



INSURANCE POLICY

Professional Indemnity - Accountants ICA Policy

Please read this document carefully.
Should you have any questions, please contact your insurance agent.

Policy Information

We are keen to work in partnership with You and avoid any misunderstandings

This Policy has been prepared in accordance with Your instructions Please read it carefully to ensure that it meets Your requirements

This policy consists of

1. the introduction which explains the basis on which cover is provided
2. the Schedule which shows details of the Policyholder Period of Insurance the Professional Business being covered insured Limits of Liability and certain amounts You will be responsible for and details of which Sections are operative
3. In the event of any inconsistency between the Proposal and the rest of this Policy then the terms conditions and exceptions of this Policy shall prevail
4. the Proposal form is a record of the information that You provided to Your insurance agent about You and Your Professional Business upon which Your insurance Policy is based
5. Policy Definitions and Conditions
6. the Sections of the Policy which give details of the cover
7. Any Endorsements or Conditions Precedent which might apply to the Policy or individual Sections and which incorporate cover amendments extensions limitations and the like

Immediate notice should be given to Us of any changes which may affect the insurance provided by this Policy

Alterations in the cover required after the issue of the Policy will be confirmed by a separate Endorsement and/or Schedule and/or the Proposal supplied which You should file with Your Policy You should refer to the Schedule and Endorsement(s) and the Policy to ascertain precise details of cover currently in force

Our Promise to You

Our goal is to provide excellent customer service to all Our customers but we recognise that sometimes things may go wrong We take complaints seriously and aim to resolve all of Our customers problems promptly

If this cover does not meet with Your requirements please return all of Your documents to Your insurance agent who has arranged the cover within 14 days of receipt We will return any premium paid in full

If You wish to terminate the cover at any other time please contact Your insurance agent who arranged it and any return premium will be at the discretion of Arista

Making a Claim under the Policy

To make a claim under this Policy please refer to General Condition C2

Who to notify

All notifications should be forwarded directly to:

Hiscox Liability Claims Team

Telephone: 0800 840 2432

Email: liability.claims@hiscox.com

Your duties in the event of a claim or circumstance

There are legal protocols applying to professional negligence claims which impose time constraints and procedural rules as to how claims should be dealt with. We have specialists who will work hand in hand with You to deal with these issues and if litigation is necessary, We will arrange for a solicitor to represent You.

When You first become aware of a claim or circumstance it is important you DO NOT:

- Make any admission of liability
- Settle or make or promise any payment
- Incur costs without Our approval
- Take any action which might prejudice Our position or Our ability to investigate a claim or circumstance
- Provide details of Your professional indemnity policy or disclose that We have been notified to the claimant

It is a usual feature of Professional Indemnity Policies that it is a condition precedent to insurance coverage being granted that there has been no admission of liability and further that We receive your full cooperation.

What is meant by a circumstance?

There is no single or simple definition but the following may help in understanding what is likely to deem a notifiable circumstance.

A notifiable circumstance could include:

- An intimation by any third party, whether expressed or implied, of an intention to make a claim against You
- Any criticism or dispute, whether expressed or implied, relating to Your performance, or of any party for which you are responsible
- Any awareness by You that any services provided or actions taken by You, or by any party for whom You are responsible, have or could have failed to meet the standard required or have led, or may lead to a third party loss
- A situation where You are having to investigate Your work in order to justify Your actions

Fair Processing Notice

The privacy and security of your information is important to us. This notice explains who we are, the types of information we hold, how we use it, who we share it with and how long we keep it. It also informs you of certain rights you have regarding your personal information under current data protection law. The terms used in this Fair Processing Notice relate to the Information Commissioner's Office guidance.

Who are we?

Arista is a trading name of Geo Underwriting Services Limited (part of the Ardonagh Group of companies). Geo Underwriting Services Limited is the Data Controller of the information you provide us and is registered with the Information Commissioner's Office for the products and services we provide to you.

You can contact us for general data protection queries by email to DataProtection@ardonagh.com or in writing to The Data Protection Officer, care of the office of the Chief Information Officer, The Ardonagh Group, 55 Bishopsgate, London, EC2N 3AS. Please advise us of as much detail as possible to comply with your request.

For further information about the Ardonagh Group of companies please visit www.ardonagh.com.

What information do we collect?

We will collect personal information which may include your name, telephone number, email address, postal address, occupation, date of birth, additional details of risks related to your enquiry or product and payment details (including bank account number and sort code) which we need to offer and provide the service or product or deal with a claim.

We may need to request and collect sensitive personal information such as details of convictions or medical history that are necessary for providing you with the product, service or for processing a claim.

We only collect and process sensitive personal data where it is critical for the delivery of a product or service and without which the product or service cannot be provided. We will therefore not seek explicit consent to process this information as the processing is legitimised by its criticality to the service provision. If you object to use of this information then we will be unable to offer you the product or service requested.

