Tax Investigation (cost) Protection Service Policy (TiPS)

Underwritten by Abbey Tax (Abbey Protection Group Limited)

This is a 'claims made' insurance which covers only claims notified in writing during the period of insurance. This Policy insures you, the **Policyholder**.

Important information
This document, the Schedule and any endorsements attached form your Policy. Collectively, these documents set out the conditions of the insurance. Please read them carefully and keep them in a safe place. We understand that you may be very busy, but we strongly recommend that you find time to read the documents. If you are unable to read them in full then you must read at least:

1. Definitions
2. HMRC Enquiries and Disputes
3. Exclusions
4. Claims Procedure
5. Complaints
6. Financial Services Compensation Scheme

The **Insurer** agrees to pay the **Professional Expenses** incurred by the **Designated Agent** when acting for a **Designated Client** in the event of an **Insured Incident** providing the relevant premium has been paid. Nothing in this insurance contract is intended to create rights in favour of anyone other than the **Policyholder**. The Contracts (Rights of Third Parties) Act 1999 does not apply to this Policy.

The **Policyholder** and **Insurers** acknowledge that the **Policyholder** has an insurable interest under this Policy and both parties agree not to challenge its validity by contending that the **Policyholder** does not have an interest in the subject matter of the insurance.

Definitions

Any One Claim
All claims arising from the same original incident or event shall be regarded as one claim. This includes a Full or Aspect Enquiry into a later year's Self Assessment Return where an earlier year's Self Assessment Return is still subject to an open Full or Aspect Enquiry, providing the subsequent Enquiry is notified in a period of insurance.

Appeal
The formal mechanism to resolve **HM Revenue and Customs (HMRC) Enquiries and Disputes** at either the First-Tier Tribunal (Tax), Upper Tribunal (Tax and Chancery) or VAT Tribunal. Also the procedure required to refer the subsequent decision to a higher authority.

Abbey Tax
Abbey Tax, a division of Abbey Tax and Consultancy Services Limited (ATCS), which administers the Professional Expenses Insurance Policy including the collection of premiums and the settlement of claims on **Insurers'** behalf and to whom any notification of claim must be made. ATCS is an appointed representative of Abbey Protection Group Limited (APG). APG is authorised and regulated by the Financial Conduct Authority. Firm Number: 308829.

Designated Agent
The **Policyholder** or, with **Abbey Tax's** prior written approval, another accountant or firm of accountants or other appropriately qualified person who is appointed to act in accordance with the terms of this Policy.

Designated Client
A company, firm, partnership, organisation or individual who is a client of the **Policyholder** at the time of subscribing to the **Policyholder's Tax Investigations Service**. The **Policyholder** shall make a list of such clients available to **Abbey Tax** if requested.

HMRC Enquiries and Disputes

(i) Business Self Assessment Full Enquiry
A Full Enquiry by HMRC into your **Designated Client's** Self Assessment Return following the issue of a Notice under

- S9A or S12AC of the Taxes Management Act 1970; or
- Paragraph 24(1) Schedule 18 Finance Act 1998 together with a request to examine all of your **Designated Client's** business books and records.

(ii) Personal Self Assessment Full Enquiry
A Full Enquiry by HMRC into your **Designated Client's** Self Assessment Return following the issue of a Notice under

- S9A of the Taxes Management Act 1970 into their non-business tax affairs, for example into rental income and/or interest received.

This will be accompanied with a request to examine all of the prime documents.

(iii) Income Tax Self Assessment Aspect Enquiry
An Enquiry by HMRC which is restricted to one or more specific aspects of your **Designated Client's** Self Assessment Return following the issue of a Notice under

- S9A or S12AC of the Taxes Management Act 1970.

(iv) Corporation Tax Self Assessment Aspect Enquiry
An Enquiry by HMRC which is restricted to one or more specific aspects of your **Designated Client's** Self Assessment Return following the issue of a Notice under

- Paragraph 24(1) Schedule 18 Finance Act 1998.

(v) Employer Compliance Dispute

- A Dispute which takes place after HMRC have indicated an expression of dissatisfaction with the **Designated Client's** PAYE, CIS, and/or NIC affairs following an Employer Compliance visit by HMRC or following an expression of dissatisfaction with the **Designated Client's** P11Ds or P9Ds

(vi) IR35 Dispute
A Dispute which takes place when HMRC challenge the status of a **Designated Client's** contract for services and invokes the IR35 legislation following either

- the issue of a Notice under Paragraph 24(1) Schedule 18 Finance Act 1998; or
- an HMRC Employer Compliance visit; or the issue of a 'Check of Employer Records Letter'.

