

Pembroke

SYNDICATE 4000

Professional Liability

UK Accountants Errors & Omissions

Minimum Terms Policy Wording

**UK ACCOUNTANTS ERRORS & OMISSIONS
INSURANCE POLICY**

SCHEDULE

1. **Policy Number:**
2. **Named Insured:**
3. **Address:**
4. **Aggregate Limit of Indemnity:** GBP in the aggregate
Defence Costs in addition
5. **Excess:** GBP each and every Claim and XXX in the
aggregate
Excluding Defence Costs
6. **Policy Period:**
7. **Premium:** GBP (+ tax as applicable)
8. **Address for notification:
(via broker or other agent)** Pembroke Managing Agency
2nd Floor, 3 Minster Court,
Mincing Lane
London EC3R 7DD

TABLE OF INSURERS

Where Lloyd's Syndicate 4000 has underwritten this policy with one or more other insurers (as listed in the Table of Insurers below), Lloyd's Syndicate 4000 and such other insurers bind themselves severally and not jointly, each for their own part and not for one another. Lloyd's Syndicate 4000 and each such insurer shall only be liable for their percentage of the risk shown below.

The insurers subscribing to this policy are:

- | | | |
|----|--|------|
| 1. | Lloyd's Syndicate 4000
One Lime Street
London EC3M 7HA
United Kingdom | [%] |
| 2. | [] | [%] |
| 3. | [] | [%] |

Pembroke

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

The Institutes' minimum approved policy wording 1 January 2014.

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

SECTION A - INSURING CLAUSES

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

A1. Civil Liability

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

A2. Awards by Ombudsmen

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

A3. Defence Costs

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

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

SECTION B - DEFINITIONS

B1. "ALTERNATE" means any individual practitioner, partnership, limited liability partnership, Isle of Man limited liability company or company who or which is acting in connection with the arrangements to cover the incapacity or death of a sole practitioner.

B2. "CLAIM" means any written or oral demand for compensation or damages from, or the assertion of a right against, any Insured and shall be deemed to include any complaint or reference to any Ombudsman which arises out of the conduct of Professional Business carried on by, or on behalf of, the Insured.

- B3. **"CLAIMANT"** means a person or entity which has made or may make a Claim including (without limitation) a Claim for contribution or indemnity, and shall be deemed to include a complainant to the Ombudsman.
- B4. **"DEFENCE COSTS"** means any costs, disbursements and expenses incurred by the Insured with the written consent of Insurers (such consent not to be unreasonably withheld) in:
- (a) defending any Claim or any proceedings relating to any Claim;
 - (b) conducting any proceedings for an indemnity, contribution, damages or other recovery relating to a Claim;
 - (c) investigating, reducing, avoiding or settling any actual or potential Claim; or
 - (d) investigating any circumstance which is notified to Insurers in accordance with the terms of this policy.
- B5. **"DIRECTOR"** shall have the meaning given by section 1173 of the Companies Act 2006, section 2 of the Companies Act 1963 of the Republic of Ireland or section 27 of the Companies Act 1990 of the Republic of Ireland (as appropriate) or any amendment or re-enactment thereof.
- B6. **"FIRM(S)"**: wherever the word "Firm(s)" appears herein the same shall be deemed to read "the firm(s) (ie partnership(s)) or sole practitioner(s) or company(ies) (limited or otherwise) or limited liability partnership(s) or Isle of Man limited liability company(ies) or any other entity(ies) named in the Schedule, and, save for the purposes of clause C3.3, it includes the predecessors in business of the said Firm(s).
- B7. **"THE INSURED"** means each and all of the following persons, each of whom shall be severally insured hereunder:
- (a) Any Firm(s);
 - (b) Partners or Directors or Members of the Firm(s) (or named as the principal where, although the trading style of the Insured is such that it appears to be a Firm, in fact the Insured is a sole practitioner) and any other person who may at any time during the Period of Insurance become a Partner or Director or Member in the Firm(s);
 - (c) Any former Partner or Director or Member of the Firm(s) including any such former Partner or Director or Member whilst acting as a consultant to the Firm(s);
 - (d) Any person who is or has been under a contract of service with the Firm(s);
 - (e) Any person who is or has been under a contract for services with the Firm(s), save that such person shall only be an Insured for the purpose of this policy if and insofar as any Claim or Claims arise out of Professional Business carried on by such person for or on behalf of the Firm(s);
 - (f) The estates and/or legal representatives of any Insured Person noted under (b), (c), (d) or (e) hereof in the event of death, incapacity, insolvency or bankruptcy; or
 - (g) Any person who is acting on behalf of the Firm(s) as an "Alternate".
- B8. **"INSURED PERSON"** means any natural person insured hereunder.
- B9. **"INSURERS"** means the underwriter or underwriters (as the case may be) of this policy as specified in the Schedule.

