



PROFESSIONAL INDEMNITY INSURANCE POLICY PROPERTY PROFESSIONALS

IN CONSIDERATION of the **INSURED** hereto having paid to **INSURERS** the premium set forth in the Schedule, **INSURERS** HEREBY AGREE to provide the insurance described in this Policy of Insurance for the **PERIOD OF INSURANCE** subject to all the terms and conditions contained herein or endorsed hereon.

PROVIDED THAT:

- a) the total liability of **INSURERS** shall not exceed the **LIMIT OF INDEMNITY** or such other limits of indemnity as may be substituted therefor by memorandum hereon or attached hereto
- b) this Policy, the Schedule (including any Schedule issued in substitution) and any Memoranda shall be considered one document and any word or expression to which a specific meaning has been attached shall bear such meaning wherever it appears
- c) where there is more than one insurer, insurers' obligations under this Policy are several and not joint and are limited solely to the extent of their individual subscriptions. 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 hereunder.

INSURING CLAUSES

INSURERS agree:

1. CIVIL LIABILITY

To indemnify the **INSURED** against any **LOSS** arising from a **CLAIM** first made against them during the **PERIOD OF INSURANCE** in respect of any civil liability incurred in the course of any **PROFESSIONAL BUSINESS**

The foregoing indemnity includes liability which the **INSURED** may incur in respect of any **CLAIM** first made against the **INSURED** during the **PERIOD OF INSURANCE** as a result of:

- i. any decision by an adjudicator appointed to resolve a dispute in accordance with the Scheme for Construction Contracts as contained in the Housing Grants Construction and Regeneration Act 1996 or an adjudication clause or rules contained in a contract.
- ii. any award by an arbitrator or tribunal of arbitrators (whether under The Royal Institute of Chartered Surveyors Dispute Resolution Service or otherwise).

2. OMBUDSMAN AWARDS

To indemnify the **INSURED** against amounts payable and/or the cost of taking any steps which the **INSURED** is required to take in relation to a complainant by way of any binding award or determination made against the **INSURED** by any **OMBUDSMAN** for any **CLAIM** first made against the **INSURED** and notified to **INSURERS** during the **PERIOD OF INSURANCE** which arises in the course of any **PROFESSIONAL BUSINESS** carried on by or on behalf of the **INSURED**, provided always that the **OMBUDSMAN** has acted within any terms of reference or rules applicable to their appointment to the same extents as **INSURERS** are obliged to indemnify the **INSURED** in respect of any civil liability.

The liability of **INSURERS** under this clause for any single award or any series of awards attributable to the same originating cause shall not exceed GBP 250,000 which shall be included and not in addition to the **LIMIT OF INDEMNITY**.

Where the **OMBUDSMAN** makes an award which is rejected by the claimant who then pursues the matter through the courts, both the complaint to the **OMBUDSMAN** and all subsequent court proceedings shall be treated as a single **CLAIM** made at the date of the first **CLAIM** against the **INSURED**.

3. DEFENCE COSTS AND EXPENSES

To indemnify the **INSURED** in respect of all reasonable costs and expenses incurred with the prior written consent of **INSURERS** in the defence or settlement of any **CLAIM** which falls to be dealt with under Insuring Clause 1 or 2 of this Policy, provided that if a payment in excess of the **LIMIT OF INDEMNITY** has to be made to dispose of such a **CLAIM**, the liability of **INSURERS** for such costs and expenses shall be of such proportion hereof as the **LIMIT OF INDEMNITY** bears to the amount paid to dispose of that **CLAIM**.

4. FIDELITY

To indemnify the **INSURED** against their own direct loss or losses which, during the **POLICY PERIOD**, they shall discover they have sustained by reason of any dishonesty or fraud of any present or past **EMPLOYEE** provided always that:

- a) such dishonest or fraudulent act(s) are carried out by the person(s) concerned with the manifest intent to cause such loss to the **INSURED** or to obtain improper personal gain either for themselves or in collusion with others,
- b) any dishonesty or fraud committed by a person or persons acting in concert shall for the purposes of this Policy be treated as giving rise to one loss and one claim,
- c) such loss or losses shall include indemnity for accountants' fees incurred as a result of such loss, with the prior written consent of **INSURERS**, up to GBP 15,000 in the aggregate during the **PERIOD OF INSURANCE** which shall be included and not in addition to the **LIMIT OF INDEMNITY**,
- d) The annual accounts have been prepared and/or certified by an independent accountant or auditor in accordance with the RICS Rules of Conduct and the client accounts, where applicable, have been kept in accordance with those Rules.

5. LOSS OF DOCUMENTS

To indemnify the **INSURED** against reasonable costs and expenses necessarily incurred by the **INSURED** with the prior written approval of **INSURERS** in replacing or restoring **DOCUMENTS** either the property of or entrusted to or lodged or deposited with the **INSURED(s)** named in the Schedule, having been discovered during the **PERIOD OF INSURANCE** to have been destroyed, damaged, lost or mislaid and which after diligent search by the **INSURED** cannot be found provided that:

- a) in respect of any computer systems records a back- up copy has been made and stored separately off site
- b) the liability of **INSURERS** for such costs and expenses shall not exceed GBP 50,000 for any one claim and GBP 150,000 in the aggregate during the **PERIOD OF INSURANCE** which shall be included and not in addition to the **LIMIT OF INDEMNITY**.

