

**PROFESSIONAL INDEMNITY INSURANCE**

**CONSTRUCTION INDUSTRY PROFESSIONALS**

***“THIS POLICY IS ON A CLAIMS MADE  
AND CIRCUMSTANCE NOTIFIED BASIS***

The Policy, Schedule and any Endorsements should be read as if they were one document and if they do not meet your needs please return them to Square Mile Underwriting.

**POLICY NUMBER: 20-PI-SMU,00**

This is to certify that, in consideration of the payment of the premium in the schedule, insurers are bound to insure in accordance with the terms and conditions contained or endorsed, in the policy.

If the insured makes any claim knowing the same to be false or fraudulent, as regards amount or otherwise, this policy will become void and any claim will be forfeited.

This policy has been signed for and on behalf of the Insurer.

**Please read this Policy carefully**

**Authorised Signatory**



.....  
**David Parry/David Fogarty/Jack Baker**  
**For and on behalf of Square Mile Underwriting**

**Written for and on behalf of:**  
**Syndicates 1225 and 1414 at Lloyd's,**  
**Under Binding Contract No: B1309LM2017536537**

**Date: 29 May 2020**

All enquiries should be addressed to:  
Square Mile Underwriting 6 Lloyd's Avenue London EC3N 3AX

**SCHEDULE**

**Policy Number:** 20-PI-SMU,00

1) **Insured:**

**Principal Address:**

2) **Business Description:**

3) **Period of insurance:** **From:**  
**To:**  
Both days inclusive, local standard time, at the address of the Insured

4) **Limit of Indemnity:** £ Any One Claim, Costs & Expenses in Addition

5) **Excess:** £ Each and Every Claim

6) **Premium:** £  
**Plus 12% IPT:** £

**Total Premium:** £

7) **Area of Activities:** Worldwide excluding USA/Canada/UK; ROI: C.Isles; IOM; EU

8) **Jurisdiction:** Worldwide excluding USA/Canada/UK; ROI: C.Isles; IOM; EU

9) **Retroactive Date:**

10) **Proposal Form Dated:**

11) **Declaration Dated:**

12) **Conditions: Policy Terms and Conditions plus**  
Endorsement No: 1 - Premium Payment Warranty

13) **Claims Notifications to:** Square Mile Underwriting  
6 Lloyd's Avenue  
London  
EC3N 3AX  
claims@smu.uk.com  
Telephone: 020 7265 7490  
Fax: 020 7265 7491

**Attaching to and forming part of Policy No: 20-PI-SMU,00**

**In the name of**

**Endorsement No: 1**

**PREMIUM PAYMENT WARRANTY**

The premium in respect of this risk is to be paid to the placing broker within fourteen (14) days of the inception date of the insurance contract. For this purpose alone the placing broker will be deemed to be insurers' agent.

In the event that payment is not made within this period, all cover under this insurance will automatically be cancelled ab initio and be deemed to have never been in effect.

Upon cancellation of this insurance, the insured will deliver immediately to the placing broker any policy of insurance or other policy document or evidence confirming the existence of this insurance, for onward transmission to insurers and will advise to any person who had been notified of its existence, of the cancellation of this insurance.

All Other Terms and Conditions Remain Unaltered

In consideration of the insured having paid the premium shown in the schedule, coverage provided by this insurance is subject to the following terms, conditions, exclusions and definitions, and is based on information contained in a written proposal, bearing the date stated in the schedule, together with any other details provided, insurers:-.

**1.1 Insuring Clause**

agree to indemnify the insured, for the amount of any claim including claimant's costs and expenses up to the indemnity limit, first made against the insured and notified to insurers during the policy period in respect of any legal liability, which arises out of any negligent act, error or omission, in consequence of the exercise and conduct of the business by the insured and/or by others acting on behalf of the insured.

**1.2 Defence Costs**

will also indemnify the insured for defence costs where such costs have been incurred with insurers' prior written consent. Such defence costs are payable in addition to the indemnity limit.

In the event that a settlement is made with any party in excess of the amount of the indemnity limit, insurers' liability in respect of defence costs will be in the same proportion that the indemnity limit bears to the total sum payable.