- B10. **“MEMBER”** means any member of a limited liability partnership, including, without limitation, a designated member.
- B11. **“OMBUDSMAN”** means any ombudsman to whose jurisdiction the Insured is subject by virtue of contract or law.
- B12. **“PARTNER”** shall have the meaning given by the Partnership Act 1890.
- B13. **"PERIOD OF INSURANCE"** means the period of insurance specified in the Schedule.
- B14. **"PROFESSIONAL BUSINESS"** means advice given or services provided of whatsoever nature by or on behalf of the Insured to a third party, wherever or by whomsoever given or provided irrespective of whether or not a fee is charged, but provided that if a fee is charged in respect of such advice or service then that fee is taken into account in ascertaining the income of the Firm(s).

The above definition of "Professional Business" shall be deemed to extend to any of the Insured whilst holding any individual personal appointment (including, but without prejudice to the generality of the foregoing, any appointment as a trustee or personal representative made or accepted in the course of the Insured's business), but whilst holding an appointment as company secretary or registrar or Director of a company which is not a Firm it only extends to the performance of Services as defined in clause B15.

- B15. **“SCHEDULE”** means the Schedule to this policy.
- B16. **"SERVICES"** provided whilst holding the appointment of company secretary, registrar or Director as referred to in the definition of "Professional Business" in clause B14 shall mean all services performed or advice given by the Insured in connection with tax matters, secretarial work, share registration, financial advice to management, book-keeping, management accounting, financial investigation and reports, the negotiation and settlement of financial claims, company formations, investment advice, insurance and pension scheme advice and computer consultancy.

SECTION C – GENERAL CONDITIONS

C1. **Limit of indemnity**

- a) The limit of indemnity which is available to meet any payments made or payable in relation to a Claim or Claims (excluding Defence Costs) arising from authorised work as defined under the Probate Regulations of the Institute of Chartered Accountants in England and Wales, during the Period of Insurance, shall be on an each and every claim basis. The limit of such indemnity shall be no less than the minimum level of Professional Indemnity Insurance cover (per claim) required under the Probate Regulations unless a higher amount is specified in the Schedule.
- b) The limit of indemnity which is available to meet any payments made or payable in relation to a Claim or Claims (excluding Defence Costs) arising from insurance mediation work as defined in the Designated Professional Body Handbook of the Institute of Chartered Accountants in England and Wales/of Scotland/in Ireland as applicable during the Period of Insurance shall be no less than the minimum level of

Professional Indemnity Insurance cover required under the Designated Professional Body Handbook unless a higher amount is specified in the Schedule.

- c) The limit of indemnity available to meet any payments made or payable in relation to all other Claims (excluding Defence Costs) arising from the Insured's Professional Business during the Period of Insurance shall be no less than the aggregate limit of indemnity specified in the Schedule. Such liability shall not be varied or deemed varied by the number or type of Insureds or Claims under this policy.

C2. Notification

C2.1 The Insured shall give to Insurers notice in writing as soon as reasonably practicable and in any event not later than 7 days after the end of the Period of Insurance of:

- (a) any Claim;
- (b) the receipt by the Insured during the Period of Insurance of any notice from any person of an intention to make a Claim. Any Claim arising therefrom and/or in connection therewith shall be deemed to have been first made during the Period of Insurance; or
- (c) the discovery during the Period of Insurance of reasonable cause for suspicion of dishonesty or fraud on the part of any former or present Partner, Director, Member, employee, consultant, sub-contractor or Alternate of the Firm(s), whether giving rise to a claim under this policy or not.

C2.2 If during the Period of Insurance the Insured becomes aware of any circumstance which may give rise to a Claim, the Insured shall give notice in writing of such circumstance to Insurers as soon as reasonably practicable and in any event not later than the last day of the Period of Insurance. Any Claim arising from such circumstance shall be deemed to have been first made in the Period of Insurance.

C3. Excess

C3.1 If an amount is specified in the Schedule, this amount shall be borne by the Insured at their own risk and Insurers' liability to indemnify the Insured shall only be in excess of this amount.

C3.2 The amount specified in the Schedule shall not be applicable to Defence Costs (unless the Claim arises from the conduct of Professional Business which required authorisation by the Financial Conduct Authority) or any relevant successor body.

