



CERTIFIED PUBLIC ACCOUNTANTS

Terms and Conditions Addendum

Last updated December 2019

Overview

This addendum to the engagement letter describes our standard terms and conditions (“Terms and Conditions”) related to our provision of services to you. This addendum, and the accompanying engagement letter, comprises your agreement with us (“Agreement”). If there is any inconsistency between the engagement letter and this *Terms and Conditions Addendum*, the engagement letter will prevail to the extent of the inconsistency.

For the purposes of this *Terms and Conditions Addendum*, any reference to “firm,” “we,” “us,” or “our” is a reference to LCW CPA’s Inc, and any reference to “you,” or “your” is a reference to the party or parties that have engaged us to provide services. References to “Agreement” mean the engagement letter or other written document describing the scope of services, any other attachments incorporated therein, and this *Terms and Conditions Addendum*.

Billing and Payment Terms

Our firm’s practice may require payment of a retainer upon execution of this Agreement. You agree that the retainer will be earned as our professional time to complete the engagement is incurred. The retainer will be applied to the final billing and any unused balance will be refunded at the end of the engagement.

We will bill you for our professional fees and out-of-pocket costs. Payment is due upon of the date on the billing statement. If payment is not received by the due date, you will be assessed interest charges of 18% per month on the unpaid balance.

We reserve the right to suspend or terminate our work for non-payment of fees.

Confidentiality

We agree to maintain all information and documents gained as part of this engagement in the strictest of confidence. It will only be disclosed to a third party with your express written consent, or subject to a court order.

Prior year review

Our review of the prior period work and/or returns will necessarily be limited and may not find all errors. We will, however, bring to your attention any errors that we find. If you ask us to update prior period work and/or prepare amended tax returns and address any other matters arising as a result of any error, we will confirm this representation in a separate engagement letter.

Third-party requests

We will not respond to any request from banks, mortgage brokers or others for verification of any information reported on these tax returns. We do not communicate with third parties or provide them with copies of tax returns.

Electronic Data Communication and Storage

In the interest of facilitating our services to you, we may send data over the Internet, store electronic data via computer software applications hosted remotely on the Internet, or utilize cloud-based storage. Your confidential electronic data may be transmitted or stored using these methods. In using these data communication and storage methods, our firm employs measures designed to maintain data security. We use reasonable efforts to keep such communications and electronic data secure in accordance with our obligations under applicable laws, regulations, and professional standards.

You recognize and accept that we have no control over the unauthorized interception or breach of any communications or electronic data once it has been transmitted or if it has been subject to unauthorized access while stored, notwithstanding all reasonable security measures employed by us. You consent to our use of these electronic devices and applications during this engagement.

Documentation

You are responsible for maintaining adequate documentation to substantiate the accuracy and completeness of your tax returns. You should retain all documents that provide evidence and support for reported income, credits, and deductions on your returns, as required under applicable tax laws and regulations. You are responsible for the adequacy of all information provided in such documents. You represent that you have such documentation and can produce it if necessary, to respond to any audit or inquiry by tax authorities. You agree to hold our firm harmless from any liability, including but not limited to, additional tax, penalties, interest and professional fees resulting from the disallowance of tax deductions due to inadequate documentation.

Personal expenses

You are responsible for ensuring that personal expenses, if any, are segregated from business expenses and that expenses such as meals, travel, vehicle use, gifts, and related expenses are supported by necessary records required by the IRS and other tax authorities. At your written request, we are available to provide you with written answers to your questions on the types of supporting records required.

Employment records

You are responsible for obtaining Form I-9, Employment Eligibility Verification, from each new employee at the time of employment. In addition, Federal Form W-4, Employee's Withholding Allowance Certificate, and the applicable state equivalent should be retained for all employees. Failure to obtain these forms may subject an employer to penalties. Additional state requirements related to employment records may exist. At your written request, we are available to provide written answers to your questions on required documentation.

