

ACCOUNTANTS (CHARTERED & CERTIFIED)
PROFESSIONAL INDEMNITY CERTIFICATE

We have agreed to provide this insurance to **You** on the basis that the information provided in the **Proposal** was accurate and complete as at the date of commencement of the **Period of Insurance**. The **Proposal** shall be the basis of and incorporated into this contract of insurance.

In this Certificate:

- words and expressions appearing in bold type shall bear the meanings given against the word or expression in the section of this Certificate headed 'Definitions' .
- headings are for ease of reference only and shall not be taken into account in construing this Certificate.

INSURING CLAUSES

In return for **Your** payment of the premium, **We** shall indemnify **You** as follows:

- 1 Civil liability**
for any amount up to the **Limit of Liability** in respect of **Loss** arising from a claim for any civil liability first made against **You** during the **Period of Insurance** and arising from the ordinary conduct of **Your Professional Business**.
- 2 Ombudsman awards**
for any amount up to the **Limit of Liability** during the **Period of Insurance** in respect of any final and binding compensatory awards made against **You** and/or the cost of taking any steps that **You** are directed to take in relation to a claimant during the **Period of Insurance** by any ombudsman under any recognised scheme applicable to **Your Professional Business**.
- 3 Representation costs**
for any amount up to the **Limit of Liability** in respect of any legal costs incurred with **Our** prior consent to enable **You** to be represented at any inquiry or other type of proceeding when the outcome of that inquiry or proceeding may, in **Our** sole opinion, be relevant to a claim in respect of which **You** may be entitled to an indemnity under this Certificate.
- 4 Defence costs and expenses**
in addition to the indemnity provided by paragraph 1 above and in addition to the **Limit of Liability**, **We** shall pay all **Defence costs and expenses** incurred on your behalf. However, in the event that the amount of any **Loss** paid or payable exceeds the **Limit of Liability**, **Our** liability to pay **Defence costs and expenses** shall not exceed the proportion that the **Limit of Liability** bears to the amount of **Loss** paid.

- 5 **Copyright infringement costs**
for any amount up to €25,000 in the aggregate during the **Period of Insurance** for any legal costs incurred with **Our** prior consent to enable **You** to pursue any claim for infringement of **Your** copyright first discovered during the **Period of Insurance**. **Our** consent will only be provided, for the purpose of this insuring clause, following receipt of an opinion from a barrister or solicitor specialising in copyright law and which confirms that **You** have reasonable prospects of success.
- 6 **Attendance expenses**
in the event that **We** require **You** or any **Employee** to attend any court or other judicial tribunal we shall pay **You** compensation at the following rates:
- €500 per day for any current partner, member or director of **Your** firm
€250 per day for any other current **Employee**.

Provided always that, in the event that a single claim or a series of claims arising out of one originating cause or source should result in **Your** seeking an indemnity from **Us** under more than one of the insuring clauses in this Certificate then in the event that **We** have already paid the full amount of the **Limit of Liability We** shall not be obliged to provide **You** with any further indemnity in respect of such claim or series of claims.

EXCLUSIONS

We will not indemnify **You** against any claim :