6. DATA PROTECTION PROSECUTION DEFENCE COSTS

To indemnify the **INSURED** in respect of costs and expenses incurred with the prior written consent of **INSURERS** in the defence of any criminal proceedings brought against the **INSURED** during the **PERIOD OF INSURANCE** arising out

of any alleged offence under The Data Protection Act 1998 and the General Data Protection Regulation (GDPR) (EU) 2016/679 or similar or successor legislation provided that:

- a) such alleged offence arises out of the course of **PROFESSIONAL BUSINESS** and
- b) the liability of **INSURERS** for any such costs and expenses shall not exceed GBP 100,000 in the aggregate in any **PERIOD OF INSURANCE** which shall be included and not in addition to the **LIMIT OF INDEMNITY**.

7. LEGAL REPRESENTATION COSTS

To indemnify the **INSURED** in respect of costs and expenses incurred with the prior written consent of **INSURERS**, which are not otherwise indemnified as costs and expenses under Insuring Clause 3, for representation at any properly constituted hearing, tribunal or proceeding having the power to compel the attendance of the **INSURED** notified to **INSURERS** during the **PERIOD OF INSURANCE** provided that :

- a) **INSURERS** reasonably believe that representation could protect the **INSURED** against a **CLAIM** or loss or assist the **INSURED** in the defence of any subsequent or concurrent **CLAIM**, which would otherwise be covered under the Policy and
- b) the liability of **INSURERS** for any such costs and expenses shall not exceed GBP 100,000 in the aggregate in any **PERIOD OF INSURANCE** which shall be included and not in addition to the **LIMIT OF INDEMNITY**

8. COMPENSATION FOR COURT ATTENDANCE

To compensate the **INSURED** in the event of:

- a) the legal advisers acting on behalf of the **INSURED** with the consent of **INSURERS** requiring any **DIRECTOR, PARTNER**, principal of the **INSURED** or **EMPLOYEE** to attend any court tribunal arbitration adjudication mediation or other hearing as a witness or
- b) **INSURERS** requesting the attendance of any **DIRECTOR, PARTNER**, principal of the **INSURED** or **EMPLOYEE** as an interested party at any mediation in connection with a **CLAIM** made against the **INSURED** and notified under this Policy

INSURERS will provide compensation to the **INSURED** at the following rates for each day on which attendance is required:

- a) **DIRECTORS, PARTNERS** or principals of the **INSURED** GBP 250
- b) **EMPLOYEES** GBP 100
- c) Other relevant parties up to GBP 250

9. ESTATE AGENTS AND HEALTH AND SAFETY LEGISLATION

To indemnify the **INSURED** for costs and expenses incurred with the prior written consent of **INSURERS**, in the defence of any potential or actual criminal proceedings brought against the **INSURED** and notified during the **PERIOD OF INSURANCE**, under the

- a) The Consumer Protection from Unfair Trading Regulations 2008; and/or
- b) The Business Protection from Misleading Marketing Regulations 2008; and/or
- c) Estate Agents Act 1979, and/or
- d) The Health and Safety at Work etc Act 1974, and/or

- e) The Health and Safety at Work (Northern Ireland) Order 1978, and/or
- f) The Construction (Design and Management) Regulations 2015, and/or
- g) The Corporate Manslaughter and Corporate Homicide Act 2007 and/or
- h) The Bribery Act 2010; and/or

or similar prior or successor legislation, provided that :

- a) **INSURERS** reasonably believe that representation could protect the **INSURED** against a **CLAIM** or loss or assist the **INSURED** in the defence of any subsequent or concurrent **CLAIM**, which would otherwise be covered under the Policy and
- b) the liability of **INSURERS** for any such costs and expenses shall not exceed GBP 100,000 in the aggregate in any **PERIOD OF INSURANCE** which shall be included and not in addition to the **LIMIT OF INDEMNITY**

EXCESS CLAUSE

- a) **INSURERS** shall only be liable for that part of each and every claim made under the Policy which exceeds the **EXCESS**.
- b) It is understood and agreed that if any payment is incurred by **INSURERS** which is the responsibility of the **INSURED**, then such amount shall be reimbursed to **INSURERS** by the **INSURED** forthwith on demand.
- c) The **EXCESS** shall be as specified in the Schedule for Insuring Clauses 1, 2 4, 9 and 11. The Excess shall apply to each and every **LOSS** arising from a **CLAIM** made against the **INSURED** in respect of Insuring Clauses 1 and 11, each and every award or determination under Insuring Clause 2, each and every loss in respect of Insuring Clause 4 and each and every award made by an arbitrator under Insuring Clause 9.
- d) the **EXCESS** shall not be applicable to costs and expenses payable under Insuring Clause 3 in respect of any **CLAIM** which falls to be dealt with under Insuring Clause 1, 2 or 11.
- e) In respect of Insuring Clauses 5, 6, and 7 the **EXCESS** shall be GBP 1000 which shall apply to each and every loss under Insuring Clause 5, each and every prosecution under Insuring Clause 6 and each and every hearing, tribunal or proceeding under Insuring Clause 7.
- f) In respect of Insuring Clause 8 the **EXCESS** shall be nil
- g) In respect of Insuring Clause 10 the **EXCESS** shall be GBP 1000 which shall apply to each and every prosecution

SPECIAL CONDITIONS

FAILURE TO MAKE A FAIR PRESENTATION

Notwithstanding the statutory remedies available to **INSURERS** in the event of a qualifying breach of the duty of **FAIR PRESENTATION**, **INSURERS** will not rely on any qualifying breach to avoid the Policy where:

- a) the qualifying breach was neither deliberate nor reckless; and
- b) the **INSURED** agrees to (i) pay additional Premium requested by the **INSURERS**, if any, and (ii) any additional policy terms; and

- c) where the **INSURED** should have notified a **CLAIM** or **CIRCUMSTANCE** or loss which might give rise to a claim to:
- i. the insurer on risk during any period of insurance prior to this **PERIOD OF INSURANCE**, or
 - ii. **INSURERS** during this **PERIOD OF INSURANCE** prior to obtaining an increase in the limit of indemnity, or other variation of terms,

INSURERS will indemnify the **INSURED** only to the extent the **INSURED** would have been indemnified under any more restrictive terms that would have been applied by either that insurer on risk prior to this **POLICY PERIOD**, or by **INSURERS** during this **PERIOD OF INSURANCE** prior to obtaining the increase in the limit of indemnity or variation of other terms.