Worker classification

You acknowledge and confirm that you, in consultation with other professional advisors, as needed, are responsible for determining the correctness of any worker classification. Payroll tax withholding and related employer payroll tax implications result from this determination. We recommend obtaining a signed contract and signed Form W-9, Request for Taxpayer Identification Number and Certification, from all independent contractors. You should also issue a Form 1099-MISC, Miscellaneous Income, to all unincorporated independent contractors to whom you pay \$600 or more for services. At your written request, we are available to provide written answers to your questions on required documentation.

Trust accounting income (if applicable)

You are responsible for the calculation of trust accounting income. We will not audit or otherwise verify the data you submit, although we may ask you to clarify your calculations.

Partnership or limited liability company (LLC) agreement (if applicable)

You should review your partnership (or LLC) agreement with your attorney to ensure it addresses the significant changes to the partnership audit regime that will generally apply to partnership returns filed after 2018. These changes include, but are not limited to the following:

- Replacement of a "tax matters partner" with a "partnership representative,"
- Current partners being held responsible for tax liabilities of prior partners,
- The partnership being held responsible for remittance of additional tax rather than individual partners being taxed, and
- Numerous elections or opt-outs that the "partnership representative" may make.

In addition, you should review your partnership or LLC agreement to ensure that it meets your goals for the transfer of ownership and distribution of income. Often, partnership agreements do not address the transfer of ownership or may require updating as circumstances change. You acknowledge and confirm that it is your responsibility to review your partnership or LLC agreement with your attorney to ensure it addresses the changes to the partnership audit regime and meets your goals for the transfer of ownership and distribution of income.

Allocation of partnership income and expenses (if applicable)

You are responsible for verifying the accuracy of both the allocation of partnership income per the terms of the partnership agreement and the partnership income calculations used in the preparation of the tax returns.

The Treasury Department has proposed new regulations under IRC §752, Treatment of Certain Liabilities, concerning transactions between partner and partnership, on the allocation among partners of partnership level debt and disguised sales under IRC §707, Transactions Between Partner and Partnership. If you ask us to evaluate compliance with IRC §707 and/or §752, we will confirm this evaluation in a separate engagement letter.

Partner salaries (if applicable)

A partner or LLC member who receives a guaranteed salary payment is not regarded as an employee of the entity for the purpose of withholding or Social Security taxes. Therefore, any additional fringe benefits a partner or LLC member receives are not subject to withholding. These fringe benefits may, however, be included in the income of the partner or LLC member. You are responsible for informing us of the total guaranteed payments, including fringe benefits, received by each partner or LLC member.

S corporation shareholder agreements (if applicable)

You should review your corporate buy-sell agreement and other stock agreements with your attorney to ensure these documents meet your goals for the transfer of corporate stock.

Salaries and wages for S corporation shareholders (if applicable)

You are responsible for determining the appropriate salary or wage to pay shareholders. If the IRS determines that the S corporation made distributions in lieu of an appropriate shareholder salary or wage, the IRS may reclassify the payments. As a result of the reclassification, the shareholder and S corporation may be responsible for employment taxes on the reclassified amounts in addition to penalties and interest. You agree to hold our firm harmless with respect to any liability including but not limited to, additional tax, penalties, interest and professional fees resulting from changes to S corporation shareholder salaries and wages.

S corporation distributions (if applicable)

Distributions should be made to shareholders on a per share, per day basis. If distributions were not made proportionately, the IRS may take corrective action, including potentially revoking the entity's S corporation election, which may result in unfavorable tax consequences. As such, it is your responsibility to ensure that shareholder distributions are made on a pro-rata basis.

Schedule K-1 distribution (as applicable)

You are responsible for distributing a copy of the S-Corporation, estate, trust, partnership or LLC's Schedule K-1s to each partner or member.

