Engagement letters for  
tax practitioners

Supplementary guidance –

Subcontractor agreement (for use by a practitioner acting as a subcontractor to a regulated firm engaged in public practice)

**This is a living document and we will update it as our understanding of legislation in relation to subcontract arrangements develops.**

**Last updated 27th April 2020**

A document by a collaborative working party with ATT, CIOT (including former IIT), ACCA, AAT and STEP

# Introduction

Agreement for services provided by a practitioner acting as a subcontractor to a regulated firm engaged in public practice

* The ATT and CIOT have provided this sample short form subcontractor agreement on the understanding that you will select, adopt or amend the clauses in a way that you deem best suits your needs.
* This agreement has been prepared on the basis that it will be used by a practitioner or highlighted by the firm to a practitioner acting as a subcontractor. It is likely to be most suitable for a simple, short-term sub-contracting relationship or situations where the sub-contracting services are ancillary to the main business of the practitioner.
* The ATT and CIOT do not provide any assurance that this sample agreement will be suitable for your particular needs or those with whom you deal and none of the professional bodies involved in its preparation will be liable on any basis for the consequences of your use of it.
* Note that this guidance and the pro forma agreement aim to provide a form of wording for a practitioner to use when agreeing to undertake subcontract work but have not been drafted to ensure a practitioner will not be subject to IR35 or off-payroll working requirements. A practitioner is required to consider their own tax position and the agreement made with a firm and ensure that they amend the document as required to reflect the working arrangements agreed on, and that both the practitioner and firm meet the consequent tax responsibilities based on the agreement they have in place.
* It is recommended that you obtain legal advice if you are unsure of the meaning of any of the terms, conditions or clauses in this sample agreement.
* Template documents cannot and should not be taken as a substitute for appropriate legal advice.
* We would advise that members also have reference to the main engagement letter guidance.

**Supplementary Guidance – Subcontractor Agreements**

INTRODUCTION FOR USE BY A PRACTITIONER ACTING AS A SUBCONTRACTOR TO A REGULATED FIRM ENGAGED IN PUBLIC PRACTICE AND NOT TO BE SENT WITH THE AGREEMENT

# INTRODUCTION

1. This guidance and the pro forma document attached have been prepared for use by a practitioner acting as a subcontractor providing a service to a regulated firm engaged in public practice. Firms appointing a practitioner may choose to use this document but will need to amend it appropriately.
2. The document has been prepared on the basis that the practitioner is working to assist a firm, for example, at times of peak workload or staff shortages as opposed to being called on for specialist advice. Where specialist advice has been commissioned it is generally considered that the main engagement letter guidance and schedules are more appropriate.
3. It is noted that a practitioner may undertake work as a subcontractor as part of their professional training to ensure they have adequate experience to meet the qualification requirements of the CIOT or ATT. It is acceptable for students to use this letter although it may require amendment.
4. Note that this guidance and the pro forma agreement aim to provide a form of wording for a practitioner to use when agreeing to undertake subcontract work but have not been drafted to ensure a practitioner will not be subject to IR35 or off-payroll working requirements. A practitioner is required to consider their own tax position and the agreement made with a firm and ensure that they amend the document as required to reflect the working arrangements agreed on, and that both the practitioner and firm meet the consequent tax responsibilities based on the agreement they have in place.

Both parties could consider including an optional paragraph as follows:

“The Practitioner hereby indemnifies and agrees to keep indemnified the Firm in respect of all and any claims that may be made by the relevant authorities against the Firm in respect of income tax or National Insurance or similar contributions relating to payments made by the Firm to the Practitioner under this Agreement.”