## **EXTENSIONS**

The following extensions are granted as part of this insurance and are subject to observance of the conditions, exclusions and definitions, together with any other endorsed terms:-

### **2.1 Inadvertent Non-Disclosure and/or Failure to Co-operate**

Insurers will not exercise their right to:-

- 2.1.1 avoid this insurance where there has been or it is alleged that there has been
  - 2.1.1.1 non disclosure or misrepresentation of facts and/or
  - 2.1.1.2 incorrect particulars or statements and/or
  - 2.1.1.3 non-disclosure of any circumstance
  - 2.1.1.4 failure to co-operate
- 2.1.2 avoid any claim that results from the information referred to in 2.1.1.3, provided always that the insured will establish to insurers' satisfaction that such alleged event referred to in 2.1.1 was innocent and free of any intent to deceive.

However, notwithstanding any rights that insurers may waive by the inclusion of this extension, insurers retain the right to modify the terms and conditions and premiums pertaining to this insurance to reflect the basis on which the insurance would have been underwritten had they been aware of the information in 2.1.1. Such modification will not infringe the benefit given to the insured in 2.1.2.

In any case, where the insured could have notified under any preceding insurance any circumstance as referred to in 2.1.1.3 and the indemnity or cover available under this insurance is greater or wider in scope than the indemnity to which the insured would have been entitled under any such preceding insurance (whether with the insurers participating on this insurance or not), then insurers of this insurance will only be liable to indemnify the insured to the extent of the indemnity which would have been afforded by such preceding insurance.

Where the alleged non-disclosure or failure to co-operate has resulted in prejudice to the handling or settlement of any claim, the indemnity afforded by this insurance in respect of such claim (including defence costs) will be reduced to such sum which, in insurers' reasonable opinion, would have been payable by them in the absence of such prejudice.

### **2.2 Loss of or Damage to Documents or Data**

In the event of physical loss of or damage to documents or the loss of or damage to electronic data, discovered to be lost, damaged or destroyed during the policy period, the insured is indemnified for any claim or reasonable and necessary costs and expenses incurred in replacing, restoring or reconstituting any documents or data, which are the property of the insured or in the insured's care, custody or control.

This extension is subject to an indemnity limit of £50,000 in the aggregate for all losses and an excess of £250 each and every claim. However, where the excess shown in the schedule is less than £250 each and every claim then the excess shown in the schedule will apply to this extension.

### **2.3 Breach of Confidentiality**

The insured is indemnified for any claim or for reasonable professional or legal costs and expenses, incurred with insurers' prior written consent (not to be unreasonably withheld), in the defence of any injunction and/or proceedings arising from any unintentional breach of confidential information.

This extension is subject to an excess of £1,000 each and every claim, unless the excess shown in the schedule is greater than £1,000 each and every claim, in which event the excess shown in the schedule will apply to this extension.

#### **2.4 Infringement of Intellectual Property**

The insured is indemnified for reasonable professional or legal costs and expenses incurred with insurers' prior written consent (not to be unreasonably withheld), in the defence of any injunction and/or proceedings in respect of infringement or alleged infringement of any intellectual property rights, including but not limited to copyright or patents, including electronic format, vested in or otherwise enjoyed by the insured.

This extension is subject to an excess of £1,000 each and every claim, unless the excess shown in the schedule is greater than £1,000 each and every claim, in which event the excess shown in the schedule will apply to this extension.

Any amount payable under this extension will be part of and not in addition to the indemnity limit specified in the schedule.

#### **2.5 Joint Venture/Consortium**

The insured is indemnified for any claim made against them, during the policy period, which the insured may become legally liable to pay, whether jointly or severally, which arises out of the exercise and conduct of the business, whilst a member of a joint venture or consortium, where such joint venture or consortium together with the turnover/fees of the joint venture or consortium (not just the insured's proportion) has been declared to insurers, whether or not the joint venture or consortium is conducted through a separate legal entity.

#### **2.6 Self-employed Persons**

The insured is indemnified for the liability devolving upon them arising out of the use of self-employed or contract hire persons in connection with the business. The use of individual persons need not be disclosed to insurers, but details of payments to such persons, must be declared to insurers at renewal of this insurance. For the purpose of this insurance such persons are deemed to be employees of the insured.

#### **2.7 Indemnity to Employees, Former Employees and/or Consultants**

Employees or former employees of the insured are indemnified in respect of any claim made against them during the policy period, which arises out of the exercise and conduct of the business.

Former partners, former directors or former employees of the insured who have continued as consultants to the insured and such persons who were formerly consultants to the insured are indemnified in respect of any claim made against them during the policy period, which arises out of the exercise and conduct of the business.