(vii) VAT Dispute
A Dispute which takes place

- following a VAT control visit where a written decision, assessment or statement of alleged arrears is received from HMRC into your **Designated Client's** Value Added Tax Return; or
- following the receipt of a notice of VAT default surcharge, misdeclaration or late registration penalty.

(viii) Schedule 36 Pre Dispute
A written request by HMRC under Sch36 FA2008 to inspect business records, assets or premises, including

- inspections undertaken to ensure compliance with VAT and PAYE regulations
- inspections undertaken in relation to the operation of the Construction Industry Scheme.

In the case of a personal taxpayer a request for the production of documentation to check their Income Tax position.

(ix) Code of Practice 8 Enquiries
HMRC Enquiries commenced under S9A or 12AC of TMA 1970 or Paragraph 24 (1) Schedule 18 FA 1998 accompanied by and conducted under HMRC's Code of Practice 8 procedures. Provided that at conclusion of the enquiry no material omissions were identified and/or the **Designated Client** was not found guilty of fraud or any fraudulent intent.

(x) National Minimum Wage Pre Dispute
A written request by HMRC to inspect/check business records, including

- inspections undertaken to ensure compliance with the National Minimum Wage Act
- requests for documents and particulars prior to the issue of an assessment of arrears or notice of underpayment

(xi) Inheritance Tax Enquiries
Enquiries by HMRC into Inheritance Tax Returns submitted to Capital Taxes Office, including

- matters relating to the periodic and proportionate charges applying to Trusts
- Returns in respect of Estates of Deceased Persons provided the **Policyholder** holds a Probate License and submitted the IHT Return.

Insurers
Markel International Insurance Company Limited, 20 Fenchurch Street, London EC3M 3AZ bound pursuant to a binding authority with Abbey Protection Group Limited. Unique market reference B6027APG2014001 (or renewal or replacement thereof).

Insured Incident
An Enquiry, Dispute, inspection or check as listed in **HMRC Enquiries and Disputes** for which professional representation is required.

Policyholder
An accountant or firm of accountants or other appropriately qualified person as specified in the Schedule to this Policy.

Professional Expenses

The fees and expenses reasonably incurred by the **Designated Agent** in connection with a claim, with the exception of costs incurred during the process of making the claim, including those incurred by **Insurers** on behalf of the **Policyholder** in connection with the claim.

In Aggregate
The total amount that can be claimed for any one **Designated Client** during the period of insurance, as specified on the Schedule.

Tax Investigations Service
The service provided by the **Policyholder** for the benefit of **Designated Clients** in order to deal with **HMRC Enquiries and Disputes**.

Territorial Limits
Enquiries and Disputes undertaken by HMRC into tax returns processed through the UK tax system.

Cover

Insurers will pay **Professional Expenses** incurred by the **Designated Agent** as a result of any **HMRC Enquiry and Dispute**, as specified in the Schedule, into the **Designated Client** within the **Territorial Limits** and which is notified to **Abbey Tax** during the period of insurance in connection with representation of the **Designated Client**, including an **Appeal**, in order to respond to HMRC's requests and allegations;

provided that:

a) the **Policyholder** has submitted the most recent Self Assessment Return on the **Designated Client's** behalf, irrespective of whether this is the Return which is subject to Enquiry; if not then the **Policyholder** must have paid over the relevant premium and provide **Abbey Tax** with documentary evidence that the **Designated Client** was a client of the **Policyholder** before the **HMRC Enquiry and Dispute** commenced i.e. by evidence of a 64-8 being registered with HMRC;
b) **Insurers** have given prior consent to an **Appeal**;
c) the **HMRC Enquiry or Dispute** relates to Corporation Tax, Income Tax, Capital Gains Tax, Inheritance Tax, Student Loan Repayments, PAYE, Construction Industry Scheme or VAT liabilities;

Limits of Insurers' Liability

The maximum liability of **Insurers** under this Policy shall be limited to the respective amounts specified in the Schedule in respect of:

A. **Any One Claim** and **In Aggregate** in respect of any one **Designated Client** in the period of insurance;
B. **Income Tax and Corporation Tax Self Assessment Aspect Enquiries** where an initial amount ("Excess") shall be borne by the **Designated Client**;
C. **Income Tax and Corporation Tax Self Assessment Aspect Enquiries** where a lower limit of liability ("Inner Limit") may apply;
D. **Schedule 36 Pre Dispute** cover where a lower limit of liability ("Inner Limit") may apply;
E. **National Minimum Wage Pre Dispute** cover where a lower limit of liability ("Inner Limit") may apply;
F. **Inheritance Tax Enquiries** where a lower limit of liability ("Inner Limit") may apply;
G. **Code of Practice 8 Enquiries** where a lower limit of liability ("Inner Limit") may apply;
H. Maximum hourly charge out rates agreed for the period of insurance

Exclusions

Insurers will not be liable to provide indemnity in respect of:

1. any claim made, brought or commenced outside the **Territorial Limits**;
2. any claim where the **Professional Expenses** are capable of being reimbursed under any other policy or certificate;
3. any incident, cause or event occurring prior to or existing at inception of this Policy, or at the time an **Designated Client** was declared for membership of the **Tax Investigations Service** which the **Policyholder** and/or **Designated Client** knew, or ought reasonably to have known, was likely to give rise to a claim;
4. an Enquiry under Public Notice 160 or Section 60 of the VAT Act 1994 or any matters handled by HMRC Specialist Investigations, Fraud Investigation Service, Civil Investigations of Fraud, Counter Avoidance and Criminal Investigations Sections. Also Code of Practice 9 cases and/or the

defence of any tax and/or criminal prosecution;

5. any claim made where:

(a) Income Tax or Corporation Tax Self Assessment Returns are submitted more than 90 days after the statutory time limits, except where HMRC accept that a reasonable excuse existed for the delay; or

(b) a **Designated Client** has not notified chargeability to tax to HMRC within the statutory time limits for doing so; or

(c) a Return is submitted at the final filing date which contains provisional figures in respect of all of the trading income and expenditure;

6. an investigation arising out of a voluntary disclosure made to HMRC in respect of omitted tax, NIC or VAT liabilities which become due as a result of a **Designated Client's** deliberate act or following an HMRC campaign where the **Designated Client** has made an incorrect Return to HMRC;

7. **Professional Expenses** incurred before the written acceptance of a claim by **Abbey Tax**;

8. taxes, fines, interest or any other duties or penalties imposed or assessed upon the **Policyholder**, **Designated Agent** or **Designated Client** by any revenue authority, court or Tribunal;

9. any Dispute arising under the National Minimum Wage Act 1998 or Enquiries from HMRC and/or Department of Work and Pensions into a claim made by an **Designated Client** under the Tax Credits Act 2002;

10. the cost of preparing and reconciling Returns, accounts, records or any other statutory returns, and the cost of professional valuations to support them. To include the reconciliation of VAT Returns to accounts, Construction Industry Scheme (CIS) Returns and Real Time Information (RTI) payment submissions.

11. **Professional Expenses** incurred in respect of:

(a) any HMRC Enquiry into a tax planning arrangement where HMRC has allocated a Disclosure of Tax Avoidance Scheme (DoTAS) Number for inclusion on the relevant Self Assessment Return or where a DoTAS Number would have been issued but for the failure to notify HMRC of the tax planning arrangement; or

(b) any matter relating to bespoke tax planning outside of the normal trade such as film partnerships or film schemes, or planning involving artificially created losses or loan arrangements; or

(c) cases referred to the General Anti-Abuse Rules panel.

General Conditions

1. Due Observance

The **Policyholder** must comply with all the terms of this Policy.

2. Cancellation

The insurance element of the contract under the terms of the Policy can be cancelled in writing at any time by the **Policyholder**, although **Abbey Tax's** margin for claims handling, advice and management costs is not refundable. Any refund will be calculated on a pro-rata basis but there can be no refund of premium if the **Policyholder** has notified a claim to **Abbey Tax** during the period of insurance. This Policy may also be cancelled by **Insurers** giving 30 days notice to the **Policyholder** and the premium shall be adjusted on the basis of **Insurers** receiving or retaining pro-rata premium.

3. Disagreements

In the event of any disagreement between the **Policyholder** and **Abbey Tax** acting on behalf of **Insurers**, both parties shall agree to the appointment of a suitably qualified referee to decide the matter. If there is no agreement on a referee, an appropriately qualified person shall be appointed by the President of the Chartered Institute of Arbitrators. The referee's fees shall be paid by the party against whom the decision is made but if the decision is not clear the referee shall have the power to apportion costs. The **Policyholder's** costs in preparation for and representation at meetings with the referee shall not be recoverable under this Policy.

