

**CHOICE  
INSURANCE**



**Aspen Primary Policy Wording**

**Professional Liability Insurance**

Insurance Brokers wording - UK AOC costs inclusive

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## Important Information about your Policy

### Underwriters

Aspen Syndicate 4711 at Lloyds of London (company No.06459521) is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority (register number 478192). Registered office: 30 Fenchurch Street, London, EC3M 3BD, United Kingdom.

### Complaints

Our aim is to ensure that all aspects of your insurance are dealt with promptly, efficiently and fairly. At all times we are committed to providing you with the highest standard of service. If you are unhappy in any way, please contact your broker in the first instance.

If you wish to make a complaint directly, you can do so at any time by referring the matter to either Aspen Managing Agency or the Complaints team at Lloyd's.

The contact details for Aspen Managing Agency is:

Address: The Complaints Department  
Aspen Managing Agency  
30 Fenchurch Street  
London  
EC3M 3BD

Email: [complaints@aspen-insurance.com](mailto:complaints@aspen-insurance.com)  
Telephone: +44 (0)20 7184 8841

The address of the Complaints team at Lloyd's is:

Complaints  
Lloyd's  
One Lime Street  
London EC3M 7HA

Telephone: 020 7327 5693  
Fax: 020 7327 5225  
E-mail: [complaints@lloyds.com](mailto:complaints@lloyds.com)  
Website: [www.lloyds.com/complaints](http://www.lloyds.com/complaints)

Details of Lloyd's complaints procedures are set out in a leaflet "Your Complaint - How We Can Help" available at [www.lloyds.com/complaints](http://www.lloyds.com/complaints) and are also available from the above address.

If you remain dissatisfied after Lloyd's has considered your complaint, you may have the right to refer your complaint to the Financial Ombudsman Service (FOS).

The contact details for the FOS are: The Financial Ombudsman Service, Exchange Tower, London E14 9SR. Telephone 0800 023 4567 (calls to this number are free from "fixed lines" in the UK) or 0300 123 9123 (calls to this number are charged at the same rate as 01 and 02 numbers on mobile phone tariffs in the UK). Email [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk).

The FOS is an independent service in the UK for settling disputes between consumers and businesses providing financial services. You can find more information on the FOS at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk).

If you have purchased your policy online you can also make a complaint via the EU's online dispute resolution (ODR) platform. The website for the ODR platform is: <http://ec.europa.eu/odr>

LMA9123 20 May 2016

## Policy

This Policy is a contract of insurance between the **Insured** and **Underwriters**. The Policy contains all the details of the cover that **Underwriters** provide. This Policy consists of and must be read together with any Endorsements that are applicable. This Policy is not complete unless it is signed and agreed by Underwriters.

## Insurance Act 2015

The Insurance Act 2015 ('the Act') applies to this policy and the terms of this policy will in most cases be no less advantageous to the **Insured** than the Act would otherwise provide; in the event of any apparent conflict between the terms of this policy and the Act, the Act will prevail. There are, however, certain terms which, while capable of being more advantageous to the **Insured** than the Act would otherwise provide, may in certain cases be less advantageous to the **Insured** than the Act would provide.

## Series Clause

Where a series of **Claims** or losses arises 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**.

## Interpretation

- a) reference to any Act, statute or statutory provision shall include a reference to that provision as amended, re-enacted or replaced from time to time whether before or after the date of the inception of this Policy;
- b) if any term, condition, exclusion or endorsement or part thereof is found to be invalid or unenforceable the remainder shall remain in full force and effect;
- c) the headings herein are for reference only and shall not be considered when determining the meaning of this Policy.

## Governing Law and Disputes

Any dispute or disagreement between the **Insured** and the **Underwriters** arising out of or in connection with this Policy shall be referred to arbitration before a sole arbitrator (to be mutually agreed upon by the **Insured** and the **Underwriters** or failing agreement to be appointed by the Chairman for the time being of the Bar Council) whose decision shall be final and binding on both parties.

This Policy shall be governed by and construed according to the laws of England and Wales. The courts of England and Wales shall have exclusive jurisdiction of the parties hereto on all matters relating to this Policy.

