



## **Standard Terms of Business (updated 15/08/23)**

All engagements that we accept are subject to the following standard terms of business unless changes are expressly agreed in writing. These supersede any prior terms of business (previous update was 16/05/18).

### **1. Professional obligations**

1.1 "JRD Partnership" comprises the following client facing network of associated businesses:

- JRD Partnership Ltd (SC266521) – core accountancy & taxation business and HMRC representative agent for all associated businesses.
- JRD LLP (SO3000394) – primarily regulated work, clubs & charities and DPB licence for restricted financial advice and our fee protection insurance policy (HMRC investigations).
- JRD Partnership (Payroll Bureau) Ltd. (SC560311) – dedicated payroll bureau company.
- Details of other associated entities (not client facing or non-trading) are available from our principal business address: 11 Portland Road, Kilmarnock, KA1 2BT.

1.2 Our associated firms are regulated by ICAS and our conduct is subject to its Code of Ethics which can be found at [www.icas.com/ethics/icas-code-of-ethics](http://www.icas.com/ethics/icas-code-of-ethics). We will observe and act in accordance with the byelaws and regulations of ICAS. We accept instructions to act for you on this basis.

1.3 Where relevant, we are required to be honest and to take reasonable care to ensure that your returns to HM Revenue & Customs (HMRC) are accurate. To allow us to do this, you in turn are required to be honest and truthful with us, providing us with all the relevant information required in a timely manner. For more information visit: <https://www.gov.uk/government/publications/hmrc-charter>. Where we become aware of errors made by HMRC, you give us authority to correct them. We will not be liable for any loss, damage or cost arising from our compliance with statutory or regulatory obligations.

1.4 Our above associated firm, JRD LLP, is a statutory auditor and registered to carry on audit work in the UK by ICAS. Details about this audit registration can be viewed at [www.auditregister.org.uk](http://www.auditregister.org.uk) under reference number F0852.

1.5 Our professional indemnity insurer, which covers all of our associated businesses, is Markel (UK) Limited of 2<sup>nd</sup> Floor, Verity House, 6 Canal Wharf, Leeds LS11 5AS. 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 or Canada.

## **2. Fees**

- 2.1 Our fees are calculated on the basis of time spent on your affairs, the levels of skill and responsibility involved the importance and value of the advice provided to you, and the level of risk. In addition, although not the norm, we may charge disbursements of travel, accommodation and other expenses incurred in dealing with your affairs.
- 2.2 If it is necessary for us to carry out work that is outside the scope of the engagement currently in place with you, we will advise you of this in advance. Any additional work will result in additional fees being charged. We would therefore like to point out that it is in your interests to ensure that the information you provide us with is completed to the agreed stage.
- 2.3 If we give you an estimate of our fees for carrying out any specific work, then that estimate will not be contractually binding unless we have explicitly stated that will be the case.
- 2.4 If we agree a fixed fee with you for providing a specific range of services this will be the subject of a separate agreement. This agreement will set out the period which the fixed fee relates to and the services covered by it.
- 2.5 Where we have agreed that you will pay on an invoice rendered basis, invoices are payable in full (including disbursements) in accordance with the terms set out on the invoice (our standard payment terms are 7 days from invoice date). Any queries you have on our invoices must be notified to us within 21 days of receipt or we shall deem you to have accepted that payment is due.
- 2.6 Where we have agreed that you will pay us on a standing order or direct debit basis, we will discuss with you separately the amount and frequency of payments. These payments will be applied to fees arising from work agreed with you for the current and ensuing years. Where a scheduled payment is not made any fees invoiced to you that are outstanding at that time will immediately become due for payment in entirety. The amount of standing order or direct debit does not represent the amount of our fees but is a method of paying these.
- 2.7 Where we offer you the facility to pay your professional fees by monthly instalments, we do not charge any interest or charges (except for default charges – refer to 2.9 below). As these terms have been agreed after 18 March 2015 this instalment agreement is not a regulated credit agreement.
- 2.8 You may have an insurance policy or membership of a trade or professional body that entitles you to assistance with payment of our fees in some situations. A particular example would be assistance with an investigation by HM Revenue & Customs. Unless you arranged the insurance through us then you will need to advise us of any such cover you have. Please note that you remain liable for our fees regardless of whether all or part are liable to be paid by your insurers.
- 2.9 We reserve the right to charge interest on overdue accounts at the current rate under the Late Payment of Commercial Debts (Interest) Act 1998. We also reserve the right to terminate our engagement and cease acting if payment of any fees billed is unduly delayed. We accept settlement of fees by certain credit cards. Related statutory penalties may also be applied to each late invoice.
- 2.10 As far as we are permitted to do so by law or professional guidelines, we reserve the right to exercise a lien over all documents and records in our possession. We will only exercise this right where those documents and records relate specifically to the work undertaken on your behalf and until such times as all outstanding fees and disbursements are paid in full.
- 2.11 In the event that we cease to act for you then you agree to meet all reasonable costs of providing information to your new advisers. In particular you agree to meet these costs where we are required by law to provide information to a successor firm.
- 2.12 If our fees relate to a limited company of which you are a director, you guarantee to personally pay any fees (including disbursements) for services provided to the company that the company is unable to pay. This clause shall become effective in the event of an administrator, receiver or liquidator being appointed to the company or the company otherwise being wound-up or ceasing to trade with no means to pay our debts. This guarantee will be jointly and severally with any other company directors. This position is also applicable in respect of members of limited liability partnerships.

