

General Terms of Business

These General Terms of Business apply to the services supplied by CTM to a client pursuant to an engagement letter enclosing these General Terms of Business and recording the engagement.

Definitions

Services — the services to be delivered by us under the Engagement Letter.

CTM or we (or derivatives) — the CTM contracting party as identified by the Engagement Letter.

You (and derivatives) — the addressee (or addressees) of the Engagement Letter.

Services Contract — these General Terms of Business and the Engagement Letter, together with any documents or other terms applicable to the Services (“**Additional Terms**”) to which specific contractual reference is made in the Engagement Letter.

CTM Persons — CTM directors, employees and agents.

Other Beneficiaries — any and each person or organisation identified in the Engagement Letter (other than you) as a beneficiary of the Services or any product thereof.

These definitions shall apply wherever these words and phrases are used in the Services Contract.

Our services and responsibilities

1. The Engagement Letter shall set out the Services to be delivered by us and associated matters. These General Terms of Business shall be subject to variation if required in the Engagement Letter.
2. Where individuals to be involved in delivering the Services are named in the Engagement Letter, we shall use reasonable endeavors to ensure that they are so involved. We may substitute those identified for others of equal or similar skills but we shall consult you before doing so.
3. The advice we provide is to the best of our ability, is our opinion and understanding of the law, but is not guaranteed to be accurate.
4. We may acquire sensitive information concerning your business or affairs in the course of delivering the Services (“**Confidential Information**”). In relation to Confidential Information we shall adhere to the confidentiality restrictions imposed on us by any the authorities in the United Kingdom with whose requirements we are bound to comply, as well as any obligations imposed on us by English law. We shall be entitled to comply with any requirement of English law, of our regulatory body or any other authority in the United Kingdom with whose requirements we are bound to comply to disclose

Confidential Information. This clause shall not apply where Confidential Information properly enters the public domain. This clause shall not prohibit our disclosure of Confidential Information where we wish to disclose it to our professional indemnity insurers or advisers, in which event we may do so in confidence only.

For the purposes of marketing or publicising or selling our services we may wish to disclose that we have performed work (including the Services) for you, in which event we may identify you by your name and we may indicate only the general nature or category of such work (or of the Services) and any details which have properly entered the public domain.

5. We may supply written advice or confirm oral advice in writing or deliver a final written report or make an oral presentation on completion of the Services. Prior to completion of the Services we may supply oral, draft or interim advice or reports or presentations but in such circumstances our written advice or our final written report shall take precedence. Where you wish to rely on oral advice or on an oral presentation made on completion of the Services, you shall inform us and we shall supply documentary confirmation of the advice concerned.
6. We shall not be under any obligation in any circumstances to update any advice, report or any product of the Services, oral or written, for events occurring after the advice, report or product concerned has been issued in final form.
7. Any product of the Services released to you in any form or medium shall be supplied by us on the basis that it is for your benefit and information only and that, save as may be required by law or by a competent regulatory authority (in which case you shall inform us in advance), it shall not be copied, referred to or disclosed, in whole (save for your own internal purposes) or in part, without our prior written consent. The Services shall be delivered on the basis that you shall not quote our name or reproduce our logo in any form or medium without our prior written consent. You may disclose in whole any product of the Services to your legal and other professional advisers for the purposes of your seeking advice in relation to the Services, provided that when doing so you inform them that
 - disclosure by them (save for their own internal purposes) is not permitted without our prior written consent, and
 - to the fullest extent permitted by law we accept no responsibility or liability to them in connection with the Services.

8. Any advice, opinion, statement of expectation, forecast or recommendation supplied by us as part of the Services shall not amount to any form of guarantee that we have determined or predicted future events or circumstances.

Ownership

9. We shall retain ownership of the copyright and all other intellectual property rights in the product of the Services, whether oral or tangible, and ownership of our working papers. You shall acquire ownership of any product of the Services in its tangible form on payment of our Charges for any such product. For the purposes of delivering services to you or other clients, we and other CTM Persons shall be entitled to use, develop or share with each other knowledge, experience and skills of general application gained through performing the Services.

