



Accountants  
Professional Indemnity Insurance  
Policy Wording

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## Introduction

### to your Professional Indemnity Policy

This document and its attachments form your Policy and between them set out what is and isn't covered by your Policy. It is important that you read it all carefully, to make sure that the insurance covers you've bought actually provide the level of protection you need. You should bear in mind that your needs can change over time as your Business develops. If they do, it's important that you let your broker, intermediary or agent know so that we can update your Policy.

If you require advice on any aspect of your Policy please speak to your usual insurance adviser.

## How to make a claim

Notice to the Company under Clauses 3.1.1 and 3.1.2 shall be deemed to have been properly made if received in writing by:

### **Barbican Protect Ltd - Claims**

King's House  
42 King Street West  
Manchester  
M3 2NU

**Telephone:** +44 (0)161 838 6998  
**Out of Hours:** +44 (0)161 838 4389  
**E-mail:** [claims@barbicanprotect.com](mailto:claims@barbicanprotect.com)

## Who we are

Barbican Protect Ltd is authorised and regulated by the Financial Conduct Authority under reference number 467933, and is registered in England No.6185834 at 33 Gracechurch Street, London EC3V 0BT.

## Complaints Procedure

We of course aim to provide first class service. However if the Insured feels that the Company's service has fallen short of their expectation the Insured may contact the Company at any time with their complaint.

### Complaints will be handled in the following way:

- if you make a complaint we will acknowledge it within 2 working days of having received it
- our objective will be to resolve your complaint within 5 working days.

If you have any questions or concerns about your policy or the handling of a claim or if you wish to make a complaint, you can do so at any time by referring the matter to: William Hall, Barbican Protect Limited, The Hive, 47-51 Lever Street, Manchester M1 1FN T: +44(0)161 235 6540.

In the event that you remain dissatisfied, it may be possible in certain circumstances for you to refer the matter to the Complaints team at Lloyd's.

The address of the Complaints team at Lloyd's is:

#### Complaints

##### Lloyd's

One Lime Street  
London EC3M 7HA

**Tel No:** +44 (0)20 7327 5693

**Fax No:** +44 (0)20 7327 5225

**E-mail:** [complaints@lloyds.com](mailto:complaints@lloyds.com)

**Website:** [www.lloyds.com/complaints](http://www.lloyds.com/complaints)

Details of Lloyd's complaints procedures are set out in a leaflet "Your Complaint - How We Can Help" available at [www.lloyds.com/complaints](http://www.lloyds.com/complaints) and are also available from the above address.

If you remain dissatisfied after Lloyd's has considered your complaint, you may have the right to refer your complaint to the Financial Ombudsman Service (FOS).

The contact details for the FOS are: The Financial Ombudsman Service, Exchange Tower, London E14 9SR. Telephone 0800 023 4567 (calls to this number are free from "fixed lines" in the UK) or 0300 123 9123 (calls to this number are charged at the same rate as 01 and 02 numbers on mobile phone tariffs in the UK). Email [complaint.info@financial-ombudsman.org.uk](mailto: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. You can find more information on the FOS at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk).

## Financial Services Compensation Scheme

We are covered by the Financial Services Compensation Scheme (FSCS) which means that you may be entitled to compensation from the Scheme in the unlikely event that we cannot meet our obligations to you. This depends upon the type of insurance, size of the business and circumstances of the claim. You can find out more at [www.fcsc.org.uk](http://www.fcsc.org.uk).

## Data Protection Notice

Your personal data may be processed and held by us in our capacity as data controllers in order for us to write and administer your policy and to assist in the claims handling process in accordance with applicable data protection laws.

The main purposes for processing your personal data are for the performance of an insurance contract or to allow us to comply with our legal obligations.

This may involve:

- Gathering and holding your personal data where it is necessary for the provision of the services referenced in this policy documentation;
- Disclosing your personal data or details of your insurance cover to companies within the Barbican Insurance Group, service providers or third parties for issuance and maintenance of your insurance policy, for the prevention of fraud or if legally required to do so;
- Obtaining and storing any relevant data to substantiate a claim.

For the reasons set out above, we may share your personal data with our associated companies, insurers or service providers in countries outside of the European Economic Area ("EEA") where data protection laws may not offer the same level of protection as within the EEA. In these circumstances, we have strict contractual terms in place to ensure that your information remains safe and secure.