How do we use your personal information?

We will use your personal information to

- assess and provide the products or services that you have requested
- communicate with you
- develop new products and services
- undertake statistical analysis

We may also take the opportunity to

- contact you about products that are closely related to those you already hold with us
- provide additional assistance or tips about these products or services
- notify you of important functionality changes to our websites

We make outbound phone calls for a variety of reasons relating to many of our products or services (for example, to update you on the progress of a claim or to discuss renewal of your insurance contract). We are fully committed to the regulations set out by Ofcom and follow strict processes to ensure we comply with them.

To ensure confidentiality and security of the information we hold, we may need to request personal information and ask security questions to satisfy ourselves that you are who you say you are.

We may aggregate information and statistics on website usage or for developing new and existing products and services, and we may also provide this information to third parties. These statistics will not include information that can be used to identify any individual.

Securing your personal information

We follow strict security procedures in the storage and disclosure of your personal information in line with industry practices, including storage in electronic and paper formats,

We store all the information you provide to us, including information provided via forms you may complete on our websites, and information which we may collect from your browsing (such as clicks and page views on our websites).

Any new information you provide us may be used to update an existing record we hold for you.

When do we share your information?

To help us prevent financial crime, your details may be submitted to fraud prevention agencies and other organisations where your records may be searched, including the Claims and Underwriting Exchange (CUE) and the Motor Insurers Anti-Fraud and Theft Register (MIAFTR).

In addition to companies within the Ardonagh Group, third parties (for example insurers or loss adjusters) deliver some of our products or provide all or part of the service requested by you. In these instances, while the information you provide will be disclosed to these companies, it will only be used for the provision and administration of the service provided (for example verification of any quote given to you or claims processing, underwriting and pricing purposes or to maintain management information for analysis).

This may also include conducting a search with a credit reference bureau or contacting other firms involved in financial management regarding payment.

The data we collect about you may be transferred to, and stored at, a destination outside of the European Economic Area ("EEA"). It may also be processed by staff operating outside of the EEA who work for us or for one of our suppliers. Such staff may be engaged in, amongst other things, the provision of information you have requested.

If we provide information to a third party we will require it and any of its agents and/or suppliers to take all steps reasonably necessary to ensure that your data is treated securely and in accordance with this fair processing notice.

We may of course be obliged by law to pass on your information to the police or other law enforcement body, statutory or regulatory authority including but not limited to the Employer's Liability Tracing Office (ELTO) and the Motor Insurance Bureau (MIB).

We may also share your information with anyone you have authorised to deal with us on your behalf.

How long do we keep your information for?

We will not keep your personal information longer than is necessary for the purpose for which it was provided unless we are required by law or have other legitimate reasons to keep it for longer (for example if necessary for any legal proceedings).

We will normally keep information for no more than 6 years after termination or cancellation of a product, contract or service we provide. In certain cases, we will keep your information for longer, particularly where a product includes liability insurances or types of insurance for which a claim could potentially be made by you or a third party at a future date, even after your contract with us has ended.

Your rights

Under data protection law you have the right to change or withdraw your consent and to request details of any personal data that we hold about you.

Where we have no legitimate reason to continue to hold your information, you have the right to be forgotten.

We may use automated decision making in processing your personal information for some services and products. You can request a manual review of the accuracy of an automated decision that you are unhappy with.

Further details of your rights can be obtained by visiting the Information Commissioner's Office website at <https://ico.org.uk/>.

Fair Presentation of the Risk

We are keen to work in partnership with You and avoid any misunderstandings.

You must make a fair presentation of the risk to Us at inception, renewal and variation of the policy.

Should You be in any doubt as to whether information should be presented to Us, You must

- discuss it with Your insurance agent, or
- disclose it to Us.

We may, at Our absolute discretion, avoid the policy and refuse to pay any claims where any failure to make a fair presentation is:

1. deliberate or reckless; or
2. of such other nature that, if You had made a fair presentation, We would not have issued the policy.

We will return the premium paid by You unless the failure to make a fair presentation is deliberate or reckless.

If We would have issued the policy on different terms had You made a fair presentation, We will not avoid the policy (except where the failure is deliberate or reckless) but We may instead, at Our absolute discretion;

1. reduce proportionately the amount paid or payable on any claim, the proportion for which We are liable being calculated by comparing the premium actually charged as a percentage of the premium which We would have charged had You made a fair presentation; and/or
2. treat the policy as if it had included such additional terms (other than those requiring payment of premium) as

We would have imposed had You made a fair presentation.