In any case where there was no insurer on risk during a period of insurance prior to the **PERIOD OF INSURANCE**, no cover will be afforded under this Policy.

EXCLUSIONS

The Policy shall not indemnify the **INSURED** against:

1. Other Insurance

- a) any **CLAIM** or loss where the **INSURED** is entitled to indemnity under any other Insurance(s) (except in respect of any excess beyond the amount which would have been payable under such Insurance had this Policy not been effected), or
- b) any claim which should be indemnified by a more specific policy of insurance

2. Prior Awareness

- a) any **CLAIM** or **CIRCUMSTANCE** or loss which has been notified under any policy of insurance attaching prior to the inception of this Policy and accepted as notified by the insurer of that Policy, or
- b) any **CLAIM** or **CIRCUMSTANCE** or loss which was known to the **INSURED** or which should have been known to the **INSURED** at the inception of this Policy

3. Employment

- a) any **CLAIM** or loss arising out of any dispute between the **INSURED** and any present or former **EMPLOYEE** or any person who has been offered employment with the **INSURED**, in connection with such employment,
- b) any **CLAIM** or loss arising out of the death of or bodily injury to or disease of or psychological injury to or emotional distress or anguish or shock or sickness of any **EMPLOYEE**

4. Death or Bodily Injury

any **CLAIM** or loss arising out of the death, disease, illness or bodily or mental injury (other than emotional distress arising from any libel or slander), of any person, unless directly arising from negligent advice, design, specification or omission to perform a professional duty in the course of the any **PROFESSIONAL BUSINESS** carried on by the **INSURED**

5. Property

- a) any **CLAIM** or loss arising out of the ownership, occupation, and/or control by the **INSURED** of any buildings, premises or land or that part of any building owned, leased, occupied or rented by the **INSURED**
- b) any **CLAIM** or loss arising out of loss of or damage to property, unless directly arising from negligent advice, design, specification or omission to perform a professional duty in the course of the any **PROFESSIONAL BUSINESS** carried on by the **INSURED**

6. Controlling Interest

any **CLAIM** brought by or on behalf of

- a) the **INSURED** or
- b) a firm, company or organisation controlling the **INSURED** or of which any director, partner or principal of the **INSURED** have control

unless such **CLAIM** originates from an independent third party

7. Joint Venture

- a) any joint venture conducted with any third party other than in respect of any **CLAIM** or loss arising from **PROFESSIONAL BUSINESS**
- b) any **CLAIM** made by the other party to the joint venture unless such **CLAIM** originates from an independent third party

8. Vehicles

any **CLAIM** or loss arising out of the use of any motor vehicles, aircraft, watercraft or hovercraft by the **INSURED**, or any party acting for or on behalf of the **INSURED**.

9. Dishonesty &/or Fraud

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

Furthermore, no indemnity shall be afforded to any person committing or condoning such dishonesty or fraud ; and in the event of a **CLAIM** or loss being sustained as a result of any dishonest or fraudulent act or omission, the amount of indemnity under this Policy shall be reduced by an amount equal to the sum of any monies which but for such dishonesty or fraud would be due to any person from the **INSURED** or any monies of such person held by the **INSURED**, shall be deducted from any amount payable under this Policy

10. Trading Losses

any **CLAIM** or loss arising out of any trading losses or trading liabilities incurred by any business managed or carried on by the **INSURED** including loss of any client account or business

11. Contractual Liability and Collateral Warranties

any **CLAIM** or loss arising out of liability assumed by the **INSURED** under any contractual agreement (including any collateral warranty or duty of care agreement) in respect of:

- a) any warranty or agreement under which the **INSURED** assumes a standard of care greater than the standard of reasonable skill and care normally expected in the **INSURED'S** profession

- b) any acceptance or guarantee of fitness for purpose
- c) any warranty or agreement which provides greater or longer lasting benefit than that given to the party with whom the **INSURED** originally contracted
- d) any express guarantee contractual penalty or liquidated damages in so far as liability assumed by the **INSURED** exceeds the amount of the **INSURED's** liability in the absence of such agreement

Notwithstanding this Exclusion **INSURERS** will indemnify the **INSURED** in respect of **CLAIMs** or defence costs arising out of liability assumed under the standard Warranty Agreements published by the British Property Federation the Construction Industry Council or the Scottish Building Contract Committee

12. Pollution

any **CLAIM** or loss (including loss of value) arising directly or indirectly from **POLLUTION** This Exclusion shall not apply where such **CLAIM** or loss arises from a negligent act, negligent error or negligent omission in the conduct of **PROFESSIONAL BUSINESS** carried on by or on behalf of the **INSURED** provided that **INSURERS** shall not be liable for any such **CLAIM** directly or indirectly resulting from **ENVIRONMENTAL AUDITS** carried out by the **INSURED**.