1. The practitioner or firm could be individuals or companies. You would need to consider the limited liability implications if you are entering this contract as an individual and the other party is a limited company; and vice versa. Further information on the limitation of liability

extracted from the Engagement Letter suite should be considered:

“Although it is open to a practitioner to limit or even exclude their liability for negligence, any such limitation or exclusion is subject to the reasonableness test in the Unfair Contract Terms Act 1977. Where the contract is made “between a trader and a consumer for the trader to supply goods, digital content or services” there are also implications that may limit the effectiveness of a limitation of liability clause following the enactment of the Consumer Rights Act 2015 (CRA 2015). It is important to have regard to these pieces of legislation when framing limitation of liability clauses and standard terms and to understand the extent to which the limitation of liability clauses may be effective. Further details regarding the limitation of liability can be found at paragraphs 82-98 and regarding the limitation of third party rights at paragraphs 99-102.”

Substitute – in order to protect their business the Practitioner should be in a position to provide an alternative in the event that they cannot fulfil the contract and should refer to the guidance included on the CIOT website [here](https://www.tax.org.uk/professional-standards/professional-standards-%E2%80%93-full-listing/general-guidance/alternates-%E2%80%93-further) and the ATT website [here](https://www.att.org.uk/members/members-practice).

1. Duration – at present the agreement indicates that the Practitioner is engaged until the work is completed however in some cases it may be appropriate to refer to a fixed length of time.
2. It is important to consider where the practitioner will be required to work – their own premises, the firm’s premises, remotely or at the ultimate clients’ premises – and the consequences of this decision.
3. It should be made clear at the outset whether the Practitioner is permitted to tell clients that they are a subcontractor. Engagement letters should make it clear that a firm may use subcontractors. The standard terms and conditions included in the main guidance refer to this in clause 6.
4. Non-solicitation – a firm is permitted to restrict a practitioner from soliciting its clients. Such a restriction cannot be unreasonable, otherwise it will be unenforceable. The clause set out in paragraph 25 can therefore only apply for a reasonable period otherwise the Courts may view that this clause is ‘in restraint of trade’ and the Courts may take the view that the Agreement/this clause is void or voidable.
5. The Agreement should be clear on what basis the Practitioner is to be paid, the process for payment and entitlement to recover expenses. Delete and amend paragraphs 26 to 29 as appropriate. Note the agreement is currently drafted to refer to fixed fees but could be amended to refer to another basis of payment eg. hourly rates.
6. Insurance – a practitioner should ensure they take out and maintain suitable insurance. The firm may require the practitioner to confirm that they have insurance and draft wording is included at paragraph 31 of this sample agreement. Alternatively, the practitioner may be able to agree with the firm that their activities will be covered by the firm’s own insurance and alternative wording in relation to this is also set out at paragraph 31.
7. Anti-money laundering:
   1. both parties are responsible for complying with anti-money laundering requirements. The practitioner should be obliged to report any suspicions to the firm immediately. This agreement has been prepared on the basis that the Firm is an Accountancy Service Provider (ASP). An exemption from registration by the practitioner is available where the practitioner and firm have agreed certain terms in writing and the Practitioner is therefore covered under the AML supervision registration of the firm. This exemption refers to the practitioner not doing business directly with the firm’s own customers. In this context telephoning or meeting the clients to resolve queries and progress the work for the firm are not considered to be ”doing business directly”.
   2. both parties should be aware of the guidance in AML Guidance for the Accountancy Sector (AMLGAS) in relation to AML requirements where subcontracting arrangements are in place. Refer to AMLGAS sections 5.3.33 to 5.3.34 and Appendix B
8. Status of the practitioner acting as a subcontractor to a regulated firm – This agreement is based on the assumption that the practitioner will be a contractor rather than an employee or worker and as such shall be responsible for his/her own tax liabilities and national insurance. Draft wording is included at paragraph 30 of this sample agreement. Ultimately however the courts/HMRC will look at the reality of the relationship and not what the contract says. If for example the firm exercises a large degree of control over the practitioner or the practitioner works only for the firm it is likely that the practitioner will be deemed to be an employee of the firm.
9. Confidentiality – confidentiality is fundamental to a sub-contracting relationship and it is important that the practitioner is under appropriate obligations of confidentiality. Draft wording is included at paragraph 35 of this sample agreement.
10. Complaints procedures – the firm appointing the practitioner should be informed in writing of the name of a person who can be contacted to receive complaints about the services provided by the practitioner. The Firm appointing a practitioner should also be informed of their right to complain to a practitioner’s professional body. It is in the interests of the practitioner that complaints should be investigated promptly and courteously. The practitioner should take steps to ensure that the complaint is resolved as soon as possible. For more details on the handling of complaints a practitioner should refer to their professional body’s guidance.