By purchasing this insurance policy and using our services, you agree to our use of your personal data, including your sensitive data. If your insurance cover involves other individuals and you have provided us with their personal data, then you agree to make them aware of our use of their personal data as per this document and our extended data privacy policy on our website (link provided below).

We will need to keep and process your personal information while you are a customer of ours and afterwards in order to meet our corporate requirements and legal and regulatory obligations.

We will only share your personal data with a third party for marketing purposes if we have obtained your explicit consent to do so. You have the right to withdraw your consent to marketing at any time by contacting the Data Protection Officer using the contact details below.

For any data access requests, if you have any queries or concerns regarding privacy or how we use your personal data, or believe any of the information that we hold on you may be inaccurate, please contact our Data Protection Officer at:

- In writing: 33 Gracechurch Street, London EC3V 0BT
- By email: [dataprotectionofficer@barbicaninsurance.com](mailto:dataprotectionofficer@barbicaninsurance.com)

To read our data privacy policy in full and for more information about your data protection rights, please visit our website at: <https://www.barbicanprotect.com/cookies-privacy-policy/>.

## Policy Contract

In consideration of the Insured having paid or agreed to pay the premium stated in the Schedule the Company agrees to indemnify the Insured or otherwise to pay the benefits and compensations stated to the extent and in the manner specified in this Policy.

Provided that

- 1 the Policyholder shall be subject to all the terms, conditions limitations and/or exclusions contained in this Policy or by additional endorsements
- 2 the Company's liability shall not exceed the sums insured or the limits of liability or any other limits expressed herein
- 3 the Schedule, general definitions, general claims conditions, general conditions, general exclusions and active covers shall be read together as part of one contract and any word or expression to which a specific meaning has been attached shall bear the same meaning throughout this Policy
- 4 the information supplied by or on behalf of the Insured is relied upon as to its completeness, correctness and accuracy by the Company. This means that if the information the Insured gives is incomplete, incorrect or inaccurate then the Insured may not be covered for any claim.

If this Policy is in the joint names of more than one Insured, each Insured shall be covered as if it had made its own application for cover and no statement or knowledge of any one Insured shall be considered to be on behalf of any other Insured.

## Several Liability

This Policy is underwritten by certain underwriters at Lloyd's and/or other insurance companies (hereinafter called them "Insurers"). The liability of Insurers under this contract is several and not joint. An Insurer is not jointly liable for the proportion of liability underwritten by any other Insurer. Nor is an Insurer otherwise responsible for any liability of any other Insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by an Insurer (or in the case of a Lloyd's syndicate the total of the proportions underwritten by all the members of the syndicate taken together) is shown in the Schedule. Where the insurer is a Lloyd's syndicate each member of the syndicate (rather than the syndicate itself) is an Insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that members proportion. A member is not jointly liable for any other members proportion. Nor is any member responsible for any liability of any other Insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyds syndicate and their respective proportion may be obtained by writing to Market Services at the above address.

Although reference is made at various points in this clause to "this contract" in the singular where circumstances so require this should be read as a reference to contracts in the plural.

## Interpretation

In this Policy:

- 1** reference to any Act, statute or statutory provision shall include a reference to that provision as amended, re-enacted or replaced from time to time whether before or after the date of the inception, or subsequent renewal or alteration, of this Policy;
- 2** if any term, condition, exclusion or endorsement or part thereof is found to be invalid or unenforceable the remainder shall be in full force and effect;
- 3** the headings herein are for reference only and shall not be considered when determining the meaning of this Policy;
- 4** the singular includes the plural and vice versa;
- 5** the male gender includes the female and neutral genders.

## General Definitions

The following General Definitions shall apply to this Policy and that wherever these words appear within the wording starting with a capital letter shall bear the same meaning throughout the Policy other than where specifically stated.

### **Alternate**

shall mean any individual practitioner, partnership, limited liability partnership, Isle of Man limited liability company or company who is or which is acting in connection with the arrangements to cover the incapacity or death of a sole practitioner.

### **Circumstance**

shall mean a situation which may give rise to a Claim.

### **Claim**

shall mean 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.

### **Claimant**

shall mean 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.

### **Company**

shall mean the insurance company or insurance companies and/or Lloyd's syndicates subscribing to this Policy and named in the Schedule for their indicated proportion.