#### **2.8 Defamation, Libel and Slander**

The insured is indemnified for all sums, which they may become legally liable to pay in respect of claims made upon them during the policy period in direct consequence of any defamation, libel or slander uttered by the insured in the exercise and conduct of the business.

This extension is subject to an excess of £1,000 each and every claim, unless the excess shown in the schedule is greater than £1,000 each and every claim, in which event the excess shown in the schedule will apply to this extension.

## **2.9 Prosecution Defence Costs**

The insured is indemnified, in addition to the indemnity limit, for any defence costs incurred with the prior written consent of insurers in the defence of any criminal proceedings against the insured, or any employee, arising from alleged breach of any United Kingdom or Republic of Ireland statutory regulation relating to building or construction works, where such alleged breach arises out of the exercise and conduct of the business in the United Kingdom or Republic of Ireland, by the insured and/or by others acting on behalf of the insured.

This extension (only) is subject to the following provisions:-

- 2.9.1 the circumstances giving rise to the proceedings could otherwise give rise to indemnity under this insurance, and
- 2.9.2 in the reasonable belief of insurers, the defence of such proceedings would assist in the defence of any claim against the insured, arising from such circumstances
- 2.9.3 any subsequent or concurrent civil action, arising out of a proceeding notified under this extension, will be subject to the claims conditions (see 4.2) and will be deemed to be a circumstance under the terms of this insurance
- 2.9.4 any appeal against the outcome of any initial proceedings will be deemed to be “proceedings” for the purposes of this extension
- 2.9.5 insurers will not be liable for the payment of any fines, penalties, punitive, multiple or exemplary damages
- 2.9.6 insurers’ limit of liability under this extension will be £50,000 in the aggregate, during the policy period
- 2.9.7 insurers will not be liable for the first £1,000 of costs and expenses incurred in respect of each prosecution.

## **2.10 Dishonesty of Employees**

The insured is indemnified for any claim brought about, or contributed to, by the fraudulent, criminal or malicious act or omission of any person at any time employed by the insured provided that:-

- 2.10.1 no person committing such fraudulent, criminal or malicious act or omission will be entitled to indemnity
- 2.10.2 the insured will not be entitled to indemnity where any claim or circumstance arising from any fraudulent, criminal or malicious act or omission is committed by any director of the insured or by any person after the discovery in relation to that person of cause for suspicion of fraud or dishonesty
- 2.10.3 any monies which but for such fraudulent, criminal or malicious act or omission would be due from the insured to the person committing such act, or any monies held by the insured and belonging to such person, will be deducted from any amount payable under this insurance.



## EXCLUSIONS

This insurance will not indemnify the insured in respect of the following:-

### 3.1 Excess

The amount of the excess shown in the schedule, or in any extension, as applicable. Defence costs referred to in clause 1.2 will not be the subject of any excess.

### 3.2 Liability involving Transport or Property owned by the Insured

Any claim against the insured arising solely and directly out of the ownership, possession or use by or on behalf of the insured of any:-

3.2.1 aircraft, watercraft, hovercraft, motor vehicle or trailer, or

3.2.2 buildings, structures, premises or land or that part of any building leased, occupied or rented by the insured, or

3.2.3 other property of the insured.

### 3.3 Liability arising out of Employment

Any claim arising out of:-

3.3.1 injury, disease, illness (including mental stress) or death of any employee under a contract of service with the insured, or

3.3.2 any dispute between the insured and any present or former employee or any person who has been offered employment with the insured, being brought under or relating to the Employment Protection Act 1975 or equivalent legislation in countries other than England, or subsequent re-enactment or legislation.

### 3.4 Supply of Goods

Any claim or loss arising out of the manufacture, construction, alteration, repair, servicing or treating of any goods or products sold, distributed or supplied including the sale and/or supply of hardware and/or software by the insured, unless such claim arises directly out of negligent advice, design or specification by the insured in the course of their professional services.

### 3.5 Fraud, Dishonesty or Criminal Act

Any claim:-

3.5.1 directly or indirectly contributed to or caused by any act, error or omission of any partner, director or employee of the insured which is dishonest, fraudulent, criminal or malicious, or

3.5.2 where any person has committed a dishonest, fraudulent, criminal or malicious act after discovery by the insured of reasonable cause for suspicion that such act has been committed.

However, insurers will not seek to apply the “criminal” act, error or omission of this exclusion in respect of any civil action, which may be preceded by or run concurrent with any criminal prosecution arising out of any breach of any United Kingdom or Republic of Ireland statutory regulation relative to building, or construction works, subject to the act, error or omission not being deliberate on the part of the insured.