C3.3 Notwithstanding any amount specified in the Schedule the maximum amount to be borne by the Insured at their own risk during the Period of Insurance shall not exceed the maximum calculated in accordance with the relevant provisions of the Professional Indemnity Insurance Regulations of the Institute of Chartered Accountants in England and Wales/of Scotland/in Ireland as applicable in force at the date of the inception or renewal of this policy.

C4. Dishonesty and Fraud

C4.1 Subject to clause C5, in the event that the Insured incurs any liability Insured by this policy by reason of the dishonest or fraudulent act or omission of any former or present Partner, Director, Member, or employee, consultant, sub-contractor or Alternate of the Firm(s) no indemnity shall be afforded hereunder in respect of such

Claim to any person committing or condoning any such dishonest or fraudulent act or omission.

C4.2 Notwithstanding the provisions of clause C4.1, an indemnity shall be afforded hereunder to each and every person who has neither committed nor condoned any such dishonest or fraudulent act or omission.

C4.3 In respect of any such Claim (ie as referred to in clause C4.1):

- (a) the Insured shall at the request and expense of Insurers take all reasonable steps to obtain reimbursement from any person committing or condoning any such dishonest or fraudulent act or omission or from their estates or legal representatives;
- (b) any monies which but for the dishonest or fraudulent act or omission would be due to such persons (ie the persons committing or condoning any such dishonest or fraudulent act or omission) from the Insured or any monies of such persons held by the Insured shall be deducted from any amount payable under this policy; and
- (c) nothing in this clause C4 shall preclude Insurers from exercising any right of subrogation against any person committing or condoning such dishonest or fraudulent act or omission.

C4.4 The sums payable under this policy shall be only for the balance of any civil liability in excess of the amounts recovered from the person or persons committing or condoning dishonest or fraudulent acts or omissions as aforesaid or their estates or legal representatives.

C5. Advancement of Defence Costs

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

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

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

C6. Conduct of Claims

C6.1 The Insured shall:

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

- (b) not incur any costs or expenses in connection with any Claim or any circumstance without the written consent of Insurers (such consent not to be unreasonably withheld or unreasonably delayed);

C6.2 Insurers shall be entitled at their own expense at any time to take over and conduct in the name of the Insured the defence, investigation or settlement of any Claim and to conduct an investigation into circumstances notified under clause C2.2 which may give rise to a Claim and to receive at all times the full co-operation of the Insured for this purpose. The Insured shall be entitled to any and all information and/or documentation regarding the defence investigation or settlement of any Claim and/or the investigation into any circumstances as they may reasonably request from Insurers.

C6.3 Compliance by the Insured with any rules, requirements, directions or guidance of any Ombudsmen will not constitute a breach of any clause of this policy.

C7. **Queen's Counsel Clause**

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

C8. **General Subrogation Rights**

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

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

C9. **Fraudulent Claims**

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

C10. **Dispute Resolution**

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

C10.2 In the event of any dispute concerning liability to indemnify the Insured (including without limitation a dispute as to the policy year under which any Claim or circumstance might fall to be dealt with between (a) Insurers and (b) any insurer(s)

subscribing to the policy corresponding to this policy in respect of a previous period of insurance), the Insured and the Insurers agree that Insurers will advance Defence Costs and indemnify the Insured in accordance with clauses A1 - A3 and clause C5 above pending resolution of any such dispute.

C11. **Choice of Law**

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

C12. **Cancellation**

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

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

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

C13. **No set-off**

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

C14. **Third Party Rights**

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

C15. Other insurance

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

SECTION D - SPECIAL CONDITIONS

D1. Non Avoidance and Prejudice

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

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

D2. Non-Compliance

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

- (a) in the handling or settlement of any Claim against the Insured; or
- (b) in the obtaining of reimbursement from any dishonest or fraudulent person as referred to in clause C4.3,

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

SECTION E - EXCLUSIONS

This policy shall not indemnify the Insured against any Claim:

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

E2. Arising directly or indirectly from:

- (a) bodily injury, mental injury, psychological injury, anguish, emotional distress, shock, sickness, disease or death sustained by any Insured Person; and/or
- (b) any dispute between the Insured and any person who is or has been or has made an application to be under a contract of service with the Insured.

Pembroke

SYNDICATE 4000

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

Pembroke

SYNDICATE 4000

exclusion an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s) committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear. Provided that any such exclusion does not exclude or

limit any liability of Insurers to indemnify any Insured against civil liability or related Defence Costs arising from any actual or alleged breach of duty in the performance of (or failure to perform) Professional Business. In the event that any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

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

Copyright 2014

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

Ver 1-1-2014

G:\IPS\REGULATORY POLICY\PII\Minimum wording\Min wording versions\Minimum Policy Wording 01-01 2014.doc

Ver 1-1-2014