- 1 **Employers liability**
arising from any breach of any duty that **You** may have to, or for any **Bodily Injury** suffered by, any **Employee** or any person applying to **You** for employment;
- 2 **Bodily injury**
arising from any **Bodily Injury** unless it was caused by a breach of any duty owed by **You** arising from negligent advice, design, specification or formula or other breach of professional duty in the conduct of **Your Professional Business**;
- 3 **Property damage**
arising from the damage to or destruction of any property unless it was caused by a breach of any duty owed by **You** arising from negligent advice, design, specification or formula or other breach of professional duty in the conduct of **Your Professional Business**;
- 4 **Property/vehicles**
arising from **Your** ownership, occupation or use of any land, building, or of any vehicle, craft or vessel for use on land, water or in the air and whether mechanically propelled or otherwise;
- 5 **Manufacture and supply of goods**
arising from the manufacture, repair, alteration, installation, sale, supply or maintenance of any product or other item of goods whether by **You** or by any **Connected Person** or by any sub-contractor of **Yours**. For the avoidance of doubt the terms 'product' and 'goods' shall apply to packaged software (meaning software produced by a third party for general distribution) but will not apply to any other computer software or to any amendments or adaptations of packaged software so that this exclusion shall not apply to any claim arising from the amendment or adaptation of packaged software by **You**;
- 6 **Pollution**
arising from or which is in any way related to or the consequence of any kind of seepage, pollution or contamination unless it was caused by a breach of any duty owed by **You** arising from negligent advice, design, specification or formula or other breach of professional duty in the conduct of **Your Professional Business**;
- 7 **Radiation**
caused directly or indirectly or otherwise arising from
 - 7.1 ionising radiation or contamination by radioactivity from any nuclear fuel or
 - 7.2 the waste produced by the combustion or other treatment of nuclear fuel; or
 - 7.3 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or any nuclear component of an explosive nuclear assembly;
- 8 **War**

Loss or Damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, 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.;

9 **Terrorism**

arising directly or indirectly or otherwise as a consequence of any act or acts of force or violence undertaken, for whatever reason, with the aim of influencing or overthrowing of any government or public authority or with the aim of making the public fearful;

10 **The excess**

for an amount not exceeding the **Excess**;

11 **Retroactive date**

arising from an act or omission or other cause that occurred, or which is alleged to have occurred, before the Retroactive Date stated in the **Schedule**;

12 **Known before Period of Insurance**

arising out of any claim made or **Circumstance** known to **You** (or of which **You** ought to have been aware) before the date of commencement of the **Period of Insurance**;

13 **Notified after Period of Insurance**

notified to **Us** after the end of the **Period of Insurance**;

14 **Other insurance**

in respect of which **You** are entitled to claim an indemnity under any other policy of insurance provided that, if the **Limit of Liability** exceeds the amount of cover available under any other insurance then this exclusion will not apply save to the extent of the cover available under the other policy of insurance;

15 **Dishonesty**

arising directly or indirectly from any dishonest or fraudulent act or failure to act by person occurring after such time as **You** had reasonable cause for suspicion that that person was engaged in or was contemplating engaging in any dishonest or fraudulent act or failure to act;

16 **Penalties, fines**

for the payment of any penalty, fine, exemplary, liquidated or other form of punitive or non-compensatory damages except in claims brought for defamation to the extent that such claims are otherwise covered by this Certificate;

17 **Indemnified person**

brought by any person who is entitled to be indemnified under this Certificate whether alone or jointly with any other person or party;

18 **Directors and officers**

brought against **You** in the capacity of a director, Company Secretary or officer of **Your** firm or of any other company unless the claim arises from the performance of (or failure to perform) **Services**;

19 **Onerous contracts**

arising directly or indirectly from any breach or alleged breach of contract and in respect of which it is claimed

19.1 that **Your** duty is more onerous than would be implied by common law or statute; or

19.2 that **You** are liable for liquidated damages, penalties or for an amount due pursuant to any kind of guarantee or otherwise for damages that are greater than would be implied by common law or statute;

20 **Trading losses**

arising from any trading liability or trading loss incurred by **You** or by any **Connected Person** but this exclusion does not apply in relation to any claims against **you** for negligence arising out of **Your** conduct of any normal insolvency or receivership procedure when acting as a receiver, administrator, liquidator, supervisor of a voluntary arrangement or bankruptcy trustee;

21 **Repayment of fees**

arising from any allegation that **You** have over-charged any client or for the return, reduction or repayment of any fees paid or payable to **You**;

22 **Geographical area**

arising from work carried out by **You** from any office or other premises situated in The United States of America or Canada

23 **Jurisdiction**

brought against **You**

23.1 in The United States of America, its territories or possessions or Canada;

23.2 to enforce a judgment or finding of a court or other judicial tribunal based in The United States of America, its territories or possessions or Canada;

23.3 in which it is claimed that the law that applies is that of The United States of America, its territories or possessions or Canada;