### 3.6 Controlling Interest

Any claim made against the insured by either:-

3.6.1 an entity in which the insured exercises a controlling interest, or

3.6.2 an entity exercising a controlling interest over the insured by virtue of it having a financial or executive interest in the operation of the insured

Unless such claim is made against the insured for an indemnity or contribution in respect of a claim made by an independent party against the said entities detailed in 3.6.1 or 3.6.2 and arises out of the exercise and conduct of the business.

### **3.7 Contractual Liability for Performance Warranties, Penalty Clauses, Collateral Warranties, Duty of Care Agreements**

Any contractual liability arising from the following, unless the liability of the insured would have existed in the absence of the features listed in 3.7.1 - 3.7.5 below or insurers have expressly approved the contractual terms giving rise to the said liability:-

- 3.7.1 acceptance of or guarantee of fitness for purpose, where this appears as an express term
- 3.7.2 any express guarantee, including any relating to the period of a project
- 3.7.3 any express contractual penalty
- 3.7.4 any acceptance of liability for liquidated damages.

In addition to the features listed in 3.7.1 - 3.7.4 above, the following will apply in respect of collateral warranty and duty of care agreements:-

- 3.7.5 any assignment of a collateral warranty and duty of care agreement to more than two parties, except in the case of a collateral warranty and duty of care agreement given to a funding party (not a purchaser or tenant), where a total of three assignments is permissible

Where such is given or accepted as part of the insured's contract, unless the liability of the insured would have existed in the absence of the features listed in 3.7.1-3.7.5 or insurers have expressly approved the terms of the contractual document, this exclusion will not apply to limit the liability of insurers subscribing to this insurance.

### **3.8 Nuclear Risks**

Loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising, or any consequential loss or any legal liability of whatsoever nature, directly or indirectly caused by or contributed to, by or arising from:-

- 3.8.1 ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- 3.8.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or any of its nuclear components.

### **3.9 War Risks**

Any consequence of war, including a terrorist act initiated by hostile parties, military or usurped power, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, riot or civil commotion.

### **3.10 Area of Activities**

Any claim or loss arising out of work or activities undertaken by the insured, outside the geographical limits stated in the schedule.

### **3.11 Jurisdiction**

Any claim brought in courts (or the enforcement of a judgement found against the insured) outside of the United Kingdom, Channel Islands, Isle of Man and Member Countries of the European Union

### **3.12 Fines, Penalties, Punitive, Multiple or Exemplary Damages**

Civil or criminal fines, penalties, forfeitures, taxes, punitive, multiple or exemplary damages, (other than in respect of defamation, libel or slander), or other monetary awards deemed uninsurable under applicable law, where such have been identified separately within an award of a court.

### **3.13 Loss of Documents - Magnetic or Electrical Media**

Any claim arising from the physical loss of or damage to documents which are stored on magnetic or electrical media unless such documents are duplicated on magnetic or electrical media with the intention that in the event of loss or damage the duplicate can be used as the basis for restoring the documents to their original status.

### **3.14 Pollution**

Any claim arising directly from pollution. However, to the extent that the proximate cause of a claim arising from such pollution was a specific act, error or omission by the insured and/or by others acting on behalf of the insured in the exercise and conduct of the business defined in this insurance and provided always that such pollution was not caused by an intentional act of the insured, this exclusion will not apply.

Notwithstanding anything contained to the contrary elsewhere in this insurance in respect of any claim or loss arising from this clause (only), the indemnity limit is amended to “each and every claim and in the aggregate” and not as shown in the schedule.

Furthermore, for the purposes of this clause only, defence costs referred to in the clause 1.2 will not be paid in addition to but are included within the indemnity limit available under this insurance and such defence costs will be subject to the excess shown in the schedule and not as stated in exclusion 3.1.

### **3.15 Directors’ and Officers’ Liability**

Any claim made from those liabilities arising from being a director, officer or trustee of the insured (as opposed to those duties and functions carried out in furtherance of the business) or from the acceptance of any directorship or trusteeship in any other company not forming part of the insured.

