

Travelers 1st Choice⁺® for Accounting Professionals Engagement Letter Matrix

Prepare a tailored engagement letter for every engagement

A well-crafted engagement letter can be a primary tool for managing risk, in order to avoid and defend malpractice claims. A proper engagement letter will precisely define your professional obligations to a client. In so doing, it will also discourage a client from asserting a meritless claim, and it will form the basis for a dismissal of a meritless lawsuit against you. Conversely, the lack of an engagement letter may result in a confused or unhappy client, and may set the stage for meritless and possible protracted litigation.

Always prepare an engagement letter that spells out what services are to be performed and what your fees and expenses are likely to be. It is also beneficial to describe what services you will not perform, as doing so will help protect you from a lawsuit based on services outside the scope of your engagement. Some engagements, such as audits, require that your client sign an engagement letter before you begin providing services. While other engagements, such as tax engagements, do not require an engagement letter signed by the client. However, it is still the best practice to have one.

Different types of engagements require different engagement letter provisions. For example, the content of a tax return engagement letter will be different from that of an attest services (an audit, review, or compilation) engagement letter. Likewise, consulting services engagement letters will again require language specifically tailored to the services you're being retained to perform.

To help you prepare the proper engagement letter, Travelers has gathered together relevant information and model engagement letter provisions for your review. Then, you'll need to work with your attorney in order to tailor them for your specific requirements.

When considering engagement letters, remember to:

- Comply with the applicable standards
- Inform your clients
- Limit your risk
- Draft an engagement letter for every engagement
- Consult with your attorney

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General Topics to Address or Include in Most Engagement Letters

1	Specific Identification of the Client	9	Set Forth Your Fees and Describe What Expenses Will be Incurred by the Client
2	Description of the Scope and Nature of the Services to be Provided	10	Describe any Method for Resolution of Disputes
3	If Your Tax or Attest Engagement is Not Design to Detect Fraud, Say So	11	Set Forth the Accounting Firm's Right to Withdraw from the Engagement
4	Provide a General Idea, if Possible, of when the Professional Services are to be Completed	12	Signature Line for the Client to Acknowledge Agreement/ Confirmation of Receipt
5	When Appropriate, Identify the Professional Standards Applicable to the Engagement	13	Limitation of Liability
6	Identify any Unique or Unusual Terminology Associated with the Engagement	14	Indemnification
7	Set Forth any Limitations on your Firm's Services or Responsibilities	15	Non-Engagement Letters
8	Spell out the Client's Responsibilities		

Model Engagement Letters

16	Review	21	Estate Planning
17	Audit	22	Litigation Support
18	Compilation	23	Non-Engagement
19	Tax Preparation	24	Disengagement
20	Bookkeeping		

Consult as needed with your own attorney or other professional adviser.

By providing this information as a possible source of reference, Travelers is not providing accounting, legal, or other professional advice. Please consult with your own lawyer regarding specific requirements, legal or otherwise, applicable to a particular accounting engagement letter.

Click on the Engagement Letter Topic of interest to view the sample language.

If you have questions about the Engagement Letter Matrix, please contact the Travelers Risk Management Helpline at 888.330.TRAV (8728).

1. Specific Identification of the Client

Specifically identify the name of each client involved in the engagement. If a related party will not be your client, advise that party of its “non-client” status in a separate letter.

Sample Language

This letter confirms our engagement to provide to _____ the following services: _____.
We are not engaged to provide services to _____.

2. Description of the Scope and Nature of the Services to be Provided

Describe precisely what professional services you will provide. For example, if you’re being retained to perform a compilation or prepare a tax return, and nothing more, your engagement letter should say so. That way, your client can’t later claim you agreed to perform other services, such as a fraud examination. Equally important, if you haven’t agreed to update your work, make that clear in your engagement letter. Explain that any additional work will require a new engagement letter.

Sample Language

We will prepare your [Year] tax returns for these jurisdictions: _____. We are not currently engaged to prepare tax returns for any other year or for any other jurisdiction. We will be glad to prepare other tax returns for you. If you need us to prepare other returns, please let us know, and we can enter into a separate engagement letter for those returns.