24 **Arbitrator**

which is to be determined by an arbitrator unless the arbitrator is independent of the parties to the claim and the arbitration is to be conducted in Ireland or the United Kingdom of Great Britain and Northern Ireland;

25 **Financial advice**

arising directly or indirectly from the giving of any express or implied warranty or guarantee relating to the financial return of any investment or portfolio of investments;

26 **Negotiable instruments**

arising directly or indirectly from the possession, loss, damage or destruction of or any dealing with any form of bearer bond, coupons, bank or currency notes, share certificates, stamps or other negotiable paper or security;

27

Insurer

made against **You** by any underwriter or insurance company arising out of **Your** activities as their insurance agent unless the underwriter or insurance company has obtained a judgment against **You** in any court notwithstanding anything to the contrary in Claims Conditions 2 – 4 of this Certificate.

CLAIMS CONDITIONS

Claims Conditions 1 - 3 below are conditions precedent to **Our** obligation to indemnify **You** under the terms of this Certificate. If, in relation to a particular claim or **Circumstance**, **You** fail to comply strictly with Claims Conditions 1 - 3 **We** may be entitled to decline to indemnify **You** against that claim or any claim that may arise from the **Circumstance**.

1 **Notification**

You must notify **Us** in writing as soon as possible (or, in the case of a claim to be referred to an adjudicator, within 2 working days) provided that **We** receive the notification before the end of the **Period of Insurance**, if you receive, discover or become aware of

- 1.1 any claim made against **You**;
- 1.2 any indication that someone intends to make a claim against **You**; or
- 1.3 a **Circumstance**.

If **You** give **Us** notice under paragraphs 1.2 and 1.3 above then any claim made subsequently and arising from the notification will be deemed to have been notified to **Us** during the **Period of Insurance**.

2 **No admissions**

You must not admit liability for, or settle, any claim or **Circumstance** in respect of which **We** may indemnify **You** under this Certificate without **Our** prior written consent. **We** will not pay or be responsible for any **Defence costs and expenses** incurred, in relation to any claim or **Circumstance**, without **Our** prior written consent.

3 **Information and assistance**

Following notification under Claims Condition 1 above **You** must promptly provide **Us** with all documents and information that **We** may request and provide **Us** with all assistance and co-operation that **We** may require for the investigation, defence or settlement of the claim.

4 **Conduct**

Following notification **We** shall be entitled to take over the conduct of any claim and, at **Our** own expense, to defend or settle the claim as **We**, in **Our** sole discretion, think fit. However, **We** cannot require **You** to continue to contest any claim unless a Senior Counsel (to be agreed upon between us) advises that the claim should be contested.

GENERAL CONDITIONS

1 **Mitigation**

You must take all reasonable steps to avoid or reduce any **Loss** that might arise from any claim or **Circumstance**.

2 **Subrogation**

You must promptly provide **Us** with all documents and information that **We** may request and provide **Us** with all assistance and co-operation that **We** may require in order to try to obtain reimbursement from any third party of any **Loss** or **Defence costs and expenses** that **We** may have to pay in relation to any claim made against **You**.

3 **Recoveries**

All money recovered from third parties, following any payment made by **Us** under this Certificate, shall be applied in the following order:

- 3.1 first, in reimbursement of all costs and expenses incurred by **Us** in obtaining such recovery;
- 3.2 secondly, in reimbursement of all **Loss** borne by **You** in the event that **Your** legal liability exceeds the **Limit of Liability**;
- 3.3 thirdly, in reimbursement of all sums paid by **Us** under this Certificate; and
- 3.4 fourthly, in reimbursement of the **Excess** paid by **You**.

4 **Dishonesty**

In the event that any claim or **Circumstance** notified to **Us** arises directly or indirectly from any malicious, dishonest or fraudulent act or omission then **You** must take all reasonable steps to

- 4.1 prevent any further **Loss** being incurred as a result of such malicious, dishonest or fraudulent act or omission; and
- 4.2 recover any **Loss** (and provide **Us** with all assistance required to do so) from any person or persons who committed or condoned such malicious, dishonest or fraudulent act or omission.