### **3.16 Asbestos & Toxic Mould**

Any claim, loss or circumstance whatsoever, arising directly or indirectly out of or resulting from or in consequence of, or in any way involving:-

- 3.16.1 asbestos, or any materials containing asbestos in whatever form or quantity, or
- 3.16.2 the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, moulds, spores or mycotoxins of any kind, or
- 3.16.3 any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, moulds, spores or mycotoxins of any kind; such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, spores or mycotoxins, or
- 3.16.4 any governmental or regulatory order, requirement, directive, mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, moulds, spores or mycotoxins of any kind; such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, spores or mycotoxins.

### **3.17 Other Insurance**

Any claim where the insured are entitled to indemnity under any other insurance, except in respect of anything beyond the amount which would have been payable under such insurance, had it not been effected.

### **3.18 Previous Claims**

Any claim or circumstance that may give rise to a claim which has been notified to and accepted by insurers in respect of any other insurance attaching prior to the inception of this insurance or as disclosed as a material fact to insurers, which formed the basis of this contract or any claim or circumstance the insured was or should have been aware of prior to the inception of this insurance. This exclusion will not reduce the rights of the insured as provided by extension 2.1.

### **3.19 Full Time Work**

Any claim arising from the insured’s full time employment or activities, other than those disclosed as material facts to insurers, if the insured is an individual or practices as a sole trader.

**3.20 Bodily Injury and/or Property Damage**

Any claim arising out of injury, disease, illness (including mental stress) or death of any person(s) or loss of or damage to property (except losses insured under extension 2.2), unless such claim arises directly out of negligent act, error or omission by the insured, in the course of their professional services.

**3.21 Trading Losses**

Any claim 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.

**3.22 Failure to Arrange Insurance**

Any claim for consequential loss arising from the failure of the insured to arrange and/or maintain insurance.

**3.23 Sanctions**

Any claim, or provide any benefit, that would expose insurers, any parent company or any ultimate controlling entity, 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

**3.24 Electronic Date Conformity**

Any claim, loss, liability or costs and expenses either:-

3.24.1 caused by or contributed to, by or arising from or in connection with any computer system, whether or not the property of the insured, not meeting date conformity, or

3.24.2 caused by or contributed to or arising from or in connection with any or any attempted correction, conversion, renovation, rewriting or replacement of any computer system, related to not meeting date conformity.

## CLAIMS CONDITIONS

The following claims conditions apply to this insurance:-

### 4.1 Conditions Precedent to Liability

All conditions contained in this section are deemed to be conditions precedent to liability.

### 4.2 Discovery of a Claim or Circumstance

If, during the policy period, the insured:-

- 4.2.1 receives notice of any claim other than any claim provided for in 4.2.2, the insured will give notice (see 4.3) to insurers as soon as practicable
- 4.2.2 receives a Letter of Claim, the insured will give early notice (see 4.3) to insurers, but in any event within seven (7) working days from receipt of such Letter of Claim and not later than expiry of the policy period
- 4.2.3 becomes aware of any circumstance, other than any circumstance provided for in 4.6.4, the insured will give notice (see 4.3) to insurers of such circumstance as soon as practicable.

Insurers agree that any such circumstance notified to them during the policy period and which subsequently gives rise to a claim after expiry of this insurance will be deemed to be a claim first made during the policy period.

### 4.3 Notice

Notice to insurers under condition 4.2 will be deemed to have been properly made if received in writing by the persons shown in the schedule.

### 4.4 Admission of Liability

In the event of a claim or the discovery of a circumstance, the insured will not admit liability and no admission, offer, promise or payment will be made by the insured without insurers' prior written consent.

### 4.5 Conduct of Claims

Following notification of a claim or of any circumstance, insurers will be entitled if they so desire to take over and conduct in the name of the insured the investigation, defence or settlement of any such matter. The insured will co-operate with and give all such assistance as insurers may reasonably require.

Notwithstanding the provisions of the preceding paragraph, if the insured and insurers cannot agree a common course of action with regard to the contesting of any legal proceedings (whether defence or prosecution), the dispute will be resolved by the operation of condition 5.3.