Our charges

10. We shall render invoices in respect of the Services comprising fees, outlays and VAT thereon (where appropriate), plus any overseas taxes that might be payable thereon or deductible there from (“**our Charges**”). Details of our Charges and any special payment terms shall be set out in the Engagement Letter. Our fees shall be based on the degree of responsibility of our directors, employees or agents, involved in delivering the Services, their skill and time spent by them in performing them and the nature and complexity of them. Outlays will include directly incurred costs to cover incidental expenses which are not charged directly to the engagement. Our fees may differ from the estimates or quotations that have been supplied, which shall be provisional only.
11. In return for the delivery of the Services by us, you shall pay our Charges without any right of set-off. Fixed fee arrangements are non-refundable and funds paid on account are only repaid if agreed by CTM. Fees increase by 5% on 1 January each year.

11.1 We may charge interest on any outstanding balances at the statutory rate from time to time in force (this rate applying after as well as before any court award or judgement in our favour).

11.2 If the Services Contract is terminated by either party, we shall be entitled to payment for outlays incurred to that time and to payment of fees for work done, plus VAT thereon (where appropriate). Our fees for work done shall be calculated at our hourly rates at the time of performance of our work.

11.3 Where there is more than one addressee of the Engagement Letter, unless provision is made in the Engagement Letter for payment of our Charges by one of you or by a third party, all of you shall each be fully liable separately to pay our Charges as well as being so liable together as a group and we shall be entitled to call upon any of you and all of you for payment in full.

Your responsibilities

12. Notwithstanding our duties and responsibilities in relation to the Services, you shall retain responsibility and accountability for

12.1 the management, conduct and operation of your business and your affairs

12.2 deciding on your use of, choosing to what extent you wish to rely on, or implementing advice or recommendations or other product of the Services supplied by us

12.3 making any decision affecting the Services, any product of the Services, your interests or your affairs

12.4 the delivery, achievement or realisation of any benefits directly or indirectly related to the Services which require implementation by you.

13. Where you require us or the nature of the Services is such that it is likely to be more efficient for us to perform work at your premises or using your computer systems or telephone networks, you shall ensure that all arrangements are made for access, security procedures, virus checks, facilities, licences or consents as may be required (without cost to us).

14. You shall not, directly or indirectly, solicit the employment of any of our directors or employees, as the case may be, involved in performing the Services while the Services are being performed or for a period of 3 months following their completion or following termination of the Services Contract, without our prior written consent. This prohibition shall not prevent you at any time from running recruitment advertising campaigns nor from offering employment to any of our directors or employees, as the case may be, who may respond to any such campaign.

Information

15. To enable us to perform the Services, you shall supply promptly all information and assistance and all access to documentation in your possession, custody or under your control and to personnel under your control where required by us. You shall use your best endeavours to procure these supplies where not in your possession or custody or under

your control. You shall inform us of any information or developments which may come to your notice and which might have a bearing on the Services. You shall supply information in response to our enquiries (if any) to enable us to comply with our statutory responsibilities to make disclosures to relevant authorities in respect of money laundering and any other criminal activity that we may encounter during performance of the Services and any such disclosures may include Confidential Information.

16. We may rely on any instructions or requests made or notices given or information supplied, whether orally or in writing, by any person whom we know to be or reasonably believe to be authorised by you to communicate with us for such purposes. We may communicate with you by electronic mail where any such person wishes us to do so, on the basis that in consenting to this method of communication you accept the inherent risks (including the security risks of interception of or unauthorised access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices) and that you shall perform virus checks.

17. We may receive information from you or from other sources in the course of delivering the Services.

To the fullest extent permitted by law, we shall not be liable to you for any loss or damage suffered by you arising from fraud, misrepresentation, withholding of information material to the Services or other default relating to such material information, whether on your part or that of the other information sources, unless such fraud, misrepresentation, withholding or such other default is evident to us without further enquiry.

Knowledge and conflicts

18. In clauses 18 to 24 the following definitions shall apply:

- “**the Engagement Team**” shall mean, collectively or individually, CTM Persons (excluding corporate bodies, entities or firms) who is or are involved in delivering the Services,
- “**Other CTM Person(s)**” shall mean, collectively or individually, CTM Persons who are not members of the Engagement Team,
- “**Barriers**” shall mean safeguards designed to facilitate the protection of each client’s interests and may include (for example): separate teams, their geographical and operational separation and/or access

controls over data, computer servers and electronic mail systems.