### **Defence Costs**

shall mean any costs, disbursements and expenses incurred by or on behalf of the Insured with the written consent of the Company (such consent not to be unreasonable 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 the Company in accordance with the terms of this Policy.

### **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.

### **Documents**

shall mean all forms of documents of whatsoever nature including computer system records, but excluding bearer bonds, coupons, bank notes, currency notes and negotiable instruments.



**Employee(s)**

shall mean person(s), other than a Partner, Member, principal or Director of the Insured who is under a contract of service or apprenticeship, supplied to, hired or borrowed by the Insured, or under any work experience or similar scheme, whilst employed or engaged by and under the control of the Insured in connection with the conduct of Professional Business by the Insured.

**Excess**

shall mean amount which is to be borne by the Insured (the Company shall only be liable to the extent that any liability exceeds the Excess).

**Extended Policy Period**

shall mean 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 Company of the commencement of the Extended Policy Period.

**Firm(s)**

wherever the word "Firm(s)" appears herein the same is deemed to read "the firm(s), i.e. 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 as the Insured in the Schedule, and, save for the purposes of Clause 4.7.3, it includes the predecessors in business of the said Firm(s)".

**Fraudulent Act**

shall mean any act of fraud or dishonesty committed by any Employee acting alone or acting in collusion committed with the principal intent of obtaining an improper personal financial gain for themselves or for any other person or organisation intended by such Employee to receive such gain. "Improper personal financial gain" shall not include salary, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other emoluments or benefits earned in the normal course of employment.

**Insured**

shall mean 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;
- g. any person who is acting on behalf of the Firm(s) as an "Alternate".

**Insured Person**

shall mean any natural person insured hereunder.

**Investigation Expenses**

shall mean expenses incurred solely to substantiate the amount of a loss but does not mean expenses paid by the Insured to its own staff for salaries wages or similar expenses.

**Member**

shall mean any member of a limited liability partnership, including, without limitation, a designated member.

**Money**

shall mean currency coins and bullion or monetary balances held at a financial institution to the credit of the Insured.

**Ombudsman**

shall mean any ombudsman to whose jurisdiction the Insured is subject by virtue of contract or law.

**Partner**

shall have the meaning given by the Partnership Act 1890.

**Period of Insurance**

shall mean period of insurance specified in the Schedule (and for such other period as may be mutually agreed).

**Professional Business**

shall mean 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.

**Property**

shall mean tangible property other than Money or Securities.

**Schedule**

shall mean the document entitled "Schedule" that relates to this Policy.

**Securities**

shall mean negotiable and non-negotiable instruments representing either Money or Property but not including Money or Property.

**Services**

provided whilst holding the appointment of company secretary, registrar or Director as referred to in the definition of Professional Business 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.

**Terrorism**

shall mean 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) committed for political, religious, ideological or similar purposes including the intention to influence any government and/or business and/or to put the public, or any section of the public, in fear.

**United States of America and Canada**

shall mean the United States of America and Canada and in each case its territories and possessions and any state or political sub-division thereof.

# Insuring Clauses

In consideration of the payment or the promise of payment to the Company of the premium specified in the Schedule the Company agrees:

## **1.1 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.

## **1.2 Awards by Ombudsman**

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 the Company are obliged under this Policy to indemnify the Insured in respect of any civil liability.

## **1.3 Defence Costs**

To indemnify the Insured in respect of Defence Costs provided that if any 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, the Company's liability for Defence Costs shall be only that proportion that 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 the Company over and above and in addition to sums paid pursuant to Clauses 1.1 and 1.2 and/or the limit of indemnity.

## Additional Coverage Extensions

The following extensions are granted as part of this insurance, subject to the terms, conditions and exclusions of this insurance.

### 2.1 Loss of or Damage to Documents

- 2.1.1 The Company shall indemnify the Insured against any Claim first made against the Insured during the Period of Insurance in respect of third party liabilities as a consequence of any Document having been destroyed, damaged, lost or mislaid which is either the property of or entrusted, lodged or deposited with the Insured.
- 2.1.2 The Company shall also indemnify the Insured for reasonable and necessary costs incurred with the Company's prior written consent for the repair, replacement or reconstitution of any Document which has been unintentionally destroyed, damaged, lost or mislaid (and which after diligent search cannot be found) the occurrence of which has been discovered and notified in writing to the Company during the Period of Insurance. Provided that the Insured will not be indemnified in relation to any Document which is kept in magnetic or electronic form unless such Document is duplicated and the duplicate is stored separately as a back-up either off site or in a secure fire proof safe.