Arguable Positions (if applicable)

We will use our judgment to resolve questions in your favor where a tax law is unclear, provided there is sufficient support for doing so. If there are conflicting interpretations of the law, we will explain the possible positions that may be taken on your return. We will follow the position you request, provided it is consistent with our understanding of the Internal Revenue Code ("IRC"), tax regulations, Revenue Rulings, Revenue Procedures, private letter rulings and court decisions. If the IRS, state or local tax authorities later contest the position taken, additional tax, penalties, and interest may be assessed. We assume no liability, and you hereby release us from any liability including but not limited to, additional tax, penalties, interest, and related professional fees.

Reliance on Others (if applicable)

If you wish to take a tax position based upon the advice of another tax advisor, you agree to obtain a written statement from the advisor confirming that the position should meet the "realistic possibility," "substantial authority," or "more likely than not" standard, as applicable. In preparing your federal tax return, we are subject to a diligence as to accuracy regarding reliance on others standard, as defined in revisions to Circular 230 §10.22(b). To the extent a position is based upon the advice of another tax advisor, prior to preparing or signing the tax return, the AICPA SSTS No. 1 also requires our firm to have a good faith belief that the position has, at a minimum, a realistic possibility of being sustained administratively or judicially on its merits, if challenged. Additional charges will apply for such research.

Penalties and Interest Charges

Federal, state, and local tax authorities impose various penalties and interest charges for non-compliance with tax laws and regulations including failure to file or late filing of returns, and underpayment of taxes. You, as the taxpayer, remain responsible for the payment of all tax, penalties, and interest charges imposed by tax authorities.

We rely on the accuracy and completeness of the information you provide to us in connection with the preparation of your tax returns. Failure to disclose or inadequate disclosure of income or tax positions may result in the imposition of penalties and interest charges.

Client Portals

To enhance our services to you, we will utilize a ShareFile Portal, a collaborative, virtual workspace in a protected, online environment. ShareFile permits real-time collaboration across geographic boundaries and time zones and allows LCW CPA's Inc and you to share data, engagement information, knowledge, and deliverables in a protected environment.

You agree that we have no responsibility for the activities of ShareFile and agree to indemnify and hold us harmless with respect to any and all claims arising from or related to the operation of ShareFile. While *ShareFile* backs up your files to a third-party server, we recommend that you also maintain your own backup files of these records.

If you decide to transmit your confidential information to us in a manner other than a secure portal, you accept responsibility for any and all unauthorized access to your confidential information. If you request that we transmit confidential information to you in a manner other than a secure portal, you agree that we are not responsible for any liability including but not limited to, (a) any loss or damage of any nature, whether direct or indirect, that may arise as a result of our sending confidential information in a manner other than a secure portal, and (b) any damages arising as a result of any virus being passed on or with, or arising from any alteration of, any email message.

Third Party Service Providers or Subcontractors

In the interest of enhancing our availability to meet your professional service needs while maintaining service quality and timeliness, we may use a third-party service provider to assist us. This may include provision of your confidential information to the third party service provider. We require our third party service providers to have established procedures and controls designed to protect client confidentiality and maintain data security. As the paid provider of professional services, our firm remains responsible for exercising reasonable care in providing such services, and our work product will be subjected to our firm's customary quality control procedures.

By accepting the terms and conditions of our engagement, you are providing your consent and authorization to disclose your confidential information to a third-party service provider, if such disclosure is necessary to deliver professional services or provide support services to our firm.

Independent Contractor

When providing services to your company, we will be functioning as an independent contractor and in no event will we or any of our employees be an officer of you, nor will our relationship be that of joint venturers, partners, employer and employee, principal and agent, or any similar relationship giving rise to a fiduciary duty to you.

Our obligations under this agreement are solely obligations of LCW CPA's, Inc, and no partner, principal, employee or agent of LCW CPA's, Inc shall be subjected to any personal liability whatsoever to you or any person or entity.

Record Retention and Ownership

We will return all of your original records and documents provided to us by the conclusion of the engagement. Your records are the primary records for your operations and comprise the backup and support for your work product. Our copies of your records and documents are not a substitute for your own records and do not mitigate your record retention obligations under any applicable laws or regulations.