19. The Engagement Team shall not be required, expected or deemed to have knowledge of any information known to Other CTM Persons which is not known to the Engagement Team.
20. The Engagement Team shall not be required to make use of or to disclose to you any information, whether known to them personally or known to Other CTM Persons, which is confidential to another client.
21. CTM Persons may be delivering services to, or be approached to deliver services to, another party or parties who has or have interests which compete or conflict with yours (a “**Conflicting Party**” or “**Conflicting Parties**”).
22. CTM Persons are and shall remain free to deliver services to Conflicting Parties, except that where the interests of the Conflicting Party conflict with yours specifically and directly in relation to the subject matter of the Services:

- the Engagement Team shall not deliver services to the Conflicting Party; and
- Other CTM Persons may only deliver services to the Conflicting Party where appropriate Barriers are put in place. The effective operation of such Barriers shall constitute sufficient steps to avoid any real risk of a breach of our duty of confidence to you.

We seek to identify Conflicting Parties in the circumstances set out in this clause 22. If you know or become aware that a CTM Person is advising or proposing to advise such a Conflicting Party, you shall inform us promptly.

23. Without limiting the general applicability of clause 22, the following are examples of specific circumstances in which Other CTM Persons may deliver services to a Conflicting Party or Conflicting Parties:

- where at any time during performance of the Services, you are an employee (including a director) and a CTM Person is delivering services to your employer, in which case Other CTM Persons shall be entitled to deliver services to your employer, or
- where Other CTM Persons are asked to deliver services (the “**Other Services**”) to a Conflicting Party (whose existence may or may not be known to you) who is actually or potentially interested in acquiring

the same or a similar interest in the subject matter of a transaction to which both the Other Services and the Services relate (for example, where you and the Conflicting Party are both interested in acquiring a company, asset or operation which has been put up for sale by auction), in which case Other CTM Persons shall be entitled to deliver the Other Services to the Conflicting Party.

24. Where a party has engaged us to deliver services before you have done so and subsequently circumstances change, we may consider that, even with Barriers operating, your interests are likely to be prejudiced and we may not be satisfied that the situation can be managed. In that event we may have to terminate the Services Contract and we shall be entitled to do so on notice taking effect immediately on delivery, but we shall consult you before we take that step.

The Services Contract

25. The Services Contract sets out the entire agreement and understanding between us in connection with the Services and supersedes any prior agreements, understandings, arrangements, statements or representations (unless made fraudulently) relating to the Services. Any modifications or variations to the Services Contract must be in writing and signed by an authorised representative of each of us. In the event of any inconsistency between the Engagement Letter and any other elements of the Services Contract, the Engagement Letter shall prevail. In the event of any inconsistency between these General Terms of Business and Additional Terms that may apply, the Additional Terms shall prevail. Nothing in the Services Contract shall operate to exclude any liability which we would otherwise have to you in respect of any statements made by us fraudulently prior to the date of the Services Contract.

Third party rights

26. The Services Contract shall not create or give rise to, nor shall it be intended to create or give rise to, any third party rights. No third party shall have any right to enforce or rely on any provision of the Services Contract which does or may confer any right or benefit on any third party, directly or indirectly, expressly or impliedly. The application of any legislation giving to or conferring on third parties contractual or other rights in connection with the Services Contract shall be excluded. No CTM Person shall be deemed to be a third party for the purposes of this clause.

Circumstances beyond your or our control

27. Neither of us shall be in breach of our contractual obligations nor shall either of us incur any liability to the

other if we or you are unable to comply with the Services Contract as a result of any cause beyond our or your reasonable control. In the event of any such occurrence affecting one of us, that one shall be obliged as soon as reasonably practicable to notify the other, who shall have the option of suspending or terminating the operation of the Services Contract on notice taking effect immediately on delivery.

