

# Pembroke

SYNDICATE 4000

**Specialist Risk Consultants  
Professional Indemnity  
and General Liability Insurance  
Policy Wording**

In consideration of the payment of the premium shown in the Schedule, and in reliance upon the statements made in the **Proposal Information** which is hereby agreed to be the basis of this **Policy** and which is incorporated into this **Policy** and forms a part hereof, the **Insurer** agrees, subject to the terms of this **Policy**, as follows:

### 1. INSURING CLAUSES

I) Specialist Risk Consultants Professional Liability

The **Insurer** shall indemnify the **Insured** for **Loss** and **Defence Costs** resulting from any **Claim** first made against the **Insured** by a **Third Party** during the **Policy Period** and notified by the **Insured** to the **Insurer** during the **Policy Period** arising from a negligent act, negligent error or negligent omission committed by the **Insured** solely in the provision of **Specialist Risk Consulting Professional Services**.

II) General Liability

The **Insurer** shall indemnify the **Insured** for **Loss** and **Defence Costs** resulting from any **Claim** first made against the **Insured** by a **Third Party** during the **Policy Period** and notified by the **Insured** to the **Insurer** during the **Policy Period** for **Bodily Injury** or **Property Damage** which is the direct result of an **Accident**, caused by or arising out of the **Insured's** negligent act, negligent error or negligent omission.

### 2. DEFINITIONS

For the purposes of this **Policy**, the terms in bold type shall have the meanings designated below.

- A. **Accident** means an external event or happening, which involves one or more persons or entities, and which results in **Bodily Injury** or **Property Damage** to such persons or entities and which arises directly from the activities of the **Insured**.
- B. **Auto** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment.  
**Auto** does not include or mean **Mobile Equipment**.
- C. **Bodily Injury** means physical injury, sickness, disease or death of any person, including any mental anguish or emotional distress resulting there from.
- D. **Bodily Injury By Disease** means physical injury, sickness, disease or death to any person, including any mental anguish or emotional distress resulting there from.
- E. **Claim** means a written demand by a **Third Party** for, or service of civil proceedings by a **Third Party** seeking, monetary damages. If a single written demand relates to a number of negligent acts, negligent errors or negligent omissions which do not fall for aggregation under this **Policy**, each demand for monetary damages shall each be deemed to be a **Claim** for the purposes

of this **Policy**. **Claims** directly related to the same act, error or omission shall be considered a single **Claim** for the purposes of this **Policy**.

- F. **Defence Costs** mean necessary and reasonable legal costs and expenses incurred with the **Insurer's** prior written consent in the investigation, defence or negotiation of the settlement of any **Claim** covered under this **Policy**. **Defence Costs** do not, however, include remuneration of any kind due to (or internal costs incurred by) the **Insured**.
- G. **Director** means any person who was, now is or shall become:
1. a director within the meaning given by section 250 of the Companies Act 2006; or
  2. an officer within the meaning given by section 744 of the Companies Act 1985,
- including the equivalent position in any other jurisdiction.
- H. **Employee** means any person, other than a **Director**, **Partner** or **Member** of the **Named Insured** or any **Subsidiary**, who is under a contract of service or apprenticeship with the **Named Insured** or any **Subsidiary**.
- I. **Impaired Property** means tangible property, other than the **Insured's Work**, that cannot be used or is less useful or less valuable because:
1. it incorporates the **Insured's Work** that is known or thought to be defective, deficient, inadequate or dangerous; or
  2. the **Insured** has failed to fulfil the terms of a contract or agreement;
- if such property can be restored to use or to its previous value by:
- i) the repair, replacement, adjustment or removal of the **Insured's Work**; or
  - ii) the **Insured** fulfilling the terms of the contract or agreement.
- J. **Insured** means any of:
1. the **Named Insured**;
  2. any **Subsidiary**;
  3. any **Insured Person**; or
  4. any heir, executor or administrator of any **Insured Person** who suffers death or incapacity, but only to the extent that indemnity was available to such **Insured Person** under this **Policy**.
- K. **Insured Contract** means:
1. a contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organisation for damage by fire to premises while rented to the

**Insured** or temporarily occupied by the **Insured** with permission of the owner is not an **Insured Contract**;

2. an obligation, as required by ordinance, to indemnify a municipality except in connection with work for a municipality;
3. that part of any other contract or agreement pertaining to the **Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Insured** assumes the tort liability of another party to pay for **Bodily Injury** or **Property Damage** to a third person or organisation. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

L. **Insured Person** means a person who was or now is a **Director, Employee, Member, or Partner** of the **Named Insured** or any **Subsidiary**, but only to the extent that such **Insured Person** is engaged in providing **Specialist Risk Consulting Professional Services** for and on behalf of the **Named Insured** or any **Subsidiary** and acting within the scope of his or her employment. **Insured Person** does not include agents, consultants, sub-contractors or independent professional advisors

M. **Insured's Work** means

1. work or operations performed by the **Insured** or on the **Insured's** behalf; and
2. materials, parts or equipment furnished in connection with such work or operations

and shall include:

- i) warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of such work or operations; and
- ii) the providing of or failure to provide warnings or instructions.