For the purposes of this condition references to:

1. avoiding a policy means treating the policy as if it had not existed from the inception date (where the failure to make a fair presentation of the risk occurs before or at the inception of the policy), the renewal date (where the failure occurs at renewal of the policy), or the variation date (where the failure occurs when the policy is varied),
2. refunds of premium should be treated as refunds of premium back to the inception date, renewal date or variation date as the context requires,
3. issuing a policy should be treated as the references to issuing the policy at inception, renewing or alteration of the Policy as the context requires, premium should be treated as the premium payable for the particular contract of insurance which is subject to this condition (where there is more than one contract of insurance).

How to Complain

If You have any enquiry arising from Your Policy please contact Your insurance agent who arranged the Policy for You or the local Arista office quoting the Policy number in all cases

If You have a complaint arising from Your Policy please contact

The Chief Executive

Arista

55 Bishopsgate

London EC2N 3AS

www.Arista-Insurance.com

After this action if You are still not satisfied with the way a complaint has been dealt with Your complaint may also be referred to the Financial Ombudsman Service (FOS) The address is

Financial Ombudsman Service

Exchange Tower

London E14 9SR

www.financial-ombudsman.org.uk

Telephone: 0800 023 4567/ 0300 123 9 123

Fax: 020 7964 1001

Email: complaint.info@financial-ombudsman.org.uk

The FOS is an independent service in the UK for settling disputes between consumers and businesses providing financial services

Following the complaints procedure does not affect Your rights to take legal proceedings

Financial Services Compensation Scheme

Arista, a trading name of Geo Underwriting Services Limited, and the insurers of this policy are covered by the Financial Services Compensation Scheme (FSCS)

Should We be unable to meet Our liabilities You may be entitled to compensation from the scheme depending on the type of insurance and the circumstances of the claim

Further information is available from the FSCS. Their telephone number is 0800 678 1100 or 020 7741 4100. Alternatively, more information can be found at www.fscs.org.uk.

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The Contract of Insurance and the Underwriters

This Policy is underwritten by certain Underwriters at Hiscox (hereinafter called the 'Underwriters') and is administered by Arista in accordance with the authority granted under binding authority agreement(s)

In consideration of payment of the premium the receipt of which by Underwriters is a condition precedent to liability to indemnify under this Policy the Underwriters set out above are bound severally and not jointly to indemnify You within the limits terms conditions and exceptions of this Policy during the Period of Insurance and any subsequent period for which You pay and the Underwriters agree to accept a premium

You have provided information to Us which includes but is not limited to the information detailed in the written Proposal bearing the date stated in the Schedule



Paul Dilley
Chief Executive Officer
Geo Underwriting Services Limited
On behalf of the Insurer(s)

This Policy is a legal contract between You and Us and designed to be as easy to understand as possible You must make a fair presentation of the risk to Us at inception renewal and variation of the Policy

Your proposal the Schedule Your Policy and any Endorsements shall be considered one legal document It is important that You read all Your documents carefully and let Your insurance agent know immediately if the insurance does not meet Your requirements or if any information is inaccurate or incomplete If any changes are required this may result in changes to the terms and conditions of the Policy or a refusal to provide cover

Your obligations under the Policy

The Policy imposes certain obligations upon You which if not complied with may invalidate this insurance or a claim

Some of these obligations are expressed to be General Conditions Special Conditions or Conditions Precedent These are extremely important If you are in breach of any of these obligations at the time of a loss We will have no obligation to indemnify You in relation to any claim for that loss However if a General Condition Special Condition or Condition Precedent is intended to reduce the risk of a loss of a particular kind at a particular location or at a particular time We will not rely on the breach of that General Condition Special Condition or Condition Precedent to exclude limit or discharge our liability if the breach could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred

Steps to be taken if you cannot comply

If You are unable to comply with any General Condition Special Condition or Condition Precedent You should contact Us as soon as reasonably possible through Your insurance agent We will decide whether We might be prepared to agree a variation in the Policy

All General Conditions Special Conditions or Conditions Precedent remain effective unless You receive written confirmation of a variation from Us through Your insurance agent

You should keep a written record (including copies of letters) of any information You give Us or Your insurance agent at inception, renewal or making variation to this Policy

Arista is a trading name of Geo Underwriting Services Limited, Registered in England No. 4070987.
Registered Address: Towergate House, Eclipse Park, Sittingbourne Road, Maidstone, Kent ME14 3EN
Authorised and regulated by the Financial Conduct Authority. FCA Register Number 308400
Geo Underwriting Services Limited is a coverholder for certain leading Insurers.

You can check this information on the Financial Conduct Authority register by visiting the FCA's website www.fca.org.uk/register or by contacting the Financial Conduct Authority on 0800 111 6768. Information relating to the Prudential Regulation Authority can be found at www.bankofengland.co.uk/pru

Institute of Chartered Accountants in England and Wales
Institute of Chartered Accountants of Scotland
Institute of Chartered Accountants in Ireland

The Institutes' minimum approved policy wording 1 August 2015.

