



**INSURANCE POLICY**

# **Professional Indemnity - Accounts ICA 08**

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

# Policy Information

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, Indemnity Limits and certain amounts you will be responsible for and details of which sections are operative
3. the proposal supplied by or on behalf of you shall be incorporated in and shall be the basis of the contract and it is a condition precedent to indemnity under this policy that all statements answers and information supplied to us by or on behalf of you in connection with this policy must be truthful and complete  
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. Policy Definitions and General Conditions and Exclusions
5. the sections of the policy which give details of the cover
6. Any endorsements 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 proposal supplied which you should file with your policy. You should refer to the schedule and statement of fact 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 Insurance.

## Making a Claim under the Policy

To make a claim under this policy please refer to the General Conditions.

### Who to notify

All notifications should be forwarded in writing directly to:-

The Claims Manager, Arista Claims, Fishburns, 60 Fenchurch Street, London EC3M 4AD

Tel: 020 7280 8888

Fax: 020 7280 8899

Email: [aristaclaims@fishburnslaw.com](mailto:aristaclaims@fishburnslaw.com)

### When to notify

Professional Indemnity is underwritten on what is known as a 'claims made basis.' This means that policies will only provide cover against those claims or circumstances that are discovered and notified to us during the period of insurance.

If you are satisfied that a situation has arisen which needs to be notified. You must inform us immediately in writing and within the period of your insurance.

As soon as you first become aware of a claim or circumstance, notification should be made immediately irrespective of:

- The amount which may be involved
- Your views or opinions on liability
- Whether you consider the claim or circumstance to be spurious or without merit
- Whether you consider the claim or circumstance may disappear

### What to notify

It is important you include as many details as possible in your initial notification advice. We may have further questions but it will save time if the information you provide is as complete as possible.

Notification should include:

- Complete details of the nature of the claim or circumstance, including name(s) of actual or potential claimant(s) together with your views on the claim or circumstance and any allegations that have been made or you anticipate might be made against you
- Details of other parties involved (other than the claimant)
- Date of your first awareness of the claim or circumstance

- Your estimate of the quantum which may be involved
- Copies of all correspondence or documents including attendance and file notes relevant to the claim or circumstance

### **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

When making a notification it is important that it should be in terms which leave us in no reasonable doubt that you are notifying a circumstance. You should refer to the specific circumstances which are likely to give rise to a claim, identify a possible claimant and the loss that they have suffered or may suffer in the future. If you are in any doubt you should, immediately, contact your professional insurance advisors or our claims team at Fishburns.

### **Free Advice Helpline – 020 7280 8888**

Should you wish to discuss matters with the claims team at Fishburns then please ring the telephone helpline no. 020 7280 8888 and ask to speak with either Michael Knight or Neil James. You will need to say that you are making an enquiry under the Arista helpline facility and you will need to have your policy schedule with you in order to provide details of Your policy.

## How to Complain

If you have any enquiry or complaint arising from your policy please contact your insurance agent who arranged the policy for you or the local Arista Insurance office quoting the policy number in all cases

If you are not satisfied with the way in which a complaint has been dealt with please write to

The Chief Executive  
Arista Insurance Limited  
Gallery 10  
One Lime Street  
London EC3M 7HA

After this action if you are still not satisfied with the way a complaint has been dealt with you should do the following

If your Insurer is at Lloyd's You may ask the Complaints Department at Lloyd's to review your case (this would not affect your rights to take legal action if necessary) The address is

Policyholder and Market Assistance  
Lloyd's Market Services  
One Lime Street  
London EC3M 7HA

Telephone: 020 7327 5693  
Fax: 020 7327 5225  
Email: [complaints@lloyds.com](mailto:complaints@lloyds.com)

Having followed this procedure for Lloyd's Underwriters or if Your Insurer is not at Lloyd's your complaint may also be referred to the Financial Ombudsman Service (FOS) The address is

Financial Ombudsman Service  
South Quay Plaza  
183 Marsh Wall  
London E14 9SR

Telephone: 0845 080 1800

### Financial Services Compensation Scheme

The INSURERS are members of the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation from the scheme if we are unable to meet our liabilities under this insurance. This depends on the type of business and the circumstances of the claim. Such claims are protected for 90% without any upper limit. For compulsory classes of insurance the claim will be met in full. Further information about the compensation scheme arrangements is available from FSCS. Information can be obtained on request, or by visiting the FSCS website at [www.fscs.org.uk](http://www.fscs.org.uk)