### **3. Help us to give you the right service**

- 3.1 If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, please let us know by contacting Ken McCracken (who is a principal in all or our associated businesses).
- 3.2 We undertake to look into any complaint carefully and promptly and do all we can to explain the position to you. If we do not answer your complaint to your satisfaction you may of course take up the matter with ICAS.
- 3.3 In order for us to provide you with a high-quality service on an ongoing basis it is essential that you provide us with relevant records and information when requested, reply to correspondence in a timely manner and otherwise follow the terms of the agreement between us set out in this Standard Terms of Business and associated engagement letters. We therefore reserve the right to cancel the engagement between us with immediate effect in the event of:
- your insolvency, bankruptcy or other arrangement being reached with creditors;
  - failure to pay our fees by the due dates;
  - either party being in breach of their obligations where this is not corrected within 30 days of being asked to do so.
- 3.4 Should we resign or be requested to resign we will normally issue a disengagement letter to ensure that our respective responsibilities are clear. Should we have no contact with you for a period of one year or more we may issue to your last known address a disengagement letter and hence cease to act.

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

In some circumstances, commissions or other benefits may become payable to us in respect of transactions we arrange for you or indirectly as a result of a referral to a third party. If this happens, and the transaction is such that we are required to do so, we will notify you in writing of the amount and terms of payment. The fees that would be otherwise payable by you, if applicable, will not normally be abated by such amounts. When we do reduce the fees that we would otherwise charge by the amount of commission retained, we will apply the HMRC concession which allows VAT to be calculated on the net fee after deduction of the commission. You consent to such commission or other benefits being retained by us without our, or their, being liable to account to you for any such amounts.

### **5 Client monies**

- 5.1 We may at times hold money on your behalf. Any such money will be held on trust in a client bank account, which is held separately to funds that belong to us in an account held in the name of the associated firm, JRD LLP. The client bank account will be operated, and all funds dealt with, in accordance with the ICAS Clients' Money Regulations.
- 5.2 We will return monies held on your behalf promptly as soon as there is no longer any reason to retain those funds and, where applicable (see 5.3 & 5.4 below), we will exercise reasonable skill and care to ensure that a fair rate of interest is earned.
- 5.3 To avoid excessive amounts of administration, interest will only be paid to you if 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 our banker for small deposits subject to the minimum period of notice for withdrawals. Subject to any tax legislation, interest will be paid gross.
- 5.4 If the total sum of money held on your behalf exceeds £10,000 for a period of more than 30 days, then we will pay the interest that is due to you under the above regulations. Subject to any tax legislation, interest will be paid gross.