Workpapers and other documents created by us are our property and will remain in our control. Copies are not to be distributed without your written request and our prior written consent. Our workpapers will be maintained by us in accordance with our firm's record retention policy and any applicable legal and regulatory requirements. A copy of our record retention policy is available upon request.

Our firm destroys workpaper files after a period of three years. Catastrophic events or physical deterioration may result in damage to or destruction of our firm's records, causing the records to be unavailable before the expiration of the retention period as stated in our record retention policy.

Working Paper Access Requests by Regulators and Others

State, federal and foreign regulators may request access to or copies of certain workpapers pursuant to applicable legal or regulatory requirements. Requests also may arise with respect to peer review, an ethics investigation, the sale of your organization, or the sale of our accounting practice. If requested, access to such workpapers will be provided under the supervision of firm personnel. Regulators may request copies of selected workpapers to distribute the copies or information contained therein to others, including other governmental agencies.

If we receive a request for copies of selected workpapers, provided that we are not prohibited from doing so by applicable laws or regulations, we agree to inform you of such request as soon as practicable. You may, within the time permitted for our firm to respond to any request, initiate such legal action as you deem appropriate, at your sole expense, to attempt to limit the disclosure of information. If you take no action within the time permitted for us to respond, or if your action does not result in a judicial order protecting us from supplying requested information, we may construe your inaction or failure as consent to comply with the request.

If we are not a party to the proceeding in which the information is sought, you agree to reimburse us for our professional time and expenses, as well as the fees and expenses of our legal counsel, incurred in responding to such requests.

Summons or Subpoenas

All information you provide to us in connection with this engagement will be maintained by us on a strictly confidential basis.

If we receive a summons or subpoena which our legal counsel determines requires us to produce documents from this engagement or testify about this engagement, provided that we are not prohibited from doing so by applicable laws or regulations, we agree to inform you of such summons or subpoena as soon as practicable. You may, within the time permitted for our firm to respond to any request, initiate such legal action as you deem appropriate, at your sole expense, to attempt to limit discovery. If you take no action within the time permitted for us to respond, or if your action does not result in a judicial order protecting us from supplying requested information, we may construe your inaction or failure as consent to comply with the request.

If we are not a party to the proceeding in which the information is sought, you agree to reimburse us for our professional time and expenses, as well as the fees and expenses of our legal counsel, incurred in responding to such requests.

Newsletters and Similar Communications

We may send newsletters, emails, explanations of technical developments or similar communications to you. These communications are of a general nature and should not be construed as professional advice. We may not send all such communications to you. These communications do not, by themselves, constitute a client relationship with you, nor do they constitute advice or an undertaking on our part to monitor issues for you.

Disclaimer of Legal and Investment Advice

Our services under this Agreement do not constitute legal or investment advice unless specifically engaged to provide investment advice in the *Engagement Objective and Scope* section of this Agreement. We recommend that you retain legal counsel and investment advisors to provide such advice.

Referrals

In the course of providing services to you, you may request referrals to attorneys, brokers, investment advisors or other professionals. We may identify a professional or professionals for your consideration. However, you are responsible for evaluating, selecting, and retaining any professional and determining if the professional can meet your needs. You agree that we will not oversee the activities of and have no responsibility for the work product of any professional to whom we refer you or that you separately retain. Further, we are not responsible for any services we perform that fail to meet the intended outcomes as a result of relying on work completed by other professionals you may retain.

Brokerage or Investment Advisory Statements

If you provide our firm with copies of brokerage (or investment advisory) statements and/or read-only access to your accounts, we will use the information solely for the purpose described in the *Engagement Objective and Scope* section of the engagement letter. We will rely on the accuracy of the information provided in the statements and will not undertake any action to verify this information. We will not monitor transactions, investment activity, provide investment advice, or supervise the actions of the entity or individuals entering into transactions or investment activities on your behalf. We recommend that you receive and carefully review all statements upon receipt, and direct any questions regarding account activity to your banker, broker or investment advisor.