N. **Insurer** means the Lloyd's Syndicate or Syndicates and the Insurance Company or Companies as set out in the Table of Insurers.

O. **Loss** means the legal liability of the **Insured** to pay monetary damages and / or claimant's costs and/or any settlement amount agreed to in advance by the **Insurer**. **Loss** does not, however, include any liability for:

1. fines, penalties, taxes, punitive, exemplary, restitutionary or non-compensatory damages;
2. liquidated damages;
3. the multiplied portion of a multiplied damage award;
4. the return, restitution, reduction, compromise, disgorgement or refund of commissions, fees, charges or other remuneration;

5. costs incurred as a result of non-monetary orientated proceedings, declaratory or injunctive relief;
  6. any matters or amounts that are deemed uninsurable under English law;
  7. any costs and expenses incurred in the investigation, defence or negotiation of any of the heads of liability listed at sub-paragraphs P1 to P6 above.
- P. **Member** means any person holding the position of member within a limited liability partnership.
- Q. **Mobile Equipment** means any of the following types of land vehicles, including any attached machinery or equipment:
1. bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  2. vehicles maintained for use solely on or next to premises the **Insured** owns or rents;
  3. vehicles that travel on crawler treads;
  4. vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
    - i) power cranes, shovels, loaders, diggers or drills; or
    - ii) road construction or resurfacing equipment such as graders, scrapers or rollers;
  5. vehicles not described in 1, 2, 3 or 4 above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - i) air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
    - ii) cherry pickers and similar devices used to raise or lower workers;
  6. vehicles not described in 1, 2, 3 or 4 above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not **Mobile Equipment** but will be considered **Autos**:

- a) equipment designed primarily for:
  - i) snow removal;
  - ii) road maintenance, but not construction or resurfacing; or

- iii) street cleaning;
  - b) cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
  - c) air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
- R. **Named Insured** means the person, company or business entity stated in item 2 of the Schedule.
- S. **Partner** shall have the meaning given by the Partnership Act 1890, as amended from time to time.
- T. **Policy** means this Specialist Risk Consultants Professional Indemnity and General Liability Insurance Policy, together with the attached Schedule, including all amendments and endorsements, and the **Proposal Information**.
- U. **Policy Period** means the period of time stated in item 6 of the Schedule.
- V. **Property Damage** means physical injury to or destruction of any tangible property, including the loss of use thereof.
- W. **Proposal Information** means the application for this **Policy**, together with any other information in whatever medium or form supplied by or on behalf of the **Insured** to the **Insurer** in connection with the underwriting of this **Policy**, save that **Proposal Information** shall not include information contained on any website unless the **Insurer** is provided with hard copy pages printed from such website by or on behalf of the **Insured** which pages are initialed by the **Insurer**.
- X. **Retention** means the retention stated in item 5 of the Schedule.
- Y. **Specialist Risk Consulting Professional Services** means those services provided by the **Insured** to a **Third Party**, for a fee or other remuneration, as stated in writing in the **Proposal Information** and limited in any event to the provision of specialist risk consulting services to **Third Parties**, including security training, advice and monitoring, threat management services, litigation support, contingency and disaster planning, screening and background checks, and data and computer network security systems consulting and monitoring. For the avoidance of doubt, **Specialist Risk Consulting Professional Services** does not include providing, managing or supervising security guards or other personnel that provide physical security or access control for any premises.
- Z. **Subsidiary** means any subsidiary company wholly owned (whether directly or via a wholly owned subsidiary) by the **Named Insured** created or acquired on or before the inception date and which has been declared to the **Insurer**.
- AA. **Third Party** means an independent third party and does not include:
- 1. the **Insured** irrespective of the capacity in which the **Insured** acts;

2. any person, company, organisation or entity that in whole or in part and whether directly or indirectly, owns, operates or controls the **Insured**;
  3. any person, company, organisation or entity that has a direct or indirect financial interest in the **Insured**;
  4. any company, organisation or entity in which the **Insured** has a beneficial ownership or shareholding or interest in excess of 10% or in which the **Insured** has a direct or indirect executive or controlling interest;
  5. any other company in common ownership with the **Insured**; or
  6. any company, organisation, or entity in which an **Insured Person** is a **Director, Employee, fiduciary, officer, Member or Partner, participant, or trustee.**
- BB. **USA** means the United States of America, including all and any colonies, dependencies, dominions and protectorates of the United States of America.