### 4.6 Adjudication

If during the policy period the insured receives a notice as described in paragraph 4.6.4 and such notice is in accordance with any of:

- 4.6.1 The Scheme for Construction Contracts (England & Wales) 1998
  - 4.6.2 The Scheme for Construction Contracts (Scotland) Regulations 1998
  - 4.6.3 The Construction Contracts Act 2013 (Republic of Ireland)
- or any Adjudication Clause or Rules contained in a Contract, provided that the terms of the Adjudication Clause are no more onerous to the insured than the terms contained within the regulations referred to in 4.6.1 and 4.6.3 above

Then the insured must:

- 4.6.4 notify Beale & Co within the policy period and within two (2) working days of receipt of any Notice of Intention to Adjudicate, Notice of Adjudication, Referral Notice or any Adjudication Notice pursuant to Contract. Receipt of notification by Beale & Co will be considered as notification to insurers. All other circumstances, claims and material facts must be notified to insurers in accordance with Condition 4.3
- 4.6.5 not agree to accept the decision of the Adjudicator as finally determining the dispute, without insurers' prior written consent
- 4.6.6 satisfy insurers that any liability incurred by them by virtue of an Adjudicator's decision and for which indemnity is being sought would otherwise be the subject of indemnity under this insurance.

The insured agrees that insurers will be entitled to pursue legal arbitration, or other proceedings in the name and on behalf of the insured, to challenge, appeal, open up or amend any decision, direction, award or the exercise of any power of the Adjudicator or 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.

For the avoidance of doubt, this extension does not in any way limit insurers' right of subrogation.

Notification made under this Extension will be subject to all other policy terms and conditions, save to the extent that those terms and conditions are varied by this extension.

Contact details:

Square Mile Underwriting

c/o Beale & Co

Capital House

85 King William Street

London EC4N 7BL

email: [SMUClaims@Beale-Law.com](mailto:SMUClaims@Beale-Law.com)

#### **4.7 Several Liability**

Insurers' obligations under insurances to which they subscribe 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 their obligations.

## GENERAL CONDITIONS

The following general conditions apply to this insurance:-

### 5.1 Retroactive Date

Where a retroactive date is specified in the schedule, this insurance will not indemnify the insured for any claim notified under the terms of this insurance and arising out of the exercise and conduct of the business prior to the said retroactive date.

### 5.2 Subrogation

If any payment is made under the terms of this insurance, the insured grants to insurers all rights of recovery against any parties from whom a recovery may be made, but the insured will take all reasonable steps to preserve such rights. However, insurers agree to waive any rights of recovery against any employee of the insured or former employee, self employed person or consultant of the insured unless, liability has resulted in whole or part from any act or omission on the part of such persons which is dishonest, fraudulent, criminal (other than in respect of 2.10) or malicious.

### 5.3 Specialist Designers and/or Consultants

It is an express requirement that:-

- 5.3.1 all specialist designers and/or consultants, appointed by the insured, acting on the insured's behalf or for whom the insured are responsible, carry Professional Indemnity insurance, for a limit not less than that shown in the schedule, during the period of this insurance, and
- 5.3.2 the insured have satisfied themselves of its existence and extent of cover. Any failure to comply with this warranty may entitle insurers to decline to provide indemnity under the terms of the insurance.

### 5.4 Law Applicable

Unless specifically agreed to the contrary this insurance shall be subject to English Law.

### 5.5 Insurance Disputes

Any dispute or difference between the insured and insurers arising from this insurance will be referred to Queen's Counsel of the English Bar, to be mutually agreed between insurers and the insured, or any other party as may be mutually agreed. In the event of disagreement regarding the appointment, the Chairman of the Bar Council will appoint a suitable party. The findings of the agreed or appointed party will be binding on insurers and the insured and the costs of such an exercise will be allocated by the agreed or appointed party on a fair and equitable basis.

However for insured firms domiciled in the Republic of Ireland this contract will be governed and construed in accordance with the laws of the Republic of Ireland.

Any dispute or difference between the insured and insurers arising from this insurance will be referred to arbitration before a sole arbitrator, to be mutually agreed between insurers and the insured, or any other party as may be mutually agreed. In the event of disagreement regarding the appointment, the Chairman for the time being of the Bar Council of Ireland will appoint a suitable party. The findings of the agreed or appointed party will be binding on insurers and the insured, and the cost of such an exercise will be allocated by the agreed or appointed party on a fair and equitable basis.

### 5.6 Cancellation

This policy may be cancelled at any time by insurers or the insured, by either party giving the other thirty (30) days notice in writing, to their last known address or registered office (if a company) and the premium will be adjusted on a pro rata basis.

## 5.7 **Claim Settlements**

Insurers may at any time pay to the insured in connection with any claims or series of claims under this insurance the indemnity limit (less any sums already paid) or any lesser sum for which such claims can be settled and upon such payment the insurers will not be under any further liability in respect of such claims except for costs and expenses incurred prior to such payments and with insurers' prior written consent.