13. Territorial Limits

any **CLAIM** or loss arising out of work in connection with contracts carried out in the United States of America or Canada or their territories or possessions

14. Legal Jurisdiction (CLAIMs)

any legal proceedings brought against the **INSURED**:

- a) in the United States of America or Canada or their territories or possessions (whether for enforcement of judgement brought in another jurisdiction or otherwise) or in which it is contended that the laws of any country state or political sub-division of the United States of America or Canada or their territories and possessions Canada should apply; or
- b) outside the United States of America or Canada or their territories or possessions for the enforcement of judgement brought in the United States of America or Canada or their territories or possessions

15. Surveys Valuations (qualifications and experience)

any **CLAIM** or loss arising as a result of:

- a) any survey and/or any valuation unless it was undertaken by an appropriately experienced
- b) Fellow or Professional Member or Technical Member of the Royal Institution of Chartered Surveyors (RICS) or
- c) Fellow or Associate of the Incorporated Society of Valuers and Auctioneers (ISVA) or
- d) Fellow or Associate of the Architects and Surveyors Institute (ASI) or
- e) Fellow or Associate of the Faculty of Architects and Surveyors (FFAS) or
- f) Fellow or Associate of the Royal Institute of British Architects (RIBA) or
- g) Fellow or Associate of the Royal Incorporation of Architects in Scotland (RIAS) or

- h) person with not less than five years' experience of such work or
- i) a RICS Registered Valuer in accordance with the RICS Valuation Standards; or

any other person delegated by the **INSURED** to undertake such work as part of their training subject to the work being supervised by a person in any of categories i) to viii) above or prior written agreement having been obtained from **INSURERS**

16. Radiation

any **CLAIM** or loss whether directly or indirectly caused by, or contributed to, or arising from:

- a) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- b) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

17. Retroactive Date

any **CLAIM** or loss where the cause of such **CLAIM** or loss occurred or was alleged to have occurred prior to the Retroactive Date specified in the Schedule

18. Asbestos

liability arising directly or indirectly from the presence or release or possible presence or possible release of asbestos or asbestos containing materials in whatever form or quantity.

This exclusion shall not apply where such **CLAIM** or loss arises from a negligent act, negligent error or negligent omission in the conduct of **PROFESSIONAL BUSINESS** carried on by or on behalf of the **INSURED**, provided that:

- a) **INSURERS** shall not be liable for any such **CLAIM** or loss:
 - i. directly or indirectly resulting from **ASBESTOS SURVEYS** carried out by the **INSURED**
 - ii. arising out of or in any way involving death, bodily injury, disease, psychological injury, emotional distress, anguish, shock or sickness or fear of suffering death, bodily injury, disease, psychological injury, emotional distress, anguish, shock or sickness.
- b) The maximum amount payable in the aggregate in the **PERIOD OF INSURANCE** by **INSURERS** in respect of any such **CLAIMS** or losses shall not exceed the **LIMIT OF INDEMNITY FOR ASBESTOS** which shall be included and not in addition to the **LIMIT OF INDEMNITY**

19. Terrorism and War

liability arising directly or indirectly from Terrorism or War Risks

For the purposes of this exclusion:

- a) Terrorism means an act of any person acting on behalf of or in connection with any individual or organisation which carries out activities directed towards the overthrowing or influencing by force or violence of Her Majesty's government in the United Kingdom or any government de jure or de facto
- b) War Risks means war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection or military or usurped power,

If **INSURERS** allege that by reason of this exclusion, any **CLAIM**, cost or expense is not covered by this Policy the burden of proving the contrary shall be upon the **INSURED**

20. Market Fluctuation/Investment/Insurance/Financial Services Work

any **CLAIM** or loss:

- a) relating to the financial return of any investment or the depreciation or loss of investments when such financial return depreciation or loss is as a result of normal or abnormal fluctuations in any financial stock commodity or other markets,
- b) relating to any warranty or guarantee relating to the financial return of any investment,
- c) directly or indirectly arising out of any investment of, or direct advice on the investment of, third party funds,
- d) the effecting or maintenance of insurance and/or in connection with the provision of finance and/or advice on financial matters, or any arrangement fee(s), interest, or finance charges of whatsoever nature, that the **INSURED** may be obligated or liable to pay in connection with any bank loans, overdrafts, mortgages, or financial arrangements obtained by the **INSURED** for whatever reason,
- e) directly or indirectly arising out of, or in way involving **FINANCIAL SERVICES WORK**

21. Insolvency

any **CLAIM** or loss arising from or in any way connected with the insolvency of the **INSURED**

22. Fines Penalties and Punitive Damages

any taxes fines penalties punitive exemplary or aggravated damages where such damages have been identified separately within any award of a court or the multiple portion of any **CLAIM**

23. Goods and Products

any **CLAIM** or loss arising out of the supply of any goods by or on behalf of the **INSURED** or products manufactured constructed altered repaired treated sold supplied or distributed by or on behalf of the **INSURED**. This exclusion shall not apply to project models or displays.

24. Directors and Officers and Trustees Liability

any **CLAIM** against any **INSURED** in their capacity as a **DIRECTOR**, **MEMBER**, officer or trustee in respect of the performance or non-performance of their duties as a **DIRECTOR**, **MEMBER**, officer or trustee.

25. Virus Transmission

any **CLAIM** or loss arising out of the transmission, receipt or impact of any computer virus

26. Patent and Trade Secrets

any **CLAIM** or loss arising out of the infringement of any patent and/or use of any trade secret

27. Unauthorised Use of Personal Data

any **CLAIM** or loss arising out of any actual or alleged failure to obtain explicit agreement from any private individual before collecting, storing or sharing any of their personal information

28. Specialist Sub-contractors/Consultants

any **CLAIM** or loss arising out of any actual or alleged failure on the part of the **INSURED** to

- a) ensure that rights of recourse against specialist designers consultants or sub-contractors are not waived or otherwise impaired; and
- b) use reasonable endeavours to ensure that the specialist designers consultants or sub-contractors have in place Professional Indemnity Insurance cover to a limit of indemnity of at least a level equivalent to the **LIMIT OF INDEMNITY**.