The firm appointing the practitioner is responsible for any complaint received from the client.

1. This agreement is based on the laws of England and Wales and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to this agreement (those based in Scotland and Northern Ireland should ensure the terms are reviewed and amended to reflect the legislation applying in those areas).
2. The agreement has been drafted on the basis that you could amend it in relation to the following:
   1. The Firm – enter name of firm
   2. The Practitioner – enter name of practitioner
3. Schedule 1 should cover the work to be undertaken by the Practitioner but this could be incorporated in the main body of the agreement if preferred.
4. Data Protection – the General Data Protection Regulation (GDPR)/ The Data Protection Act 2018 will apply where the firm is sharing personal data with the practitioner. This is highly likely to be the case. Draft wording is included in schedule 2 of this sample agreement on the basis that the parties are both located in the EEA. Note that in addition the firm should tell its clients in its privacy notice that a Practitioner is engaged and is being provided with their personal data.

[To be printed on the practice headed notepaper. See guidance notes before using this Agreement. Also delete/amend sections highlighted in red.]

### **AGREEMENT FOR SERVICES PROVIDED BY A PRACTITIONER ACTING AS A SUBCONTRACTOR TO A REGULATED FIRM ENGAGED IN PUBLIC PRACTICE**

This Agreement is dated [dd/mm/yyyy] and made between the following Parties:

1. [FULL COMPANY NAME incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [ADDRESS OF THE FIRM]]/[FULL NAME OF LLP OR UNINCORPORATED BUSINESS AND BUSINESS ADDRESS] [EMAIL ADDRESS OF THE FIRM] (the “Firm”); Our agreed communication address is [AGREED ADDRESS FOR COMMUNICATION] ; and
2. [FULL COMPANY NAME/FULL NAME OF INDIVIDUAL PRACTITIONER] [incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at/of] [ADDRESS OF THE PRACTITIONER] [EMAIL ADDRESS OF THE PRACTITIONER] (the “Practitioner”) Our agreed communication address is [AGREED ADDRESS FOR COMMUNICATION].

**BACKGROUND**

1. The Firm is in the business of providing the Services to the Client.
2. The Firm wishes to obtain and the Practitioner wishes to provide the Work as set out in this Agreement.

**Interpretation**

In this Agreement, unless the context otherwise requires:

**“Applicable Laws”** the laws of England and Wales and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to this agreement (those based in Scotland and Northern Ireland should ensure the terms are reviewed and amended to reflect the legislation applying in those areas);

**“Client”** means a client or prospective client of the Firm;

**“Commencement date”** means the date at the head of the agreement

**“Confidential Information”** means any information, however conveyed or presented, that relates to the business, affairs, operations, customers, processes, budgets, pricing policies, product information, strategies, developments, trade secrets, know-how, personnel and suppliers of the disclosing Party including but without limitation Clients, together with all information derived by the receiving Party from any such information and any other information clearly designated by a Party as being confidential to it (whether or not it is marked "confidential"), or which ought reasonably be considered to be confidential;

**“Data Protection Legislation”** means all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including, without limitation (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/279) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK);

**“Intellectual Property Rights”** means patents, rights to inventions, copyright and related rights, trade marks, trade names, rights to use domain names, rights in get-up, goodwill and the right to sue for passing off and unfair competition, rights in designs, rights in computer software, database rights, topography rights, rights to use and preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

“**Firm** [enter the name of firm]” means the regulated business engaged in public practice.