Federally Authorized Practitioner – Client Privilege

Internal Revenue Code §7525, *Confidentiality Privileges Related to Taxpayer Communication*, provides a limited confidentiality privilege applying to tax advice embodied in taxpayer communications with federally authorized tax practitioners in certain limited situations.

This privilege is limited in several important respects. For example, the privilege may not apply to your records, state tax issues, state tax proceedings, private civil litigation proceedings, or criminal proceedings.

While we will cooperate with you with respect to the privilege, asserting the privilege is your responsibility. Inadvertent disclosure of otherwise privileged information may result in a waiver of the privilege. Please contact us immediately if you have any questions or need further information about this federally authorized practitioner-client privilege.

Limitations on Oral and Email Communications

We may discuss with you our views regarding the treatment of certain items or decisions you may encounter. We may also provide you with information in an email. Any advice or information delivered orally or in an email (rather than through a memorandum delivered as an email attachment) will be based upon limited research and a limited discussion and analysis of the underlying facts. Additional research or a more complete review of the facts may affect our analysis and conclusions.

Due to these limitations and the related risks, it may or may not be appropriate to proceed with a decision solely on the basis of any oral or email communication from us. You accept all responsibility, except to the extent caused by our gross negligence or willful misconduct, for any liability including but not limited to additional tax, penalties or interest resulting from your decision (i) not to have us perform the research and analysis necessary to reach a more definitive conclusion and (ii) to instead rely on an oral or email communication. The limitation in this paragraph will not apply to an item of written advice that is a deliverable of a separate engagement. If you wish to engage us to provide formal advice on a matter on which we have communicated orally or by email, we will confirm this service in a separate engagement letter.

Electronic Signatures and Counterparts

Each party hereto agrees that any electronic signature is intended to authenticate a written signature, shall be valid, and shall have the same force and effect as a manual signature. For purposes hereof, “electronic signature” includes, but is not limited to, a scanned copy of a manual signature, an electronic copy of a manual signature affixed to a document, a signature incorporated into a document utilizing touchscreen capabilities, or a digital signature. This agreement may be executed in one or more counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement.

Management Responsibilities

While LCW CPA’s, Inc can provide assistance and recommendations, you are responsible for management decisions and functions, and for designating an individual with suitable skill, knowledge and experience to oversee any services that LCW CPA’s, Inc provides. You are responsible for evaluating the adequacy and results of the services performed and accepting responsibility for such services. You are ultimately responsible for establishing and maintaining internal controls, including monitoring ongoing activities.

Conflicts of Interest

If we, in our sole discretion, believe a conflict has arisen affecting our ability to deliver services to you in accordance with either the ethical standards of our firm or the ethical standards of our profession, we may be required to suspend or terminate our services without issuing our work product.

Mediation

If a dispute arises out of or relates to the Agreement including the scope of services contained herein, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try to settle the dispute by mediation administered by the American Arbitration Association (“AAA”) under the *AAA Professional Accounting and Related Services Dispute Resolution Rules* before resorting to arbitration, litigation, or some other dispute resolution procedure. The mediator will be selected by mutual agreement of the parties. If the parties cannot agree on a mediator, a mediator shall be designated by the AAA. The mediation will be conducted in the Commonwealth of Massachusetts.

The mediation will be treated as a settlement discussion and, therefore, all conversations during the mediation will be confidential. The mediator may not testify for either party in any later proceeding related to the dispute. No recording or transcript shall be made of the mediation proceedings. The costs of any mediation proceedings shall be shared equally by all parties. Any costs for legal representation shall be borne by the hiring party.

Limitation of Liability

LCW CPA's, Inc's liability for all claims, damages, and costs arising from this engagement is limited to the total amount of fees paid by you to LCW CPA's, Inc for services rendered under this agreement.

