



ENGAGEMENT LETTER FOR NON- ASSURANCE SERVICES (EXCLUDING TAX SERVICES)

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Caution

Members are requested/encouraged to seek legal advice with regard to the implication of the Protection of Personal Information Act (POPI Act), pertaining to the engagement, as well as any other legislation that may be applicable.

THE SOUTH AFRICAN INSTITUTE OF CHARTERED ACCOUNTANTS
Private Bag X32, Northlands, 2116

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Introduction

1. This guide serves to provide chartered accountants [CAs(SA)] and Associate General Accountants [AGAs(SA)] with a basic reference tool when compiling engagement letters for the provision of non-assurance services. It is not intended for this guide to replace knowledge or an understanding of laws and regulations applicable to the specific type of non-assurance services to be undertaken, including those laws and regulations that determine what types of assurance services and non-assurance services may be provided by CAs(SA) and AGAs(SA) under certain circumstances.
2. For the purposes of this guide, the generic term **practitioner** refers to a chartered accountant (SA) (CA(SA)) or Associate General Accountant (SA) (AGA(SA)), who places professional services at the disposal of the public for reward. When the **practitioner** operates his/her business in the form of a firm, the term refers to the individual or the firm as required by the context.
3. The illustrative engagement letter contained in this guide and the illustrative wording for different types of non-assurance services provided in Appendix A may be used by a practitioner who provides non-assurance services only, or who provides both non-assurance services and assurance services.
4. The permissibility of the non-assurance service/(s) to be provided by a practitioner who also provides assurance services to the same client goes beyond the scope of this guide. Nevertheless, practitioners are reminded to consider their duties and responsibilities with regards to the independence requirements as set out in the SAICA Code of Professional Conduct (Revised November 2018) or any other relevant code of professional conduct (including for Registered Auditors the Independent Regulatory Board for Auditors (IRBA) Code of Professional Conduct for Registered Auditors (Revised November 2018)). In particular the SAICA Code of Professional Conduct (Revised November 2018) addresses the provision of non-assurance services to an audit client, and the provision of non-assurance services to an assurance client other than an audit and review engagement client in sections 600 and 950, respectively. The practitioner must also be aware that other independence requirements such as those contained in laws and regulations may be applicable to performing an engagement for certain entities in South Africa, for example section 90(2) of the Companies Act No.71 of 2008 in relation to companies.
5. The practitioner is at all times required to apply professional judgement as to any additional considerations derived from any laws or regulations, or professional pronouncements (including codes of conduct, engagement standards, guides, circulars, statements and the like) that are not necessarily addressed in this guide. For the purposes of this guide, '**engagement letter**' includes standard terms and conditions.
6. The illustrative engagement letter contained in this guide and the illustrative wording for different types of non-assurance services provided in Appendix A, exclude and do not duplicate the requirements, guidance and illustrative engagement letters of the following standards issued by the International Auditing and Assurance Standards Board (IAASB):

With respect to assurance services:

- International Standards on Auditing (ISAs)
- International Standards on Review Engagements (ISREs)
- International Standards on Assurance Engagements (ISAEs)

With respect to non-assurance services:

- International Standards on Related Services (ISRSs)

7. The illustrative engagement letter contained in this guide **excludes** taxation services. A separate engagement letter should be used for taxation services that appropriately incorporates the terms and conditions applicable to such services, and that adequately takes account of and gives effect to relevant provisions of the Tax Administration Act, No. 28 of 2011 (as amended).
8. Non-assurance services, other than taxation services, provided by practitioners are many and varied. These include, amongst others, accounting services; financial reporting services; company statutory services; financial and risk management services; advisory services; estate planning services; administrative services; internal audit services and information technology services.
9. An engagement letter serves to define the legal relationship between the practitioner and the client. Practitioners should use engagement letters for all professional services, hereafter referred to as the “services” provided to a client as a means of providing a clear understanding of the service/(s) to be rendered; clarifying the expectations of both parties and to prevent misunderstandings. An engagement letter documents and clarifies the following:
 - Nature, extent and scope of the service/(s) to be rendered by the practitioner
 - Duties and responsibilities of the client
 - Duties and responsibilities of the practitioner
 - Fees (i.e. hourly rates / per month) to be paid for the services
 - Terms and conditions for non-assurance services
 - The client’s agreement to the terms and conditions
10. Due to the varied nature of non-assurance services which may be provided by a practitioner, it is neither possible nor practicable to provide a completely comprehensive guide and as such users of this guide are reminded to apply professional judgement in determining the content of a particular engagement letter for a particular client.
11. The timing of the client agreement to the terms and conditions is not specifically dealt with in this guide. However, practitioners are reminded that it is important to conclude the agreement before the work is commenced. Should the terms not be agreed to upfront the practitioner might find it difficult to prove that the terms and conditions were actually agreed to, if it were to be challenged. Document retention considerations are similarly not specifically dealt with in this guide. Practitioners should ensure that any applicable local laws or regulations dealing with this subject are applied appropriately to the engagement agreement.
12. This guide is further set out as follows:
 - Overall content considerations for an engagement letter for non-assurance services
 - Illustrative engagement letter for non-assurance services
 - Illustrative standard terms and conditions for non-assurance services
 - Appendix A – Examples of scope paragraphs for certain individual types of non-assurance services

Overall content considerations for an engagement letter for non-assurance services

An engagement letter for non-assurance services should include, but is not limited to:

1. Addressee

The engagement letter should be addressed to the individual or group (referred to as “the client”) who has the appropriate authority to enter into an engagement with the practitioner based on the entity’s governance structure and relevant law or regulation (i.e. the engaging party).