An Excess of GBP1,000 each and every Claim (or should the Excess shown in the Schedule be less than GBP1,000 each and every Claim then the Excess shown in the Schedule) shall apply to claims under Extension 2.1.2.

### 2.2 Self Employed Persons

The Insured is indemnified for any Claim for civil liability first made against the Insured and notified to the Company during the Period of Insurance which the Insured may become legally liable to pay arising out of the use of self employed or contract hire persons in the conduct of Professional Business.

### 2.3 Indemnity to Employees, Former Employees and/or Consultants

Employees or former Employees of the Insured are indemnified for any Claim for civil liability first made against them and notified to the Company during the Period of Insurance which arises out of the conduct of Professional Business.

Former Partners, former Directors, former Members or former Employees of the Insured who have continued as consultants to the Insured and any persons who were formerly consultants to the Insured are indemnified for any Claim for any civil liability first made against them and notified to the Company during the Period of Insurance which arises out of the conduct of Professional Business.

### 2.4 Joint Appointments

Where working arrangements have been made with other companies, partnerships or sole practitioners or where there is a joint appointment held with another company, partnership or sole practitioner, the Company will indemnify the Insured for any liability arising out of such a relationship provided that such liability arises out of the conduct of Professional Business and subject to rights of subrogation against all parties being maintained.

### 2.5 Compensation for Court Attendance

In the event of any Partner, principal, Director, Member, Alternate or Employee of the Insured being required by legal advisers acting on behalf of the Insured with the consent of the Company to attend court, mediation or arbitration in connection with any Claim made against the Insured and notified under this Policy, the Company will provide compensation at the rate of GBP500 per Partner, principal, Director, Member, Employee or Alternate for each day or part of day on which attendance is required.

Provided that the liability of the Company under Extension 2.5 shall not exceed GBP25,000 in all during any one Period of Insurance. No Excess shall apply to Extension 2.5.

## 2.6 Fidelity

The Company will indemnify the Insured:

**2.6.1** up to GBP100,000 in the aggregate during any one Period of Insurance against loss of Money Securities or Property owned or leased by the Insured directly resulting from a Fraudulent Act first discovered and notified to the Company during the Period of Insurance and committed in connection with the conduct of Professional Business.

Provided that:

- a.** no indemnity shall be given:
  - i) to any person committing or condoning a Fraudulent Act and the sum payable shall be only the amount of liability in excess of the amount (if any) recovered from such Employee;
  - ii) in respect of a Fraudulent Act committed by an Employee subsequent to the discovery of a Fraudulent Act committed by the same Employee;
  - iii) for loss of interest, penalties, fines or business interruption losses of any kind;
  - iv) for any unexplained shortages;
  - v) where proof of existence of Property or the amount of any loss is dependent solely upon an inventory computation or a profit and loss computation;
  - vi) in respect of a director of the Insured who controls more than 5% of the issued share capital of the Insured company or any subsidiary of the Insured company; and
  - vii) in respect of any loss discovered more than 6 months after the termination of:
    - a) the insurance in respect of the subject Employee specified by name or position
    - b) the employment of the subject Employee
- b.** The Insured undertakes to have in place and to operate at all times the following Minimum Standards of Control:
  - (i) all manually prepared cheques or other bank instruments drawn for more than GBP25,000 shall require two manually applied signatures to be added after the amount has been inserted
  - (ii) in respect of computer or machine prepared cheques or other bank instruments for more than GBP25,000 supporting documentation shall be examined and authorised before requisition is input and shall also require one manually applied signature to be added after the cheque or instrument is prepared

Should the Insured fail to have in place and to operate at all times the Minimum Standards of Control, the Company shall be under no liability to provide indemnity under this section.

**2.6.2** up to GBP15,000 in respect of investigation expenses necessarily incurred with the Company's prior written consent to substantiate the amount of such loss as defined in 2.6.1 above provided that the Insured has established a valid claim under this insurance.

An Excess of GBP2,500 shall apply to clause 2.6.1 of this Extension. No Excess shall apply to clause 2.6.2 of this Extension.