# Important Information

## **Data Protection**

We may use the details you have given to provide you with a quotation or deal with your policy to search credit reference agencies who may keep a record of the search to support the development of our business by including your details in customer surveys and for market research and compliance business reviews

We share your details with those companies who are underwriting your policy with approved organisations for fraud prevention purposes and with companies where we are legally obliged to do so

We may also share your details with third parties so that we may tell you of products and services which we think may interest you by telephone email or post. If You do not want to know about these products or services please write to Arista Insurance Limited Gallery 10 One Lime Street London EC3M 7HA

Under the Data Protection Act we can only discuss the details given with you. If you would like anyone else to act on your behalf please let us know. Your details will not be kept longer than is necessary

Under the terms of the Data Protection Act 1998 you are entitled to a copy of all information Arista Insurance holds about you

Your personal details may be transferred to countries outside the EEA. They will at all times be held securely and handled with the utmost care in accordance with all principles of UK law

# Index

	Page Number
The Contract of Insurance and the Underwriters	1
Section A - Insuring Clauses	2
Section B – General Conditions	5
Section C – Special Conditions	5
Section D – Definitions	5
Section E – Exclusions	6

## The Contract of Insurance and the Underwriters

This policy is underwritten by certain Underwriters at Lloyd's (hereinafter called the 'Insurers') and is administered by Arista Insurance Limited in accordance with the authority granted under binding authority agreement(s)

In consideration of payment of the premium the receipt of which by Insurers is a condition precedent to liability to indemnity under this policy the Insurers are bound severally and not jointly to indemnify you within the limits terms conditions and exclusions of this policy during the Period of Insurance and any subsequent period for which you pay and the Insurers agree to accept a premium

Where the underwriters are a Lloyd's syndicate they are made up of Lloyd's underwriters. Each underwriter is only liable for their own share of the risk and not for any others share. You can ask us for the names of the Lloyd's underwriters and the share of the risk each has taken on

Each Insurer is only liable in respect of the cover under the section(s) of this policy shown against them below and not any other section

Professional Indemnity	Lloyd's Syndicate 4444 which is managed by Canopus Management Agents Limited (FSA Register No 204847)
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The Insurers are authorised and regulated by the Financial Services Authority



Signed for and on behalf of the Insurers

**Charles Earle Chief Executive Arista Insurance Limited**

Arista Insurance is Registered in England and Wales No 5938669

Registered Office: Library House New Road Brentwood Essex CM14 4GD

**This policy is a legal contract you must tell us about any facts or changes which affect your insurance which have occurred either since your policy started or since the last renewal date**  
**If you are not sure whether certain facts are relevant please ask your insurance agent or the local Arista Insurance branch If you do not tell us of relevant changes your policy may not be valid or the policy may not cover you fully**  
**You should keep a written record (including copies of letters) of any information you give us or your insurance agent when you renew this policy**

Arista Insurance Limited are appointed representatives of

Canopus Managing Agents Limited FSA Register Number 204847

Equity Syndicate Management Limited FSA Register Number 204851

HSB Engineering Insurance Limited FSA Register Number 202738

ARAG plc FSA Register Number 452369

Hiscox Insurance Company Limited FSA Register Number 113849

You can check this information on The Financial Services Authority register by visiting the FSA's website [www.fsa.gov.uk/register](http://www.fsa.gov.uk/register) or by contacting the Financial Services Authority on 0845 606 1234

The Institute's minimum approved policy wording - 1 January 2008

Whereas the Insured have made to the Insurers a written proposal bearing the date stated in the Schedule to this policy containing particulars and statements made to the best of the Insured's knowledge and belief which, together with any other information which may have been supplied, it is hereby agreed are the basis of this policy and are to be considered as incorporated herein:

#### **SECTION A - INSURING CLAUSES**

In consideration of the payment or the promise of payment to us of the premium specified in the Schedule, we the Insurers to the extent and in the manner hereinafter provided hereby agree:

- A.1. To indemnify the Insured against any Claim or Claims first made against the Insured during the Period of Insurance as shown in the Schedule in respect of any civil liability whatsoever or whensoever arising (including liability for Claimants' costs) incurred in connection with the conduct of any Professional Business carried on by, or on behalf of, the Insured.
- A.2. To indemnify the Insured against any Claim or Claims first made against the Insured during the Period of Insurance as shown in the Schedule in respect of third party liabilities as a consequence of documents, defined as all forms of documents of whatsoever nature including records stored on a Computer, but excluding bearer bonds, coupons, bank notes, currency notes and negotiable instruments, having been destroyed, damaged, lost or mislaid which are either the property of or entrusted, lodged or deposited with the Insured.
- A.3. To indemnify the Insured against:
- (a) any amount paid and/or payable and/or
  - (b) the cost of taking any steps which the Insured is directed to take in relation to a Claimant in accordance with any final and binding award or determination of any Ombudsman appointed pursuant to the provisions of the Financial Services and Markets Act 2000, the Central Bank and Financial Services Authority of Ireland Act 2004 or any amendment or re-enactment thereof (including Claimants' costs) provided that the Claim giving rise to the award or determination of the Ombudsman was first made against the Insured during the period of insurance shown in the Schedule and that the Claim arose out of the conduct of Professional Business carried on by, or on behalf of, the Insured. Nothing in this clause limits or restricts (or shall be construed as limiting or restricting) the scope of indemnity afforded by Insuring Clause A1.

#### **SECTION B - GENERAL CONDITIONS**

- B.1. The total liability of the Insurers in any Period of Insurance shall not exceed in the aggregate the sum specified in the Schedule.
- B.2. The liability of the Insurers under all and any contracts of insurance herein in any Period of Insurance shall be the liability so specified in the Schedule and such liability shall not (save as so specified) be varied or deemed varied by the number or type of Insureds or Claims under this policy.
- B.3. Notwithstanding Condition B.1, the Insurers shall in addition indemnify the Insured in respect of all costs and expenses incurred with their written consent (such consent not to be unreasonably withheld or unreasonably delayed) in:
- (a) the defence, investigation or settlement of any Claim which falls to be dealt with hereunder or
  - (b) the investigation of any circumstances notified to Insurers under General Condition B9 which may give rise to a claim and which falls to be dealt with hereunder
- provided that if a payment in excess of the amount of indemnity available hereunder has to be made to dispose of any Claim or number of Claims against the Insured, Insurers' liability for such costs and expenses shall be such proportion thereof as the amount of indemnity available hereunder bears to the amount required to dispose of such Claim or Claims.
- B.4. If an amount is specified under the Excess in the Schedule this amount shall be borne by the Insured at their own risk and the Insurers' liability shall only be in excess of this amount.

The amount specified under the Excess in the Schedule shall not be applicable to costs and expenses incurred with the Insurers' consent as provided for in Condition B.3.

B.5. Notwithstanding any amount specified under the Excess in the Schedule the maximum amount borne by the Insured at their own risk during the period of insurance as shown in the Schedule shall not exceed the maximum amount 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.

B.6. Should the Insured suffer any loss or incur any liability of the type insured under the 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 loss or liability to any person committing or condoning such dishonest or fraudulent act or omission and the sums payable hereunder shall be only for the balance of liability in excess of the amounts recoverable from the dishonest or fraudulent person or persons or their estates or legal representatives.

B.7 The Insured shall:

- (a) as a condition precedent to their right to be indemnified hereunder not admit liability for, or settle any Claim without the written consent of the Insurers;
- (b) not incur any costs or expenses in connection with any Claim or any circumstances notified to Insurers under General Condition B9 which may give rise to a Claim without the written consent of Insurers (such consent not to be unreasonably withheld or unreasonably delayed).

Insurers shall be entitled at their own expense at any time to take over and conduct in the name of the Insured or the Firm(s) as the case may be the defence, investigation or settlement of any such Claim and to conduct an investigation into circumstances notified under General Condition B9 which may give rise to a Claim and to receive at all times the full co-operation of the Insured for this purpose. Subject thereto and to (a) and (b) hereof and to General Conditions B8 and B9, compliance by the Insured with any rules, requirements, directions or guidance of any Ombudsman appointed pursuant to the provisions of the Financial Services and Markets Act 2000, the Central Bank and Financial Services Authority of Ireland Act 2004 or any amendment or re-enactment thereof will not constitute a breach of any condition of this policy.