Any reference in this **Policy** to any statute, order or rule are references to English statutes, orders and rules and shall be deemed to include any amendment, consolidation or re-enactment from time to time.

### 3. EXCLUSIONS

#### I) EXCLUSIONS APPLICABLE TO INSURING CLAUSE I) ONLY

The coverage under Insuring Clause I) of this Insurance provides no indemnity for **Loss or Defence Costs** in connection with any **Claim** directly or indirectly arising out of, based upon or in consequence of, resulting from, or in any way involving:

- A. any actual or alleged liability assumed by the **Insured** under any contract, warranty (except a warranty of authority), indemnity, agreement or guarantee, unless such liability would have attached to that **Insured** notwithstanding such express contract, warranty, indemnity, agreement or guarantee;
- B. the ownership, possession or use by or on behalf of the **Insured** of any land, buildings, aircraft, watercraft, vessel or mechanically propelled vehicle;
- C. depreciation or loss of investments when such depreciation or loss is a result of normal or abnormal fluctuations in any financial stock or commodity or other markets which are outside the influence or control of the **Insured**;
- D. the manufacture, construction, alteration, repair, servicing, installation, maintenance or treating of any goods or products sold, supplied or distributed by the **Insured** even though these activities might be carried on by that **Insured** in conjunction with the activities declared in the **Proposal Information**;

- E. any failure to buy or maintain any form of insurance, suretyship or bond or any failure to pay any bond, interest on any bond, any debt, financial guarantee or debenture;
- F. the operation or existence of any joint venture or consortia in which the **Insured** have an interest, unless the **Insurer's** written agreement to the **Insured's** participation in such venture or consortia has been first obtained and an endorsement added to this **Policy**;
- G. any:
  - 1. corruption, erasure, theft, copying, recording or alteration of any electronically held data;
  - 2. access or lack of access to or interference with any electronically held data;
  - 3. loss, distortion or erasure of computer records; or
  - 4. actual or alleged transmission or impact of any computer virus.any:
  - 1. allegations of whatever kind brought or maintained against the **Insured** in the **USA** or determined by reference to the laws of the **USA** or which it is alleged should be determined by reference to the laws of the **USA**;
  - 2. legal or regulatory proceedings in the **USA**;
  - 3. any enforcement of any judgment given in the **USA** in any court of law or other tribunal anywhere in the world.

In any **Claim** and in any action, suit or other proceedings to enforce a **Claim** by the **Insured** under this **Policy**, the burden of proving that such **Claim** does not fall within the exclusions above shall be upon the **Insured**.

II) EXCLUSIONS APPLICABLE TO INSURING CLAUSE II) ONLY

The coverage under Insuring Clause II) of this Insurance provides no indemnity for **Loss or Defence Costs** in connection with any **Claim** directly or indirectly arising out of, based upon or in consequence of, resulting from, or in any way involving:

- A. **Bodily Injury or Property Damage** expected or intended from the standpoint of the **Insured**, except this exclusion does not apply to **Bodily Injury** resulting from the use of reasonable force to protect persons or property;
- B. **Bodily Injury or Property Damage** for which the **Insured** may be held liable by reason of:
  - 1. causing or contributing to the intoxication of any person;
  - 2. the furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

3. any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages;

**C. Bodily Injury to:**

1. any employee or director, partner or member of the **Insured** arising out of and in the course of:
  - i) his or her employment with the **Insured**; or
  - ii) performing duties related to the conduct of the **Insured's** business;  
or
2. the spouse (or person living together as the spouse), child, parent, brother, sister or dependent of the employee as a consequence of (1.) above;

this exclusion applies;

- i) whether the **Insured** may be liable as an employer or in any other capacity; and
- ii) to any obligation to share the **Loss** with or repay someone else who must pay the **Loss** arising out of such liability;

**D. Bodily Injury or Property Damage** arising out of the ownership, maintenance, use or entrustment to others of any aircraft, **Auto** or watercraft owned by or operated by or rented or loaned to any **Insured**.