## **2.7 Legal Defence Costs**

The Company will pay 80 per cent of costs charges and expenses, which are not indemnified as Defence Costs under Insurance Clause 1.3, incurred by the Insured with the prior written consent of the Company and not otherwise covered by this insurance, for representation at properly constituted hearings tribunals or proceedings in respect of any occurrence arising from the conduct of Professional Business first instigated against the Insured and notified to the Company during the Period of Insurance in respect of any occurrence which may be the subject of indemnity under this insurance.

Provided that the liability of the Company under Extension 2.7 shall not exceed GBP25,000 in the aggregate during the Period of Insurance.

## **2.8 Fees Recovery**

The Company shall indemnify the Insured for the payment of the Insured's fee (or balance of the outstanding fee at the time the circumstances outlined within Extension 2.8 arise and are submitted to the Company for consideration) in circumstances where a client has expressed dissatisfaction with the work undertaken by the Insured and demonstrates reasonable grounds for such dissatisfaction and subsequent refusal to pay such fees (including amounts the Insured are legally obligated to pay subcontractors at the time of the refusal to pay such fees) and threatens to bring a Claim against the Insured for a sum greater than the outstanding fee but agrees not to pursue such Claim if the Insured agrees not to press for their outstanding fee. The Company's payment of the outstanding fee to the Insured shall only be made if the Company believes that this shall avoid a Claim for a greater amount and approval to settle the Claim in these circumstances has been received by the Insured from the Company in writing.

If all attempts to avoid a Claim as described in circumstances outlined in Extension 2.8 fail and a valid Claim is received it is agreed that the total amount payable by the Company (including any amount already paid) shall not exceed the limit of indemnity.

Provided that:

- a.** the Insured shall pay the Company any amount that is finally recovered from the client less the Insured's reasonable expenses
- b.** if the Company makes any payment in accordance with Extension 2.8 it is agreed that any right of recovery available to the Insured shall be assigned to the Company.

## Claims Conditions

The following claims conditions apply to this insurance:-

### 3.1 Notification

**3.1.1** The Insured shall give notice to the Company 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 first been 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.

**3.1.2** If the Insured shall become aware during the Period of Insurance of any Circumstance the Insured shall give notice in writing of such Circumstance to the Company 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 first been made in the Period of Insurance.

For the avoidance of doubt, notice under this Policy is not valid if given by any third party (other than the Insured's insurance agent acting on the Insured's instructions). Notice to the Company under this Condition or any other provision of this Policy is effective only when received in writing by the entity listed in Clause 3.1.3.

Any notice under this clause must identify:

- a. all potential claimants;
- b. the potential act error or omission;
- c. the date of the potential act error or omission.

**3.1.3** Notice to the Company under Clauses 3.1.1 and 3.1.2 shall be deemed to have been properly made if received in writing by:

Barbican Protect Ltd - Claims  
King's House  
42 King Street West  
Manchester  
M3 2NU

Telephone: +44 (0)161 838 6998

Fax: +44 (0)161 838 4389

Email: [claims@barbicanprotect.com](mailto:claims@barbicanprotect.com)

### 3.2 Conduct of Claims

**3.2.1** the Insured shall:

- a. not admit liability for, or settle, any Claim without the prior written consent of the Company (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 prior written consent of the Company (such consent not to be unreasonably withheld or unreasonably delayed);



**3.2.2** The Company 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 any Circumstance notified under Clause 3.1.2 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 reasonable request from the Company.

**3.2.3** Compliance by the Insured with any rules, requirements, directions or guidance from any Ombudsman will not constitute a breach of any clause of this Policy.

### **3.3 Queen's Counsel Clause**

Neither the Insured nor the Company 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 the Company 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 into account the interests of both the Company and the Insured, such proceedings should be contested.

### **3.4 Discharge of liability**

The Company can fully and finally discharge all liability to the Insured for any Claim under this Policy either:

**3.4.1** by making payment of the applicable limit of indemnity to the Insured less any sums previously paid; or

**3.4.2** by making payment of a sum less than the applicable limit of indemnity when any Claim can be settled for such a lesser sum.

### **3.5 General Subrogation Rights**

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

**a.** against a person who is an Insured within the definition of Clause 6.13 e) and the Firm has not notified such person to the Company or previous insurers; and/or

**b.** as provided in Clause 3.7.3

### **3.6 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, become void ab initio. The Policy shall continue in full force and effect to the benefit of all other Insureds as if such false or fraudulent claim had not been made.