“Regulated business” means firms run by members of the following bodies: AAT, ACCA, ATT, CIOT and STEP

[**“Firm’s Premises”** means [INSERT ADDRESS];]

**“Schedule”** means the Schedule of Work at Schedule 1 to this Agreement;

**“Services”** means [INSERT DESCRIPTION OF SERVICES] provided by the Firm to the Client;

**“Practitioner”** means the subcontractor undertaking subcontracted work for the firm;

“**Practitioner’s Premises**” means [INSERT ADDRESS];

**“Substitute”** means an alternative service provider of equal suitability, appointed by the Practitioner and paid by him, who shall take over the provision of the services in accordance with this Agreement. Any costs incurred in providing a substitute will be at the expense of the Practitioner; and

**“Work or Works”** means the work or services performed by the Practitioner for the Firm or its Clients in accordance with the terms of this Agreement as more fully set out in the Schedule of Works in appendix one or agreed between the parties from time to time.

**Duration**

1. This Agreement shall commence on the commencement date and shall continue until completion of the Work unless terminated earlier in accordance with paragraphs 41 to 44 (Termination).

**The Practitioner**

1. The Practitioner confirms that:
   1. It has all requisite corporate power and authority to enter into this Agreement and to carry out the Work in accordance with this Agreement;
   2. It will co-operate with the Firm in all matters relating to this Agreement.
   3. The Practitioner shall indemnify the Firm against any liabilities incurred by the Firm as a result of the Practitioner breaching this Agreement
   4. It has the necessary skills, qualification and experience to provide the Work;
   5. It has sufficient numbers of personnel with the necessary skills, qualification and experience to provide the Work;
   6. It conducts its business in accordance with Applicable Laws;
   7. It adheres to
      1. the professional rules and obligations of their professional body
      2. Professional Conduct in Relation to Taxation
      3. policies and procedures that apply within the Firm.
   8. It will provide the Work with a reasonable level of care, skill and diligence and in accordance with best practice in the Practitioner’s industry, profession or trade;
   9. It will ensure its personnel provide the Work with a reasonable level of care, skill and diligence and in accordance with best practice in the Practitioner’s industry, profession or trade;
   10. It will be responsible for its personnel and any substitute provided in accordance with the terms of this agreement including, but without limitation, making all payments to its personnel and any substitute in relation to this Agreement.
2. The Practitioner shall undertake the Work in accordance with the Schedule of works in Schedule 1 or agreed between the parties from time to time. [The Practitioner will take instructions from the following named individuals only]/ [The Practitioner will take instructions from anyone involved in the firm].
3. Where the Practitioner and/or named personnel is to provide the Work then the Practitioner shall be entitled to appoint a Substitute.
4. The Practitioner shall act towards the Firm conscientiously and in good faith and not allow its interests to conflict with the duties that it owes to the Firm under this Agreement and the general law.
5. The Practitioner shall undertake the Work at [a combination of] the [Practitioner’s/Firm’s/Firm’s clients’] Premises [address of premises]. [Whilst at the Firm’s Premises, the Practitioner will adhere to all policies of the Firm including, but not limited to, health and safety policies.]

[or]

[The Practitioner shall undertake the Work remotely via the Firm’s IT systems. The Firm will provide the necessary log in and password credentials to access the Firm’s IT systems remotely. The Practitioner must keep these credentials confidential. The Practitioner must consider and take the necessary precautions in relation to its location of work to ensure all materials relating to this Agreement are kept confidential.]

[and/or]

The Practitioner shall undertake the Work on the Client’s IT systems where required. The Firm or client will provide the necessary log in and password credentials to access the Client’s IT systems. The Practitioner must keep these credentials confidential. The Practitioner must consider and take the necessary precautions in relation to its location of work to ensure all materials relating to this Agreement are kept confidential.]

1. [The Practitioner is permitted to contact clients to enable them to deal with the work required for the Firm. AML requirements are set out further on in this document.] [The Practitioner is permitted to tell the client they are working for the firm as a subcontractor].

[or]

[The Practitioner must not contact the Firm’s client’s directly but must liaise with the Firm in relation to all communication required with the Firm’s clients.]