This exclusion applies even if the **Claims** against the **Insured** allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that **Insured**, if the **Accident** which caused the **Bodily Injury or Property Damage** involved the ownership, maintenance, use or entrustment to others of any aircraft, **Auto** or watercraft that is owned or operated by or rented or loaned to any **Insured**.

This exclusion does not apply to:

1. a watercraft while ashore on premises the **Insured** owns or rents;
2. a watercraft the **Insured** does not own that is:
  - i) less than 26 feet long; and
  - ii) not being used to carry persons or property for a charge;
3. parking an **Auto** on, or on the ways next to, premises the **Insured** owns or rents, provided the **Auto** is not owned by or rented or loaned to any **Insured**;
4. liability assumed under any **Insured Contract** for the ownership, maintenance or use of aircraft or watercraft; or

5. **Bodily Injury or Property Damage** arising out of the operation of any of the equipment listed in sub-paragraph 2. or 3. of the definition of **Mobile Equipment**;

E. **Bodily Injury or Property Damage** arising out of:

1. the transportation of **Mobile Equipment** by an **Auto** owned or operated by or rented or loaned to any **Insured**; or
2. the use of **Mobile Equipment** in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity;

F. **Property Damage** to:

1. property the **Insured** owns, rents or occupies, including any costs or expenses incurred by the **Insured**, or any other person, organisation or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
2. premises the **Insured** sells, gives away or abandons, if the **Property Damage** arises out of any part of those premises;
3. property loaned to the **Insured**;
4. person property in the care, custody or control of the **Insured**;
5. that particular part of real property on which the **Insured** or any contractors or subcontractors working directly or indirectly on the **Insured's** behalf are performing operations, if the **Property Damage** arises out of those operations; or
6. that particular part of any property that must be restored, repaired or replaced because the **Insured's Work** was incorrectly performed on it.

Sub - Paragraph F.2 of this exclusion does not apply if the premises are the **Insured's Work** and were never occupied, rented or held for rental by the **Insured**.

Sub-paragraphs F.3 to F.6 of this exclusion do not apply to liability assumed under a sidetrack agreement;

G. **Property Damage** to the **Insured's Work** arising out of it or any part of it;

H. **Property Damage** to the **Insured's** products arising out of it or any part of it;

I. **Property Damage to Impaired Property** or property that has not been physically injured, arising out of:

1. a defect, deficiency, inadequacy or dangerous condition in the **Insured's Work**; or

2. a delay or failure by the **Insured** or anyone acting on the **Insured's** behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to the **Insured's Work** after it has been put to its intended use;

- J. or relating to any loss, cost or expense incurred by the **Insured** or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:
  1. the **Insured's Work**; or
  2. **Impaired Property**;

if such work, or property is withdrawn or recalled from the market or from use by any person or organisation because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it;

- K. any:
  1. allegations of whatever kind brought or maintained against the **Insured** in the **USA** or determined by reference to the laws of the **USA** or which it is alleged should be determined by reference to the laws of the **USA**;
  2. legal or regulatory proceedings in the **USA**;
  3. any enforcement of any judgment given in the **USA** in any court of law or other tribunal anywhere in the world.
- L. **Bodily Injury or Property Damage** arising out of any act, error or omission by or on behalf of the **Insured** in rendering or failing to render any professional services (including **Specialist Risk Consulting Professional Services**).

### III) EXCLUSIONS APPLICABLE TO ALL INSURING CLAUSES

The coverage under Insuring Clause I) and II) of this Insurance provides no indemnity for **Loss or Defence Costs** in connection with any **Claim** directly or indirectly arising out of, based upon or in consequence of, resulting from, or in any way involving:

- A. any obligation for which the **Insured** or any carrier as his insurer may be liable under any Workers' Compensation, Employer's Liability, Unemployment Compensation, Disability Benefits Law or under any similar law of any state, province or other jurisdiction;
- B. any claim by or on behalf of one or more **Insured** under this Insurance against any other **Insured** under this Insurance
- C. trading losses or liabilities or debts incurred by any business managed by or carried on by the **Insured** (in whatever capacity) or

the insolvency, bankruptcy, receivership, administration or liquidation or other financial failure of the **Insured**;

