Protection**

8.1 In this clause:

8.1.1 '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;

8.1.2 '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;

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

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

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

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

8.3. We both acknowledge that for the purposes of the data protection legislation, you are the data controller and we are the data processor, in some instances we are also the data controller. Our Engagement letter sets out the scope, nature and purpose of processing by us, the duration of the processing and the types of personal data and categories of data subject.

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

8.4.1 process the client personal data only in accordance with your lawful written instructions, in order to provide you with the services pursuant to our engagement with you and in accordance with applicable data protection legislation;

8.4.2 disclose and transfer the client personal data to members of our firm's network, our regulatory bodies or other third parties (for example, our professional advisors or service providers) as and to the extent necessary in order to provide you with the services pursuant to our engagement with you in relation to those services;

8.4.3 disclose the client personal data to courts, government agencies and other third parties as and to the extent required by law;

8.5 maintain written records of our processing activities performed on your behalf which shall include:

8.5.1 the categories of processing activities performed;

8.5.2 details of any cross border data transfers outside of the European Economic Area (EEA); and

8.5.3 a general description of security measures implemented in respect of the client personal data;

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

8.7 return or delete all the client personal data upon the termination of the engagement with you pursuant to which we agreed to provide the services;

8.8 ensure that only those personnel who need to have access to the client personal data are granted access to it and that all of the personnel authorised to process the client personal data are bound by a duty of confidentiality;

8.9 notify you if we appoint a sub-processor (but only if you have given us your prior written consent, such consent not to be reasonably withheld or delayed) and ensure any agreement entered into with the relevant sub-processor includes similar terms as the terms set out in this clause;

8.10 where we transfer the client personal data to a country or territory outside the EEA to do so in accordance with data protection legislation;

8.11 notify you promptly if:

8.11.1 we receive a request, complaint or any adverse correspondence from or on behalf of a relevant data subject, to exercise their data subject rights under the data protection legislation or in respect of the client personal data; or

8.11.2 we are served with an information or assessment notice, or receive any other material communication in respect of our processing of the client personal data

from a supervisory body (for example, the Information Commissioner's Office);

8.12 notify you, without undue delay, in the event that we reasonably believe that there has been a personal data breach in respect of the client personal data;

8.13 at your cost and upon receipt of your prior written notice, allow you, on an annual basis and/or in the event that we notify you of personal data breach in respect of the client personal data, reasonable access to the relevant records, files, computer or other communication systems, for the purposes of reviewing our compliance with the data protection laws.

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

Should you require any further details regarding our treatment of personal data, please contact our data protection managers Paul Tivey or Amy Jennings. (paul.tivey@pinfields.co.uk or amy.jennings@pinfields.co.uk or 01527 831 991)

## **9. Money laundering**

9.1 We have a duty under section 330 of the Proceeds of Crime Act 2002 to report to the National Crime Agency (NCA) if we know, or have reasonable cause to suspect, that you, or anyone connected with your business, are or have been involved in money laundering. Failure on our part to make a report where we have knowledge or reasonable grounds for suspicion would constitute a criminal offence.

9.2 The offence of money laundering is defined by section 340(11) of the Proceeds of Crime Act and includes the acquisition, possession or involvement in arrangements for concealing the benefits of any activity that constitutes a criminal offence in the UK. This definition is very wide and would include:

9.2.1 tax evasion through deliberate understatement of income or overstatement of expenses or stocks; or

9.2.2 deliberate failure to inform the tax authorities of known underpayments.

9.3 We are obliged by law to report to NCA without your knowledge and consent and in fact we would commit the criminal offence of tipping off under section 333 of the Proceeds of Crime Act were we to inform you of any suspicions or that a report had been made.

9.4 We are not required to undertake work for the sole purpose of identifying suspicions of money laundering. We shall fulfil our obligations under the Proceeds of Crime Act 2002 in accordance with the guidance published by The Institute of Chartered Accountants in England and Wales.

9.5 As with other professional services firms, we are required to identify our clients for the purposes of the UK anti-money laundering legislation. We may request from you, and retain, such information and documentation as we require for these purposes and/or make searches of appropriate databases. If we are not able to obtain satisfactory evidence of your identity, we will not be able to proceed with the engagement.