If a payment exceeding the indemnity limit has to be made to dispose of a claim the liability of insurers to pay all costs fees and expenses in that connection will be limited to such of the said costs and expenses as the indemnity limit bears to the amount paid to dispose of a claim.

## 5.8 **Contracts (Rights of Third Parties) Act 1999**

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 or any equivalent legislation in the Republic of Ireland, and for the avoidance of doubt:

- 5.8.1 this insurance is not intended to confer any enforceable rights upon any third party, whether or not insurers acknowledge an interest of such third party
- 5.8.2 the parties to this insurance will be entitled to rescind or vary such without the consent of any third party, whether or not insurers acknowledge an interest of such third party
- 5.8.3 in the event of proceedings by a third party against insurers for the enforcement of a term of this insurance insurers will have available to them the option of any defence or set off, which would have been available if the proceedings had been brought by the insured.

## 5.9 **Policyholder Complaints**

Square Mile Underwriting aim to provide a first class professional service to its customers. Should you have any questions about your policy or the handling of a claim, you should, in the first instance, contact your broker.

Otherwise, if you wish to make a complaint concerning your policy, you may contact:  
The Managing Director, Square Mile Underwriting, 6 Lloyd's Avenue, London EC3N 3AX  
[complaints@smu.uk.com](mailto:complaints@smu.uk.com)  
Telephone: 020 7265 7490  
Fax: 020 7265 7491

To help us deal with correspondence quickly, please advise your policy number and the name of the policyholder:

If you are still not satisfied with the way a complaint has been dealt with, you may ask the Complaints Department at Lloyd's to review your case.

Policyholder and Market Assistance, Lloyd's Market Services, G6/86 One Lime Street, London EC3M 7HA  
Telephone: 0207 327 5693  
Fax: 0207 327 5225  
Email: [complaints@lloyds.com](mailto:complaints@lloyds.com)

Complaints that cannot be resolved may, if you are an eligible complainant, then be referred to:  
The Financial Ombudsman Service, Exchange Tower, Harbour Exchange Square, London E14 9SR  
Telephone: 0300 123 9123 or 0800 023 4567  
Email: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)  
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The Financial Ombudsman Service is an independent service in the UK for settling disputes between consumers and businesses providing financial services

These complaints procedures do not affect your rights of recourse to legal action or to any other remedy available to you.



## **DEFINITIONS AND INTERPRETATIONS**

Various words and phrases have a standard meaning within this insurance and such definitions and interpretations are set out below. Headings and notes are for information purposes only and are not to be construed as part of this insurance. The following words and phrases are used in this insurance. In certain instances the words may be used in the plural or singular form. Wherever they appear they are deemed to have the meaning set out below:-

### **6.1 Insured**

Will mean:-

- 6.1.1 the practice
- 6.1.2 the present or future partners and present or future directors of the practice
- 6.1.3 former partners and former directors of the practice in respect of claims made during the policy period but arising out of the exercise and conduct of the business during the period whilst they were receiving salary or financial benefit from the practice
- 6.1.4 the estate, heirs and executors of those parties mentioned in 6.1.1 - 6.1.3.

### **6.2 The Practice**

Will mean the professional practice(s) whether corporate, sole trader or partnership named as the insured in the schedule, including any predecessors in business.

The definition also includes any practice or business for which the insured is legally liable in consequence of the acquisition of such practice or business prior to inception of this insurance, provided insurers have been notified in writing of the existence of such other practice or business and insurers have agreed to insure such entities.

Any location of the practice is included within the definition unless expressly stated otherwise.

### **6.3 Business**

Will mean advice given and/or service performed as detailed in the schedule.

Where the insured is liable for a sub-consultant the definition of business is extended to include any other professional activities of the sub-consultant for which the insured is liable.

In addition, the definition of business is extended to include personal appointments of any party, except the acceptance of any directorship or trusteeship in any other company, falling within the definition of the insured provided the fees, if any, for such activities are credited to the practice and such activities are related directly or indirectly to the activities listed in the schedule and the individual is qualified or experienced to carry out such work.

### **6.4 Indemnity Limit**

Will mean the sum shown in the schedule which is available to indemnify the insured in respect of each claim, provided always that where more than one claim arises from the same original cause or source all such claims will be deemed to be one claim and only one indemnity limit will be payable in respect of the aggregate of all such claims.

### **6.5 Defence Costs**

Will mean all costs and expenses incurred in the investigation, defence or settlement of any claim or potential claim and/or the cost of representation at any enquiry or other proceedings, which have a direct or indirect relevance to the investigation, defence or settlement of any matter notified under the terms of this insurance.