- D. any:
1. facts, circumstances or events which underlie the notification to other insurers (prior to the inception of this **Policy**) of either any claim (of whatever kind) against the **Insured**, or any circumstances which may give rise to a claim (of whatever kind) against the **Insured**; or
  2. facts, circumstances or events which (prior to inception of this **Policy**) the **Insured** appreciated or should have appreciated may give rise to a **Claim**;
- E. any breach of any contract of service or of any obligation owed by, or any liability of, the **Insured** as an employer or potential employer to any **Employee, Director, Member** or **Partner** or prospective **Employee, Director, Member, or Partner**;
- F. any actual or alleged infringement of copyright, patent, registered design, trade mark or any other intellectual property rights or passing off
- G. any actual or alleged libel, slander, or any other form of defamation, disparagement or harm to the reputation or character of any person or organisation, or arising out of invasion of or interference with a person's right to privacy;
- H. any actual or alleged defective product or the performance of or failure to perform of any product manufactured, developed, distributed, licensed, specified, recommended, leased, handled, or sold by the **Insured**, including but not limited to security, surveillance and monitoring equipment and devices and computer software and hardware;
- I. any actual or alleged:
1. gaining of any profit or advantage to which the **Insured** were not legally entitled, whether or not they retain such profit or advantage; or
  2. conversion, comingling or misuse of funds or any form of money;
  3. criminal, dishonest, malicious or fraudulent acts;
  4. breaches or violation of antitrust, unfair competition or restraint of trade laws, or behaviour constituting market abuse as defined in the Financial Services and Markets Act 2000 or any unfair, false, misleading or deceptive business practices, or violation of consumer protection laws; or
  5. deliberate or intentional or reckless disregard by the **Insured** of the provisions of any statute, including any regulations made thereunder, or with any laws, regulations or requirements laid down by any regulatory or supervisory body or agency, whether governmental or otherwise;

6. behaviour constituting money laundering (as defined under any statute, law, regulation, international treaty or international convention regarding the movement of illicit cash or assets representing illicit monies);
- J. acts of the **Insured** related to in any way any pension, healthcare, welfare, profit sharing, mutual or investment plans, funds or trusts;
- K. any **Insured's** activities as a trustee, partner, officer, director or employee of any employee trust, charitable organisation, corporation, company or business other than that of the **Insured**;
- L. any actual or alleged seepage, pollution or contamination of any kind (including asbestos and mould);
- M. any **Claim** made by or on behalf of:
1. a sub-contractor or independent contractor of the **Insured**;
  2. any employee of such sub-contractor or independent contractor; or
  3. the estate, heirs, executors, administrators, assigns or legal representatives of any person set forth in (1) or (2) above
- arising out of or relating to work performed for or on behalf of the **Insured** by such sub-contractor or independent contractor;
- N. or in connection with any of the following, regardless of any other cause or event contributing concurrently or in any other sequence to the loss:
1. ionising radiations or contamination by radioactivity from any nuclear fuel, waste or substance or the radioactive, toxic, explosive or other hazardous properties of any explosive, nuclear assembly or nuclear component thereof;
  2. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, riot, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, martial law;
  3. 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;
  4. any act of terrorism; or
  5. any action taken in controlling, preventing, suppressing or in any way relating to 2 and / or 3 and / or 4 above.

For the purpose of this exclusion an act of terrorism means any act, including but not limited to the use of force or violence and/or the threat thereof, by any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes or other ends including the intention

to influence any government de jure or de facto and/or to put the public, or any section of the public, in fear.

For clarification, sub-paragraphs N.2 to N.5 of this exclusion do not apply in respect of any **Loss** or **Defence Costs** resulting from a **Claim** arising directly

from any negligent act, negligent error or negligent omission by the **Insured** solely in the provision of the Specialist Risk Consulting **Professional Services**;

or any **Claim** for **Bodily Injury** or **Property Damage** caused directly by an **Accident** which is covered pursuant to Insuring Clause II of this policy.

- O. No coverage will be provided under this insurance if to do so would constitute a breach of any applicable sanction, licence, order, regulation, legislation or similar restriction applicable to the Insurer and /or Insured or their activities

In any **Claim** and in any action, suit or other proceedings to enforce a **Claim** by the **Insured** under this **Policy**, the burden of proving that such **Claim** does not fall within the exclusions above shall be upon the **Insured**.

#### 4. **AGGREGATE LIMIT OF INDEMNITY**

The Aggregate Limit of Indemnity for all **Loss** and **Defence Costs** for all **Claims** made against the **Insured** and reported to the **Insurer** in writing during the **Policy Period** or deemed to fall for coverage under this **Policy** shall not exceed the Aggregate Limit of Indemnity stated in item 4 of the Schedule. All obligations of the **Insurer** under this **Policy** shall cease after the Aggregate Limit of Indemnity has been paid by the **Insurer**.