Whereas a representative of the Insured has made to the Insurers a written proposal containing particulars and statements made to the best of the representative's knowledge and belief which, together with any other information supplied to Insurers shall be incorporated into this contract.

SECTION A - INSURING CLAUSES

In consideration of the payment or the promise of payment to Insurers of the premium specified in the Schedule Insurers agree:

A1. Civil Liability

To indemnify the Insured in respect of any Claim or Claims first made against the Insured during the Period of Insurance in respect of any civil liability (including liability for Claimants' costs, expenses and disbursements) arising out of and/or in connection with the conduct of any Professional Business carried on by, or on behalf of, the Insured.

A2. Awards by Ombudsmen

To indemnify the Insured against any amount paid and/or payable and/or the costs of taking any steps which the Insured is directed to take pursuant to or by the recommendation of any Ombudsman to the same extent as Insurers are obliged under this policy to indemnify the Insured in respect of any civil liability.

A3. Defence Costs

To indemnify the Insured in respect of Defence Costs provided that if a payment in excess of the amount of indemnity available under this policy has to be made to dispose of any Claim or Claims against the Insured, Insurers' liability for Defence Costs shall be only that proportion which the limit of indemnity available under this policy bears to the amount which is required to be paid to dispose of such Claim or Claims.

For the avoidance of doubt, the limit of indemnity specified in the Schedule is exclusive of Defence Costs, and Defence Costs shall be paid by Insurers over and above and in addition to sums paid pursuant to clause A1 and/or clause A2 and/or the limit of indemnity.

SECTION B - DEFINITIONS

- B1. **"ALTERNATE"** means any individual practitioner, partnership, limited liability partnership, Isle of Man limited liability company or company who or which is acting in connection with the arrangements to cover the incapacity or death of a sole practitioner.
- B2. **"CLAIM"** means any written or oral demand for compensation or damages from, or the assertion of a right against, any Insured and shall be deemed to include any complaint or reference to any Ombudsman which arises out of the conduct of Professional Business carried on by, or on behalf of, the Insured.
- B3. **"CLAIMANT"** means a person or entity which has made or may make a Claim including (without limitation) a Claim for contribution or indemnity, and shall be deemed to include a complainant to the Ombudsman.
- B4. **"DEFENCE COSTS"** means any costs, disbursements and expenses incurred by the Insured with the written consent of Insurers (such consent not to be unreasonably withheld) in:
- (a) defending any Claim or any proceedings relating to any Claim;
 - (b) conducting any proceedings for an indemnity, contribution, damages or other recovery relating to a Claim;
 - (c) investigating, reducing, avoiding or settling any actual or potential Claim; or
 - (d) investigating any circumstance which is notified to Insurers in accordance with the terms of this policy.

- B5. **"DIRECTOR"** shall have the meaning given by section 1173 of the Companies Act 2006, section 2 of the Companies Act 1963 of the Republic of Ireland or section 27 of the Companies Act 1990 of the Republic of Ireland (as appropriate) or any amendment or re-enactment thereof.
- B6. **"Extended Policy Period"** means the period starting from the day immediately following the expiration of the original Period of Insurance and ending with the earliest to occur of:
- a) the date that the Insured obtains a replacement insurance policy that complies with the provisions of the Professional Indemnity Insurance regulations of the relevant Institute; being the Institute of Chartered Accountants in England and Wales the Institute of Chartered Accountants of Scotland or the Institute of Chartered Accountants in Ireland; or
 - b) 30 days from receipt by the relevant Institute of written notice from the Insurer of the commencement of the Extended Policy Period.
- B7. **"FIRM(S)"**: wherever the word "Firm(s)" appears herein the same shall be deemed to read "the firm(s) (ie partnership(s)) or sole practitioner(s) or company(ies) (limited or otherwise) or limited liability partnership(s) or Isle of Man limited liability company(ies) or any other entity(ies) named in the Schedule, and, save for the purposes of clause C3.3, it includes the predecessors in business of the said Firm(s).
- B8. **"THE INSURED"** means each and all of the following persons, each of whom shall be severally insured hereunder:
- (a) Any Firm(s);
 - (b) Partners or Directors or Members of the Firm(s) (or named as the principal where, although the trading style of the Insured is such that it appears to be a Firm, in fact the Insured is a sole practitioner) and any other person who may at any time during the Period of Insurance become a Partner or Director or Member in the Firm(s);
 - (c) Any former Partner or Director or Member of the Firm(s) including any such former Partner or Director or Member whilst acting as a consultant to the Firm(s);
 - (d) Any person who is or has been under a contract of service with the Firm(s);
 - (e) Any person who is or has been under a contract for services with the Firm(s), save that such person shall only be an Insured for the purpose of this policy if and insofar as any Claim or Claims arise out of Professional Business carried on by such person for or on behalf of the Firm(s);
 - (f) The estates and/or legal representatives of any Insured Person noted under (b), (c), (d) or (e) hereof in the event of death, incapacity, insolvency or bankruptcy; or
 - (g) Any person who is acting on behalf of the Firm(s) as an "Alternate".
- B9. **"INSURED PERSON"** means any natural person insured hereunder.
- B10. **"INSURERS"** means the underwriter or underwriters (as the case may be) of this policy as specified in the Schedule.
- B11. **"MEMBER"** means any member of a limited liability partnership, including, without limitation, a designated member.
- B12. **"OMBUDSMAN"** means any ombudsman to whose jurisdiction the Insured is subject by virtue of contract or law.
- B13. **"PARTNER"** shall have the meaning given by the Partnership Act 1890.
- B14. **"PERIOD OF INSURANCE"** means the period of insurance specified in the Schedule.
- B15. **"PROFESSIONAL BUSINESS"** means advice given or services provided of whatsoever nature by or on behalf of the Insured to a third party, wherever or by whomsoever given or provided irrespective of whether or not a fee is charged, but provided that if a fee is charged in respect of such advice or service then that fee is taken into account in ascertaining the income of the Firm(s).