## Definitions

In this Policy of insurance all terms in bold print shall have the meaning given in this section

<b>Appointed Representative</b>	An <b>Appointed Representative</b> as defined by section 39 of the Financial Services and Markets Act 2000.
<b>Approved Person</b>	Any natural person employed by the <b>Insured</b> to whom the Financial Conduct Authority has given its approval to perform one or more of controlled functions 00 to -29 pursuant to Section 59 of the Financial Services and Markets Act 2000.
<b>Claim</b>	Any demand from, or assertion of a civil right against, the <b>Insured</b> which is communicated to the <b>Insured</b> .
<b>Defence Costs and Expenses</b>	Legal costs and expenses incurred by or on behalf of the <b>Insured</b> with the prior written and continuing consent of the <b>Insurer</b> . It does not include the <b>Insured's</b> own costs and expenses.
<b>Document</b>	All records arising from the <b>Insured's Business</b> , whether kept in paper (excluding stamps, currency, coins, bank notes and bullion, travellers cheques, cheques, drafts, postal orders, bills of exchange, money orders, securities, negotiable instruments and the like), magnetic or electronic form, belonging to the <b>Insured</b> or for which the <b>Insured</b> is legally responsible, whilst in the custody of the <b>Insured</b> , or in the custody of any person other than the owner to or with whom they have been entrusted, lodged or deposited by the <b>Insured</b> in the ordinary course of the <b>Insured's Business</b> .
<b>Employee</b>	Any person, other than a partner, principal or director of the <b>Insured</b> , who is under a contract of service or apprenticeship, supplied to, hired, or borrowed by the <b>Insured</b> , or under any work experience or similar scheme, whilst employed or engaged by and under the control of the <b>Insured</b> in connection with the <b>Insured's Business</b> .
<b>Equity Release Scheme</b>	Any equity release, lifetime mortgage, drawdown mortgage, home income plan, home reversion scheme, or other financial policy or product the intention of which is to provide an income and /or lump sum payment, which is either secured upon property owned, in whole or in part, by the policy holder or which represents the proceeds of sale whether in whole or in part of a property owned, by the policy holder.
<b>Excess</b>	Amount payable by the <b>Insured</b> (the <b>Insurer</b> shall only be liable to the extent that any liability exceeds the <b>Excess</b> ).
<b>Extranet</b>	A restricted-access group of inter-connected networks accessible via service providers or online service providers using dial-up telephone service, digital subscriber lines, integrated service digital network lines, cable modem access or similar transfer mediums.
<b>FSAVC</b>	Any voluntary contribution for relevant benefits (as defined by s612 Income & Corporation Taxes Act 1988) paid to a stand alone vehicle arranged with an insurer or other product provider by an <b>Employee</b> who is a member of an occupational pension scheme, whether the occupational pension scheme is approved under Chapter 1 Part XIV of the Income and Corporation Taxes Act 1988, is seeking approval under this chapter or is a scheme established under statute (including public services schemes).

<b>Fungi</b>	Any fungus or mycota, including but not limited to mould, mildew, mycotoxins, spores, yeast or any biogenic aerosols.
<b>Income Withdrawal</b>	Any scheme providing for <b>Income Withdrawal</b> as defined by s630 Income & Corporation Taxes Act 1988 or similar <b>Income Withdrawal</b> scheme relating to a money purchase scheme or stakeholder pension scheme.
<b>Insured(s)</b>	<ul style="list-style-type: none"> <li>(a) the firm(s) or company/companies stated in the Policy <b>Schedule</b>;</li> <li>(b) the partners and/or directors and/or members of those firm(s) or company/companies;</li> <li>(c) former partners and/or former directors and/or former members of those firm(s) or company/companies;</li> <li>(d) any retired partner, director or member remaining as a consultant to those firm(s) or company/companies;</li> <li>(e) any <b>Employee</b> and/or former <b>Employee</b> of those firm(s) or company/companies including any self employed person acting for or on behalf of those firm(s) or company/companies;</li> <li>(f) the estate, heirs and executors and/or legal/personal representatives of those parties mentioned in (a) – (e) above in the event of their death, incapacity, insolvency or bankruptcy.</li> </ul>
<b>Insured's Business</b>	The professional services performed or the advice given by the <b>Insured</b> or by any <b>Employee</b> , or by any other person firm or company directly appointed by and acting for or on behalf of the <b>Insured</b> in relation to those activities declared in the <b>Proposal</b> .
<b>Insurer</b>	Aspen Syndicate 4711 and any other participating Lloyd's syndicates and/or Insurance companies. Where reference is made to <b>Insurer(s)</b> within this Policy it is deemed to mean <b>Underwriter(s)</b> .
<b>Internet</b>	The worldwide group of inter-connected networks accessible via service providers or online service providers using dial-up telephone service, digital subscriber lines, integrated service digital network lines, cable modem access or similar transfer mediums.
<b>Intranet</b>	One or more inter-connected networks with restricted access to the <b>Insured</b> via service providers or online service providers using dial-up telephone service, digital subscriber lines, integrated service digital network lines, cable modem access or similar transfer mediums.
<b>Limit of Indemnity</b>	The amount stated in the Policy <b>Schedule</b> being the maximum payable by the <b>Insurer</b> , as set out in the <b>Limit of Indemnity</b> section of this Policy.
<b>Non-Joiner</b>	An individual who has declined or failed to join an occupational pension scheme for which he/she was or is eligible, while continuing in the relevant employment accordingly.
<b>Notified</b>	That notice is sent in writing by the <b>Insured</b> (or its agent) to, and received by, Lloyd's Underwriters. For the avoidance of doubt, notice is not valid if given by any third party (other than the <b>Insured's</b> agent).
<b>Opt-Out</b>	The giving up of active membership of an occupational pension scheme while continuing in the relevant employment. This includes the situation where an individual remained in an occupational pension scheme for life assurance purposes only, but left the scheme for pension purposes.
<b>Period of Insurance</b>	The period stated in the Policy <b>Schedule</b> .