If **You** hold money that, but for the malicious, dishonest or fraudulent act or omission, would be due to any person involved then **We** shall be entitled to reduce the amount payable under this Certificate by an amount equal to the amount that **You** hold.

5 **Waiver of rights against employees**

We will not exercise any right that we may have to seek recovery of any **Loss** or **Defence costs and expenses** that **We** may have to pay from any former or present **Employee** unless **We** had to make that payment as a result of a malicious, dishonest or fraudulent act or omission committed by that **Employee** or where the **Employee** either conspired to commit or condoned that malicious, dishonest or fraudulent act or omission.

6 **Fraudulent claims**

If **You** make any claim under this Certificate knowing it to be false or fraudulent, whether as to the facts relied upon or as to the amount claimed or otherwise, this Certificate shall become void and **We** shall not be liable to provide **You** with any further cover under this Certificate.

- 7 **Third party rights**
You and **We** are the only parties to this contract and no other person or party has any rights under the Contracts (Rights of Third Parties) Act 1999 or equivalent legislation to enforce any rights under this Certificate, but this does not affect the ability of any third party to enforce any other right or remedy they may have.
- 8 **Institute's rights**
If **Your** Institute becomes subrogated to **Your** rights under this Certificate because it has made a payment to a third party from the Institute Compensation Fund then the Institute shall be deemed to rank as a preferential creditor and their claim shall have priority over that of any other party who may become subrogated to **Your** rights under this Certificate.
- 9 **Invalidity**
If any provision of this Certificate is found to be invalid by any competent court or administrative body this will not affect the validity of any other provision in this Certificate.
- 10 **Difference in conditions**
If **Your** governing professional body requires **Your** professional indemnity insurer to provide indemnity to **You** on specific terms (referred to in this condition as the 'Minimum Terms') then, if any provision contained in the Minimum Terms is more favourable to **You**, that provision of the Minimum Terms shall apply instead of the terms and conditions of this Certificate provided:
10.1 that **You** comply with any conditions attached to the relevant provision; and
10.2 if the relevant provision contains any rights in favour of the insurer, that **We** are entitled to the benefit of those rights.
- 11 **Governing law**
This Certificate is governed by the laws of Ireland. In the event of any dispute between us as to the meaning, effect or validity of the Certificate then the dispute should be referred to a sole arbitrator who shall have exclusive jurisdiction to determine the dispute. In the event that the parties fail to agree on the appointment of a particular arbitrator then an arbitrator shall be appointed by the President for the time being of **Your** professional body.
- 12 **Notices**
Any notice to be given under this Certificate must be sent by pre-paid first class post and shall be deemed to have been received :
12.1 by **You** if it is sent to **Your** last known address or to **Your** broker; and
12.2 by **Us** if sent to Manchester Underwriting Management Limited, Centennium Court, East Street, Chesham, United Kingdom HP5 1DG.
- 13 **Several Liability Notice**
The subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

- 13.1 All claims and other enquiries shall be addressed to Manchester Underwriting Management Ltd, Centennium Court, East Street, Chesham, United Kingdom HP5 1DG.
- 13.2 All complaints must be referred in the first instance to Manchester Underwriting Management Ltd, Centennium Court, East Street, Chesham, United Kingdom HP5 1DG and, if no satisfaction is obtained, complaints can be referred to the Complaints Department, Lloyd's, Policyholder and Market Assistance, One Lime Street, London EC3M 7HA
- 13.3 Manchester Underwriting Management Ltd acts as **Our** agent and not for **You**;
- 13.4 Lloyd's is regulated by the Financial Services Authority ('the FSA') whose address is 25 The North Colonnade, Canary Wharf, London E14 5HS

DEFINITIONS

In this Certificate where the following words appear in bold type they shall have these meanings:

Alternate shall mean any person, partnership, limited liability partnership or limited company who is acting in connection with arrangements made to cover the incapacity or death of a sole practitioner