### **3.7 Dishonesty and Fraud**

**3.7.1** Subject to Clause 3.8, 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, consultants, sub-contractor or Alternate of the Firm 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.

**3.7.2** Notwithstanding the provisions of Clause 3.7.1, 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.

**3.7.3** In respect of any such Claim (i.e. as referred to in Clause 3.7.1)

**a.** the Insured shall at the request and expense of the Company take all reasonable steps to obtain reimbursement from such 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 (i.e. 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 Clause 3.7 shall preclude the Company from exercising any right of subrogation against any person committing or condoning such dishonest or fraudulent act or omission.

**3.7.4** 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.

### **3.8 Advancement of Defence Costs**

Notwithstanding the provisions of Clause 3.7, and subject to Clause 4.7.2 and 4.6.2, the Company will indemnify the Insured in respect of Defence Costs as and when they are incurred, with the Company's prior written consent, 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 the Company is not liable for Defence Costs incurred on behalf of an Insured after the earlier of:

- a.** the Insured admitting to the Company 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 the Company 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 the Company in respect of Defence Costs advanced on that Insured's behalf.

# General Conditions

The following general conditions apply to this insurance:

## 4.1 Premium Payment Condition

### 4.1.1 Premiums payable in full:

In consequence of the Insured having agreed to pay the Premiums due under this Policy in full, it is hereby agreed and declared that:

- a. The Premium for this insurance is to be paid to Barbican Protect Limited on the date(s) specified in the cover/debit note and/or Schedule. For this purpose alone Barbican Protect Limited shall be deemed to be the Company's agent.
- b. In the event of the Premium, in full or in part, remaining outstanding for more than 60 days after the due date (whether demanded or not) Barbican Protect Limited may at their sole discretion, without being liable to the Insured or to the Company for any loss arising out of the exercise of that discretion, give notice to the Insured, or their insurance adviser if applicable, of cancellation and all cover under this Policy shall automatically lapse from the date of cancellation. Thereafter the Policy shall not provide any indemnity in respect of any Claim or Circumstance notified after the Policy has automatically lapsed.
- c. Upon the lapsing of the Policy under paragraph (b) above, the Insured shall forthwith deliver up to Barbican Protect Limited any certificate of insurance, cover note, Policy document or any other such document or evidence confirming the existence of this Policy for amendment and shall forthwith communicate the lapsing of the Policy to any person who had been notified of its existence.
- d. The late acceptance of Premium after the 60 days specified in paragraph (b) above shall not reinstate the Policy unless expressly agreed by Barbican Protect Limited in writing and then only on such terms as shall be determined by the Company.

### 4.1.2 Premiums payable by instalments:

In consequence of the Insured having applied for the facility to pay the Premiums due under this Policy by instalments, it is hereby agreed and declared that

- a. The Premium for this insurance is to be paid to Barbican Protect Limited on the date(s) specified in the cover/debit note and/or Schedule. For this purpose alone Barbican Protect Limited shall be deemed to be the Company's agent.
- b. Each instalment or Premium will be paid under this Policy in full and the Insured shall not be entitled to deduct therefrom any sums which may be or may be alleged to be owing to the Insured by the Company and/or Barbican Protect Limited, whether in respect of this insurance or otherwise.
- c. In the event of an instalment remaining outstanding for more than 60 days after the due date (whether demanded or not) Barbican Protect Limited may at their sole discretion, without being liable to the Insured or to the Company for any loss arising out of the exercise of that discretion, give notice to the Insured, or their insurance adviser if applicable, of cancellation and all cover under this Policy shall automatically lapse from the date of cancellation. Thereafter the Policy shall not provide any indemnity in respect of any Claim or Circumstance notified after the Policy has automatically lapsed.
- d. Upon the lapsing of the Policy under paragraph (c) above, the Insured shall forthwith deliver up to Barbican Protect Limited any certificate of insurance, cover note, Policy document or any other such document or evidence confirming the existence of this Policy for amendment and shall forthwith communicate the lapsing of the Policy to any person who had been notified of its existence.
- e. The late acceptance of Premium after the 60 days specified in paragraph (c) above shall not reinstate the Policy unless expressly agreed by the Company in writing and then only on such terms as shall be determined by the Company.

For the purposes of this endorsement it shall be deemed that credit facilities may be provided to the Insured by Barbican Protect Limited or a finance company or a bank.