## **6 Retention of and access to records**

- 6.1 During the course of our work we will collect information from you and others acting on your behalf and will return any original documents to you following the preparation of your accounts and returns. You have a legal responsibility to retain these records. The law requires individuals, trustees and partnerships to keep records in relation to trading or rental income 6 years from the 31 January following the end of the tax year to which they relate. Other records should be kept for 22 months after the end of the tax year they relate to. Companies, Limited Liability Partnerships and other corporate entities are required to keep records for 6 years from the end of the accounting period.
- 6.2 Whilst certain documents may legally belong to you, unless you tell us not to, we intend to destroy correspondence and other papers that we store which are more than 7 years old, other than documents which we consider to be of continuing significance. If you require retention of any document, you must notify us of that fact in writing.

## **7 Conflicts of interest and independence**

- 7.1 We reserve the right during our engagement with you to deliver services to other clients whose interests might compete with yours or are or may be adverse to yours. We confirm that we will notify you immediately should we become aware of any conflict of interest involving us and affecting you. We have safeguards that can be implemented to protect the interests of different clients if a conflict arises. Where conflicts are identified which cannot be managed in a way that protects your interests then we regret that we will be unable to provide further services.
- 7.2 If a conflict of interest should arise, either between two or more of our clients, or in the provision of multiple services to a single client, we will take such steps as are necessary to deal with the conflict. In resolving the conflict, we would be guided by the ICAS Code of Ethics which can be viewed at [www.icas.com/ethics/icas-code-of-ethics](http://www.icas.com/ethics/icas-code-of-ethics).

## **8 Confidentiality**

Communication between us is confidential and we shall take all reasonable steps to keep your information confidential except where we are required to disclose it by law, by regulatory bodies, by our insurers or as part of an external peer review. We may, on occasions, subcontract work on your affairs to other tax or accounting professionals. Any subcontractors we use will be bound by the same confidentiality requirements.

## **9 Quality control**

As part of our ongoing commitment to providing a quality service, our files are periodically subject to an independent regulatory or quality review. Our reviewers are highly experienced and professional people and are, of course, bound by the same requirements of confidentiality as our principals and staff.

## **10 Applicable law**

- 10.1 These terms of business and any associated engagement letter are governed by, and construed in accordance with, Scots law. The Courts of Scotland will have exclusive jurisdiction in relation to any claim, dispute or difference concerning this engagement letter and any matter arising from it. Each party irrevocably waives any right it may have to object to any action being brought in those courts, to claim that the action has been brought in an inappropriate forum, or to claim that those courts do not have jurisdiction.
- 10.2 If any provision in these terms of business or any associated engagement letter, or its application, are found to be invalid, illegal or otherwise unenforceable in any respect, the validity, legality or enforceability of any other provisions shall not in any way be affected or impaired.

## **11 Changes in the Law**

- 11.1 We will not accept responsibility if you act on advice previously given by us without first confirming with us that the advice is still valid in the light of any change in the law or your circumstances.
- 11.2 We will accept no liability for losses arising from changes in the law or the interpretation thereof that occur after the date on which the advice is given.

## **12 Internet communication**

- 12.1 Unless you tell us otherwise, we will at times use e-mail or other electronic means to communicate with you, although we note that our policy from 25 May 2018 (due to the introduction of GDPR) has been to aim to avoid the inclusion of any personal and/or commercially sensitive data within e-mails without an appropriate form of encryption (particularly in relation to payroll data).
- 12.2 Internet communications are capable of data corruption and therefore we do not accept any responsibility for changes made to such communications after their despatch. It may therefore be inappropriate to rely on advice contained in an e-mail without obtaining written confirmation of it. Unless specifically stated, such communications should not be construed as an offer or acceptance, or to form part of a legally binding contract. Any views expressed in such communications are those of the individual sender, except where the sender specifically states them to be the views of the relevant JRD Partnership associated business.
- 12.3 We do not accept responsibility for any errors or problems that may arise through the use of internet communication and all risks connected with sending commercially sensitive information relating to your business are borne by you. If you do not agree to accept this risk, you should notify us in writing that e-mail is not an acceptable form of communication and that all relevant communications should be by post. We are able to provide you with the means to communicate with us in an encrypted format. If you do not agree to the use of encryption technology when required by law, you should notify us in writing that encrypted e-mail is not an acceptable form of communication and that all relevant communications should be by post.
- 12.4 It is the responsibility of the recipient to carry out a virus check on any attachments received.