Nevertheless neither the Insured nor the 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 the 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 Insurer and Insured, such proceedings should be contested.

B.8 The Insured shall as a condition precedent to their right to be indemnified hereunder give to the Insurers notice in writing as soon as practicable:

- (a) Of any Claim made against them or any of them.
- (b) Of the receipt of notice from any party of an intention to make a Claim against them.
- (c) Of any loss suffered by them or any of them.
- (d) Of the discovery 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 loss or claim hereunder or not.

B.9 If the Insured shall become aware during the Period of Insurance of any circumstance which may give rise to a loss or Claim the Insured shall give notice in writing to the Insurers as soon as practicable. Such notice having been given:

- (a) any Claim which may subsequently be made against the Insured arising out of that circumstance shall be deemed to have first been made against the Insured during the Period of Insurance;
- (b) any loss which the Insured may subsequently discover they have sustained, being a loss arising out of that circumstance, shall be deemed to have been first discovered by the Insured during the Period of Insurance

- B.10 Where a loss or claim against the Insured involves the dishonest or fraudulent act or omission of any former or present partner, director, member, employee, consultant, sub-contractor or alternate of the Firm(s),
- (a) the Insured shall at the request and expense of the Insurers take all reasonable steps to obtain reimbursement from such person;
  - (b) any monies which but for the dishonest or fraudulent act or omission would be due to such persons from the Insured or any monies of such persons held by the Insured shall be deducted from any amount payable hereunder;
  - (c) no indemnity in respect of such loss or claim shall be afforded hereunder to any person committing or condoning such dishonest or fraudulent act or omission;
  - (d) nothing herein shall preclude the Insurers from exercising any right of subrogation against any person committing or condoning such dishonest or fraudulent act or omission.

B.11 If the Insured shall prefer any claim knowing the same to be false or fraudulent as regards amount or otherwise, this policy shall become void and all claims hereunder shall be forfeited.

B.12 Save as provided in Condition B.7, any dispute or disagreement between the Insured and the 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 the 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 both parties.

Furthermore, in the event of any dispute between any Insurers concerning this insurance, such dispute shall be referred to arbitration before a sole arbitrator, to be mutually agreed upon or, failing agreement, to be appointed by the President for the time being of the Institute of Chartered Accountants (in England and Wales/of Scotland/in Ireland as applicable) whose decision shall be binding on both parties.

B.13 This policy shall be governed by and construed in accordance with the laws of England and Wales/Scotland/Ireland as applicable.

B.14 The courts of England and Wales/Scotland/Ireland as applicable shall have exclusive jurisdiction to hear and determine any suits, actions or proceedings and to settle any disputes that may arise out of or in connection with this policy.

B.15 If the Institutes become subrogated to the Insured's rights under this policy arising from their making a payment to a Third Party from the Institute Compensation Fund, the Institute shall be deemed hereby to rank as a preferential creditor and their claim shall have priority over any other party who may also become subrogated to the Insured's rights hereunder.

B.16 This policy may not be cancelled except if the Insured and the Insurer agree mutually in writing to cancel the policy in which case this Insurance may be cancelled by the Insurers by mailing a written notice of cancellation to the Insured at the address shown in the Schedule stating when such cancellation shall be effective being a date not less than seven days thereafter.

In the event of cancellation the Insurer will immediately notify the relevant Institute being 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") of the cancellation and the name of the Insured.

B.17 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 term 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.

## **SECTION C - SPECIAL CONDITIONS**

C.1. The Insurers will not exercise their right to avoid this policy or any contract of insurance herein or claim to be discharged from any liability hereunder, on the grounds of any alleged non-disclosure or misrepresentation of facts or alleged untrue statements in the Proposal Form or in any other information which may have been supplied, provided always that the Insured shall establish to Insurers' reasonable satisfaction that such alleged non-disclosure, misrepresentation or untrue statement was free of any fraudulent conduct or intent to deceive.