## 4.2 Cancellation

- 4.2.1** This Policy may not be cancelled unless the Insured and the Company agree mutually in writing to cancel the Policy.
- 4.2.2** 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.

## 4.3 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.

## 4.4 No set-off

Any amount payable by the Company 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. The Company is 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 the Company by way of reimbursement. Notwithstanding the provisions of this clause, the Company 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 4.7.

## 4.5 Difference in Conditions Endorsement

- 4.5.1** The insurance provided by this Policy shall, notwithstanding any policy wording to the contrary, be, in each and every respect and in respect of each and every Claim and in the aggregate, no less favourable and provide no less protection to the Insured than the Approved Minimum Wording (as defined in the Professional Indemnity Insurance Regulations, from time to time issued by the Institute of Chartered Accountants in England and Wales (the "ICAEW"), The Institute of Chartered Accountants of Scotland (the "ICAS") or The Institute of Chartered Accountants in Ireland (the "ICAI"), as applicable, in force at the date of the inception of the Policy and on any renewal of the Policy at the date of such renewal).
- 4.5.2** If the insurance offered by this Policy exceeds that provided by the Approved Minimum Wording then, notwithstanding any policy wording to the contrary, the sum insured in respect of that additional indemnity shall be in addition to the sum insured in respect of the indemnity provided by the Approved Minimum Wording. However the additional indemnity will only operate when any insurance excess of the primary insurance has been exhausted by reasons of Claims.
- 4.5.3** In any dispute as to whether the insurance under this Policy is in any respect or in the aggregate less favourable or gives less protection to the Insured than the Approved Minimum Wording would do, a sole arbitrator (irrespective of the number of parties to the dispute) who shall be agreed between the Company and the Insured or failing such agreement shall be selected at the request of either the Company or Insured by the President for the time being of the Institute of Chartered Accountants in England and Wales (the "ICAEW"), The Institute of Chartered Accountants of Scotland (the "ICAS") or The Institute of Chartered Accountants in Ireland (the "ICAI") (as applicable) shall be appointed to resolve the dispute in accordance with the Arbitration Act 1996. The Arbitrator's decision (which will be based on English law unless the relevant Member's principal place of business is in Scotland, Northern Ireland or the Republic of Ireland, in which case the law of Scotland, Northern Ireland or the Republic of Ireland as the case may be will apply), shall be binding on both the Company and Insured.

#### **4.6 Dispute Resolution**

- 4.6.1** Any dispute between the Insured and/or the Company 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 the Company, 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.
- 4.6.2** 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) the Company 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 Company agree that the Company will advance Defence Costs and indemnify the Insured in accordance with clauses 1.1, 1.2, 1.3 and 3.8 above pending resolution of any such dispute.

#### **4.7 Excess**

- 4.7.1** If an amount is specified as an Excess on the Schedule, this amount shall be borne by the Insured at their own risk and the Company's liability to indemnify the Insured shall only be in excess of this amount.
- 4.7.2** The amount specified as the Excess 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).
- 4.7.3** Notwithstanding any amount specified as the Excess 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.

#### **4.8 Governing Law**

- 4.8.1** This policy shall be governed by and construed in accordance with the laws of England and Wales
- 4.7.2** To the extent that any of the provisions of clause 4.6 may fail and/or for the purposes of any application under the Arbitration Act 1996, the Courts of England and Wales shall have exclusive jurisdiction to hear and determine any suits, actions, proceedings and to settle any disputes that may arise out of or in connection with this Policy.

#### **4.9 Other insurance**

The liability of the Company 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 the Company to claim contribution from any other insurer which is also liable to indemnify any Insured.

#### **4.10 Special Conditions**

- 4.10.1** Non Avoidance and Prejudice
- a.** The Company 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 failure by the Insured to give a fair presentation of the risk or any 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 the Company, provided always that the Insured shall establish to The Company's reasonable satisfaction that such alleged unfair presentation of the risk, , misrepresentation of fact or untrue statement was free of any fraudulent conduct or intent to deceive.

- b.** In the event that any Circumstance is notified to the Company 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.

#### **4.10.2** Non-Compliance

Where the Insured's breach of or non-compliance with any Condition of this Policy has resulted in prejudice to the Company

- 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 condition 3.7.1

the indemnity afforded hereunder (including liability for Claimants' costs, expenses and disbursements) shall be reduced to such sum as in the Company's reasonable opinion would have been payable by them in the absence of such prejudice.