29. Adjudication

- a) any decision made against the **INSURED** by an adjudicator who was not independent of the parties to the dispute
- b) any **CLAIM** arising out of or related to any adjudication arising from an adjudication clause in a contract which contains timetable provisions for adjudication which are more onerous to the **INSURED** than those contained in the Scheme for Construction Contracts referred to in the Housing Grants Construction and Regeneration Act 1996

30. Arbitration

any arbitration award (whether made under The Royal Institute of Chartered Surveyors Dispute Resolution Service or otherwise) made in respect of any **CLAIM** or counterclaim where the seat of the arbitration was located outside England, Wales, Scotland or Northern Ireland unless that seat was agreed to by **INSURERS**.

CONDITIONS

A. The following conditions 1-5 are Conditions Precedent to Indemnity

1. Admission of Liability

The **INSURED** shall not admit liability for, or settle, any **CLAIM** or **CIRCUMSTANCE**, or incur any costs or expenses in connection therewith, without the prior written consent of **INSURERS** (such consent not to be unreasonably withheld or unreasonably delayed) regardless of the provisions of any complaints handling procedure or whether the amount in dispute is less than the **EXCESS**.

INSURERS shall be entitled at any time to take over and conduct in the name of the **INSURED** the investigation or settlement of any such **CLAIM** and to conduct an investigation into **CIRCUMSTANCES**. Nevertheless neither the **INSURED** nor **INSURERS** shall be required to contest any legal proceedings unless a Queen's Counsel (to be mutually agreed upon by the **INSURED** and **INSURERS** or failing agreement to be appointed by the Chairman of the Bar Council) shall advise that, taking due account of the interests of both **INSURERS** and the **INSURED**, such proceedings should be contested with the probability of success. The costs of such an exercise shall be allocated by the agreed or appointed party on a fair and equitable basis.

2. Notification

2.1 The **INSURED** shall give to **INSURERS** as soon as reasonably practicable and in any event not later than 30 days after the end of the **PERIOD OF INSURANCE** details in writing of:

- i. any **CLAIM**, writ, summons and/or process relating to any **CLAIM** or previously notified **CIRCUMSTANCE** served upon them or made against them and/or
- ii. the discovery of any loss to them which is likely to be the subject of indemnity hereunder.

2.2. The **INSURED** shall give to **INSURERS** notice in writing as soon as reasonably practicable and in any event not later than 30 days after the end of the **PERIOD OF INSURANCE** of:

- i. any **CIRCUMSTANCE** or loss of which the **INSURED** shall first become aware during the **PERIOD OF INSURANCE**, the discovery of a reasonable cause for suspicion of dishonesty or fraud on

- the part of a present or past **DIRECTOR, PARTNER**, principal of the **INSURED, MEMBER** or **EMPLOYEE** whether potentially giving rise to a **CLAIM** or loss under this Policy or not,
- ii. the receipt by the **INSURED** of notice of the intention to institute proceedings (including, but not limited to, legal proceedings, dispute resolution proceedings or disciplinary proceedings) against the **INSURED** or requiring the **INSURED** to attend any hearing, tribunal or proceedings.

And provided notice has been given in accordance with this Condition then any subsequent **CLAIM** made against the **INSURED** or any subsequent loss discovered by the **INSURED** shall be deemed to have been made or discovered during the **POLICY PERIOD**.

3. Housing Grants, Construction and Regeneration Act 1996 ("the Act") or Adjudication Clause or Rules contained in a contract

3.1 Special provisions relating to Notification and Conduct

The Conditions of this Policy shall be extended to include the following:

- a) The **INSURED** shall as give notice to **INSURERS**, in the manner appearing below, within one working day of any of the following:
 - i. the receipt by the **INSURED** of any notice or intention to adjudicate ("**Adjudication Notice**");
 - ii. the service by the **INSURED** of any **Adjudication Notice** on any other party;
 - iii. upon the **INSURED** having reasonable grounds to believe that an **Adjudication Notice** may be served on them;

provided that, in each such case, the subject matter of the **Adjudication Notice** (or any part thereof) may, or does, give rise to a **CLAIM** against the **INSURED** which is likely to be indemnified under this Policy.

Notification pursuant to (i) above shall be effected only by notifying **INSURERS** within the specified timeframe.

- b) **INSURERS** shall be entitled to appoint solicitors and/or experts to handle any adjudication on behalf of the **INSURED** and **INSURERS** shall have the conduct of all indemnifiable matters relating to any such adjudication. Subject to the provisions of Condition 3.2 below and the application of any costs-inclusive **EXCESS** payable by the **INSURED**, **INSURERS** shall pay all costs and expenses incurred in the appointment of such solicitors and/or experts.
- c) The **INSURED** shall cooperate fully with **INSURERS** in relation to all matters that are required to be performed or done to comply with the requirements of the adjudicator and to respond to the matters referred to in the **Adjudication Notice**. The **INSURED** shall permit **INSURERS** and/or their appointed solicitors and/or experts immediate and unfettered access to all documents in the possession of the **INSURED** which are relevant to the subject matter of the **Adjudication Notice**. Without prejudice to the foregoing, the **INSURED** shall immediately provide to **INSURERS** the **Adjudication Notice**, the Referral Notice and all documents served thereunder.
- d) The **INSURED** shall not at any time without the written consent of **INSURERS** agree with any other party that an adjudication shall finally determine any dispute.
- e) The **INSURED** shall cooperate with **INSURERS** and take all practicable steps to assist **INSURERS** to pursue legal or arbitration or any other necessary proceedings to determine finally the matters referred to in the **Adjudication Notice** (or any part thereof) and/or to challenge the validity of any adjudicator's decision and/or to provide for any stay of proceedings in relation thereto.
- f) **INSURERS'** acceptance of any notification by the **INSURED** under these provisions and the instruction of solicitors and/or experts to handle any adjudication on the **INSURED's** behalf shall in all cases be