However, if such alleged non-disclosure, misrepresentation or untrue statement consists of or includes a failure to inform the Insurers of any circumstance of which the Insured was aware which might give rise to a loss or claim against the Insured the indemnity hereunder in respect of that loss or claim shall be limited as follows:

- (a) where the Insured should have notified such circumstance under any previous insurance (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 insurance if such circumstance had been properly notified;
- (b) where the Insured should have notified such circumstance under this policy prior to obtaining any increase in the limit of indemnity hereunder or other variation of the terms hereof the indemnity hereunder shall be limited to the indemnity which would have been available prior to such increase in cover or variation of the terms hereof.

C.2 Where the Insured's breach of or non-compliance with any condition of this Certificate has resulted in prejudice to the Insurers:

- (a) in the handling or settlement of any Claim against the Insured,
  - (b) in the amount of any loss sustained by the Insured,
  - (c) in the obtaining of reimbursement from any dishonest or fraudulent person as referred to in Condition B.10,
- the indemnity afforded hereunder (including liability for claimants costs) shall be reduced to such sum as in the Insurers' reasonable opinion would have been payable by them in the absence of such prejudice.

## **SECTION D - DEFINITIONS**

D.1 "ALTERNATE" means any individual practitioner, partnership, limited liability partnership or company who is acting in connection with the arrangements to cover the incapacity or death of a sole practitioner.

D.2 "CLAIM" shall mean a demand by a Claimant 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 appointed pursuant to the provisions of the Financial Services and Markets Act 2000 or any amendment or re-enactment thereof which arises out of the conduct of Professional Business carried on by, or on behalf of, the Insured. "CLAIMANT" shall be deemed to include a complainant to any such Ombudsman.

D.3 "COMPUTER" shall mean any computer or other electronic data processing device, equipment or system, any hardware, software, program, instruction, data or component utilised or intended to be utilised therein or thereby, or any actual or intended function of or process performed by any of the foregoing.

D.4 "DIRECTOR" shall have the meaning given by section 741(1) of the Companies Act 1985, article 9 of the Companies (Northern Ireland) Order 1986, 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.

D.5 "FIRMS" Wherever the word "Firm(s)" appears herein the same shall be deemed to read "the Firm(s) or company(ies) or limited liability partnership(s) named in the Schedule and save for the purposes of Condition B.5 includes the predecessors in business of the said Firm(s)".

D.6 "INSURED PERSON" means any natural person insured hereunder.

- D.7 "MEMBER" means any member of a limited liability partnership, including, without limitation, a designated member, save that such a Member shall only be an Insured for the purposes of this policy if and insofar as any Claim or Claims arise out of Professional Business carried on by the Member for or on behalf of the Firm(s) named in the Schedule(s) .
- D.8 "PARTNER" shall have the meaning given by the Partnership Act 1890.
- D.9 "PERIOD OF INSURANCE" means the period of insurance specified in the Schedule.
- D.10 "PROFESSIONAL BUSINESS" includes advice given or services performed of whatsoever nature by or on behalf of the Insured, wherever or by whomsoever given or performed 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, only in relation to the performance of Services as hereinafter defined in D.11.

- D.11 "SERVICES" performed 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, financial claims - their negotiation and settlement, company formations, investment advice, insurance and pension scheme advice and computer consultancy.
- D.12 "THE INSURED" shall mean each and all of the following persons, each of whom shall be severally insured hereunder:
- (a) Those persons named in the Proposal Form dated as shown in the Schedule as partners or directors or Members of the Firm(s) (or named as the principal where the Firm(s) 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),
  - (b) 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),
  - (c) Any person who is or has been under a contract of service with the Firm(s),
  - (d) 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) named in the Schedule.
  - (e) The estates and/or legal representatives of any Insured Person noted under (a), (b), (c) or (d) hereof in the event of death, incapacity, insolvency or bankruptcy.
  - (f) Any company or limited liability partnership named in the Schedule.
  - (g) Any person who is acting on behalf of the firm as an "Alternate".