2. Introduction

The introduction confirms the purpose of the engagement letter.

3. Define the scope and objective (i.e. nature and extent)

The scope should include both what the practitioner will and will not do. It should also include exclusionary clauses to limit the services to be rendered to those that have been defined in the engagement letter. It should also include exculpatory clauses such as a disclaimer regarding what the services to be rendered do not constitute – for example when a practitioner provides both assurance services and non-assurance services¹ to the same client, there may be a risk that the client does not properly distinguish between these types of services and their respective outcomes. The disclaimer should highlight the distinction between these types of services to limit such risk.

This section should additionally specify letters and/or reports (or similar) to be delivered to the client as well as identify specific parties who will receive the required deliverables.

4. Additional responsibility of the practitioner / Regulatory obligations

This section details any additional responsibilities of the practitioner, for example, any specific reporting responsibilities arising from laws and regulations.

5. Staffing section (optional)

If included, this section is to provide details of key members of the engagement team and the client staff.

6. Fees

This section may be included in the content of the engagement letter or attached as a separate annexure thereto. Matters to be addressed include, but are not limited to:

- The amount of the fee
- Billing dates
- Expected payment dates or conditions
- Nature and amount of fees that the client is responsible for, for example, travel expenses
- Possible increase in such fees due to unforeseen circumstances
- Limitations or restrictions that may apply to fees

7. Standard terms and conditions for non-assurance services

This section may be included in the content of the engagement letter or attached as a separate annexure thereto. The Practitioner should consider obtaining legal advice to compile and implement his/her/the firm’s own standard terms and conditions for non-assurance services. An example of

¹ The provision of assurance services and non-assurance services to the same client is only permissible under certain circumstances and may be prohibited in some instances. Also refer to paragraph .4 of this guide.

matters which may be addressed in the standard terms and conditions for non- assurance services include, but are not limited to (this is not intended to be a comprehensive list):

- General principles, including the responsibilities of the client, laws governing the agreement, the entire agreement and independent contractors
- Principles when providing non-assurance services to an audit client or to an assurance client
- Provision of services, including skill and care
- Client consultation with practitioner regarding deliverables
- Intellectual property
- Ownership of the documentation used in the engagement
- Non-exclusivity
- Confidentiality
- Professional obligation to respond to non-compliance with laws and regulations in terms of the SAICA Code of Professional Conduct (Revised November 2018) (the Code)
- Professional fees (per hour or per deliverable)
- Interest to be charged on outstanding accounts (refer to the National Credit Act Regulations for interest to be charged on incidental credit)
- Use of report and other deliverables
- Reliance on the client information
- Limitation of liability
- Termination of the engagement
- Legal addresses
- Severability of clauses

8. The client agreement to the terms and conditions

This section includes the client agreement to the practitioner's standard terms and conditions for non-assurance services, and confirms the client's understanding of, and agreement to the arrangements for the specific engagement. The engagement letter is signed by the practitioner as well as the client.

Illustrative engagement letter for non-assurance services

This letter should be used or adapted/amended to suit the individual requirements and circumstances of the client and the nature of the non-assurance services to be provided. Furthermore, it should be supplemented with paragraphs applicable to other additional services where appropriate.

The standard terms and conditions attached to this letter should be used or adapted/amended to suit the requirements and circumstances of the practitioner or the firm in relation to providing non-assurance services to clients.

Our Ref:

[date]

The Director(s)²

[XYZ Proprietary Limited]

[Address]

Dear Sir / Madam

ENGAGEMENT LETTER FOR NON-ASSURANCE SERVICES - <DEFINE SERVICE/(S)>

We appreciate the opportunity to be of service to <name of client>. We are committed to providing you with high quality professional services in an efficient and timely manner.

This engagement letter, including the Standard Terms and Conditions for Non-Assurance Services attached as Annexure “A” <and any other attachments> (collectively, this “Agreement”), contains the terms and conditions upon which <firm’s name> (“we”) have been engaged by <name of client> (“client” or “<insert short name>”) to provide the services as set out in this engagement letter, hereafter referred to as the “services” or “non-assurance services”.

You have approved the provision of the non-assurance services listed in the scope of work below, under the terms and conditions of this engagement letter. The limits on the extent of our non-assurance services are as set out in the standard terms and conditions.