without prejudice to the Policy Terms and shall not be construed as a waiver by **INSURERS** of their rights to refuse indemnity to the **INSURED** in respect of any part of an adjudicator's decision which does not fall within the scope of the Insuring Clauses of this Policy.

3.2 Mixed Awards

- a) For the purposes of the Policy:
- i. "the **AWARD**" means the sum which the **INSURED** become liable to pay by reason of any adjudicator's decision; and
 - ii. "the **INSURED PART**" means that part of the Award which is covered under the Policy Terms and for which **INSURERS** are required to indemnify the **INSURED**.
- b) If only part of the **AWARD** is covered under the Policy Terms **INSURERS** shall only be required to indemnify the **INSURED** in respect of the **INSURED PART**.
- c) If the **INSURED PART** exceeds 50% of the **AWARD** **INSURERS** will pay all costs and expenses incurred in handling the adjudication.
- d) If the **INSURED PART** equals or is less than 50% of the **AWARD** **INSURERS** will pay only a rateable part of the costs and expenses incurred in handling the adjudication, to be calculated in the same proportion as the **INSURED PART** bears to the total amount of the **AWARD**.

3.3 Jurisdiction

Cover shall apply only to adjudications which take place pursuant to construction contracts entered into in the United Kingdom and which are subject to the appropriate United Kingdom law.

4. Co-operation

The **INSURED** shall give such full co-operation to **INSURERS** as they shall reasonably require.

5. Dishonesty and Fraud

5.1 The **INSURED** shall at the request and expense of **INSURERS** take all reasonable steps to obtain reimbursement from any person committing or condoning any dishonest or fraudulent act or omission or from their estates or legal representatives;

5.2 If the **INSURED** shall make any claim under this Policy fraudulently or knowing the same to be fraudulent as regards amount or otherwise,, **INSURERS** may recover from the **INSURED** any sums that **INSURERS** have already paid to the **INSURED** in respect of the fraudulent claim. **INSURERS** may by notice to the **INSURED** treat this Policy as terminated with effect from the date of the **INSURED'S** fraudulent act and need not return any of the premium paid.

B. The following conditions are General Conditions

6. Subrogation

INSURERS shall not exercise any right of subrogation in the name of any **INSURED** against any other **INSURED** unless liability has resulted in whole or in part from any act or omission on the part of such persons which is dishonest, fraudulent, criminal or malicious.

7. Series Clause

Where a series of **CLAIMS** or losses arise from a breach of or repeated breaches of a single duty or identical duties owed and arising from a single cause all **CLAIMS** and losses within that series shall for the purpose of the **LIMIT OF INDEMNITY** and the **EXCESS** under this Policy be treated as a single claim.

8. Legal Jurisdiction (Policy)

The proper law for the interpretation of this Policy is English Law. The Courts of England and Wales alone shall have jurisdiction for hearing and determining any litigation arising out of or in connection with the interpretation of this Policy and any arbitration proceedings shall be heard and determined solely in England and in accordance with English Law and procedure.

9. Arbitration Clause

Any dispute or difference arising under the terms of this Policy of Insurance between the **INSURED** and **INSURERS** shall be referred to either party for arbitration in accordance with the law and procedure of England and Wales to any person nominated by the President for the time being of the Royal Institution of Chartered Surveyors, whose decision shall be binding on both parties.

10. Contracts (Rights of Third Parties) Act 1999

With regard to the Contracts (Rights of Third Parties) Act 1999 the **INSURED** and **INSURERS** agree and acknowledge that:

- a) this Policy does not, and is not intended to, confer any enforceable rights upon any Third Party, notwithstanding that **INSURERS** may, or may not, have acknowledged the interest of any Third Party,
- b) the parties to this Policy are, subject to agreement between **INSURERS** and the **INSURED** at their sole discretion, entitled to alter, amend, or cancel this Policy without reference to, or seeking the consent of, any Third Party, notwithstanding that **INSURERS** may, or may not, have acknowledged the interest of any Third Party,
- c) in the event that any Third Party seeks to enforce the provisions of this Policy in proceedings, **INSURERS** will have available to them the same defences or right of set-off as though such proceedings had been brought by the **INSURED**.

11. Relinquish Control by Payment of Claim

In connection with any **CLAIM INSURERS** may at any time pay to the **INSURED** the **LIMIT OF INDEMNITY** less any sums already paid or any less amount for which such **CLAIM(S)** can be settled and thereupon **INSURERS** shall relinquish control of such **CLAIM(S)** and be under no further liability in connection therewith except for costs and expenses for which **INSURERS** may be responsible under this Policy in respect of matters prior to the date of such payment.

12. Premium Payment

The **INSURED** undertakes that the premium will be paid in full to **INSURERS** within 60 days of the inception date shown in the Schedule. If the premium due under this Policy has not been so paid to **INSURERS**, then **INSURERS** shall have the right to cancel this Policy ab initio.