The above definition of "Professional Business" shall be deemed to extend to any of the Insured whilst holding any individual personal appointment (including, but without prejudice to the generality of the foregoing, any appointment as a trustee or personal representative made or accepted in the course of the Insured's business), but whilst holding an appointment as company secretary or registrar or Director of a company which is not a Firm it only extends to the performance of Services as defined in clause B7.

- B16. **"SCHEDULE"** means the Schedule to this policy.
- B17. **"SERVICES"** provided whilst holding the appointment of company secretary, registrar or Director as referred to in the definition of "Professional Business" in clause B15 shall mean all services performed or advice given by the Insured in connection with tax matters, secretarial work, share registration, financial advice to management, book-keeping, management accounting, financial investigation and reports, the negotiation and settlement of financial claims, company formations, investment advice, insurance and pension scheme advice and computer consultancy.

SECTION C – GENERAL CONDITIONS

C1. Limit of indemnity

- a) The limit of indemnity which is available to meet any payments made or payable in relation to a Claim or Claims (excluding Defence Costs) arising from authorised work as defined under the Probate Regulations of the Institute of Chartered Accountants in England and Wales, during the Period of Insurance, shall be on an each and every claim basis. The limit of such indemnity shall be no less than the minimum level of Professional Indemnity Insurance cover (per claim) required under the Probate Regulations unless a higher amount is specified in the Schedule.
- b) The limit of indemnity which is available to meet any payments made or payable in relation to a Claim or Claims (excluding Defence Costs) arising from insurance mediation work as defined in the Designated Professional Body Handbook of the Institute of Chartered Accountants in England and Wales/of Scotland/in Ireland as applicable during the Period of Insurance shall be no less than the minimum level of Professional Indemnity Insurance cover required under the Designated Professional Body Handbook unless a higher amount is specified in the Schedule.
- c) The limit of indemnity available to meet any payments made or payable in relation to all other Claims (excluding Defence Costs) arising from the Insured's Professional Business during the Period of Insurance shall be no less than the aggregate limit of indemnity specified in the Schedule. Such liability shall not be varied or deemed varied by the number or type of Insureds or Claims under this policy.

C2. Notification

- C2.1 The Insured shall give to Insurers notice in writing as soon as reasonably practicable and in any event not later than 7 days after the end of the Period of Insurance of:
- (a) any Claim;
 - (b) the receipt by the Insured during the Period of Insurance of any notice from any person of an intention to make a Claim. Any Claim arising therefrom and/or in connection therewith shall be deemed to have been first made during the Period of Insurance; or
 - (c) the discovery during the Period of Insurance of reasonable cause for suspicion of dishonesty or fraud on the part of any former or present Partner, Director, Member, employee, consultant, sub- contractor or Alternate of the Firm(s), whether giving rise to a claim under this policy or not.
- C2.2 If during the Period of Insurance the Insured becomes aware of any circumstance which may give rise to a Claim, the Insured shall give notice in writing of such circumstance to Insurers as soon as reasonably practicable and in any event not later than the last day of the Period of Insurance. Any Claim arising from such circumstance shall be deemed to have been first made in the Period of Insurance.