Where specific work is undertaken under this letter, the nature and result of the service will be recorded in the final deliverable arising from such work.

Scope of work

We will perform the following services:

<Appendix A to this guide contains some examples of paragraphs that may be included here. This section should also be used to state the scope and terms of the requirements of any specific regulations governing the provision of any services, as may be applicable.>

² Throughout this letter, references to “directors”, “you,” “we,” “us,” “management”, “practitioner”, “partner” and “firm” should be used or amended as appropriate in the circumstances

The scope of the services should ordinarily address the following:

- *The objective of the service being performed;*
- *Reference to any relevant national/international standards and practices;*
- *Directors' and management's responsibility for the subject matter, and for the establishment and maintenance of effective internal controls and processes;*
- *Directors' and management's responsibility for making all financial/non-financial records and related information available to the practitioner;*
- *Any additional consultations required by the client;*
- *The anticipated form and content of any report to be issued, including the identity of the addressee;*
- *Any restrictions that will be placed on the use of any report to be issued; and*
- *In instances where a practitioner provides both assurance services and non-assurance services and there may be a risk that clients do not properly distinguish between these types of services and their respective outcomes, a statement that the identified services will not be rendered in accordance with any audit, review or other assurance pronouncements as issued by the International Auditing and Assurance Standards Board ("IAASB") and as a result any report that may be issued will not provide or contain any assurance opinion or conclusion (i.e. no assurance opinion or conclusion will be expressed in relation to any matter/(s) pertaining to the services that will be rendered).*

Regulatory obligations [to be tailored as required]

We have a statutory obligation to report matters to a regulatory oversight body such as the Independent Regulatory Board for Auditors (IRBA)³. Circumstances may arise where we are required to report certain matters to that body. Where permissible we shall bring such circumstances to your attention before doing so.

[The following paragraph could be included when the practitioner is not a financial services provider under the FAIS Act]

We confirm that neither the individual nor the firm is a registered financial advisor and does not provide financial advice in accordance with the provisions of the Financial Advisory and Intermediary Services Act 37 of 2002 (the FAIS Act). Should any financial advice be provided, that would be coincidental and informal. The individual or the firm does not intend that any such advice be acted upon and therefore the individual or the firm shall not be responsible for any loss, damage and/or expenses incurred by the client for acting on such advice. If financial advice is required, we can refer you to a registered financial advisor.

³ The Independent Regulatory Board for Auditors (IRBA) is only used as an example. Considerations have to be had to applicable laws and regulations in the circumstances. Another example will be the responsibility of a practitioner that has also been engaged as the company's independent reviewer to report reportable irregularities to the Companies and Intellectual Property Commission (CIPC).

Representations by management

As part of our engagement process, we will request management to provide us with written confirmation concerning representations made to us or that we require in connection with the engagement.

[It may be necessary to summarise certain significant representations that the practitioner may require from management pertaining to the specific services to be performed.]

Fees *[to be tailored as required]*

Our fees and disbursements, plus VAT, will be billed as agreed from time to time and are payable on presentation of our invoice. Fees will be payable within 30 days of receipt of invoice. Any such invoice will not necessarily be our final invoice; we therefore reserve the right to issue additional invoices for services rendered.

Agreement of terms

We kindly request that you/your authorised representative sign this letter of engagement indicating that you are in agreement with the terms and conditions contained herein and forward the signed letter to our offices as soon as possible. In the absence of a signed engagement letter, further instructions received from you in your capacity as the client will constitute acceptance of the terms and conditions contained in this letter.

We are available to discuss this letter with you should you so wish. Once agreed, the terms and conditions of this agreement will remain in force until the engagement for non-assurance services is completed or the agreement is terminated.

We look forward to full cooperation from your staff and we trust that they will make available to us all records, documentation and other information requested in connection with our non-assurance service(s).

Please sign and return the attached copy of this letter to indicate that it is in accordance with your understanding of the arrangements for the provision of our non-assurance services.

Yours faithfully

<Name of practitioner responsible and accountable for the services>
<Title>

The terms and conditions of the engagement set out are acknowledged by:

<Name of client>

Name

Authorised signature

Designation

Date

Illustrative Standard Terms and Conditions for non-assurance services

These illustrative standard terms and conditions should be read together with the illustrative engagement letter for non-assurance services, and should be used or adapted/amended to suit the requirements and circumstances of the practitioner or the firm in relation to providing non- assurance services to clients.

<Insert name of firm>

All non-assurance services provided by **the Firm** to a client in accordance with the **Written Agreement** with that client will be subject to the following standard terms and conditions.

1. Definitions

Unless the context indicates otherwise, the words and phrases set out below shall have the following meanings:

Client means the entity/entities⁴, or the persons⁵, named in the **Written Agreement** to which or whom services are to be provided by **the Firm**.