4. Resignation of the Designated Client

If the **Designated Client** ceases to be a client of the **Policyholder** prior to or during the course of any claim or proceedings, **Insurers** will deny or withdraw cover.

5. Insolvency

If the **Policyholder** becomes insolvent during the course of any claim or legal proceedings to which **Insurers** have consented, **Insurers** shall reserve the right to appoint an alternative **Designated Agent**.

In the event of a **Designated Client** becoming insolvent during the course of any claim or legal proceedings to which **Insurers** have consented, **Insurers** reserve the right to withdraw the consent for the **Designated Agent** to continue to act under the terms of this Policy.

Where the **Policyholder** or the **Designated Client** enter into a voluntary liquidation and an office holder or receiver within the meaning given by the Insolvency Act 1986 or the Companies Act 2006 is appointed, **Insurers** reserve the right to withdraw consent for the **Designated Agent** to continue to act under the terms of this Policy.

6. Minimising Claims or Proceedings

The **Policyholder** must take all reasonable measures to minimise the likelihood of a claim being made under this Policy and take all reasonable steps to minimise the cost of any claim.

Insurers reserve the right to withdraw cover in the event the **Designated Client** has not co-operated fully with the **Policyholder** and/or the **Designated Agent** or provided them with a full and truthful account of the facts, including providing all relevant documentary evidence in their possession.

The **Policyholder** shall ensure that the **Designated Client** provides or obtains all documents as necessary and attends meetings when requested. In the case of a corporate **Designated Client** where records and books of account have not been kept in accordance with the Companies Act 2006 **Insurers** reserve the right to deny the **Policyholder's** cover in respect of this **Designated Client**.

7. Data Protection Act 1998

It is agreed by the **Policyholder** that any information provided to **Abbey Tax** or the **Insurer** regarding the **Policyholder** will be processed by **Abbey Tax** or the **Insurer** in compliance with the provisions of the Data Protection Act 1998 for the purposes of providing insurance and handling claims, if any, which may necessitate providing such information to third parties.

8. Proper Law

The parties are free to choose the law applicable to this insurance contract. Unless specifically agreed to the contrary this insurance shall be subject to the Laws of England and Wales. All Acts of Parliament referred to in this Policy shall include any subsequent amendments, re-enactments or regulations and equivalent legislation enforceable within the **Territorial Limits**.

9. Period of Insurance

The dates as specified in the Schedule to this Policy and for which the premium has been paid.

Claims Settlement Conditions

1. Insurers' Consent

Insurers' written consent must be obtained by the **Policyholder** before incurring **Professional Expenses**. This consent will be given provided **Abbey Tax** is satisfied that there are reasonable grounds for representation and/or there are reasonable prospects of disputing HMRC's decision or allegations. In Employer Compliance, IR35 or VAT Disputes, unless **Schedule 36 Pre Dispute** cover has been taken out, a request for further information following an audit or control visit does not constitute a Dispute; there must be a challenge into the **Designated Client's** treatment of any tax, NIC or VAT matter.

The **Policyholder's** and/or the **Designated Agent's** opinion will be taken into account in determining the prospects of success. In the event the **Policyholder** elects to proceed following **Insurers'** denial of the claim on the grounds of lack of prospects and, if the **Policyholder** and/or the **Designated Agent** is successful, cover will be provided as if consent had been given at the outset subject to the terms and conditions of this Policy and the reasonable incurred **Professional Expenses** will be paid.

Insurers' consent is an undertaking to provide cover to the **Policyholder** subject to the terms and conditions of this Policy and its Schedule but does not imply that all **Professional Expenses** will be paid. Routine presentation of the **Designated Client's** affairs and expenses incurred which go beyond the immediate scope of the claim or proceedings fall outside the cover provided by this Policy.

Consent shall be withdrawn and cover denied in the event of facts becoming known which show that a particular claim should not have been brought under the terms and conditions of this Policy and Schedule. If the **Policyholder** or **Designated Agent** makes a fraudulent or false claim or request for payment, this Policy shall become void, any premiums shall be forfeited and any payments made shall be recoverable by **Insurers**.

2. Claims Procedure

(a) Duty to Notify

Abbey Tax must be advised in writing immediately the **Policyholder** becomes aware of any incident, cause or event which has or is likely to give rise to a claim under this Policy. Failure to notify during the period of insurance may lead to the claim being denied.