Waiver, assignment and sub-contractors

28. Failure by any one of us to exercise or enforce any rights available to us shall not amount to a waiver of any rights available to either of us.
29. Neither of us shall have the right to assign the benefit (or transfer the burden) of the Services Contract to another party without the written consent of the other of us.
30. Subject to clause 39, we shall have the right to appoint sub-contractors to assist us in delivering the Services but where any such sub-contractors are not CTM Persons we shall consult you before doing so. Where we appoint sub-contractors under this clause, we may share Confidential Information with them and for all purposes in connection with the Services Contract we shall accept responsibility for their work which shall be deemed to be part of the Services.

Limitations on our liability

31. Our liability in connection with the Services shall be limited in accordance with this clause.

In the particular circumstances of the Services set out in the Engagement Letter and subject to clause 33 and clause 34 below,

- the aggregate liability to you and to Other Beneficiaries of each and all CTM Persons,
- in contract or tort or under statute or otherwise,
- for any loss or damage suffered by you (or by any such other party) arising from or in connection with the Services,
- however the loss or damage is caused, including our negligence but not our fraud or other deliberate breach of duty,

shall be limited to the amount specified in the Engagement Letter, or if no amount is specified there, to £10,000.

32. Where there is more than one beneficiary of the Services (“Beneficiary”) the limitation on our liability agreed under clause 31 to each Beneficiary shall be apportioned by them amongst them. No Beneficiary shall dispute or challenge

the validity, enforceability or operation of clause 31 on the ground that no such apportionment has been so agreed or on the ground that the agreed share of the limitation amount apportioned to any Beneficiary is unreasonably low. In this clause, “Beneficiary” shall include you and Other Beneficiaries.

33. Subject always to the aggregate limitation on our liability in clause 31 above, the following provisions shall govern the extent of our liability to you and to any Other Beneficiaries for any loss or damage suffered by you (or by any such other party) arising from or in connection with the Services:

33.1 The liability of CTM Persons shall be limited to that proportion of the total loss or damage, after taking into account your contributory negligence (if any) or the contributory negligence (if any) of any Other Beneficiaries, which is just and equitable having regard to the extent of the responsibility of CTM Persons for the loss or damage concerned (“**the CTM Proportion**”) and the extent of responsibility of any other party also responsible or potentially responsible (“**Another Liable Party**”).

33.2 For the purposes of determining the CTM Proportion,

- no account shall be taken of Another Liable Party having ceased to exist, having ceased to be liable, having had imposed an agreed limit on its liability or being impecunious or for other reasons unable to pay
- in any relevant court proceedings brought against us by you or Other Beneficiaries (“the Claimant”), on request by us, the Claimant shall join Another Liable Party to any such proceedings against us, unless doing so is prohibited by law and on the basis that, provided that the court determines that the conduct of the Claimant has been reasonable both before the proceedings and during them, we shall not resist an application to the court by the Claimant that we (rather than the Claimant) should bear the reasonable costs awarded (if any) against the Claimant in respect of any such joinder of Another Liable Party to proceedings.

33.3 Where despite the provisions of this clause 33 the extent of the CTM Proportion is not determined, the question shall be referred on request to an expert, to be appointed by agreement or by the President of The Law Society of England and Wales, who shall act as an expert and not as an arbitrator and whose decision on the CTM Proportion shall be final and enforceable in satisfaction of any prior judgment.

34. We accept the benefit of the limitations in clauses 31, 32 and 33 above on our own behalf and as agent and trustee

for each and all other CTM Persons who may be or might have been involved in delivering the Services.

Any clauses in these General Terms of Business operating or which may operate to exclude or limit our liability in any respects shall not operate to exclude or limit any liability which cannot lawfully be excluded or limited.

35. This clause shall apply to claims arising from or under the Services Contract.

35.1 You and Other Beneficiaries shall not bring any claim against any CTM Person other than the CTM contracting party in respect of loss or damage suffered by you or by Other Beneficiaries arising out of or in connection with the Services. This restriction shall not operate to limit or exclude the liability of the CTM contracting party as a firm or company for the acts or omissions of any other CTM Person.