Please note that we are not engaged to detect fraud, embezzlement, or any other wrongdoing. We will prepare your tax returns based on the information you give us and based on the assumption that it is authentic and accurate. Preparing a tax return according to governing professional standards provides no assurance that the information is accurate or properly recorded according to Generally Accepted Accounting Principles.

3. If Your Tax or Attest Engagement is Not Designed to Detect Fraud, Say So

While such a disclaimer may not totally immunize you from liability, it can be very helpful in defending against claims.

Sample Language in a Tax Engagement

We are not engaged to detect fraud, embezzlement, or any other wrongdoing. We will prepare your tax returns based on the information you give us and based on the assumption that it is authentic and accurate. Preparing a tax return according to governing professional standards provides no assurance that the information is accurate or properly recorded according to Generally Accepted Accounting Principles.

4. Provide a General Idea, if Possible, of when the Professional Services are to be Completed

If you don't give a time table for the project, your client may later dispute the date by which you are to complete your services. It is a matter of managing expectations. Do not fix a deadline for yourself, especially if you do not know for sure whether you can meet the deadline.

Sample Language

We will complete our engagement as promptly as possible. We cannot predict exactly when we will finish. If you need our work product by some particular date, please notify us in writing.

5. When Appropriate, Identify the Professional Standards Applicable to the Engagement

This may prove helpful in showing that you and your client agree regarding what professional standards apply to the assignment.

Sample Audit Language

We will conduct our audit in accordance with the U.S. Generally Accepted Auditing Standards, published by the American Institute of Certified of Public Accountants, in force at the time of our opinion date.

Sample Review Language

We will conduct our review in accordance with the U.S. Review Standards, published by the American Institute of Certified of Public Accountants, in force at the time of our opinion date.

Sample Compilation Language

We will compile the financial statements in accordance with the U.S. Compilation Standards, published by the American Institute of Certified of Public Accountants, in force at the time of our compilation report.

6. Identify any Unique or Unusual Terminology Associated with the Engagement

This may avoid a dispute between you and your client regarding the meaning of certain terms and how they apply to the particular engagement.

Risk Management Tip

Since most tax return work usually includes at least some advice about potential tax consequences of decisions made in completing returns, a request for a restriction in agreed services that departs from usual or accepted scope of services in a particular type of engagement or service should be specifically noted in the engagement letter. This element provides evidence that this unusual term or departure from normal and accepted practices was a part of the original agreement. This would be very important evidence in the event that the client should subsequently face tax issues or problems arising out of those returns.

7. Set Forth any Limitations on your Firm's Services or Responsibilities

So there is no misunderstanding by the client, describe the limits of your responsibilities. That is, explain what services you are not being retained to perform.

Sample Language

We are not engaged to detect fraud, embezzlement, or any other wrongdoing. [For a corporate client: We are not retained to investigate the propriety of any salaries or acts of corporate governance. To determine whether the company is adhering to norms of corporate governance, you should consult a lawyer.] Nor are we retained to do _____. We will prepare your tax returns based on the information you give us and based on the assumption that it is authentic and accurate. Preparing a tax return according to governing professional standards provides no assurance that the information is accurate or properly recorded according to Generally Accepted Accounting Principles.

Similarly, when there is more than one accounting or other professional firm or firms responsible for portions of the same project, consider adding language such as the following to your engagement letter.

Sample Language

This engagement involves professional and interdependent services being rendered by another professional firm [or other firms] apart than our accounting firm. This [these] other professional firm[s] are as follows: _____. This means that our accounting firm's ability to complete its portion of this project in a timely and satisfactory manner is dependent on this other professional firm [or other professional firms] also completing its [their] portion of this project in a timely and satisfactory manner. Should for any reason this not occur, our accounting firm hereby disclaims any responsibility for any delays or unsatisfactory work product caused by the failure of this [these] other professional firm [or firms] to meet their responsibilities with respect to this project in a satisfactory or timely fashion.

8. Spell out the Client's Responsibilities

Doing so can prevent disputes regarding the scope of the client's responsibilities. Should the client fail to cooperate with you, or fail to perform assigned tasks, this language will support your defense should a claim later develop.