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

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.

## **14 Data Protection**

- 14.1 To enable us to discharge the services agreed under our engagement(s) with you, comply with related legal and regulatory obligations and for other related purposes including updating and enhancing client records and analysis for management purposes, we may obtain, use, process and disclose personal data about you, your business, its stakeholders, officers and employees (as applicable) as described in our privacy notice. We confirm when processing data on your behalf that we will comply with the provisions of all relevant data protection legislation and regulation.
- 14.2 You are an independent controller responsible for complying with data protection legislation and regulation in respect of the personal data you process and, accordingly where you disclose personal data to us you confirm that such disclosure is fair and lawful and otherwise does not contravene relevant requirements. Nothing within the terms of our engagement relieves you as a data controller of your own direct responsibilities and liabilities under data protection legislation and regulation.
- 14.3 Data protection legislation and regulation places obligations on you as a data controller where we act as a data processor to undertake the processing of personal data on your behalf, including the operation of payroll bureau services for you. We therefore confirm that we will, at all times, take appropriate measures to comply with relevant requirements when processing data on your behalf. In particular we confirm that we have adequate security measures in place and that we will comply with any obligations equivalent to those placed on you as a data controller.
- 14.4 Our privacy notice, as set out in a separate publication, explains how we process personal data in respect of the various services that we provide.

## **15 Limitation of liability**

- 15.1 We will provide services as outlined in this letter with reasonable care and skill. However, to the fullest extent permitted by law, we will not be responsible for any losses, penalties, surcharges, interest or additional tax liabilities where you or others supply incorrect or incomplete information or fail to supply any appropriate information or where you fail to act on our advice or respond promptly to communications from us or the tax authorities.
- 15.2 You will not hold us, the owners of our associated firms (refer to 1.1 above) and any staff employed or sub-contractors engaged by these firms, or any associated business responsible, to the fullest extent permitted by law, for any loss suffered by you arising from any misrepresentation (intentional or unintentional) supplied to us orally or in writing in connection with this agreement. You have agreed that you will not bring any claim in connection with services we provide to you against any of the principals or employees personally.
- 15.3 Our work is not, unless there is a legal or regulatory requirement, to be made available to third parties without our written permission and we will accept no responsibility to third parties for any aspect of our professional services or work that is made available to them.
- 15.4 Audit work may, under certain conditions, be subject to limited liability agreements under the Companies Act 2006.

## **16 The Contract (Third Party Rights) (Scotland) Act 2017**

- 16.1 Persons who are not party to this agreement shall have no rights under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce any term of this agreement. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 16.2 The advice we give you is for your sole use and is confidential to you and will not constitute advice for any third party to whom you may communicate it. We will accept no responsibility to third parties for any aspect of our professional services or work that is made available to them.

## **17 The Proceeds of Crime Act 2002 and the Money Laundering Regulations**

17.1 In common with all accountancy and legal practices, all of our associated firms are required by the Proceeds of Crime Act 2002 and the current Money Laundering Regulations to:

- Maintain identification procedures for clients and beneficial owners of clients;
- Maintain records of identification evidence and the work undertaken for the client;
- Report, in accordance with the relevant legislation and regulations.

17.2 The offence of money laundering includes concealing, converting, using, or possessing the benefits of any activity that constitutes a criminal offence in the UK. It also includes involvement in any arrangement that facilitates the acquisition, retention, use or control of such a benefit.

17.3 This definition is very wide and would include such crimes as deliberate tax evasion, deliberate failure to inform the tax authorities of known underpayments or excessive repayments, fraudulent claiming of benefits or grants, or obtaining a contract through bribery. Clearly these examples are by no means exhaustive.

17.4 We are obliged by law to report any instances of money laundering to NCA without your knowledge or consent. In consequence, our firms' principals may not enter into any correspondence or discussions with you regarding such matters.

17.5 We may use electronic checks as part of our identification procedures. We confirm that these electronic checks are not credit checks.