C3. Excess

- C3.1 If an amount is specified in the Schedule, this amount shall be borne by the Insured at their own risk and Insurers' liability to indemnify the Insured shall only be in excess of this amount.
- C3.2 The amount specified in the Schedule shall not be applicable to Defence Costs (unless the Claim arises from the conduct of Professional Business which required authorisation by the Financial Conduct Authority) or any relevant successor body.
- C3.3 Notwithstanding any amount specified in the Schedule the maximum amount to be borne by the Insured at their own risk during the Period of Insurance shall not exceed the maximum calculated in accordance with the relevant provisions

of the Professional Indemnity Insurance Regulations of the Institute of Chartered Accountants in England and Wales/of Scotland/in Ireland as applicable in force at the date of the inception or renewal of this policy.

C4. Dishonesty and Fraud

- C4.1 Subject to clause C5, in the event that the Insured incurs any liability Insured by this policy by reason of the dishonest or fraudulent act or omission of any former or present Partner, Director, Member, or employee, consultant, sub-contractor or Alternate of the Firm(s) no indemnity shall be afforded hereunder in respect of such Claim to any person committing or condoning any such dishonest or fraudulent act or omission.
- C4.2 Notwithstanding the provisions of clause C4.1, an indemnity shall be afforded hereunder to each and every person who has neither committed nor condoned any such dishonest or fraudulent act or omission.
- C4.3 In respect of any such Claim (ie as referred to in clause C4.1):
- (a) the Insured shall at the request and expense of Insurers take all reasonable steps to obtain reimbursement from any person committing or condoning any such dishonest or fraudulent act or omission or from their estates or legal representatives;
 - (b) any monies which but for the dishonest or fraudulent act or omission would be due to such persons (ie the persons committing or condoning any such dishonest or fraudulent act or omission) from the Insured or any monies of such persons held by the Insured shall be deducted from any amount payable under this policy; and
 - (c) nothing in this clause C4 shall preclude Insurers from exercising any right of subrogation against any person committing or condoning such dishonest or fraudulent act or omission.
- C4.4 The sums payable under this policy shall be only for the balance of any civil liability in excess of the amounts recovered from the person or persons committing or condoning dishonest or fraudulent acts or omissions as aforesaid or their estates or legal representatives.

C5. Advancement of Defence Costs

Notwithstanding the provisions of clause C4, and subject to clause C3.2 and C10.2, Insurers will indemnify the Insured in respect of Defence Costs as and when they are incurred, including Defence Costs incurred on behalf of an Insured who is alleged to have committed or condoned a dishonest or fraudulent act or omission, provided that Insurers are not liable for Defence Costs incurred on behalf of such Insured after the earlier of:

- (a) the Insured admitting to Insurers the commission or condoning of such dishonest or fraudulent act or omission; or
- (b) a court or other judicial body finding that the Insured was in fact guilty of such dishonest or fraudulent act or omission.

Each Insured who admits to Insurers the commission or condoning of such dishonest or fraudulent act or omission, or against whom there is a finding of a court or other judicial body that such Insured was in fact guilty of such dishonest or fraudulent act or omission shall reimburse Insurers in respect of Defence Costs advanced on that Insured's behalf.

C6. Conduct of Claims

- C6.1 The Insured shall:
- (a) not admit liability for, or settle, any Claim without the written consent of Insurers (such consent not to be unreasonably withheld or unreasonably delayed); and
 - (b) not incur any costs or expenses in connection with any Claim or any circumstance without the written consent of Insurers (such consent not to be unreasonably withheld or unreasonably delayed);
- C6.2 Insurers shall be entitled at their own expense at any time to take over and conduct in the name of the Insured the defence, investigation or settlement of any Claim and to conduct an investigation into circumstances notified under clause C2.2 which may give rise to a Claim and to receive at all times the full co-operation of the Insured for this purpose. The Insured shall be entitled to any and all information and/or documentation regarding the defence investigation or settlement of any Claim and/or the investigation into any circumstances as they may reasonably request from Insurers.
- C6.3 Compliance by the Insured with any rules, requirements, directions or guidance of any Ombudsmen will not constitute a breach of any clause of this policy.

C7. Queen's Counsel Clause

Neither the Insured nor Insurers shall be required to contest any legal proceedings unless a Queen's Counsel or in the Republic of Ireland a Senior Counsel (to be mutually agreed upon by the Insured and Insurers or failing agreement to be appointed by the President of the Institute of Chartered Accountants in England and Wales/of Scotland/in Ireland as applicable) shall advise that, taking due account of the interests of both Insurers and Insured, such proceedings should be contested.

C8. General Subrogation Rights

Insurers shall not exercise any right of subrogation in the name of any Insured against any other Insured except:

- (a) against a person who is an Insured within the definition of clause B7(e) and the Firm has not notified such person to Insurers or previous insurers; and/or
- (b) as provided in clause C4.3(c).