1. The Practitioner will agree with the Firm the application of any risk management procedures.
2. The Practitioner shall not, except as expressly authorised by the Firm, act in a way which will incur any liabilities on behalf of the Firm nor to pledge the credit of the Firm
3. The Practitioner must not take part in any dispute or commence or defend any court or other dispute proceedings or settle or attempt to settle or make any admission concerning any such proceedings on behalf of the Firm, except as authorised by the Firm and in accordance with the Firm’s express instructions.
4. The Practitioner shall return to the Firm all working papers on the completion of each piece of work or on termination of the agreement and shall give the Firm access to any working papers relating to the work covered by this agreement. Upon termination of the Agreement or at the request of the Firm, the Practitioner shall return all books, records, passwords and details of access to any systems to which the Practitioner has been given to the Firm within 7 working days.
5. If the Practitioner provides additional work they have not been instructed to do by the Firm, then the Practitioner does so at its own risk and the Firm is not obliged to accept or pay for that additional work.
6. This Agreement does not constitute a promise or assurance by the Firm to provide the Practitioner with work.
7. The Practitioner shall provide the Firm with all the Work including any necessary working papers for the Firm to review unless otherwise agreed.
8. The firm appointing the practitioner is responsible for any complaint received from the client. The Practitioner shall assist the Firm with or explain their actions in the event of a complaint.

**The Firm**

1. The Firm confirms that:
   1. It has all requisite corporate power and authority to enter into this Agreement
   2. It conducts its business in accordance with Applicable Laws, professional body rules and Professional Conduct in Relation to Taxation (where applicable);
2. The Firm shall provide the Practitioner with any assistance or co-operation that it reasonably requires in order to carry out the Work.
3. The Firm shall act towards the Practitioner in good faith.

**Documents**

1. Any Documents (all written information, documents, and/or materials created during the course of this agreement) created by the Practitioner or provided to the Practitioner by the Firm, remain the property of the Firm at all times regardless of payment by the Firm. The Practitioner shall not be entitled to assert any lien over the Documents.

**Intellectual Property Rights**

1. The Practitioner acknowledges that all Intellectual Property Rights subsisting (or which may in the future subsist) in the Documents or the Work or relating to anything created, discovered or developed in relation to this Agreement shall automatically, upon creation, vest in the Firm.
2. To the extent that any Intellectual Property Rights do not vest in the Firm automatically, the Practitioner hereby assigns and agrees to assign by way of future assignment to the Firm, all such Intellectual Property Rights and any related rights and powers. The Practitioner agrees to promptly execute all documents and do all acts as may be necessary to give effect to clauses 22 to 24.
3. To the maximum extent permitted by law the Practitioner irrevocably waives and shall procure that its personnel irrevocably waives all moral rights under the Copyright, Designs and Patents Act 1988 in relation to the Work.

**The Firm’s Clients**

1. The Practitioner agrees not to deal in any way with a Client of the Firm, with whom the Practitioner has had contact during, and for the purposes of, the Agreement. This runs from termination of the Agreement for a period of 12 months unless otherwise agreed with the firm.

**Payment**

1. In consideration of the provision of the Works, the Firm agrees to pay the Practitioner a fixed fee of £[INSERT FIGURE] upon completion of the Work/a fixed fee as per the Schedule].
2. In addition to the fee, the Practitioner [shall/shall not] be entitled to recover its reasonably incurred costs and expenses in relation to the Work from the Firm. [The Practitioner must obtain prior written approval from the Firm before incurring expenses, not to be unreasonably delayed by the Firm.]
3. [The Practitioner shall deliver [an invoice/a VAT invoice] for the Work to the Firm, which shall become payable 30 days from receipt.]
4. [Ad hoc work requested by the Firm will result in additional fees due to the Practitioner. Where appropriate the Practitioner aims to discuss and agree additional fees, but it may not always be possible to agree these in advance and reserves the right to charge the Firm an additional fee for ad hoc work.]
5. The Practitioner shall be responsible for all income tax and/or corporation tax liabilities, National Insurance, VAT, apprenticeship levy, other government levies and similar contributions in relation to the fees, costs and expenses payable under this Agreement.