## **18 Draft/interim work**

In the course of our providing services to you we may provide advice or reports or other work products in draft or interim form. However, final written work products will always prevail over any draft, or interim statements. Where you request it, we will provide you with written confirmation of matters stated orally.

## **19 Advice**

Advice we give you orally should not be relied upon unless we confirm it in writing. We endeavour to record all advice on important matters in writing. However, if you particularly wish to rely upon oral advice we give you during a telephone conversation or a meeting, you must ask for the advice to be confirmed in writing. Unless specifically instructed and agreed in advance we will not assist with the implementation of our advice.

## **20 Intellectual property rights**

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.

## **21 Internal disputes within a client**

If we become aware of a dispute between the parties who own or are in some way involved in the ownership and 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 registered office or normal place of business for the attention of the directors, partners or principals. If conflicting advice, information or instructions are received from different directors, partners or principals in the business, we will refer the matter back to the Board of Directors, partnership or other such body and take no further action until further notice has been given by the relevant authority.

## **22 Provision of cloud-based services**

- 22.1 Where the firm provides accounting software in the Cloud, a third party (the 'Cloud Supplier') will provide this. We will only work with such third parties who are reputable and have appropriate procedures in terms of data protection and confidentiality.
- 22.2 The service provided by the Cloud Supplier will be a discrete web based hosted facility, and you agree that access will also be provided to the firm and the third party.
- 22.3 The firm cannot be held liable for any interruption of service provided by the Cloud Supplier. However, we will liaise with them to help ensure that normal service is resumed as soon as possible.

## **23 Investment services**

- 23.1 Since we are not authorised by the Financial Conduct Authority then we may have to refer you to someone who is authorised if you need advice on investments. However, as we are licensed by the Institute of Chartered Accountants of Scotland (through the associated firm, JRD LLP), we may be able to provide certain investment services that are complementary to, or arise out of, the professional services we are providing to you.
- 23.2 We may therefore be able to:
- advise you on investments generally, but not recommend a particular investment or type of investment;
  - refer you to a Permitted Third Party (PTP) (a firm authorised by the FCA), assist you and the PTP during the course of any advice given by that party and comment on, or explain, the advice received (but not make alternative recommendations). The PTP will issue you with his/her own terms and conditions letter, will be remunerated separately for his services and will take full responsibility for compliance with the requirements of the Financial Services and Markets Act 2000;
  - advise you in connection with the disposal of an investment, other than your rights in a pension policy or scheme;
  - advise and assist you in transactions concerning shares or other securities not quoted on a recognised exchange;
  - assist you in making arrangements for transactions in investments in certain circumstances; and
  - manage investments or act as trustee (or donee of a power of attorney) where decisions to invest are taken on the advice of an authorised person.
- 23.3 For corporate clients we may also, on the understanding that the shares or other securities of the company are not publicly traded:
- advise the company, existing or prospective shareholders in relation to exercising rights, taking benefits or share options, valuations and methods of such valuations;
  - arrange any agreements in connection with the issue, sale or transfer of the company's shares or other securities;
  - arrange for the issue of new shares; and
  - act as the addressee to receive confirmation of acceptance of offer documents etc.
- 23.4 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.

### *Financial Promotions*

- 23.5 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. We would normally only contact you in our normal office hours. We shall of course comply with any restrictions you may wish to impose which you notify to us in writing.



## **24 Termination of our agreement**

- 24.1 Either party to these terms of engagement may terminate the agreement by giving not less than 21 days notice in writing to the other party. We may, however, terminate our agreement immediately where you fail to cooperate with us, or we have reason to believe that you have provided us (or HMRC (if applicable) with misleading information. Termination will be without prejudice to any rights that may have accrued to either of us prior to termination.
- 24.2 Should our contract be terminated; we will endeavour to agree with you the arrangements for the completion of work in progress at that time. We may, however, be 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.
- 24.3 We will issue a disengagement letter on termination (in accordance with 3.4 above) and will charge for any previously agreed work completed up to the date of termination. Outstanding fees will continue to be payable in accordance with section 2 above.