For the avoidance of doubt, this Policy is a single contract of insurance and if more than one Insured is covered, this Policy shall nevertheless be and remain a single contract of insurance for the benefit of the **Insured**.

#### 5. **RETENTION**

The **Insurer** shall only be liable in excess of the **Retention**, which **Retention** shall apply to each and every **Claim** and shall be inclusive of **Defence Costs**.

In the event more than one Insuring Clause is applicable to a **Claim**, the Retention stated in Item 5 of the Schedule shall be applied separately to that part of the **Loss** and **Defence Costs** resulting from such **Claim**. The sum of the Retentions so applied shall constitute the Retention applicable to such **Claim**. The total Retention as finally determined shall in no event exceed the largest of the Retentions applicable to the Insuring Clauses that are applicable to such **Claim**.

#### 6. **NOTICE OF CLAIM**

- A. The **Insured**, as a condition precedent to their right to indemnity under this **Policy**, shall give the **Insurer** written notice of any **Claim** made against any **Insured** as soon as practicable being no more than 30 days, and in no event later than the end of the **Policy Period**.

- B. If during the **Policy Period**, the **Insured** become aware of a specific act, error or omission, **Accident** or **Bodily Injury** which is reasonably expected to be likely to give rise to a **Claim** and the **Insured** seek indemnity for such **Claim**, then, as a condition precedent to their right to indemnity under this **Policy**, the **Insured** must during the **Policy Period** give written notice to the **Insurer** of:
1. the specific act, error or omission, **Accident** or **Bodily Injury** by accident of the relevant **Insured**;
  2. the reasons for anticipating the likelihood of a **Claim**;
  3. the identity of the potential claimant;
  4. the amount of actual or potential damages;
  5. the injury or damage which may result or has resulted from the circumstance if the claim is for **Bodily Injury** or **Property Damage**;
  6. how and when the **Insured** first became aware of such specific act, error or omission, **Accident** or **Bodily Injury** by accident.

If such details are provided in full then any **Claim** subsequently made against the **Insured** arising out of such specific act, error or omission, **Accident** or **Bodily Injury** by accident shall be deemed to have been made at the time such notice was received by the **Insurer**.

- C. The **Insured** shall give notice under this clause to the **Insurer** (via the **Insured's** broker or other agent only) at the address specified in item 8. of the Schedule. However notice shall only be deemed reported on the date and at the time of receipt by the **Insurer**.
- D. The **Insured**, as a condition precedent to their right to indemnity under this **Policy**, shall, at their own cost, co-operate at all times with the **Insurer** and provide such assistance and information as the **Insurer** may reasonably request.

## 7. CLAIMS HANDLING

- A. The **Insurer** shall be entitled, but not obliged, at any time to take over and conduct in the name of the **Insured** the investigation, defence or settlement of any **Claim**. For the avoidance of doubt, the **Insurer** is under no duty to defend the **Insured** in respect of any **Claim**.
- B. The **Insured** shall not admit liability, enter into negotiations, or agree to the settlement, mediation or arbitration of any **Claim** or incur any **Defence Costs** without the prior written consent of the **Insurer**.
- C. The **Insurer** shall not require the **Insured** to contest any **Claim** made against the **Insured** unless a Queen's Counsel (who in the absence of agreement by the **Insurer** and the **Insured** shall be selected by the Chairman of the Bar Council from a list comprised of three nominations from each of the **Insured** and the **Insurer**) advises that the same can be contested with a reasonable prospect of success.

- D. If the **Insured** shall refuse to consent to any settlement recommended by the **Insurer** and shall elect to contest a **Claim**, then the **Insurer's** liability for **Loss** and **Defence Costs** in respect of such **Claim** (including costs and expenses) shall not exceed the amount for which the **Claim** could have been settled inclusive of costs and expenses incurred with their consent up to the date of such refusal.
- E. The Insurer may at its option (but is not obliged to) appoint solicitors – CMS Cameron McKenna LLP (Appointed Solicitors) to act on its own behalf and on behalf of the Insured for all purposes in relation to any claim or circumstance in respect of which the Insurer is liable to indemnify the Insured under this insurance.

**8. GENERAL CONDITIONS**

**A. Premium Payment**

In the absence of a specific written agreement to the contrary, this **Policy** can be voided with effect from inception by the **Insurer** in the event that the **Insurer** does not receive full payment of premium within sixty (60) days of inception.