**Insurance** *[One paragraph from the following section must be selected]*

1. [The Practitioner shall provide, at the Firm’s request, confirmation from its insurer that it has in force an insurance policy as required by law and in respect of any foreseeable liability which may arise in connection with this Agreement of not less than £[AMOUNT] per claim or per series of claims per year.

The Practitioner, at its own expense, shall maintain such insurance policy for the term of the Agreement and [seven] years thereafter.]

Or

[The Firm and Practitioner have agreed that the work undertaken by the Practitioner is insured under the Firm’s Professional Indemnity Insurance (PII) policy. The policy conforms with the PII requirements of the [AAT/ACCA/ATT/CIOT/STEP].

**Anti-Money Laundering (AML) Supervision**

1. [The Practitioner shall provide, at the Firm’s request, confirmation from its AML Supervisor of the up to date supervision arrangements in force.

1. The Practitioner, is responsible for their business’s compliance with The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR) 2017 as amended and associated legislation at its own expense. [They are also required to ensure the Firm meets its requirements as set out in their policies and procedures and report any Suspicious Activity to the Firm’s Money Laundering Reporting Officer [Name of individual]]
2. [If the Practitioner has significant contact with the Firm’s client they are permitted to ask for certified copies of client due diligence for that client to meet the legislative requirements placed on them under the Money Laundering Regulations 2017 as amended].

Or

[The Firm and Practitioner have agreed that the work undertaken by the Practitioner is undertaken under the Firm’s AML Supervision registration with [name supervisor] and the Practitioner is therefore exempt from requiring separate AML supervision. In order to comply with the requirements of this exemption the Practitioner and Firm confirm that the Practitioner only works for Accountancy Service Providers:

* The Practitioner does not do business directly with the Firm’s own customers.
* The Practitioner is included in the Firm’s AML controls and procedures, suspicious activity reporting, and training programmes.
* The Practitioner has a written contract with each of their Accountancy Service Provider customers confirming that every aspect of the relationship between them meets all AML requirements.]

**Confidentiality**

1. The Practitioner undertakes that it shall not at any time during this Agreement or after termination of this Agreement, disclose to any person any Confidential Information, other than:
   1. where the disclosure of Confidential Information is required by law, a court of competent jurisdiction or any governmental or regulatory authority;
   2. where the Firm provides its express written consent to the disclosure of Confidential Information.

**Data Protection**

1. The obligations of both Parties in relation to data protection are set out in schedule 2 of this Agreement.
2. As instructed, the Practitioner will communicate with the firm and with any third parties the firm instructs the Practitioner to as set out in this agreement. The recipient is responsible for virus-checking emails and any attachments.
3. With electronic communication there is a risk of non-receipt, delayed receipt, inadvertent misdirection or interception by third parties. The Practitioner confirms they will 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 the Practitioner cannot be held responsible for damage or loss caused by viruses, nor for communications that are corrupted or altered after despatch. Nor can the Practitioner accept any liability for problems or accidental errors relating to this means of communication, especially in relation to commercially sensitive material. These are risks that must be accepted in return for greater efficiency and lower costs. If these risks are not accepted by the Firm they must let the Practitioner know so that communication can take place by hard copy, other than where electronic submission is mandatory.
4. With electronic communication there is a risk of non-receipt, delayed receipt, inadvertent misdirection or interception by third parties. The Firm confirms they will 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 the Firm cannot be held responsible for damage or loss caused by viruses, nor for communications that are corrupted or altered after despatch. Nor can the Firm accept any liability for problems or accidental errors relating to this means of communication, especially in relation to commercially sensitive material. These are risks that must be accepted in return for greater efficiency and lower costs. If these risks are not accepted by the Practitioner they must let the Firm know so that communication can take place by hard copy, other than where electronic submission is mandatory.
5. Any communication between the Firm and the Practitioner sent through the post is deemed to arrive as set out in paragraph 62.