## **10. Retention of Records**

10.1 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. Documents and records relevant to your tax affairs are required by law to be retained by Individuals, trustees and partnerships with trading and rental income for 5 years and 10 months, otherwise for 22 months after the end of the tax year; Limited Companies, LLPs and other corporate entities for 6 years from the end of the accounting period.

10.2 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 that are more than seven years old, other than documents which we think may be of continuing significance. You must notify us in writing if you require retention of a particular document.

10.3 Where our services are disengaged, we will destroy correspondence and other papers that are stored electronically or otherwise within **6 months**, so as to adhere to data protection regulations.

10.4 It is not our responsibility to store records and information on your behalf. If we hold your documentation after the agreed work has been completed, we reserve the right to invoice you with reasonable storage costs.

## **11. Clients' Monies**

11.1 We may, from time to time, hold money on behalf of the company. 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' Monies Regulations of the Institute of Chartered Accountants in England and Wales.

11.2 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 NatWest Bank Plc for small deposits subject to the minimum period of notice for withdrawals. Subject to any tax legislation, interest will be paid gross.

11.3 If the total sum of money held on your behalf exceeds £10,000 for a period of more than 30 days, or such sum is likely to be held for more than 30 days, then the money will be placed in a separate interest-bearing 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.

11.4 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 which they relate has remained untraced for 5 years, or we as a firm cease to practice, we may pay those monies to a registered charity.

## **12. Fees**

12.1 Our fees are computed on the basis of the time spent on your affairs by the partners and our staff and on the levels of skill and responsibility involved. Unless otherwise agreed, our fees will be billed at appropriate intervals during the course of the year and will be due on presentation. If work is required which is outside the scope of this letter, for example dealing with HM Revenue & Customs enquiries into the tax return, then this will be a separate engagement for which additional fees will be chargeable. We will add value added tax, if applicable, at the current rate.

12.2 Our invoices are payable on presentation. We reserve the right to charge interest at 8% per annum above bank base rate in the case of overdue accounts, as per Statutory Guidelines. We may terminate our engagement and cease acting if payment of any fees billed is unduly delayed. However, it is not our intention to use these arrangements in a way that is unfair or unreasonable.

12.3 We may indicate a fixed fee or a payment on account agreement for the provision of specific services or an indicative range of fees for a particular assignment. Any such agreements will be invoiced monthly or quarterly as per our fee proposal provided to you and these fees are payable by Direct Debit. 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.

12.4 We are able to offer assistance with your professional fees in relation to any investigation into your tax affairs by HMRC. We offer a Tax Investigation Fee Protection Service each year that runs from 1 May to 30 April. This is offered on an "opt out" basis to provide you with the opportunity to discuss the service in detail and make an informed decision as to whether you wish to benefit from this or opt out. The service is entirely optional and a credit note will be issued against the fee immediately upon request to opt out unless you have previously advised us of a permanent opt out.

Assistance may be provided through insurance policies you hold or via membership of a professional or trade body. You will need to advise us of any such insurance cover you have. You will remain liable for our fees regardless of whether all or part are liable to be paid by your insurers.

12.5 Where we receive repayments of tax from HM Revenue & Customs on your behalf this will be held in a client's bank account awaiting notification from HM Revenue & Customs. Please note we are unable to make repayment to you until this notification is received as this is the only method of identifying the amount as yours. Following receipt of the notification, we will repay the amount to you less any amount due to us for unpaid fee invoices.

12.6 Where our fees are invoiced to a Limited Company, if they remain unpaid beyond our normal period for payment, the responsibility for settlement will revert to the director(s) personally as follows: In consideration of your having agreed the directors' request to provide Accountancy and Taxation Services to the company, the directors jointly and severally hereby agree to be personally responsible to you for the price of all such services as you may hereafter supply to the Company. The Guarantee is to be a continuing guarantee and our liability under it shall not be

affected by your giving time or any other indulgence to the Company.

We reserve the right by notice in writing of 42 days, to revoke this Guarantee at any time as to all future dealings by the said Company with you after 42 days of the date of such notice.