Bodily injury shall mean any physical injury, sickness, disease, psychological injury or illness, emotional distress, shock or death

Circumstance shall mean

- (a) any complaint from a client about work undertaken by **You** and which cannot be resolved immediately;
- (b) any series of complaints from a client about work done by **You**;
- (c) any situation by which **You** become aware of any shortcoming in work carried out by **You** for a client (whether this is known to the client or not);
- (d) any situation in which a client, following a complaint, fails to pay fees invoiced by **You**;
- (e) any threat of a claim being brought against **You**
- (f) the discovery, or reasonable cause for suspicion, of dishonesty or fraud on the part of any current or former partner, director, member of **Employee of Yours**;
- (g) any circumstance, event or state of affairs which might reasonably be expected to lead to a claim against **You** or by **You** of a kind that may be covered under this Certificate

Defence costs and expenses shall mean legal costs and expenses incurred by **You** or on **Your** behalf with **Our** prior consent in connection with the investigation, defence or settlement of any claim or potential claim in respect of which **You** are entitled to an indemnity under this Certificate.

Employee shall mean any person who is:

- (a) employed by **You** under a contract of employment; or
- (b) employed by **You** under a training contract or as an apprentice; or
- (c) working for **You** as a locum, temporary or seasonal worker including anyone supplied by an agency or contract hire company; or
- (d) working for **You** as a volunteer, including anyone working on a work experience or intern scheme or placement; or
- (e) self-employed but who is not working as an independent contractor but only while that person is working directly for **You** and is under **Your** direct control and supervision.

Excess shall mean the amount stated in the **Schedule** which shall be payable by **You** before **We** shall make any payment in respect of

- (a) **Loss** payable in respect of each and every claim or, in the event that any claim is brought by more than one claimant, to each claimant; or
- (b) any legal costs incurred with **Our** consent in accordance with insuring clauses 3 or 5.

For the avoidance of doubt the **excess** does not apply to **defence costs and expenses**

Limit of Liability

shall mean the amount stated in the **Schedule** and which shall be the maximum amount of **Our** liability to pay any **Loss** in respect of any one claim or series of claims arising out of one originating cause or source. In the event that a single claim or a series of claims arising out of one originating cause or source should result in **Your** seeking an indemnity from **Us** under more than one of the insuring clauses in this Certificate then the **Limit of Liability** shall be reduced by an amount equal to the sum of any payments made by **Us** pursuant to insuring clauses 2, 3, 5 and 6

Loss

shall mean

- (a) in the context of any claim against which **You** may be entitled to an indemnity pursuant to insuring clause 1 or 2, any amount that **You** are liable to pay as compensation together with any liability **You** may have to pay the legal costs and expenses of any other party as a result of any claim made against **You**; or
- (b) any other loss suffered or cost or liability incurred by **You** in respect of which **You** may be entitled to an indemnity other than by insuring clauses 1 or 2

Period of Insurance

shall mean the period stated in the **Schedule**

Personal Appointments

shall mean any individual appointment of a personal nature and which arises out of **Your Professional Business** including any appointment as a director, Company Secretary or officer of a company (but only in relation to the provision of **Services**) or as a trustee or personal representative

Professional Business

shall mean the professional business of the kind ordinarily expected of a firm of the type specified in the **Schedule** together with any **personal appointments**

Proposal

shall mean the proposal form (whether in electronic or paper form) completed by **You** and received by **Us** together with any other information provided by **You** before the date of this Certificate

Schedule

shall mean the schedule attached to this Certificate

Services

shall mean all services performed or advice given by **You** in connection with tax, company 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 whilst holding the appointment of Company Secretary, Registrar or director

Us/Our/We shall mean Lloyd's Syndicate 2001, the insurer under this Certificate

You/Your shall mean the Insured named in the **Schedule** together with, individually and collectively, each of **Your** partners, members or directors including all former partners, members or directors, and all who may become partners, members or directors in **Your** firm during the **Period of Insurance**, any **Employee** and any **Alternate**.