**Termination**

1. Without affecting any other right or remedy available to it, the Firm may terminate this Agreement with immediate effect by giving notice in writing if:
   1. The Practitioner commits a material breach of any terms of this Agreement which is irremediable or (if such breach is remediable) fails to remedy that breach within a period of [7] days after being notified in writing by the Firm to do so;
   2. The Practitioner repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
   3. The Practitioner undergoes a change of control (within the meaning of section 1124 of the Corporation Tax Act 2010); or
2. Without affecting any other right or remedy available to it, the Practitioner may terminate this Agreement with immediate effect by giving notice in writing if:
   1. The Firm commits a material breach of any terms of this Agreement which is irremediable or (if such breach is remediable) fails to remedy that breach within a period of [7] days after being notified in writing by the Practitioner to do so;
   2. The Firm repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
   3. The Firm undergoes a change of control (within the meaning of section 1124 of the Corporation Tax Act 2010); or
3. For the purpose of paragraphs 41 and 42 material breach means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Firm/Practitioner would otherwise derive from:
   1. A substantial portion of this Agreement; or
   2. Any of the obligations of the Firm/Practitioner set out in this Agreement

over the term of this Agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

1. Without affecting any other right or remedy available to it, either Party may terminate this Agreement on giving not less than 7 days’ written notice to the other Party.

**Consequences of Termination**

1. On termination of this Agreement, Interpretation, paragraphs 26 to 29 (Payment), paragraph 35 (Confidentiality), paragraphs 45 to 48 (Consequences of Termination) and paragraph 66 (Jurisdiction) shall continue in force.
2. Termination of this Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.
3. Upon termination of the Agreement, the Practitioner shall return all books, records, passwords and details of access to any systems to which the Practitioner has been given access to the Firm within 7 days in accordance with paragraph 13.
4. The Firm shall pay the Practitioner for all work completed prior to termination of the Agreement and for all other costs and expenses reasonably and properly incurred under this Agreement.

**Force Majeure**

1. Neither Party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances, the affected Party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 30 days, the Party not affected may terminate this Agreement by giving 14 days' written notice to the affected Party.

**Waiver**

1. No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
2. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

**Entire Agreement**

1. This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
2. Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.
3. If any provision of this engagement letter, schedules of services or standard terms and conditions is held to be void, then that provision will be deemed not to form part of this contract and the remainder of this agreement shall be interpreted as if such provision had never been inserted.

**Severance**

1. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.
2. If one Party gives notice to the other of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

**Assignment**

1. Neither Party shall assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed).

**No Partnership or Agency**

1. Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party being the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party.
2. Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

**Third Parties**

1. This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

**Notices**

1. Any notice or other communication given to a Party under or in connection with this Agreement shall be in writing, addressed to that Party at its registered office or such other address as that Party may have specified to the other Party in writing in (A) and (B), and shall be delivered personally, or sent by pre-paid post or other next working day delivery service, or by commercial courier, or email. The preferred method of communication is by email.
2. Any notice shall be deemed to have been received:
   1. if sent by email, at 9.00am UK time on the next business day after transmission.
   2. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
   3. if sent by pre-paid first-class post or other next Business Day delivery services, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
3. This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

**Dispute Resolution**

1. If any dispute arises in connection with this Agreement this should be resolved in accordance with the guidance provided by the Practitioner’s professional body [and the Firm’s professional body]. When making a complaint about the Practitioner the Firm should contact [name of person to whom the complaint should be made in the Practitioner’s business]. If the Firm is not satisfied with the action taken in connection with the complaint they should complain to the Practitioner’s Professional body [add name of the relevant body].

**Governing Law**

1. This Agreement and any dispute or claim (including non-contractual disputes or claim) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law and practice of England and Wales. 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 inappropriate forum, or to claim that those courts do not have jurisdiction.

**Jurisdiction**

1. Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

This Agreement has been entered into on the date stated at the beginning of it.

|  |  |  |
| --- | --- | --- |
| Signed by [NAME OF PERSON SIGNING] for and on behalf of [NAME OF FIRM] |  | …………………………………..  Director/partner/member/sole practitioner |
| Signed by [NAME OF PERSON SIGNING] for and on behalf of [NAME OF PRACTITIONER] |  | …………………………………..  Director/partner/member/sole practitioner |

**Schedule 1**

**Schedule of work(s)**

[INSERT LIST OF WORK – include any necessary, criteria, etc.]