It is agreed that **INSURERS** shall give not less than 14 days prior notice of cancellation to the **INSURED** in writing, via their broker, where applicable. If the premium due is paid in full to **INSURERS** before the notice period expires, notice of cancellation shall automatically be revoked

13. Adjudication

The **INSURED** agrees:

- a) subject to a reasonable request by **INSURERS** for permission, to permit **INSURERS** to pursue legal, arbitration or other proceedings in the name of and on behalf of the **INSURED** to challenge, appeal or amend any decision, direction, award or the exercise of any power of an adjudicator or to stay the enforcement of any decision, direction, award or exercise of any power of the adjudicator. The

INSURED will give all such assistance as **INSURERS** may reasonably require in relation to such proceedings;

- b) not to accept the decision of any adjudicator as finally determining the related dispute without the prior written consent (not to be unreasonably delayed or unreasonably withheld) of **INSURERS**.

14. Entity to act as Agent

All persons falling within the definition of the **INSURED** agree that the first **INSURED** named in the Schedule is their agent for all purposes in connection with this policy. This Policy may be varied or rescinded by agreement between **INSURERS** and this entity without the consent of any other person falling within the definition of the **INSURED** or otherwise.

15. Sanctions

INSURERS shall not be deemed to provide cover or be liable to pay any **CLAIM** or provide any benefit hereunder to the extent that the provision of such cover, payment of such **CLAIM** or provision of such benefit would expose **INSURERS** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

DEFINITIONS:

For the purpose of this Policy the following definitions are to apply:

1. ASBESTOS SURVEYS:

shall mean either a management survey or a refurbishment or demolition survey as described in HSG264 published by the Health and Safety Executive in connection with Regulation 4 of the Control of Asbestos Regulations 2006, or any comparable survey or inspection, whether of commercial or residential land or property.

2. CIRCUMSTANCE:

shall mean an incident, occurrence, fact, matter, act or omission that might give rise to a **CLAIM**

3. CLAIM:

shall mean a written or oral communication asserting a legal liability on the part of the **INSURED** or invoking any Pre-Action Protocols or a notice from any **OMBUDSMAN**

4. DIRECTOR :

shall have the meaning given by section 1173 of the Companies Act 2006 or any amendment or re-enactment thereof.

5. DOCUMENTS:

shall mean deeds, wills, agreements, maps, plans, records, books, letters, policies, computer system records, forms and documents of whatsoever nature whether written, printed or reproduced by any other method (other than bearer bonds, coupons, bank notes, currency notes and negotiable instruments).

6. EMPLOYEE:

shall mean any person, including any trainee or consultant, other than a **DIRECTOR, MEMBER, PARTNER** or principal in the **INSURED** named in the Schedule , who is or has been under a contract of service or apprenticeship with the **INSURED** named in the Schedule , whilst employed by and under the control of the **INSURED** in connection with the **PROFESSIONAL BUSINESS**

7. ENVIRONMENT AUDIT:

shall mean an investigation which is specifically intended to assess whether there is actual **POLLUTION** present

8. EXCESS:

shall mean the amount for which the **INSURED** is responsible under this Policy.

9. FAIR PRESENTATION:

shall have the same meaning as found in s.3(3) Insurance Act 2015 or similar or successor legislation.

10. FINANCIAL SERVICES WORK:

shall mean regulated activities as more fully described in the Financial Services and Markets Act 2000 or the Central Bank and Financial Services Authority of Ireland Act 2004 or similar or successor legislation and regulations made thereunder.

11. INSURED:

shall mean any of the following:

- a) the **INSURED** named in the Schedule and the predecessors in business of the said entity as disclosed to **INSURERS**
- b) those persons named in the last completed **PROPOSAL** and any other person or persons who have subsequently become **DIRECTOR(s)/PARTNER(s)/principal(s)/MEMBER(s)** in the **INSURED** named in the Schedule) prior to the expiry of the **POLICY PERIOD**,
- c) any former **DIRECTOR(s)/PARTNER(s)/principal(s)/MEMBER(s)** of the **INSURED** named in the Schedule for services performed for and on behalf of the **INSURED** named in the Schedule including **DIRECTOR(s)/PARTNER(s)/principal(s)/MEMBER(s)** remaining as consultants to the **INSURED** named in the Schedule ,
- d) any **EMPLOYEE**,
- e) any person who is or has been under a contract for services with the **INSURED** named in the Schedule , save that such person shall only be an **INSURED** for the purpose of this Policy if and insofar as any **CLAIM** arises out of **PROFESSIONAL BUSINESS** carried on by such person for or on behalf of the **INSURED** named in the Schedule ,
- f) the estates and/or legal representatives of any of the persons noted under b), c) d) or e) hereof in the event of their death, incapacity, insolvency, or bankruptcy,

12. INSURERS:

shall mean the Arch Insurance (UK) Ltd

13. LIMIT OF INDEMNITY:

shall mean the amount specified in the Schedule being the maximum amount payable irrespective of the number of claimants or number of **INSUREDS**

- a) under Insuring Clause 1 including for **CLAIMS** or losses arising out of **POLLUTION** where the **CLAIM** or loss arises from the **INSURED's** negligent structural design or specification or failure to report a structural defect in a property and relates solely to the cost of re-designing, re-specifying, remedying and/or rectifying the

defective structure (excluding costs and expenses payable under Insuring Clause 3) in respect of any one claim; or

- b) under Insuring Clause 2 or under Insuring Clause 1 in respect of any award or determination by any **OMBUDSMAN** (including costs and expenses payable under Insuring Clause 3) in respect of any one claim; or
- c) under Insuring Clause 4 in the aggregate in any **POLICY PERIOD**; or
- d) for CLAIMS or losses arising directly or indirectly out of **FINANCIAL SERVICES WORK**, (including costs and expenses payable under Insuring Clause 3) in the aggregate in any **POLICY PERIOD**; or
- e) for CLAIMS or losses arising out of **POLLUTION** other than as stated under a) above (including costs and expenses payable under Insuring Clause 3) in the aggregate in any **POLICY PERIOD**.