<b>Premium</b>	The amount stated in the Policy <b>Schedule</b> plus Insurance Premium Tax (or other appropriate tax) at the rate from time to time in force.
<b>Proposal</b>	All the information supplied to the <b>Insurer</b> (whether by written, electronic or any other means) which it is hereby agreed is the basis of this policy.
<b>Regulated Business</b>	All activities regulated under the Financial Services and Markets Act 2000 as set out in Section 22 of the Financial Services and Markets Act 2000 and regulations made thereunder, but shall not include insurance mediation as defined in the glossary to the Financial Conduct Authority Handbook relating only to general insurance contracts (as so defined).
<b>Schedule</b>	The <b>Document</b> entitled " <b>Schedule</b> " that relates to this policy.
<b>Split Capital Investment</b>	The purchase of shares in a public limited company, which is a closed-ended investment company as defined by the UK Listing Authority, wherever in the world it is incorporated or listed, with more than one share class, which may or may not qualify as an investment trust under s842 Income & Corporation Taxes Act 1988.
<b>Structured Capital at Risk Products</b>	any policy or product which provides a specified level of income or growth over a fixed investment period and has the following characteristics: <ul style="list-style-type: none"><li>(i) The customer is exposed to a range of outcomes in respect of the return of initial capital invested;</li><li>(ii) The return of initial capital invested at the end of the investment period is linked by a pre-set formula to the performance of an index, a combination of indices, a 'basket' of selected stocks (typically from an index or indices) or other factor or combination of factors; and</li><li>(iii) If the performance in (ii) is within specified limits, repayment of initial capital invested occurs but if not, the customer could lose some or all of the initial capital invested</li></ul>
<b>Terrorist Action</b>	the actual or threatened: <ul style="list-style-type: none"><li>(a) use of force or violence against persons or property, or</li><li>(b) commission of an act dangerous to human life or property, or</li><li>(c) commission of an act that interferes with or disrupts an electronic or communications System undertaken by any person or group, whether or not acting on behalf of or in connection with any organisation, government, power, authority, or military force, when any of the following applies:<ul style="list-style-type: none"><li>(i) the apparent intent or effect is to intimidate or coerce a government or business, or to disrupt any segment of the economy; or</li><li>(ii) the apparent intent or effect is to cause alarm, fright, fear of danger, or apprehension of public safety in one or more distinct segments of the general public, or to intimidate or coerce one or more such segments; or</li><li>(iv) the reasonably apparent intent or effect is to further political, ideological, religious or cultural objectives, or to express support for (or opposition to) a philosophy, ideology, religion or culture.</li></ul></li></ul>
<b>Transfer</b>	The payment into a personal pension of the cash value of accrued benefits under an occupational pension scheme for a member who has left active membership of that scheme. Transfers of all or part of accrued benefits by individuals who have opted out, as well as by former <b>Employees</b> , are included.

All other terms, conditions, exclusions and limitations in this policy remain unaltered.

## Basis of Insurance

The **Insured** having submitted the **Proposal** to the **Insurer** which it is agreed shall be the basis of, and be incorporated into, this policy and in consideration of the **Premium** paid or to be paid by the **Insured**, the **Insurer** agrees to indemnify the **Insured**, subject to the terms, conditions, exclusions and limitations in this policy.