Firm means <insert name of firm> a (<type of entity >) registered in accordance with the laws of the Republic of South Africa; any division of **the Firm** entity owned or managed by **the Firm**; and the partners, directors, employees, agents and contractors of **the Firm**. The contracting element of **the Firm** will usually be identified by our letterhead or set out in the **Written Agreement**.

Network firm means a firm or entity that belongs to a network.

Network means a large structure:

- (a) That is aimed at co-operation; and
- (b) That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources.

Parties means the Client and the Firm, and “a **Party**” shall as the context requires, be either of them.

Services mean the non-assurance services to be rendered by **the Firm** for and on behalf of **the Client** as set out in this **Written Agreement**.

Written Agreement means the letter of engagement including terms and conditions set out in this document together with any annexures and schedules hereto entered into by the **Parties** for the performance of the **Services**.

Words referring to the singular shall include the plural, and vice versa, words referring to the masculine gender shall include the feminine and neuter genders, and vice versa, and words referring to natural persons shall include legal persons, and vice versa.

⁴ If the client is an entity, the registration number and the type of entity are to be included in the Written Agreement.

⁵ If the client is an individual, the identification number of such individual including his/her capacity are to be included in the Written Agreement.

2. Headings have no effect

The headings in this **Written Agreement** shall not in any way be taken into consideration in the interpretation and/or construction of the applicable terms and conditions herein.

3. General principles

In providing any non-assurance services, **the Firm** will:

- not act in the capacity of management,
- not act as a formal advocate of or representative for the **Client**,
- not decide on what recommendations/alternatives to accept or implement,

whereas the **Client** will be responsible for:

- making all management decisions and performing all management functions including deciding on what recommendations/alternatives to accept and implement.
- designating a competent management member to oversee the services.
- evaluating the adequacy and results of the services.
- establishing and maintaining internal controls and for determining the adequacy of accounting or other relevant information systems.
- monitoring ongoing activities, and
- the maintenance of the accounting records, preparation of the financial statements /annual financial statements and safeguarding the assets of the entity (or, as may be applicable to a subject matter other than financial statements, the maintenance of supporting records, the preparation of the subject matter information and safeguarding of resources of the entity).

This **Written Agreement** shall be governed exclusively, in all respects by, and shall be interpreted in accordance with the laws of South Africa.

The **Parties** may approach a court with competent jurisdiction in South Africa to settle any dispute that may arise between the **Parties** pertaining to this **Written Agreement** and/or the provision of the **Services**.

This **Written Agreement** constitutes the entire agreement between **the Firm** and the **Client** and supersede any previous oral and/or written representations and/or agreement, if any, between the **Parties**. No amendments or variations of this **Written Agreement** shall be of any force or effect, unless reduced to writing and signed by both **the Firm** and the **Client**.

The **Client** hereby consents to **the Firm** subcontracting the **Services** to the extent that such subcontract will be subject to the same terms and conditions as contained in this **Written Agreement**. It is specifically recorded that the **Firm** shall remain liable for the obligations of its subcontractors.

Where it is intended that the non-assurance services should also be provided to group companies and/or divisions of the **Client**, any approvals given will be deemed to also apply to **services** to be provided by a network firm which is part of **the Firm** in terms of a separate engagement letter of agreement that may be concluded with the group company or division concerned.

The Firm and the **Client** are independent contractors. Neither **Party** shall act and/or purport to represent itself as an agent of the other **Party**, or in any manner assume and/or purport to create any obligations and/or liabilities in the name of the other **Party**. Neither **Party** shall be liable for the debts of the other **Party**, however incurred.

4. Principles when providing non-assurance services to an audit client or to an assurance client

Further to the general principles in paragraph 3, above, additional principles apply in those instances where **the Firm** is engaged to provide non-assurance services, and the **Client** is also an audit client or an assurance client of **the Firm**.

The Firm is required to comply with the independence requirements as set out in the SAICA Code of Professional Conduct (Revised November 2018). Where applicable in the circumstances **the Firm** also complies with the IRBA Code of Professional Conduct for Registered Auditors (Revised November 2018) ⁶, as well as other independence requirements applicable to performing an audit engagement or an assurance engagement in South Africa. The terms “audit client” and “assurance client” will have the meaning in accordance with the relevant Code/(s) of Conduct.

The Firm will not assume a management responsibility for an audit client (i.e. in relation to an audit of financial statements). To the extent that **the Firm** is permitted to provide the non-assurance services set out in this **Written Agreement**, the **Client** is responsible for the following in order to ensure that the **Client** management makes all judgments and decisions that are the responsibility of management:

- Designate an individual (preferably within senior management) who possesses suitable skill, knowledge and experience to be responsible at all times for the **Client** decisions and to oversee the non-assurance services concerned;
- Provide oversight of the non-assurance services concerned and evaluate the adequacy of the results of these services performed for the **Client’s** purpose; and
- Accept responsibility for the actions, if any, to be taken arising from the results of the non-assurance services concerned.