#### **4.10.3** Extended Policy Period

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.

### **4.11** Limit of Indemnity

- 4.11.1** 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.
- 4.11.2** 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.
- 4.11.3** 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.
- 4.11.4** The limit of indemnity stated in the Schedule is the Company's monetary limit and applies to any one Claim.  
All Claims against any one or more of the Insured arising from any of the following:
  - a.** one act or omission
  - b.** one series of related acts or omissions

- c. the same act or omission in a series of related matters or transactions
- d. similar acts or omissions in a series of related matters or transactions
- e. one matter or transaction

will be regarded as one Claim. All such Claims will be considered first made on the date upon which the earliest Claim is first made.

## Exclusions

The Company shall not have any liability under this Policy for, or directly or indirectly arising out of, or in any way involving:

### 5.1 Bodily Injury

death of or bodily injury to or psychological injury, emotional distress or anguish, shock, sickness, disease of any person (not being an Insured Person) unless such Claim arises directly out of any actual or alleged breach of duty in the performance of (or failure to perform) Professional Business.

### 5.2 Damage to Property

for physical loss of or damage to property (except as provided under Additional Coverage Extension 2.1) unless such Claim arises directly out of any actual or alleged breach of duty in the performance of (or failure to perform) Professional Business.

### 5.3 Director, Company Secretary or Registrar

save in respect of the performance (or non-performance) of Services, arising out of any Insured acting as Company Secretary or Registrar or Director.

### 5.4 Dishonesty

any dishonest or fraudulent acts or omissions committed by any person after discovery of reasonable cause for suspicion of fraud or dishonesty on the part of that person.

### 5.5 Employment Liability

**5.5.1** bodily injury, mental injury, psychological injury, emotional distress or anguish, shock, sickness, disease or death sustained by any Insured Person

**5.5.2** 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.

### 5.6 Financial Return

the giving of any express or implied warranty or guarantee relating to the financial return of any investment or portfolio of investments.

### 5.7 Fines, Penalties, Punitive, Multiple or Exemplary Damages

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 Insuring Clause 1.2.

### 5.8 Insured versus Insured

save in respect of condition 3.7.1, by any person comprising the Insured against any other person comprising the Insured.

### 5.9 Nuclear Risks

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.



#### **5.10 Pollution or Asbestos**

**5.10.1** seepage, pollution or contamination of any kind, or

**5.10.2** asbestos or any product or material containing asbestos in whatever form or quantity;

save that this exclusion will not apply to any loss or any Claim which arises from a breach of duty in the performance (or failure to perform) Professional Business.

#### **5.11 Previous Claims and Circumstances**

any Claim or Circumstance which has been notified under any other policy of insurance attaching prior to the inception of this Policy.

#### **5.12 Supply of Goods or Products**

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 or loss arising from amendments or adaptations made to Packaged Software by or on behalf of the Insured.

#### **5.13 Terrorism**

any Terrorism (regardless of any other cause or event contributing to the liability) or any action taken in controlling, preventing or suppressing Terrorism. If the Company alleges that by reason of this exclusion any liability is excluded the burden of proving to the contrary shall be on the Insured.

#### **5.14 Trading Losses**

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.

#### **5.15 Transport or Property owned by the Insured**

the ownership, possession or use by or on behalf of the Insured of any aircraft, watercraft, vessels or mechanically propelled vehicles or any buildings, or land or that part of any building leased, occupied or rented by the Insured.

#### **5.16 USA/Canada**

any Claim which is brought in any court of the United States of America or Canada or which arises from Professional Business carried out from any office of the Insured situated in the United States of America or Canada.

#### **5.17 War**

any 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.

#### **5.18 Warranties and Guarantees**

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.

#### **5.19 Retroactive Date**

The Company shall not have any liability under this Policy for any Claim or Circumstance which arises as a consequence of the conduct of Professional Business prior to the Retroactive Date specified the Schedule.

Exclusion 5.19 shall not apply to an Insured who is a member of the Institute of Chartered Accountants in England and Wales (the "ICAEW"), The Institute of Chartered Accountants of Scotland (the "ICAS") or The Institute of Chartered Accountants in Ireland (the "ICAI").

#### **5.20 Sanctions Limitations**

the Company shall not be deemed to provide cover and the Company shall not be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the Company 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.