C9. Fraudulent Claims

If any Insured shall make a claim for indemnity under this policy knowing the same to be false or fraudulent as regards amount or otherwise, this policy shall, in respect of that Insured only, be avoided ab initio. The policy shall continue in full force and effect for the benefit of all other Insureds as if such false or fraudulent claim had not been made.

C10. Dispute Resolution

C10.1 Any dispute between the Insured and/or Insurers arising out of or in connection with this policy shall be referred to arbitration before a sole arbitrator (to be mutually agreed upon by the Insured and Insurers, or, failing agreement, to be appointed by the President of the Institute of Chartered Accountants in England and Wales/of Scotland/in Ireland as applicable) whose decision shall be final and binding on the parties.

C10.2 In the event of any dispute concerning liability to indemnify the Insured (including without limitation a dispute as to the policy year under which any Claim or circumstance might fall to be dealt with between (a) Insurers and (b) any insurer(s) subscribing to the policy corresponding to this policy in respect of a previous period of insurance), the Insured and the Insurers agree that Insurers will advance Defence Costs and indemnify the Insured in accordance with clauses A1 - A3 and clause C5 above pending resolution of any such dispute.

C11. Choice of Law

This policy shall be governed by and construed in accordance with the laws of England and Wales/ Scotland/ Ireland as applicable. To the extent that any of the provisions of clause C10 may fail and/or for the purposes of any application under the Arbitration Act 1996, the courts of England and Wales/Scotland/Ireland as applicable shall have exclusive jurisdiction to hear and determine any disputes, suits, actions or proceedings that may arise out of or in connection with this policy.

C12. Cancellation

C12.1 This policy may not be cancelled unless the Insured and Insurers agree mutually in writing to cancel the policy.

C12.2 In the event of such agreement, Insurers shall within 7 days of the date upon which such agreement in writing is reached, write to:

- (a) the Insured at the address shown in the Schedule notifying the Insured that the policy will be cancelled with effect from a date not less than 30 days after the date of such agreement;
- (b) the relevant Institute, being the Institute of Chartered Accountants in England and Wales the Institute of Chartered Accountants of Scotland or the Institute of Chartered Accountants in Ireland, notifying it of the agreement, the effective date of cancellation and the name of the Insured.

C13. No set-off

Any amount payable by Insurers by way of indemnity under this policy in respect of the Insured's civil liability to a Claimant will be paid only to the Claimant, or at the Claimant's direction. Insurers are not entitled to set off against any sums which are payable under this policy any payment due to them from any Insured including, without limitation, any payment of premium or any payment due to Insurers by way of reimbursement. Notwithstanding the provisions of this clause C13, Insurers shall only be obliged to pay any amount payable by way of indemnity in excess of any amount specified in the Schedule and as provided in clause C3.

C14. Third Party Rights

A person who is not a party to this policy has no rights under the Contracts (Rights of Third Parties) Act 1999 or any equivalent legislation in the Republic of Ireland or any amendment or re-enactment thereof to enforce any terms of this policy. This condition does not affect any right or remedy of a third party which exists or is available other than by virtue of the Contracts (Rights of Third Parties) Act 1999.

C15. Other insurance

The liability of Insurers under this policy is not reduced or excluded by reason of the existence or availability of any other insurance. This clause does not affect any right of Insurers to claim contribution from any other insurer which is also liable to indemnify any Insured.

C16. Sanction Limitation and Exclusion

We shall not be liable to pay any claim or provide any benefit under any insurance cover or extension to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose Us to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

SECTION D - SPECIAL CONDITIONS**D1. Non Avoidance and Prejudice**

D1.1 Insurers will not avoid this policy or claim to be discharged from any liability to provide any indemnity under this policy, on the grounds of any alleged non-disclosure or misrepresentation of facts or untrue statements in the proposal form or in any other information which may have been supplied by or on behalf of the Insured to Insurers, provided always that the Insured shall establish to Insurers' reasonable satisfaction that such alleged non-disclosure, misrepresentation of fact or untrue statement was free of any fraudulent conduct or intent to deceive.

D1.2 In the event that any circumstance is notified to Insurers and the Insured had knowledge prior to the Period of Insurance of such circumstance and the Insured should have notified it under any previous policy (whether with other insurers or not) the indemnity hereunder shall be limited to the indemnity which would have been available under the earliest such previous policy if such circumstance had been properly notified.

D2. Non-Compliance

D2.1 Where the Insured's breach of or non-compliance with any condition of this policy has resulted in prejudice to the Insurers:

- (a) in the handling or settlement of any Claim against the Insured; or
- (b) in the obtaining of reimbursement from any dishonest or fraudulent person as referred to in clause C4.3, the indemnity afforded hereunder (including liability for Claimants' costs, expenses and disbursements) shall be reduced to such sum as in the Insurers' reasonable opinion would have been payable by them in the absence of such prejudice.