The same responsibilities as those discussed in the preceding paragraph apply to the **Client** when **the Firm** is engaged to provide non-assurance services that are related to the subject matter or subject matter information of any other assurance engagement provided by **the Firm**.

5. Validity

Where there is a conflict between the terms in any of the components of the **Written Agreement**, these standard terms and conditions will apply.

6. Provision of services

The Firm will endeavour to deliver the **Services** with the requisite level of skill, integrity and professional competence at all times.

Where the delivery of the **Services** requires information from or the co-operation of officials and employees of the **Client**, the **Client** undertakes to use its best efforts to ensure that its directors, management, officials and employees are available when required and that they provide the necessary information and co-operation on a timely basis. Reasonable facilities and access to data and information will be provided by the **Client**. Where such data pertains to third parties such as customers and/or suppliers of **the Client**, **the Client** warrants that it has obtained the necessary consent from the third party in particular relating to Personal Information as defined in the Protection of Personal Information Act 4 of 2014 (as amended) and indemnifies **the Firm** against any claims that may be instituted as a result of the failure to procure such consent.

⁶ This will only be relevant if the firm or the practitioner is registered with the IRBA as a Registered Auditor (RA).

Where **the Firm** personnel to deliver the **Services** are named in this **Written Agreement**, **the Firm** will take reasonable steps to ensure that such personnel are used. Nevertheless, **the Firm** reserves the right to engage other personnel in the event that named personnel is unavailable and shall reasonably notify **the Client** of such changes, provided that the replacement personnel (including temporary replacement) have equivalent skills and/or ability as the named personnel. **The Firm** will endeavour to avoid any disruption to the delivery of the **Services** as a result thereof.

7. Intellectual property

The Firm retains intellectual property rights to all its materials and working papers which includes, but not limited to methodologies, know-how, trade secrets, software and tools used/provided and/or developed by **the Firm** in providing and delivering the **Services**.

Except for cases where a licence is expressly granted by **the Firm**, the **Client** shall acquire no rights or interest in such property.

Any intellectual property and proprietary rights in material provided by the **Client** for performing the **Services** shall remain the property of **Client**.

Upon expiry or termination of this **Written Agreement** for any reason whatsoever, each **Party** shall immediately cease to use the intellectual property of the other **Party**.

8. Non-exclusivity

The **Client** acknowledges that **the Firm** provides a variety of other services to a large and diverse range of clients. The provision of the **Services** to the **Client** will not prevent **the Firm** from providing the same or similar **Services** to other parties, some of whom could be competitors of the **Client** or who may be in conflict with the **Client**.

The **Client** also acknowledges that **the Firm** may already have provided the same or similar **Services** to other parties.

Where **the Firm** is aware of the same or similar **Services** being provided to other parties, safeguards will be implemented to protect the interests of the **Client**. These safeguards will include the use of different personnel and other barriers to ensure the confidentiality of information.

Whilst **the Firm** will be bound by the confidentiality clauses mentioned below, **the Firm** may request the right to use the name of the **Client** and a description of the **Services** as a reference in seeking to provide services to other parties, unless the **Client** expressly forbids this.

9. Confidentiality

The Firm will keep confidential all information obtained from the **Client** and will not disclose such information, except:

- Information in respect of which the **Client** has provided consent to the disclosure in writing;
- Information that has been or which is made public otherwise than through a breach of this Agreement;
- Information that has been independently obtained by **the Firm** other than from the **Client**, including information already in the possession of **the Firm** prior to its disclosure by the **Client**;
- To the extent required by our obligation to report certain matters in accordance with our regulatory and professional obligations, including those referred to in clause 10; and
- To the extent any disclosure is required to satisfy the order of a court of competent

jurisdiction or to comply with the provisions of any law or regulation in force from time to time.

Notwithstanding the above clause, **the Client** acknowledges that **the Firm** may be required to disclose confidential information to its legal advisers, insurers, the Independent Regulatory Board for Auditors or to any other party as required by law or in terms of a judicial order. Disclosure in any of these instances will be permissible and will not be a breach of confidentiality, provided that in relation to disclosure to legal advisers and insurers these parties undertake confidentiality substantially similar to this paragraph 9.

The **Client** agrees to keep confidential any methodologies, technology, know how, trade secrets, software and tools used/ provided and/or developed by **the Firm** in providing and delivering the **Services**. Similarly, any information provided and/or developed by **the Firm** in relation to the **Services** will be kept confidential, unless **the Firm** expressly provides its prior consent in writing to the **Client** to disclose such confidential information to any other party. This confidentiality requirement will not apply to any information that the **Client** is required by law to disclose to another party.

Where **the Client** does not accept a proposal accompanied by a **Written Agreement** any documentation or property specifically identified by **the Firm** will be returned to **the Firm** on request.

The **Client** acknowledges that **the Firm** is required in terms of professional standards to retain documentation to support the work done and any deliverables provided. Where this documentation contains confidential information of **the Client**, **the Client** gives consent to **the Firm** to retain such documentation for the purposes as stipulated herein.