14. LIMIT OF INDEMNITY FOR ASBESTOS:

shall mean GBP250,000 being the maximum amount payable in the aggregate in any **PERIOD OF INSURANCE** (including costs and expenses payable under Insuring Clause 3) whether or not the **CLAIM** or loss also arises under any other Insuring Clause irrespective of the number of claimants or number of **INSUREDs** for **CLAIMS** or losses arising directly or indirectly from the presence or release or possible presence or possible release of asbestos or asbestos containing materials in whatever form or quantity where such **CLAIM** or loss arises from a negligent act, negligent error or negligent omission in the conduct of **PROFESSIONAL BUSINESS** carried on by or on behalf of the **INSURED**.

15. LOSS:

shall mean any and all damages, compensation and interest, including claimants' costs and expenses, payable by an **INSURED** whether by judgement, arbitration award or otherwise or agreed in any settlement.

16. MEMBER:

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

17. OMBUDSMAN:

shall mean any ombudsman appointed under any recognised scheme included but not limited to the Estate Agents Scheme.

18. PARTNER:

shall have the meaning given by the Partnership Act 1890

19. PERIOD OF INSURANCE:

shall mean the Period of Insurance specified in the Schedule.

20. POLLUTION:

shall mean contamination by naturally occurring or man-made substances, forces or organisms or any combination of them whether permanent or transitory and however occurring.

21. PROFESSIONAL BUSINESS:

shall mean

- a) professional services performed for or professional advice given to a third party by or on behalf of the **INSURED** in relation to the activities, declared in the **PROPOSAL**
- b) professional services performed or professional advice given by any **INSURED** whilst holding an individual appointment in respect of work connected with the **INSURED(s)** named in the Schedule where those services are undertaken by members of the Royal Institution of Chartered Surveyors or have otherwise been declared to **INSURERS** and (if a fee was charged) the fee with respect to such services or advice is taken into account in ascertaining the income of the **INSURED(s)** and has been disclosed to **INSURERS**

22. PROPOSAL

shall mean all the written information supplied by the **INSURED** in whatever format to **INSURERS** and/or any **STATEMENT OF FACT** document.

23. STATEMENT OF FACT

shall mean the document which provides details of the **INSURED** and all material information relevant to this Policy and assumptions made by **INSURERS** about material information which the **INSURED** is required to correct with **INSURERS** as soon as possible if incorrect.

PRIVACY NOTICE

Personal information

Your insurance cover may include cover for individuals who are either insureds or beneficiaries under the policy ("*individual insureds*"). We and other insurance market participants collect and use relevant information about individual insureds to provide you with your insurance cover and to meet our legal obligations.

Your Obligations

To enable us to use individual insureds' details in accordance with applicable data protection laws, we need you to provide those individuals with certain information about how we will use their details in connection with your insurance cover.

You agree to provide to each individual insured our personal information notice, which we have provided to you below, on or before the date that the individual becomes an individual insured under your insurance cover or, if earlier, the date that you first provide information about the individual to us.

You must promptly notify us if an individual insured contacts you about how we use their personal details in relation to your insurance cover so that we can deal with their queries.

Minimisation and notification

We are committed to using only the personal information we need to provide you with your insurance cover. To help us achieve this, you should only provide to us information about individual insureds that we ask for from time to time.

Personal information notice

The basics:

We collect and use relevant information about you, to provide the insurance cover that benefits you and to meet our legal obligations. This information includes details such as your name, address and contact details and any other information that we collect about you in connection with the insurance cover from which you benefit.

In certain circumstances, we may need your consent to process certain categories of information about you (including sensitive details such as information about your health and any criminal convictions you may have). Where we need your consent, we will ask you for it separately. You do not have to give your consent and you may withdraw your consent at any time. However, if you do not give your consent, or you withdraw your consent, this may affect our ability to provide the insurance cover from which you benefit and may prevent us from providing cover for you or handling your claims.

The way insurance works means that your information may be shared with, and used by, a number of third parties in the insurance sector for example, insurers, agents or brokers, reinsurers, loss adjusters, sub-contractors, regulators, law enforcement agencies, fraud and crime prevention and detection agencies and compulsory insurance databases. We will only disclose such information in connection with the insurance cover that we provide and to the extent required or permitted by law.

Depending on the circumstances, the use of your personal information may involve a transfer of data outside the UK and the European Economic Area to countries that have less robust data protection laws. We will endeavour to ensure that any such transfer is made with appropriate contractual safeguards in place.

We will not keep your information for longer than necessary. Under normal circumstances, this will be for no longer than seven years after the insurance cover that benefits you ends, though for some types of insurance, we may be required to retain data for longer due to our legal or regulatory obligations

Other people's details you provide to us:

Where you are providing us with personal information about a person other than yourself, you must provide this notice to them.

Where to find more details, contacting us and your rights:

You have rights in relation to the information we hold about you, including the right to access a copy of your information (and have this transferred to a third party) or request rectification of your information if it is inaccurate or incomplete. If you wish to exercise your rights or would like more details about how we use your personal information please see our full privacy notice, which is available online at www.archcapgroup.com or contact us using the details provided.