**B. Other Insurance**

The insurance provided by this **Policy** shall apply only as excess over any other valid and collectible insurance or other indemnity, unless such other insurance or indemnity is written only as specific excess insurance over the Aggregate Limit of Indemnity provided by this **Policy**. Therefore, where there is other valid and collectible insurance or other indemnity, the **Insured** must first claim under that other insurance or indemnity and not under this **Policy**.

**C. Subrogation**

1. The **Insurer** shall be subrogated to all the **Insured's** rights of recovery against any person before or after any payment or indemnity under this **Policy** and the **Insured**, as a condition precedent to their right to indemnity under this **Policy**, shall, at its own cost, take all steps necessary to preserve the **Insurer's** rights of subrogation and shall give all such assistance in the exercise of rights of recovery as the **Insurer** may require.
2. Any sums recovered from any third party pursuant to sub-clause 1. shall first be paid to the **Insurer** up to the full amount of **Loss** and/or **Defence Costs** paid on behalf of the **Insured** for a **Claim**. Any sums remaining shall be paid to the **Insured**, less the costs of recovery incurred by the **Insurer**.

**D. Allocation**

In the event that any claim under this **Policy** gives rise to both a **Loss** and / or **Defence Costs** which are covered under this **Policy** and losses or defence costs which are not covered under this **Policy**, the **Insurer** and the **Insured** shall negotiate in good faith to agree a fair and proper basis for allocation

taking into consideration the relative legal exposures of the various parties. In the event that the **Insurer** and the **Insured** cannot agree on allocation they shall submit the dispute to a Queen's Counsel (who in the absence of agreement by the **Insurer** and the **Insured** shall be selected by the Chairman of the Bar Council from a list comprised of three nominations from each of the **Insured** and the **Insurer**) to determine a fair and proper basis for allocation having regard to the relative legal exposures of the various parties.

**E. Assignment**

This **Policy** and any and all rights under it are not assignable without the written consent of the **Insurer**.

**F. Cancellation**

Any **Insurer** may terminate their participation on this **Policy** by giving notice in writing sent by registered or certified mail to the address of the **Named Insured**, as shown in Item 3 of the Schedule stating when, not less than forty-five (45) days after the sending of such notice, the cancellation shall be effective. The sending of such notice shall be sufficient proof of notice and notice shall be deemed to have been made on the date of sending. In the event of such termination, the premium payable to that **Insurer** shall be pro rata to the time on risk. Payment or tender of unearned premium, if any, shall not be a condition precedent to the effectiveness of cancellation.

**G. Entire Agreement**

The terms and provisions of this **Policy** shall not be waived, changed or modified, unless by written endorsement. Notices to, by or from any agent or representative of the **Insured** or the **Insurer** shall not effect a waiver, change or modification of this **Policy** and shall not prevent the **Insurer** from asserting any rights under this **Policy**.

**H. Authorisation**

By acceptance of this **Policy**, each **Insured** agrees that the **Named Insured** shall act on behalf of all **Insureds** for all purposes including the negotiation of the terms of this **Policy**, payment of or return of premiums, receipt and acceptance of any endorsement issued to form a part of this **Policy** and giving and receiving notice of cancellation of this **Policy**.

**I. Third Party Rights**

A person who is not an **Insured** has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this **Policy**.

**J. Material Change**

The **Insured** shall immediately notify the **Insurer** of any material change in the facts and circumstances disclosed to the **Insurer** in the **Proposal Information** which may increase the risk accepted by the **Insurer** under this **Policy**. Where the **Insurer** is given such notice, the **Insurer** may elect to terminate this **Policy** or to offer the **Insured** a continuation of cover on such revised terms and conditions as the **Insurer** in its sole discretion shall specify. If the **Insured** breaches this condition by not giving the required notice, the **Insurer** may elect (in its sole discretion) to terminate this **Policy** in its entirety and in which case this **Policy** shall be of no effect whatsoever from the date of the breach.

**K. Fraudulent Claims**

If the **Insured** make any claim for indemnity under this **Policy** knowing the same to be false or fraudulent, the **Insurer** may elect (in its sole discretion) to terminate this **Policy** immediately in its entirety and in which case this **Policy** shall be of no effect whatsoever and all claims for indemnity hereunder (including such false or fraudulent claim) shall be forfeited. Further, in circumstances where the **Insurer** is entitled to avoid this **Policy**, whether for fraud by the **Insured** or otherwise, the **Insurer** may instead elect (in its sole discretion) to give notice to the **Insured** that this **Policy** remains in full force and effect, but no indemnity is provided for any **Claim** based upon, directly or indirectly arising out of, or in any way involving the circumstances that entitled the **Insurer** to avoid this **Policy**.