10. Professional obligation to respond to non-compliance with laws and regulations in terms of the SAICA Code of Professional Conduct (Revised November 2018) (the Code)

The partners and employees of **the Firm** have a professional obligation to act in the public interest, and to act in order to: (i) enable **the Client** to rectify, remediate or mitigate the consequences of the identified or suspected non-compliance with laws or regulations as described in the Code; or (ii) deter the commission of the non-compliance or suspected non-compliance with laws or regulations where it has not yet occurred.

“Non-compliance with laws and regulations (non-compliance) in relation to Professional accountants in Public Practice comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by a client, or by those charged with governance of a client, by management of a client or by other individuals working for or under the direction of a client.”

Where we encounter non-compliance or suspected non-compliance we will seek to obtain an understanding of the matter. Where appropriate, we will discuss the matter with the appropriate level of management at **the Client**, or those charged with governance in order that such people can take appropriate action to rectify, remediate or mitigate the consequences of the non-compliance, deter the commission of non-compliance where it has not yet occurred or disclose the matter to an appropriate authority where required by law or regulation or where considered necessary in the public interest, having regard to the appropriateness of the response of management and, where applicable, those charged with governance and other relevant factors in accordance with the Code.

We, in encountering non-compliance or suspected non-compliance, are also obliged to comply with applicable legislation or professional standards, which may require us to disclose the matter to an appropriate authority. Furthermore, we are obliged to communicate non-compliance or suspected non-compliance within **the Firm** where **the Client** is also an audit client or an audit client of a **Network Firm** or a component of an audit client of **the Network Firm**. If **the Client** is an audit client or a component of an audit client of a network firm we will consider communicating the non-compliance or

suspected non-compliance with the network firm.

If **the Client** is not an audit client of **the Firm** or network firm or a component of an audit client of **the Network Firm** we will consider communicating the non-compliance or suspected non-compliance with the firm that is the external auditor of **the Client**.

We also have a professional responsibility to consider whether the response of **the Client** to the instance of non-compliance or suspected non-compliance is adequate, and may determine that further action is necessary. Such further action may include, among other actions, the disclosure of the matter to an appropriate authority. We will disclose the matter to an appropriate authority only where, in the professional judgement of the engagement partner, the extent of the actual or potential harm that is or may be caused to **the Client**, investors, creditors or employees or the general public is sufficient to justify the disclosure.

In exceptional circumstances, we may be required to immediately disclose the matter to an appropriate authority where we have become aware of actual or intended conduct that we have reason to believe would constitute an imminent breach of law or regulation that would cause substantial harm to **the Client**, investors, creditors, employees or the general public. In such circumstances we will discuss the matter with the management or those charged with governance of **the Client** where it is appropriate to do so.

11. Professional fees

The basis of charging professional fees is set out in this **Written Agreement**.

Disbursements and out-of-pocket expenses incurred in providing the **Services** will be charged at cost or our predetermined rates which will be made available prior to such cost being incurred. These include all reasonable expenditure necessary for the successful completion of the **Services** including, but not limited to, travelling, subsistence, goods and services purchased for and/or on behalf of the **Client**, communications, stationery, report and presentation material, secretarial time and computer charges.

Invoices for fees and expenses/disbursements will be presented as agreed or on completion of the **Services**, whichever is the earlier. Invoices are payable within 30 days of receipt of the invoice.

Interest will be accrued at <X%> on all amounts outstanding, longer than thirty days (30) from the date reflected on our invoice. Such interest will be calculated on a monthly basis and all payments will be allocated first to interest, then to disbursements, and then to the oldest outstanding fee.

The **Client** acknowledges and accepts that **the Firm** may suspend provision of the **Services** until such time that all amounts due are paid in full.

12. Use of reports and other deliverables

Any advice, report, certificate, schedule or other deliverable is based on the particular facts and circumstances of the **Client** at a particular point in time and on any applicable prevailing rules and regulations in force. Consequently, such advice, report, certificate, schedule or other deliverable may well not be relevant to any other party or at a different time and under different circumstances. **The Firm** does not warrant or guarantee that there will be no change to relevant facts and circumstances in the future or that future events or outcomes will transpire.

Any such advice, report, certificate, schedule or other deliverable arising from or in connection with the **Services** will be for the sole use of the party or parties to whom it is addressed and may be relied upon only by that party or parties and used solely for the purpose/s for which it was prepared. No person other than the party or parties to whom it is addressed shall be entitled to place any reliance thereon for any purpose whatsoever.

Unless otherwise indicated in the advice, report, certificate, schedule or other deliverable, copies or extracts therefrom may be made available to the addressee's advisors provided they are to be used by the advisors solely for the purposes stated in such advice, report, certificate, schedule or other deliverable and provided that the advisors are made aware of paragraphs 13 and 14.