## Insuring Clauses

### 1 Civil Liability

The **Insurer** shall indemnify the **Insured** against any **Claim** first made against the **Insured** and **Notified** during the **Period of Insurance** in respect of any civil liability and which arises out of the **Insured's Business**, including **Insured's** liability for acts and omissions of **Appointed Representatives** named in the proposal form or whose appointment during the **Period of Insurance** has been notified to and agreed by the **Insurer**.

### 2 Ombudsman Awards

The **Insurer** shall indemnify the **Insured** against:

- (a) any amount paid and/or payable and/or
- (b) the cost of taking any steps which the **Insured** is directed to take in relation to a Complainant in accordance with any final and binding award or determination of any Ombudsman appointed pursuant to the provisions of the Financial Services and Markets Act 2000 provided that the **Claim** giving rise to the award or determination of the Ombudsman was first made against the **Insured** and **Notified** during the **Period of Insurance** and that the **Claim** arises out of the **Insured's Business**.

### 3 Dishonesty

The **Insurer** shall indemnify the **Insured** against any **Claim** first made against the **Insured** and **Notified** during the **Period of Insurance** and which arises out of the conduct of the **Insured's Business** by reason of any dishonest or fraudulent act or omission on the part of any **Employee**, director, partner or principal of the **Insured**, firm or company directly appointed by and acting for or on behalf of the **Insured**.

### 4 Loss of Documents

The **Insurer** shall indemnify the **Insured** for reasonable and necessary costs, incurred with the **Insurer's** prior written and continuing consent, of repair, replacement or reconstitution of any **Document** which has been unintentionally destroyed, damaged, lost or mislaid (and which after diligent search cannot be found) the occurrence of which has been discovered and **Notified** during the **Period of Insurance**. However, the **Insured** will not be indemnified in relation to any **Document** which is kept in magnetic or electronic form unless such **Document** is duplicated and the duplicate is stored separately, as a back-up off site or in a secure fire proof safe.

### 5 Data Protection

The **Insurer** shall indemnify the **Insured** for **Defence Costs and Expenses** resulting from any prosecution first brought against the **Insured** or any **Employee** and **Notified** during the **Period of Insurance** which arises out of the conduct of the **Insured's Business** in respect of any offences or alleged offences under sections 21(1), 21(2), 22(6) or 47(1) of the Data Protection Act 1998.

### 6 Legal Representation Costs

The **Insurer** shall indemnify the **Insured** for **Defence Costs and Expenses** for representation at any hearing, tribunal or proceeding having the power to compel the attendance of the **Insured** involving a proceeding first commenced and **Notified** during the **Period of Insurance**, provided always that:



- (a) This Insuring Clause will only apply to any proceeding arising out of work performed by or on behalf of the **Insured** in the ordinary course of the **Insured's Business**;
- (b) The **Insurer** shall not be liable to pay any penalty, fine or award of costs imposed on the **Insured** arising from such prosecution unless compensatory in nature and payable to a third party;
- (c) No costs, charges and expenses other than those incurred with the written consent of the **Insurer** shall be payable hereunder.

## 7 Defence Costs and Expenses

The **Insurer** shall indemnify the **Insured** for all **Defence Costs and Expenses** in the defence, investigation or settlement of any **Claim** and/or loss which falls to be dealt with under insuring clauses 1, 2, 3 or 9 provided that if a payment in excess of the **Limit of Indemnity** available hereunder has to be made to dispose of any **Claim** or loss, the **Insurer's** liability for **Defence Costs and Expenses** associated with such **Claim** or loss shall be that proportion of the **Defence Costs and Expenses** as the **Limit of Indemnity** available hereunder for such **Claim** or loss bears to the amount required to be paid in respect of such **Claim**.

## 8 Approved Persons Defence Costs

The **Insurer** shall indemnify the **Insured** with the prior written consent of the **Insurer** for **Defence Costs and Expenses** resulting from any investigation by the Financial Conduct Authority first made against an **Approved Person** and **Notified** during the **Period of Insurance** which arises out of the conduct of the **Insured's Business**.