## **SECTION E - EXCLUSIONS**

This policy shall not indemnify the Insured against any Claim or for any loss:

- E.1
- (a) If the action is brought in any court of The United States of America or Canada,
  - (b) Arising from Professional Business carried out from any office or other premises situated in The United States of America or Canada.
- E.2 Arising directly or indirectly from:

- (i) bodily injury, mental injury, psychological injury, anguish, emotional distress, shock, sickness, disease or death sustained by any person who is or has been under a contract of service with the Firm or any Member arising out of or in the course of his or her employment; and/or
  - (ii) any dispute between the Firm or any Member as an employer or potential employer and any person who is or has been or has made an application to be under a contract of service with the Firm or any Member.
- E.3 For death of or bodily injury to or psychological injury, emotional distress or anguish, shock, sickness or disease of any person (not being a person who is or has been under a contract of service with the Firm(s) or any Member), save that this exclusion will not apply to any loss or 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.
- E.4 Save in respect of Insuring Clause A.2, for physical loss of or damage to property.
- E.5 Save in respect of Insuring clause A.2, arising directly or indirectly from the ownership, possession or use by the Insured of land, buildings, aircraft, watercraft, vessels or mechanically propelled vehicles.
- E.6 In respect of which the Insured are entitled to indemnity under any other insurance except in respect of any excess beyond the amount which would have been payable under such insurance had this policy not been effected.
- E.7 Arising out of any circumstance or occurrence which has been notified under any other policy or certificate of insurance attaching prior to the inception of this policy.
- E.8 In respect of dishonest or fraudulent acts or omissions committed by any person after discovery of reasonable cause for suspicion or fraud or dishonesty on the part of that person.
- E.9 Made against the Insured by any Underwriter or Insurance Company arising out of the Insured's activities as their Insurance Agent unless the Underwriter or Insurance Company has obtained a judgement in any court against the Insured notwithstanding anything to the contrary contained in Condition B.7 of this policy.
- E.10 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.
- E.11 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.
- E.12 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.
- E.13 Save in respect of Condition B.10, by any person comprising the Insured against any other person comprising the Insured.
- E.14 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 Insuring Clause A3.

E.15 Save in respect of the performance (or non-performance) of Services as defined in D.11, arising out of any Insured acting as Company Secretary or Registrar or Director.

E.16 Arising from any claim made against an Insured directly or indirectly caused by or resulting from any act of terrorism.

For the purpose of this exclusion an act of terrorism means an act, including but not limited to the use of force of 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.

This exclusion also excludes loss, damage, costs or expense of whatsoever nature arising from a Claim made against an Insured directly or indirectly caused by or resulting from any action taken in controlling, preventing or suppressing any act of terrorism.

In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

E.17 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 loss or any Claim which arises from any actual or alleged breach of duty in the performance of (or failure to perform) Professional Business.

E.18 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 or loss arising from amendments or adaptations made to Packaged Software by or on behalf of the Insured.

E.19 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.

#### **EXCLUSION ADDED BY ENDORSEMENT**

Insurers, having received information concerning the Insured's preparedness for the issue known variously as the 'millennium computer problem', the 'year 2000 problem', the 'computer date change problem' or similar, the following exclusion will apply to this policy.

#### **YEAR 2000 EXCLUSION**

This policy shall not indemnify the Insured in respect of any claim, loss, liability or expense caused by or arising directly or indirectly from or in any way relating to any Computer System, whether or not the property of the Insured, not being Year 2000 Compliant.

In addition this policy shall not indemnify the Insured in respect of any claim, loss, liability or expense arising directly or indirectly or in any way relating to any correction, conversion, renovation, rewriting or replacement of, or any failure to correct, convert, renovate, rewrite or replace any Computer System related to Year 2000 Compliance.

The following are added to the Definitions section of this policy.

#### COMPUTER SYSTEM

Shall mean any computer data processing equipment media or part thereof, or system of data storage and retrieval, or communications system, network, protocol or part thereof, or storage device, microchip, integrated circuit, real time clock system or similar device or any computer software (including but not limited to application software, operating systems, runtime environments or compilers), firmware or microcode.

#### YEAR 2000 COMPLIANT/COMPLIANCE

Shall mean that neither performance nor functionality of the computer system is affected by dates prior to, during or after the Year 2000.

In particular:

- Rule 1 No value for current date will cause any interruption in operation of the Computer System.
- Rule 2 Date based functionality and performance of the Computer System must behave consistently for dates prior to, during and after the year 2000.
- Rule 3 In all interfaces and data storage of the Computer System the century in any date must be specified either explicitly or by unambiguous algorithms or inferencing rules.
- Rule 4 The year 2000 must be recognised as a leap year.

All other policy provisions remain unaltered.



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