Sample Language in a Tax Engagement

You are responsible for providing us with accurate information and source documents. You agree to make available to us complete and accurate records. In preparing tax returns, we will assume the information you supply us is complete and accurate.

Sample Language in an Attest Engagement

The financial statements are the responsibility of the management of the Company. In this regard, management is responsible for properly recording transactions in the accounting records and maintaining internal control sufficient to permit the preparation of financial statements (and information) in conformity with generally accepted accounting principles. Management is responsible for adjusting the financial statements to correct material misstatements and for affirming to us in representation letters that the effects of any uncorrected misstatements aggregated by us during the

current engagement and pertaining to the year ending _____ are immaterial, both individually and in the aggregate, to the financial statements taken as a whole. Management also is responsible for identifying and ensuring that the Company complies with the laws and regulations applicable to its activities.

Management is responsible for making available to us, on a timely basis, all of the Company's original accounting records and related information and company personnel to whom we may direct inquiries. [LANGUAGE FOR AN AUDIT: As required by generally accepted auditing standards, we will make specific inquiries of management and others about the representations embodied in the financial statements (and information) and the effectiveness of internal controls over financial reporting. Generally accepted auditing standards also require that we obtain written representations covering audited financial statements (and information) from certain members of management. The results of our audit tests, the responses to our inquiries and the written representations comprise the evidential matter we intend to rely upon in forming our opinion on the financial statements.]

If management intends to publish or otherwise reproduce the financial statements (and information) together with our report(s) (or otherwise make reference to us) in a document that contains other information, management agrees to provide us in a timely manner with a draft document so that we may perform our professional responsibilities before the document is finalized and distributed.

9. Set Forth Your Fees and Describe What Expenses Will be Incurred By the Client

Specify your hourly rate, or any lump sum you are charging for your services.

Sample Fixed Fee Language

We agree to perform these services for a flat fee of \$[amount]. This is a fixed fee for the entirety of the engagement. You understand that the retainer fee is being paid to cause us to act on your behalf, which in some cases may preclude us from accepting alternative employment. Accordingly, you agree that the retainer fee is earned by the our agreeing to accept this engagement, and you should have no expectation of a refund.

Sample Hourly Language

We will bill you at our standard hourly rates. Some of the accountants who will work on this engagement (along with their corresponding hourly billing rates) are _____ (_____/hour), _____ (_____/hour), and _____ (_____/hour). On an as-needed basis, we may assign other professionals to work on this matter, and we will bill for their time at their standard hourly billing rates.

Our staff (and their corresponding billing rates) are _____ (_____/hour) and _____ (_____/hour). On an as-needed basis, we may assign other staff to work on this matter, and we will bill for their time at their standard hourly billing rates.

We will also charge you for any expenses we incur. These expenses may include (without limitation) postage, computer research, copying, long distance phone calls, faxes, travel, and meals.

10. Describe any Method for Resolution of Disputes

For example, if you want to require arbitration, specify who will conduct the arbitration (e.g., the American Arbitration Association) and what rules will apply. Note that non-clients may assert claims, and they may not necessarily be bound by the alternative dispute resolution clause of the engagement language. For example, if investors or shareholders bring claims over an audit or review, a court might not require them to arbitrate, even though an arbitration clause might bind the company itself.

Note that while binding arbitration clauses are generally enforceable, the laws governing their enforceability may vary from state to state. Before inserting an arbitration clause, it is critical that you consult with a local lawyer.

Also, your engagement letter needs to include a severability clause that reads, "If any part or provision of this agreement should be held void or invalid, the remaining provisions shall remain in full force and effect." This language ensures that the rest of the agreement remains enforceable even if a court refuses to enforce the arbitration clause. If there is no severability clause, a court could hold that the entire agreement (including your contractual right to fees) is void.

Sample Arbitration Language

If any dispute arises between the parties, from our professional services, or under this engagement letter, the parties agree to submit the dispute for resolution by binding arbitration according to the rules of the American Arbitration Association. BY AGREEING TO BINDING ARBITRATION, EACH PARTY AGREES TO WAIVE ITS RIGHT TO A JURY TRIAL AND AGREES TO WAIVE ITS RIGHT TO HAVE THE DISPUTE DECIDED IN A COURT OF LAW. The accounting firm (and its personnel) will together pay half the cost of the arbitration, and the claimants shall pay the other half.