## 9 Compensation for Court Attendance

The **Insurer** will provide compensation to the **Insured** with the prior written consent of the **Insurer**, in the event that the legal advisers acting on behalf of the **Insured** require any of the **Insured** or any **Employee** (not including expert witnesses), to attend court or any arbitration or adjudication hearing as a witness of fact in connection with a **Claim** made against the **Insured** during the **Period of Insurance** at the following rates for each day or part thereof on which attendance is required:

- (a) Any principal, partner, member or director of the **Insured** GBP 500
- (b) Any **Employee** GBP 250

# Limit of Indemnity

- 1 The **Limit of Indemnity** under insuring clauses 1 and 3 (other than in respect of **Defence Costs and Expenses**) shall not exceed the **Limit of Indemnity** in respect of any one **Claim**. The **Insurers** total liability under insuring clause 2, (or under 1 in respect of any award by the Financial Ombudsman Service) shall not exceed GBP150,000 in the aggregate whether or not the **Claim** or loss also arises under any other insuring clause.

The **Insurers** total liability under insuring clauses 4, 5, 6 and 8 shall not exceed GBP100,000 in the aggregate per clause, whether or not the **Claim** or loss also arises under any other insuring clause. The **Insurer's** total liability under this policy shall not exceed the **Limit of Indemnity** in the aggregate for all **Claims** and losses (including **Defence Costs and Expenses**) arising out of **Regulated Business**.

- 2 All **Claims** and losses (under any or all of the insuring clauses) that arise directly or indirectly from or are attributable to the same originating cause or source, or the same act, error or omission, or any series of acts, errors or omissions that are in any way related are deemed to be one **Claim** for the purposes of the **Limit of Indemnity** provided always that this clause does not operate to provide cover under this policy for any **Claims** or losses that would not be covered by this policy but for this clause.
- 3 Any payment in respect of **Regulated Business** or insuring clause 2, (or under 1 in respect of any award by the Financial Ombudsman Service), 4, 5, 6, 8 or 9 or an endorsement that is subject to an aggregate limit that is less than the **Limit of Indemnity** stated in the Policy **Schedule** arising out of or attributable to the same originating cause or source as any **Claim**, or arising out of any

act, error or omission or series of acts, errors or omissions that are in any way related to any **Claim**, shall erode the **Limit of Indemnity** available in respect of that **Claim**.

## Excess

- 1 The **Excess** shall be the amount stated the Policy **Schedule** other than in respect of insuring clause 4 when the **Excess** shall be GBP2500 each and every **Claim** and each and every loss and clause 9 where the **Excess** shall be nil.
- 2 A separate **Excess** shall apply to each and every **Claim**. For **Claims** arising out of **Regulated Business** a separate **Excess** shall apply to each and every **Claim**, each and every loss and each and every claimant. Payment of the **Excess** by the **Insured** is a condition precedent to the **Insured** being indemnified by the **Insurer** and the **Insured** shall confirm its ability and agreement so to pay if reasonably requested by the **Insurer**.
- 3 The **Excess** shall not apply to **Defence Costs and Expenses** except in respect of insuring clauses 2, 5, 6 and 8 and **Claims** arising out of **Regulated Business**.

## Exclusions

The **Insurer** shall not have any liability under this policy for, or directly or indirectly arising out of, or in any way involving:-

### 1 Known Circumstance(s)

Any circumstance(s) that a reasonable person would believe could give rise to a liability under this policy and which circumstance(s) was (or were) or ought to have been known to the **Insured** prior to the **Period of Insurance** .

### 2 Bodily Injury and/or Property Damage and/or Pollution and/or Land and Vehicles and/or Asbestos and/or Fungi

- (a) Bodily injury, sickness, disease, emotional distress (other than emotional distress arising from any libel or slander), mental anguish, mental stress or the death of any person; or
- (b) Any damage to or destruction or loss of any property (except as provided under insuring clause 4) including loss of use; or
- (c) The ownership, possession or use of any aircraft, watercraft, hovercraft, motor vehicle, trailer, or other means of transport, or any buildings, structures, premises or land or any property (mobile or immobile); or
- (d) Any pollution, seepage, discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including, but not limited to, smoke, vapours, soot, dust, fibres, fumes, acids, alkalis, chemicals and waste (including but not limited to material to be recycled, reconditioned or reclaimed) or contamination of any kind; or ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; or
- (e) Asbestos or any product or material containing asbestos in whatever form or quantity.; or
- (f) **Fungi**

unless such **Claim** arises directly from negligent advice and/or negligent design and/or negligent specification by the **Insured** or by any **Employee** or by any other person, firm or company directly appointed by and acting for and on behalf of the **Insured** in the course of the **Insured's Business**;

### 3 Trading Losses

Any trading losses or trading liabilities incurred by the **Insured** or by any business managed by or carried on by or on behalf of the **Insured**, including but not limited to any loss of client account and/or custom.