(b) Initial Consent

In the event of a likely claim the **Policyholder** must complete a claim form and send this to **Abbey Tax** together with all relevant information/documentation required to process the claim. **Abbey Tax** will then advise in writing whether **Insurers'** consent has been given. Where consent is given **Abbey Tax** will also provide the **Policyholder** with an initial reserve to incur **Professional Expenses**; this reserve should not be exceeded without further consent or payment beyond this figure may be denied.

(c) Designated Agent

The **Designated Agent** will normally be the **Policyholder** who is specified in the Schedule to this Policy, but prior written approval from **Abbey Tax** must be obtained if any **Designated Agent** other than the **Policyholder** is required to act. **Insurers** will be entitled to obtain from the **Policyholder** and/or the **Designated Agent** any information or particulars, whether privileged or not, relating to a claim. On request the **Policyholder** will ensure that the **Designated Client** will give to the **Designated Agent** any instructions necessary to secure the required access.

(d) Meetings

Attendance at meetings is normally limited to one attendee of the **Designated Agent** unless more than one area of tax, i.e. Self Assessment/VAT/IHT/PAYE/NIC is involved. **Abbey Tax** will agree for additional technical advisors to attend where appropriate provided prior approval is obtained.

(e) Payment of Professional Expenses

In the event of an **HMRC Enquiry**, **Dispute** or **Appeal**, payment of the **Professional Expenses** properly incurred on behalf of the **Designated Client** can be made to the **Designated Agent** provided that **Abbey Tax** is satisfied that the charges are reasonable. It will be the **Policyholder's** responsibility to recover any costs not covered under this Policy from the **Designated Client**. Payment of interim bills will also be made provided that the **Policyholder** acknowledges that **Insurers** may be entitled to recover such payments should the terms of this Policy be breached and **Insurers'** consent be withdrawn. If requested, the **Designated Agent** must submit the bill of costs for taxation or audit.

(f) Settlement by Insurers

Where **Professional Expenses** are likely to exceed the duties which are being claimed by HMRC, **Insurers** may pay the **Policyholder** a sum equivalent to the duties instead of **Professional Expenses** or further **Professional Expenses**.

(g) Recovery of Costs

Where it is possible to recover costs from HMRC following the successful defence of a claim, the **Policyholder** must take all steps necessary to require the **Designated Client** to recover costs and must pass all such recoveries in full to the **Policyholder** who in turn must pass on the full recoveries to **Abbey Tax** for **Insurers**.

Complaints

Abbey Tax and the **Insurer** are dedicated to providing a high quality service and want to ensure they maintain this at all times. If you are not satisfied with any part of the service you have received then you should contact **Abbey Tax** who will do their best to resolve the problem.

In the first instance please contact:

The Customer Services Manager Abbey Tax
One Mitchell Court, Castle Mound Way, Rugby CV23 0UY
Tel: 0345 223 2727

Complaints can also be made online via the website www.abbeytax.co.uk

In the event you wish to pursue matters further you may be able to refer the matter to The Financial Ombudsman Service.

The Financial Ombudsman Service
Exchange Tower, Harbour Exchange Square, London E14 9SR
Tel: 0800 023 4567 Switchboard: 020 7964 1000
Website: www.financial-ombudsman.org.uk

Financial Services Compensation Scheme

The **Insurer** is covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation up to 90% of the claim in the unlikely event the **Insurer** cannot meet its obligations. Further information about compensation arrangements is available from the FSCS.

Communications

Initial notification of a claim must be made in writing by first class post, facsimile, email or via the Abbey Portal, and be received by **Abbey Tax** within the period of insurance by addressing it to:

Abbey Tax
One Mitchell Court, Castle Mound Way, Rugby CV23 0UY
Fax: 0345 223 2728
Email: claims@abbeytax.co.uk
Website: www.abbeytax.co.uk

All notices and communications from **Insurers** or their representatives to the **Policyholder** shall be deemed to have been duly sent if sent to the **Policyholder** or **Designated Agent** at an address stated in the Schedule (or any endorsement).

All notices and communications from the **Policyholder** or the **Designated Agent** to **Insurers** shall be deemed to have been duly sent if sent to **Abbey Tax** at the address above.

Abbey Tax is a trading division of Abbey Tax and Consultancy Services Limited (ATCS); registered office, 20 Fenchurch Street, London EC3M 3AZ, registered in England and Wales No. 08246256. VAT number. 245 7363 49. ATCS is an appointed representative of Abbey Protection Group Limited, which is authorised and regulated by the Financial Conduct Authority in respect of insurance mediation activities only. Markel Corporation is the ultimate holding company for ATCS.

Abbey Tax
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