Sample Mediation Language

If any dispute arises between the parties, from our professional services, or under this engagement letter, the parties agree – as a condition precedent to filing suit - to first submit the dispute to non-binding mediation administered by the American Arbitration Association. At the mediation, the parties agree to make a good faith attempt to settle the dispute. The accounting firm (and its personnel) will together pay half the cost of the mediation, and the claimants shall pay the other half.

11. Set Forth the Accounting Firm's Right to Withdraw from the Engagement

You may want to specify that you have the right to withdraw from the engagement and to be compensated for your time if your client fails to cooperate. If you decide you need to withdraw, send a disengagement letter to the client outlining your reasons for doing so.

Sample Language

If we do not receive timely payments for our services or if you do not make available to us the information we request, we reserve the right to withdraw from the engagement. If we do withdraw from the engagement under those circumstances, we will send you a final progress billing, and we will then have no further obligation to complete the professional services. You agree to pay the entire outstanding balance, including the final progress billing.

12. Signature Line for the Client to Acknowledge Agreement/Confirmation of Receipt

Some engagements, like audits, require an engagement letter signed by the client. AU 311.08. Some engagements, such as reviews and compilations, require that you reach an understanding with your client, preferably in writing. AR 100.05, 100.99, and 100.101. Consulting engagements require that the accountant and the client reach an understanding but do not necessarily require that understanding to be in writing. CS 100.07. You should memorialize such engagements with an engagement letter, and it's best if the client signs and dates the agreement. When this is not feasible, then a letter should be sent by email and/or certified mail so that receipt can be confirmed, with the terms of the representation specifically outlined as set forth throughout this outline.

13. Limitation of Liability

Many states allow accountants to limit their liability in engagement letters. This is not permitted in the audit of publicly traded companies and many states have restrictions on the type of limitations allowed. Nonetheless, these limitations can provide critical assistance should a lawsuit ever arise. For example, limitations on consequential damages, for example, can help preserve your personal assets. Because the enforceability of these clauses can vary from state to state, you should consult with a local lawyer.

Also, your engagement letter should include a severability clause such as, "If any part or provision of this agreement should be held void or invalid, the remaining provisions shall remain in full force and effect." This language is designed to ensure that the rest of the agreement remains enforceable even if a court refuses to enforce the limitation of liability clause. If there is no severability clause, a court could hold that the entire agreement (including your contractual right to fees) is void.

Sample Language

In no event shall [the Accounting Firm] be liable to the Company, whether a claim be in tort, contract, or otherwise, for any consequential, indirect, lost profit or similar damages relating to [the Accounting Firm's] services provided under this engagement letter, except to the extent finally determined to have resulted from the willful misconduct or fraudulent behavior of [the Accounting Firm] relating to such services.

14. Indemnification

Accountants may wish to obligate the client to indemnify the firm if third parties (like shareholders or investors) bring claims. As the enforceability of an indemnification clause depends on local law, you should consult with a local lawyer.

Sample Language

Even where damages may result in part from the Accountant's negligence, the Client agrees to indemnify the Accountant and its personnel against all liability, claims, demands, or damages resulting in whole or in part from any negligent or intentional misrepresentations made by the Client's officers, directors, or employees in the Management Representation Letter or in connection with the Audit.

15. Non-Engagement Letters

If you decide not to represent a prospective client due to a conflict of interest or otherwise, it is important to send a non-engagement letter to that prospective client memorializing the fact that you will not representing that client. This letter should clearly state that you will not represent the prospective client. A "return receipt requested" card should accompany the letter to evidence that the letter was received, or alternately, it can be sent by e-mail.

For a Sample Non-Engagement Letter See Model Engagement Letter Section.

The Travelers Accountants Professional Liability Engagement Letter Matrix and associated materials were prepared with substantial assistance and contribution from the law firms of Litchfield Cavo. LLP and Carlock Copeland.



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