Copies, in whole or in part of the advice, report, certificate, schedule or other deliverable or extracts therefrom may not be made available to any other party without the prior express written consent of **the Firm**, which consent may be given or withheld at **the Firm's** absolute discretion.

The **Client** indemnifies and holds **the Firm** harmless against any claim by any third party arising from a copy of any report, certificate, schedule or other deliverable or extract therefrom which the third party received from the **Client** or its advisors.

Only the final signed report, certificate, schedule or other deliverable should be relied and acted upon. Oral communications and draft reports/certificates/other documents must be regarded as preliminary and intended only for discussion purposes.

13. Reliance on the client information

The **Services** or any portion thereof, is dependent on information supplied by the **Client**. **The Firm** shall be entitled to assume that all the data and information provided by **Client** is accurate, reliable and complete. **The Firm** will not be liable to the **Client** or to any third party for any damages suffered as a result of the **Client** providing any information that is incorrect and/or incomplete and/or where the **Client** fails to disclose any relevant information to **the Firm**; and the **Client** indemnifies **the Firm** against any claims or expenses relating thereto.

14. Limitation of liability

The Firm's liability for non-assurance services shall be limited as follows:

The Firm remains responsible to the **Client** for all of the **Services** under this **Written Agreement** including **Services** that may be performed by a party subcontracted by **the Firm**. Accordingly, to the fullest extent possible under applicable law, **the Firm** will not have any liability to the **Client** and the **Client** will not bring, and will ensure that no other member of the **Client** group brings, any claim or proceedings of any nature (whether in contract, tort, breach of statutory duty or otherwise, and including, but not limited to, a claim for negligence) in any way in respect of or in connection with this **Written Agreement** against any of **the Firm** entities except **the Firm**.

The maximum liability of **the Firm**, its partners, employees, and agents in respect of any and all claims which may arise in respect of the **Services** shall be limited to two times the fees charged for these services individually (exclusive of VAT). This maximum liability shall be an aggregate liability for all claims howsoever arising, whether by contract, delict, negligence or otherwise. This limitation will not apply where **the Firm** is guilty of wilful misconduct or gross negligence.

Where **Services** are rendered otherwise than in terms of a **Written Agreement**, this clause shall apply separately to services relating to each invoice issued.

The Firm, its partners, employees and agents will not be liable to the **Client** or any third party for any consequential, punitive or any other loss or damages beyond the maximum liability specified.

Any claims, howsoever arising, must be commenced formally within three years after the party bringing the claim becomes aware (or ought reasonably to have become aware) of the facts which give rise to the action and, in any event, no later than three years after any

alleged breach of contract, negligence, delict or other cause of action.

The Firm will not be liable for any delays resulting from circumstances or causes beyond its reasonable control, including without limitation, fire or other casualty, strike or labour dispute, war or other violence or cause through any law, order or requirement of any governmental agency or authority.

Where the **Services** comprise forensic work or litigation support:

- the **Client**, in addition to the limitations indicated above, indemnifies **the Firm** against all liabilities, losses, damages, claims, demands and reasonable expenses including, but not limited to attorney's fees and expenses, in any action brought against **the Firm** by any other party except **the Client** in connection with or arising out of such services. This indemnification shall not apply in respect of wilful misconduct and/or gross negligence on the part of **the Firm**;
- **the Firm** shall have no responsibility or liability whatsoever in respect of any advice given or work undertaken for **the Client** by persons who are not partners, directors, principals, members of staff or employees of **the Firm**, regardless of whether or not such persons were introduced to the client by **the Firm**, with the exception of sub contracted work.

15. Termination

This **Written Agreement** may be terminated forthwith by the **Client** or **the Firm** in the event of either party going into liquidation or having commenced business rescue proceedings or similar judicial management proceedings instituted over all or part of its activities.

[Include any other basis on which a non-assurance service or services may be terminated. For example, by either party giving 30 days' notice.]

In these circumstances, **the Firm** shall be entitled to raise an invoice in respect of fees and disbursements incurred up to such notice of termination is communicated.

In the event of either the **Client** or **the Firm** being in breach of any of the terms of the **Written Agreement**, the other party may, by written notice require the party which is in breach to remedy such breach. If this has not been remedied within 14 days of receipt of such notice, or if the breach is incapable of being remedied, the other party may in writing terminate the **Written Agreement** without prejudice to any of its rights in terms of this **Written Agreement** or in law.

The Firm shall be entitled to terminate this **Written Agreement** in the event of changes to laws, regulations, or the shareholding/group structure that would render such services illegal or in conflict with independence or professional rules.

16. Legal addresses

The **Client** and **the Firm** each choose the address set out opposite its name in the address clause of the **Written Agreement** as its legal address.

Any notice to be given in terms of this **Written Agreement** shall be in writing and delivered to the legal address of the party concerned.

Written notice given in a correctly addressed envelope, delivered by hand to the chosen address of the **Party** during ordinary business hours shall be deemed to have been received on the day of delivery.