D3 Extended Policy Period

D3.1 The Period of Insurance shall be extended by the Extended Policy Period where the Insured has not, prior to the expiration of the original Period of Insurance, obtained insurance complying with the provisions of the Professional Indemnity Insurance regulations of the relevant Institute, being the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland or the Institute of Chartered Accountants in Ireland, incepting on and with effect from the day immediately following the expiration of the original Period Of Insurance. This special condition shall not apply to policies of insurance issued by the Assigned Risks Pool.

SECTION E - EXCLUSIONS

This policy shall not indemnify the Insured against any Claim:

E1. Which is the subject of proceedings brought in any court of the United States of America or Canada or arises from Professional Business carried out from any office of the Insured situated in the United States of America or Canada.

- E2. Arising directly or indirectly from:
- (a) bodily injury, mental injury, psychological injury, anguish, emotional distress, shock, sickness, disease or death sustained by any Insured Person; and/or
 - (b) any dispute between the Insured and any person who is or has been or has made an application to be under a contract of service with the Insured.
- E3. For death of or bodily injury to or psychological injury, emotional distress or anguish, shock, sickness or disease of any person (not being an Insured Person), save that this exclusion will not apply to any Claim for psychological injury, emotional distress or anguish or shock which arises from any actual or alleged breach of duty in the performance of (or failure to perform) Professional Business.
- E4. For physical loss of or damage to property, save that this exclusion will not apply to any Claim for loss of or damage to property which arises from any actual or alleged breach of duty in the performance of (or failure to perform) Professional Business.
- E5. Arising directly or indirectly from the ownership, possession or use by the Insured of land, buildings, aircraft, watercraft, vessels or mechanically propelled vehicles.
- E6. Arising out of any circumstance which has been notified under any other policy of insurance attaching prior to the inception of this policy.
- E7. In respect of dishonest or fraudulent acts or omissions committed by any person after discovery or reasonable cause for suspicion of fraud or dishonesty on the part of that person.
- E8. Arising out of or in connection with any trading losses or trading liabilities incurred by any business managed by or carried on by the Insured, but this exclusion is not to apply to any claims made against the Insured for negligence in the normal course of their conduct of any receivership or procedures under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 or in the Republic of Ireland any receivership or insolvency procedures under the Companies Acts 1963 to 2005 or the Bankruptcy Act 1988 or any amendment or re-enactment thereof.
- E9. Arising out of the giving of any express or implied warranty or guarantee relating to the financial return of any investment or portfolio of investments.
- E10. Directly or indirectly caused by, or contributed to by, or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof or from war, invasions, acts of foreign enemies, hostilities (whether war be declared or not) civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.
- E11. Save for the purposes of clauses C4.3(a) and C4.3(c), by one Insured against another Insured.
- E12. For any fine or penalty or any multiple damages, exemplary or punitive damages or aggravated damages, save that:
- (a) this exclusion will not apply to any Claim relating to any actual or alleged defamation arising out of the conduct of Professional Business carried on by, or on behalf of the Insured; and
 - (b) this exclusion will not operate to exclude or limit (or be construed as excluding or limiting) the scope of indemnity afforded by clause A2.
- E13. Arising from any claim made against an Insured directly or indirectly caused by, resulting from or in any way in connection with terrorism. For the purpose of this exclusion an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s) committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear. Provided that any such exclusion does not exclude or limit any liability of Insurers to indemnify any Insured against civil liability or related Defence Costs arising from any actual or alleged breach of duty in the performance of (or failure to perform) Professional Business. In the event that any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

- E14. Arising out of or relating directly or indirectly to or in consequence of seepage, pollution or contamination of any kind, save that this exclusion will not apply to any Claim which arises from any actual or alleged breach of duty in the performance of (or failure to perform) Professional Business.
- E15. Arising directly from goods sold, supplied, repaired, altered, manufactured, constructed, installed or maintained by the Insured or by any person, acting for or on behalf of the Insured. For the avoidance of doubt, the term 'goods' as referred to above shall apply to Packaged Software, but shall not apply to any other computer software or any amendments or adaptations of Packaged Software. Packaged Software shall mean any software produced by a third party that is marketed for general distribution on a wholesale or retail basis. For the avoidance of doubt, this exclusion shall not apply to any claim arising from amendments or adaptations made to Packaged Software by or on behalf of the Insured.
- E16. Arising directly from any liability assumed by the Insured under any express warranty or guarantee unless such liability would have attached to the Insured notwithstanding such express warranty, or guarantee.
- E17 To the extent that payment of such Claim would expose the Insurers to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, or United States of America.



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Registered Address: Towergate House, Eclipse Park, Sittingbourne Road, Maidstone, Kent ME14 3EN
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