Notwithstanding anything to the contrary in this Agreement, LCW CPA's, Inc shall not be liable for any lost profits, indirect, special, incidental, punitive or consequential damages of any nature.

Indemnification

The following is applicable to audit and attest engagements only:

You agree to hold us harmless from any and all claims which arise from knowing misrepresentations to us, or the intentional withholding or concealment of information from us by your management. You also agree to indemnify us for any claims made against us by third parties, which arise from any of these actions by your management. The provisions of this paragraph shall apply regardless of the nature of the claim.

The following is applicable to non-attest engagements only:

You agree to indemnify, defend, and hold harmless LCW CPA's, Inc and any of its partners, principals, shareholders, officers, directors, members, employees, agents or assigns with respect to any and all claims made by third parties arising from this engagement, regardless of the nature of the claim, and including the negligence of any party, excepting claims arising from the gross negligence or intentional acts of the LCW CPA's, Inc.

Designation of Venue and Jurisdiction

In the event of a dispute, the courts of the Commonwealth of Massachusetts shall have jurisdiction, and all disputes will be submitted to the appropriate court considered to be the proper and most convenient venue for resolution. We also agree that the law of the Commonwealth of Massachusetts shall govern all such disputes.

Insurance

LCW CPA's, Inc shall, during the term of the engagement and after termination of same by either you or us, maintain in full force and effect, accountants professional liability insurance coverage from an insurance carrier or carriers licensed to conduct business in the Commonwealth of Massachusetts. As of the policy effective date, such insurance carrier(s) shall be rated A- (Excellent), by A.M. Best with a Financial Size Category of Class VII or greater. Premiums for said insurance policy shall be paid by LCW CPA's, Inc.

Upon your written request, LCW CPA's, Inc shall furnish certificates of insurance for the required insurance coverage. Such certificate of insurance shall indicate the minimum limits of liability per claim and in the aggregate as required by you.

Proprietary Information

You acknowledge that proprietary information, documents, materials, management techniques and other intellectual property are a material source of the services we perform and were developed prior to our association with you. Any new forms, software, documents or intellectual property we develop during this engagement for your use shall belong to us, and you shall have the limited right to use them solely within your business. All reports, templates, manuals, forms, checklists, questionnaires, letters, agreements and other documents which we make available to you are confidential and proprietary to us. Neither you, nor any of your agents, will copy, electronically store, reproduce or make available to anyone other than your personnel, any such documents. This provision will apply to all materials whether in digital, "hard copy" format or other medium.

Statute of Limitations

You agree that any claim arising out of this Agreement shall be commenced within one (1) year of the delivery of the work product to you, regardless of any longer period of time for commencing such claim as may be set by law. A claim is understood to be a demand for money or services, the service of a suit, or the institution of arbitration proceedings against LCW CPA's, Inc.

Termination and Withdrawal

We reserve the right to withdraw from the engagement without completing services for any reason, including, but not limited to, non-payment of fees, your failure to comply with the terms of this Agreement, or as we determine professional standards require. If our work is suspended or terminated, you agree that we will not be responsible for your failure to meet governmental and other deadlines, or for any liability, including but not limited to, penalties or interest that may be assessed against you resulting from your failure to meet such deadlines.

If this Agreement is terminated before services are completed, you agree to compensate us for the services performed and expenses incurred through the effective date of termination.

Assignment

All parties acknowledge and agree that the terms and conditions of this Agreement shall be binding upon and inure to the parties' successors and assigns, subject to applicable laws and regulations.

Severability

If any portion of this Agreement is deemed invalid or unenforceable, said finding shall not operate to invalidate the remainder of the terms set forth in this Agreement.

Entire Agreement

The engagement letter, including this *Terms and Conditions Addendum* and any other attachments, encompass the entire agreement of the parties and supersedes all previous understandings and agreements between the parties, whether oral or written. Any modification to the terms of this Agreement must be made in writing and signed by both parties.

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