Either **Party** may notify the other **Party** in writing of any changes to its chosen address.

17. Severability of clauses

If any provision or clause of this **Written Agreement** becomes invalid or unenforceable, such provision or clause shall be divisible and be regarded as *pro non-scripto* and the remainder of this **Written Agreement** shall remain in force and be binding.

The failure of either **Party** to insist upon the strict performance of any provision of this **Written Agreement** or to exercise any right, power or remedy consequent upon a breach hereof shall not constitute a waiver by such **Party** to require strict and punctual compliance with each and every provision of this **Written Agreement**.

APPENDIX A

Examples of scope paragraphs for certain individual types of non-assurance services

The examples provided in this appendix are illustrative and should be read together with the illustrative engagement letter for non-assurance services included in this guide. Users of this guide must apply professional judgement in determining and describing the scope of any particular type of non-assurance service, and ensure that such service is described and rendered in compliance with any professional pronouncements, code/(s) of conduct and laws or regulations that may be applicable to such service.

This appendix includes suggested wording for some non-assurance services that may be used as a basis to document the scope of work in the engagement letter. This is not an exhaustive list of non-assurance services. The wording below should be tailored to align with the specific needs and requirements of the practitioner and the specific circumstances of the client. All relevant non-assurance services should be addressed in the engagement letter/(s).

Accounting

Accounting assistance:

- Assistance with the writing up of the books and records of the business.
- Preparation of monthly management accounts.
- Assistance with processing of company's payroll.
- <Specify the nature of accounting assistance>

Secretarial

Company secretarial assistance:

- Without taking on the responsibilities of the Company Secretary we will maintain the following registers and minute books in an up-to-date condition, and in the manner required by the Companies Act, 2008, of South Africa. It is your responsibility to provide us with complete, reliable and accurate information timeously, so that we can maintain these registers and minute books. The following will be maintained:
 - Record of directors (section 24(3)(b) and 24(5))
 - Securities register or its equivalent, in the case of a profit company, or a members' register in the case of a non-profit company that has members; (Section 24(4) and 50);
 - Securities register in respect of every class of securities issued (Section 50);
 - Record of Company Secretaries and Auditors (Section 85(1)); and
 - Notice and minutes of all shareholders meetings including resolutions adopted and any document that was made available by the company to the holders of securities in relation to each such resolution (Section 24(3)(d)).
 - Notice and minutes of all directors' meetings including resolutions adopted by written consent of the majority of directors, given in person, or by electronic communication and any document that was made available by the company to the directors in relation to each such resolution (Section 73(6) and (7) and 74(1)).

Secretarial compliance work:

- On an annual basis, and if required, we will draft the following documents in connection with the adoption of the annual financial statements:

- Minutes of a board meeting in order to formally approve the annual financial statements for presentation to the shareholders or members, as may be applicable.
- Notice (and, where appropriate, waiver of notice) of the annual general meeting.
- Letters of proxy (where necessary).
- Minutes of annual general meeting.
- Where an annual general meeting will not be held, we will arrange for the signature of the directors and annual general meeting resolutions to be recorded in terms of the Companies Act.
- <Specify the nature of secretarial compliance work>

Other Related Services

Customs and Incentives:

- General advisory services in connection with the availability or applicability of any incentive, grant, concession or similar which **[Client]** may become engaged in, or may be interested in or eligible for.
- General advisory services in connection with the customs and excise implications of any transaction, structure, agreement or other matter which **[Client]** are or may become engaged in, or may be interested in.
- Assistance with the formulation of applications, rulings, directives, interpretations and similar correspondence with the appropriate State Department and engaging with them in connection therewith.
- Inspect applications, documentation, contracts and similar prepared by **[Client]** or third parties to ensure compliance with applicable legislation and **[Client]**'s requirements, and advising thereon.
- Assisting with defending action for increase/ decrease in excise duties.

Exchange Control:

- General advisory services in connection with queries from or other interactions with Exchange Control.
- Assistance with the preparation of responses and related correspondence in connection with Exchange Control queries, disputes and appeals, attendances at meetings, assistance with representations, but excluding litigation services in a court of law.

Internal Audit Services:

Internal audit services involve assisting the client in the performance of its internal audit activities. Examples of internal audit services are:

- Monitoring of internal control, comprising of the evaluation of the design and implementation of controls, monitoring their operating effectiveness and recommending improvements thereto.
- Examination of financial and operating information – evaluating the means used to identify, measure, classify and report financial and operating information, and specific inquiry into individual items including detailed testing of transactions, balances and procedures.
- Consider and evaluate compliance with laws, regulations and other external requirements, and with management policies and directives and other internal requirements.

Administrative Services

- Word processing services.
- Preparing administrative or statutory forms for **[Client]** approval.

- Submitting such forms as instructed by **[Client]**.
- Monitoring statutory filing dates (including Annual Returns and annual financial statements/accountability supplement) and advising **[Client]** of those dates.
- <Specify the nature of administrative assistance>