**L. Action against the Insurer**

No action shall lie against the **Insurer** unless, as a condition precedent thereto: (1) there shall have been full compliance with all terms of this **Policy**; and (2) until the **Insured's** liability has been fully and finally established.

The **Insured** shall not have any right under this **Policy** to join the **Insurer** as a party to an action or other proceeding against the **Insured**.

**9. LAW**

The construction, interpretation and meaning of the provisions of this **Policy** and any issue concerning its formation shall be determined in accordance with English law.

**10. DISPUTE RESOLUTION**

1. Any dispute save for those referable under clauses 7C and 8D above arising out of or in connection with this **Policy**, including any question regarding its formation, existence, validity or termination, shall be referred to arbitration in London, England in accordance with the Arbitration Act 1996. The rules for the conduct of the arbitration shall, subject to the provisions of the Arbitration Act 1996, be in the discretion of the arbitrator.
2. There shall be a sole arbitrator whose identity shall be mutually agreed upon between the **Insurer** and the **Insured** or to any other party as may be mutually agreed. In the absence of agreement, the arbitrator shall be selected by the Chairman of the Bar Council from a list comprised of three nominations from each of the **Insured** and the **Insurer**.

3. The arbitrator (as agreed by the parties or selected in accordance by the Chairman of the Bar Council) shall be a present or former member of the English Commercial Bar with experience in insurance law who has attained the status of Queen's Counsel.

**11. HEADINGS**

The descriptions in the headings and any subheading of this **Policy** (including any titles given to any endorsement attached hereto) are inserted solely for convenience and do not constitute any part of the terms or conditions of this **Policy**.

**12. INVALIDITY/SEVERABILITY**

In the event that any condition (or part thereof) or exclusion (or part thereof) or other term of this Policy is found to be invalid or unenforceable, the remainder shall continue to be in full force and effect.

**NOTICE TO THE INSURED**

**Data Protection Act 1998**

We may store your information on a computer and use it for administration, risk assessment, research and statistical purposes, marketing purposes and for crime prevention (see further details below). We will only disclose your personal details to third parties, if it is necessary for the performance of your contract with us.

In order to assess the terms of the insurance contract or administer claims that arise, we may need to collect data that the Data Protection Act defines as sensitive, such as medical history or criminal convictions. By proceeding with this contract you will signify your consent to such information being processed by us or our agents.

We will keep your information secure at all times. In certain circumstances, for example for systems administration purposes, we may have to transfer your information to another country, which may be a country outside the European Economic Area (EEA). By proceeding with your insurance application, we will assume you are agreeable for us to transfer your information to a country outside the EEA.

Should you wish to receive a copy of the information we hold on you, please contact the Compliance Officer, Lloyd's Syndicate 4000, Box 146, Lloyd's, 1 Lime Street, London EC3M 7HA.

**Complaint Procedure**

The **Insurer** is committed to providing a first class service at all times.

If at any time there are questions or concerns regarding this **Policy** or the handling of a **Claim**, you should in the first instance refer to your insurance broker or intermediary, if any. If your problem cannot be resolved, any question or complaint should then be addressed to:

Director of Claims  
Lloyd's Syndicate 4000  
Second Floor South  
3 Minster Court  
Mincing Lane  
London EC3R 7DD

Telephone: +44 (0) 20 7337 4507

If after following the above procedure your complaint has not been resolved to your satisfaction, you should write to the Chief Executive at the address above.

In the event you wish to pursue matters further, where appropriate, you can refer the matter at any time to the:

Complaints Department  
Lloyd's  
One Lime Street,  
London EC3M 7HA  
Telephone: 020 7327 5693 Fax: 020 7327 5255  
E-mail: [Lloyds-Regulatory-Complaints@lloyds.com](mailto:Lloyds-Regulatory-Complaints@lloyds.com)

Complaints that cannot be resolved by the Complaints Department may, where appropriate, be referred to the Financial Ombudsman Service to review the case.

The address is:

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

Telephone: 0845 080 1800

[www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

The Financial Ombudsman's Service decision is binding upon the **Insurer** but you are free to reject it without affecting your legal rights.

### **Financial Services Compensation Scheme**

The **Insurer** is covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation from the scheme if the **Insurer** cannot meet their obligations. This depends on the type of business and the circumstances of the claim. Further information about compensation scheme arrangements is available from the FSCS.



**TABLE OF INSURERS**

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

The insurers subscribing to this policy are:

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