[Personal tax return preparation\*

Preparation of Sole trader and rental income accounts and associated tax returns\*

Preparation of Company accounts\*

Tax compliance and advisory work for trusts and estates\*

Compliance with requirements under the Common Reporting Standard/Foreign Account Tax Compliance Act\*

Preparation of Partnership returns\*

Preparation of Returns for companies and associations liable to corporation tax\*

Payroll services calculations\*

Auto enrolment calculations\*

Preparation of forms P11D, payroll calculations for benefits-in-kind returns, class 1A NIC calculations and advice in relation to benefits in kind\*

Preparation of VAT returns\*

Preparation of voluntary (unprompted) disclosure to HMRC\*

HMRC tax investigations\*

Tax credit and universal credit claims\*

Specialist tax advisory services\*

Other (*insert any other services provided*)\*]

*\* delete as appropriate*

**Schedule 2**

**Data Protection**

**Definitions**

**“Agreed Purpose”** means for the Practitioner to complete the Works as set out in this Agreement.

**“Controller”**, **“Processor”**, **“Data Subject”**, **“Personal Data”**, **“Personal Data Breach”**, **“processing”** and **“appropriate technical and organisational measures”** means as defined in the Data Protection Legislation.

**“Shared Personal Data”** means the personal data to be shared between the Parties under this Agreement. Shared Personal Data shall be confined to the types of Personal Data and categories of Data Subject as set out in paragraphs 2 and 3 of this schedule.

1. **Data Protection**
   1. Both Parties will comply with all applicable requirements of the Data Protection Legislation. This schedule is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
   2. The Parties acknowledge that for the purpose of the Data Protection Legislation, the Firm is the Controller and the Practitioner is the Processor. Paragraphs 2 and 3 of this schedule set out the scope, nature and purpose of the processing by the Practitioner, the duration of the processing and the types of Personal Data and categories of Data Subject.
   3. Without prejudice to the generality of paragraph 1.1, the Firm will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Practitioner for the duration and purposes of this Agreement.
   4. Without prejudice to the generality of paragraph 1.1, the Practitioner shall, in relation to any Personal Data processed in connection with the performance by the Practitioner of its obligations under this Agreement:
      1. process that Personal Data only on the documented written instructions of the Firm unless the Practitioner is required by Applicable Laws to otherwise process that Personal Data. Where the Practitioner is relying on Applicable Laws as the basis for processing Personal Data, the Practitioner shall promptly notify the Firm of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Practitioner from so notifying the Firm;
      2. ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.
      3. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
      4. not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Firm has been obtained and the following conditions are fulfilled:
         1. the Firm or the Practitioner has provided appropriate safeguards in relation to the transfer;
         2. the data subject has enforceable rights and effective legal remedies;
         3. the Practitioner complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
         4. the Practitioner complies with reasonable instructions notified to it in advance by the Firm with respect to the processing of the Personal Data;
      5. assist the Firm, at the Firm's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
      6. notify the Firm immediately on becoming aware of a Personal Data Breach;
      7. at the written direction of the Firm, delete or return Personal Data and copies thereof to the Firm on termination of the Agreement unless required by Applicable Law to store the Personal Data; and
      8. maintain complete and accurate records and information to demonstrate its compliance with this schedule and allow for audits by the Firm or the Firm’s designated auditor and immediately inform the Firm if, in the opinion of the Practitioner, an instruction infringes the Data Protection Legislation.
   5. The Firm does not consent to the Practitioner appointing any third party processor of Personal Data under this Agreement.
2. **Processing by the Practitioner**
   1. [Scope of processing]
   2. [Nature of processing]
   3. [Purpose of processing]
   4. [Duration of processing]
3. **Personal Data**
   1. [Describe the Types of Personal Data/Categories of Data Subject]