35.2 Any claim from you or Other Beneficiaries in respect of loss or damage suffered as a result of, arising from or in connection with the Services Contract, whether in contract or tort or under statute or otherwise, must be made

- where Services have been delivered, within one year of the date on which the work giving rise to the claim was performed
- if the Services Contract has been terminated, within one years of the date of termination (subject to the bullet point above)
- if the loss or damage is suffered as a result of, arising from or in connection with our unauthorised disclosure of Confidential Information, within one year of the date on which the unauthorised disclosure took place

and in any of these cases that shall be the date when the earliest cause of action (in contract or tort or under statute or otherwise) shall be deemed to have accrued in respect of the relevant claim. For the purposes of this clause a claim shall be made when court or other dispute resolution proceedings are commenced.

Third parties

36. If you breach any of your obligations under the Services Contract and there is any claim made or threatened against us by a third party, you shall compensate us and reimburse us for and protect us against any loss, damage, expense or liability incurred by us which results from or arises from or is connected with any such breach and any such claim. If any payment is made by you under this clause you shall not seek recovery of that payment from us at any time. In this

clause “us” shall include all CTM Persons and “you” shall include Other Beneficiaries.

Termination

37. Each of us can terminate the Services Contract or suspend its operation by giving 30 days’ prior notice in writing to the other at any time. Termination or suspension under this clause shall be without prejudice to any rights that may have accrued for either of us before termination or suspension and all sums due to us shall become payable in full when termination or suspension takes effect.
38. The following clauses of these General Terms of Business shall survive expiry or termination of the Services Contract: clauses 4, 5, 6, 7, 8, 9, 12, 14, 17, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 31, 32, 33, 34, 35, 36, 39, 40, 41, 42, 43, 44, 45.

Data protection

39. The definitions and interpretations in the Data Protection Act 1998 (and any subsequent amendment or re-enactment that does not substantively change the original enactment) (“the Act”) shall apply to this clause. Where necessary to enable us to deliver the Services, for such purposes we shall have your authority to process personal data on your behalf in accordance with this clause. When we do so, we shall take appropriate technical and organisational measures designed to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data. In particular, we shall act only on your instructions and we shall comply at all times with the seventh principle in Part 1 of Schedule 1 to the Act as if applicable to us directly. We shall answer your reasonable enquiries to enable you to monitor our compliance with this clause and we shall not sub-contract our processing of personal data (unless to CTM Persons) without your prior written consent.

Notices

40. Any notice to you or us delivered under the Services Contract shall be in writing and delivered by pre-paid first class post (or pre-paid overseas equivalent) to or left at our respective addresses appearing in the Engagement Letter (or such other address as may be notified in writing). Notices delivered by post shall be deemed to have arrived

- where posted from and to addresses in the UK, on the second working day and
- where posted from or to addresses overseas, on the tenth working day following the date of posting.

Severability

41. Each clause or term of the Services Contract constitutes a separate and independent provision. If any of the provisions of the Services Contract are judged by any court or authority of competent jurisdiction to be void or unenforceable, the remaining provisions shall continue in full force and effect.

Capacity

42. You agree to and accept the provisions of the Services Contract on your own behalf and as agent for Other Beneficiaries. You shall procure in such circumstances that any Other Beneficiaries shall act on the basis that they are a party to the Services Contract, as if they had each signed a copy of the Engagement Letter and agreed to be bound by it. However, you alone shall be responsible for payment of our charges.
43. We accept your agreement to and acceptance of the terms of the Services Contract (save for clauses 31, 32 and 33 above) on our own behalf and as agent and trustee for each and all other CTM Persons.

Regulated activities

44. Where the Services (or part of the Services) amount to “regulated activities” under the Financial Services and Markets Act 2000, we shall inform you and set out the implications in the Engagement Letter or elsewhere in writing and Additional Terms including provisions referable to “regulated activities” shall apply.

Law and jurisdiction

45. The Services Contract shall be subject to and governed by English law and all disputes arising from or under the Services Contract shall be subject to the exclusive jurisdiction of the English courts.

Offensive or Aggressive Behaviour to Staff

46. Any behaviour that is offensive or aggressive to CTM staff (in writing, verbally by telephone or face to face) can result in CTM terminating the Services Contract without a refund of any fees paid. A CTM Director will be solely responsible for deciding if the behaviour is serious enough to warrant this action.