For the avoidance of doubt it is hereby agreed that this Personal Guarantee shall become immediately enforceable upon the occurrence of the following events:-

- The Company fails to pay a debt by the due date of payment agreed between us.
- The Company calls a meeting of creditors or presents or has presented a petition to wind up the company.
- The Company presents or has presented a judicial factor, an administrative receiver, receiver and manager or receiver appointed of the whole or part of its business, property or assets.

### **13. Commissions or Other Benefits**

In some instances Pinfields Ltd may receive commissions or other benefits for introductions to other professionals or in respect of transactions which we arrange for you. If this happens, we will notify you in writing of the amount and terms of payment and receipt of any such commissions or benefits. You agree that we account to you for any such amounts.

### **14. Electronic Communication**

14.1 E-mail may be used to enable us to communicate with you. As with other means of delivery this carries with it the risk of inadvertent misdirection or non-delivery. It is the responsibility of the recipient to carry out a virus check on any attachments received.

14.2 As Internet communications are capable of data corruption we do not accept any responsibility for changes made to such communications after their despatch. For this reason it may be inappropriate to rely on advice contained in an e-mail without obtaining written confirmation of it. All risks connected with sending commercially sensitive information relating to your business are borne by you and are not our responsibility. If you do not accept this risk, you should notify us by letter that e-mail is not an acceptable means of communication.

### **15. Confidentiality**

15.1 Unless we are authorised by you to disclose information on your behalf, we confirm that if you give us confidential information we will, at all times during and after this engagement, keep it confidential, except as required by law or as provided for in regulatory, ethical or other professional pronouncements applicable to us or our engagement.

15.2 You agree that, if we act for other clients who are or 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.

15.3 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.

15.4 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.

15.5 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.

15.6 If we use external or cloud based systems we will ensure confidentiality of your information is maintained.

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

### **16. Conflicts of Interest**

16.1 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.

16.2 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 the ICAEW's Code of Ethics, which can be viewed at [www.icaew.com/membership/regulations-standards-and-guidance/ethics](http://www.icaew.com/membership/regulations-standards-and-guidance/ethics). 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.

### **17. Intellectual Property Rights and Use of our Name**

17.1 We will retain all intellectual property rights in any document prepared by us during the course of carrying out our engagement except where the law states otherwise.

17.2 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.

### **18. Interpretation**

If any provision of our engagement letter or terms of business is held to be void, 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.

### **19. Internal Disputes 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 normal place of business for the attention of the directors/proprietors. If conflicting advice, information or instructions are received from different principals in the business, we will refer the matter back to the board of directors/the partnership and take no further action until the directors/proprietors have agreed the action to be taken.

### **20. Lien**

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.

### **21. Timing of our Services**

If you provide us with all the 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.

### **22. Electronic Submission to the Authorities**

It is now mandatory (or in some instances advantageous to you) that some forms and tax returns are submitted to HM Revenue & Customs and Companies House electronically. Wherever possible we are filing online as it also improves the service that we and you receive from the authorities. However once information has left our server we cannot be responsible for any corruption of the data that may occur. Where there is a choice of online or manual filing, should you prefer that your data is not submitted electronically please inform us by letter so that alternative arrangements can be made. We will then be able to discuss with you additional costs and penalties that may be incurred if you do not file electronically.

### **23. Investment Services**

23.1 Although we are not authorised by the Financial Conduct Authority to conduct Investment Business, we are licensed by the ICAEW to provide certain limited investment services where these are complementary to, or arise out of, the professional services we are providing to you. Such assistance may include the following:

23.1.1 Advising you on investments generally, but not recommending a particular investment or type of investment.

23.1.2 Referring you to a Permitted Third Party (PTP) (an independent firm authorised by the FCA). The PTP will issue you with its own terms and conditions letter, will be remunerated separately for its services and will take full responsibility for compliance with the requirements of the Financial Services and Markets Act 2000. We are

not able to review or comment on any advice given to you by them. The firm may receive commission from such an introduction, in which case you will be fully informed of the expected size and nature of such commission at the time of the introduction or the exact amount when known. You consent to such commission or other benefits being retained by us with or without our being liable to account to you for any such amounts.