### **6.6 Excess**

Will mean the first amount of each claim which is payable by the insured. Where, however, a series of claims is made during the policy period, which arises from the same original cause or source, then only one single excess will apply in respect of all claims resulting from that original cause or source. This amount is payable, before insurers make any payment.

- 6.7 Pollution**  
Will mean any one or a combination of a release, emission, discharge, dispersal, disposal or escape of any process of substances, which are capable of causing harm to any person or living organism, into or onto any water, land or air.
- 6.8 Harm**  
Will mean injury or impairment to the health of any living organism or interference with ecological systems of which they form part and, in the case of a person, includes offence caused to any of their senses.
- 6.9 Air**  
Will mean air within buildings or other natural or man-made structures, above or below ground.
- 6.10 Geographical Limits**  
Will mean work undertaken in the United Kingdom, Channel Islands, Isle of Man and Member Countries of the European Union.
- 6.11 Policy Period**  
Will mean the period shown in the schedule, plus any extensions to the period, which may be granted by insurers.
- 6.12 Documents**  
Will mean project models or displays, deeds, wills, agreements, maps, plans, records, photographs or negatives, written or printed books, letters, certificates or written or printed documents and/or forms of any nature whatsoever and will include computer software and systems records (electronic data will be deemed to be physical property for the purposes of this insurance). The definition excludes bearer bonds, coupons, bank or currency notes and other negotiable paper.
- 6.13 Data**  
Will mean information (including without limitation text, numbers, sounds and images) recorded in a form which can be processed by equipment operating automatically, in response to instruction given for that purpose.
- 6.14 Collateral Warranties, Duty of Care Agreements**  
Will mean any agreement, which acknowledges or accepts that the insured owes a duty of care to or is responsible for the losses of any party, other than the insured's direct client, to whom services are being provided.
- 6.15 Circumstance**  
Will mean information or facts or matters, of which the insured is aware, which may give rise to a claim against the insured, which the insured could become legally liable to pay and which arises out of the exercise and conduct of the business.
- 6.16 Computer System**  
Will mean any computer, data processing equipment, media or any of their parts, or system of data storage and retrieval, or communications system, network, protocol or any of their parts, or storage device, microchip, integrated circuit, real-time clock system or similar device, or any computer software (including but not limited to application software, operating systems, runtime environments or compilers), firmware or microcode.

**6.17 Date Conformity**

Will mean that neither performance nor functionality of the computer system is affected by any changes prior to, during and/or after, the year 2000. In particular:-

- 6.17.1 no value for current date will cause or give rise to any interruption in the operation of the computer system
- 6.17.2 date based functionality and performance must behave consistently for dates prior to, during and/or after, the year 2000
- 6.17.3 in all interfaces and data storage, the century in any date must be specified either explicitly or by unambiguous algorithms or inferencing rules
- 6.17.4 the year 2000 must be recognised as a leap year
- 6.17.5 9 September 1999 (or any representation of that date) must be recognised as that date.

**6.18 Co-operate**

Will mean the insured must allow insurers and their duly appointed representatives the best possible defence of a claim within the time constraints available. The insured should have adequate internal systems in place, which will allow ready access to material information.

It being understood that the insured will at all times and at their own cost give to insurers or their duly appointed representatives all such information, assistance, signed statements or depositions as may properly be required to facilitate compliance with all, and any, Civil Procedure Rules, Practice Directions and Pre-Action Protocols, as may be issued and approved from time to time by the Head of Civil Justice.

Furthermore, co-operate will mean that the insured will pay the excess on demand of insurers or their duly appointed representative to comply with any settlement agreed by insurers.

**6.19 Letter of Claim**

Will mean the Letter of Claim, as detailed in any Pre-Action Protocols, as may be issued and approved, from time to time, in connection with Civil Procedure Rules, or equivalent legislation in countries other than England.

**6.20 Insurers**

Will mean certain underwriters at Lloyd's, each for their respective percentage participations, as shown in the attached schedule of security.

**6.20 Schedule**

Will mean the page of this insurance wording entitled Schedule (before the addition of any endorsements or memoranda), which will provide details relative to the current policy period.

## SCHEDULE OF SECURITY

**BINDING AUTHORITY NUMBER: B1309LM2017536537**

Percentage	Insurer
65%	Aegis Syndicate 1225
35%	Ascot Syndicate 1414