- 23.1.3 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.
  - 23.1.4 Advising and assisting you in transactions concerning shares or other securities not quoted on a recognised exchange.
  - 23.1.5 Managing investments or acting as trustee (or donee of a power of attorney) where decisions to invest are taken on the advice of an authorised person.
- 23.2 We may also, on the understanding that the shares or other securities of the company are not publicly traded;
- 23.2.1 Advise the company, existing or prospective shareholders in relation to existing rights, taking benefits or share options valuation and methods;
  - 23.2.2 Arrange any agreements in connection with the issue, sale or transfer of the company's shares or other securities.
  - 23.2.3 Arrange for the issue of the new shares and
  - 23.2.4 Act as the addressee to receive confirmation of acceptance of offer documents etc.

#### **24. Insurance Mediation Activities**

- 24.1 Although we are not authorised by the Financial Conduct Authority, we are included on the register maintained by the Financial Conduct Authority so that we might carry on insurance mediation activity, which is broadly advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Institute of Chartered Accountants in England and Wales. The register can be accessed via the Financial Conduct Authority website at [www.fsa.gov.uk/register](http://www.fsa.gov.uk/register).
- 24.2 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 above. 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.

#### **25. The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013**

The firm may occasionally form a contract with consumers (i.e. individuals acting in their private, non-business capacity e.g. personal tax clients) via e-mail or telephone or after a meeting away from the firm's office. In these circumstances, the firm has to comply with the new rules resulting from The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, which were effective from 13 June 2014. This means providing a cancellation form or allowing the individual to cancel the contract within **14 days** of it being made.

Details of the changes can be found in The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013

<http://www.legislation.gov.uk/uksi/2013/3134/contents/made>, which includes an example of a 'right to cancel' clause in Schedule 3.

#### **26. Consumer Credit Status (from 1 April 2016)**

We are regulated by the Institute of Chartered Accountants in England and Wales to provide certain credit-related services where these are complementary to or arise out of the professional services we are providing to you.

For Complaints Procedures, please refer to paragraph 3 above.

#### **27. Limitation of Liability**

- 27.1 The advice that we give to you is for your sole use and does not constitute advice to any third party to whom you may communicate it.
- 27.2 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 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.

- 27.3 You agree to hold harmless and indemnify us against any misrepresentation (intentional or unintentional) supplied to us orally or in writing in connection with this agreement. You have agreed that you will not bring any claim in connection with services provided to you by the firm against any of our employees on a personal basis.

- 27.4 We will be responsible for work from the accounting periods specifically detailed in this letter. Work relating to any period before the dates set out in this letter will continue to be the responsibility of the Company and/or their previous Accountants.

#### **28. Disengagement**

- 28.1 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 will not be required to carry out further work and shall not be responsible or liable for any consequences arising from termination.

- 28.2 If we resign or are asked to resign by way of receipt of professional clearance from another Accountant, or by direct instruction from you, we will normally issue a disengagement letter to ensure that our respective responsibilities are clear.

- 28.3 If we have no contact with you for a period of **12 months** or more, we may issue to your last known address a disengagement letter and thereafter cease to act.

#### **29. Period of Engagement and Termination**

- 29.1 Unless otherwise agreed in writing, our work will begin when we receive implicit or explicit acceptance of our Terms of Business. Except as stated in the engagement letter, we will not be responsible for periods before that date.

- 29.2 We reserve the right to terminate the engagement between us with immediate effect in the event of: your insolvency, bankruptcy or other arrangement being reached with creditors; an independence issue or change in the law which means we can no longer act; failure to pay our fees by the due dates; or either party being in breach of their obligations if this is not corrected within 30 days of being asked to do so.

#### **30. Professional Indemnity Insurance and the Services Regulations**

In accordance with the disclosure requirements of the Services Regulations 2009, our professional indemnity insurer is kept up to date on our website at [www.pinfields.co.uk/terms](http://www.pinfields.co.uk/terms). 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.

End of Document

Up to date copies of these Terms of Business are also on our website [www.pinfields.co.uk/terms](http://www.pinfields.co.uk/terms)