### 4 Fines and Penalties

Any disciplinary investigations or proceedings (apart from the indemnity provided under insuring clause 1.5, 1.6 and 1.8) or any fines, penalties, or penal, punitive, exemplary, restitutionary, non-compensatory or aggravated damages.

### 5 Fraud and Dishonesty

Any dishonest or fraudulent act or omission committed, condoned or contributed to by any director, partner or principal of the **Insured**, or committed, condoned or contributed to by any person after the discovery by any director, partner, or principal of the **Insured** of reasonable cause for suspicion of dishonesty or fraud in relation to that person. Furthermore, no person or persons committing, condoning or contributing to any dishonest or fraudulent act or omission shall be entitled to an indemnity under this policy; and in the event of a 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:

- (a) Any monies owed by the **Insured** to any person committing, condoning or contributing to the act or omission;
- (b) Any monies held by the **Insured** and belonging to such person

### 6 Director and Officer

Any liability as a director, officer and/or trustee in their respective capacities. This Exclusion shall not apply to **Defence Costs and Expenses** under Insuring Clause 8

### 7 Nuclear, War and Terrorism

Any of the following:

- (a) war (whether declared or not), invasion, acts of a foreign enemy, hostilities, or any similar act, condition or warlike operation, warlike action by a regular or irregular military force or other authority to hinder or defend against an actual or expected attack;
- (b) insurrection, rebellion, revolution, riot, attempt to usurp power, popular uprising, or any action taken by any governmental or martial authority in hindering or defending against any of these;
- (c) discharge, explosion, or use of a weapon of mass destruction, whether or not employing nuclear fission or fusion, or chemical, biological, radioactive or similar agents, by any party at any time for any reason;
- (d) any **Terrorist Action** or any action taken in controlling, preventing or suppressing **Terrorist Action**, unless caused directly by a Wrongful Act. If the **Insurer** alleges that by reason of this exclusion any liability or loss is not covered by this policy the burden of proving the contrary shall be upon the **Insured**.

### 8 Jurisdiction and Territorial Limits

Any:

- (a) legal proceedings brought outside the Jurisdiction stated in the Policy **Schedule** or brought within the Jurisdiction to enforce a judgement or order made outside the Jurisdiction; or
- (b) any act, error, omission or event occurring outside the Territorial Limits shown in the Policy **Schedule**.

### 9 Warranties and Guarantees

Any performance warranty, guarantee, penalty clause, liquidated damages clause, novation or similar provision unless the liability of the **Insured** would have existed to the same extent in the same amount and to the same persons in the absence of such warranty, guarantee, clause or similar provision.

## 10 Related Companies

Any **Claim** brought by or on behalf of

- (a) the **Insured**, or any parent or subsidiary company of the **Insured**, or any entity or person having a financial, executive or controlling interest in the **Insured**, or
- (b) any entity in which the **Insured** has a financial, executive or controlling interest unless such **Claim** emanates from a wholly independent third party.

## 11 Joint Ventures

Any association or joint venture conducted with any third party other than in respect of any **Claim** arising from the **Insured's Business**. The **Insurer** will not be liable to pay any **Claim** made by any associated party within the association or joint venture unless such **Claim** emanates from a wholly independent third party.

## 12 Other Insurance

Any matter in respect of which the **Insured** is (or but for the existence of this policy would be) entitled to indemnity under any other contract of insurance, except where such other insurance is written as specific excess insurance to provide an indemnity in excess of the amount payable under this policy.

## 13 Employer Liability

Any breach of any obligation owed by the **Insured** as an employer to any **Employee** or former **Employee** or applicant for employment.

## 14 Goods and Services

- (a) Any goods or products sold, supplied, made, constructed, installed, maintained, repaired, altered or treated by or on behalf of the **Insured** or any breach of any contract for the provision of any goods or products sold, supplied, made, constructed, installed, maintained, repaired, altered or treated by or on behalf of the **Insured**, unless such **Claim** arises directly from negligent advice by the **Insured** or any **Employee** or any other person firm or company directly appointed by and acting for or on behalf of the **Insured** in the course of the **Insured's Business**.
- (b) Any contract for the provision of goods or services to the **Insured**.

## 15 Intellectual Property, Confidentiality

Any of the following:

- (a) Any infringement of copyright, design right, registered design, trademark, or patent or any other intellectual property right, unless the infringement was unintentional.
- (b) Any breach of confidentiality, unless such breach was unintentional.

This exclusion shall not apply where the **Claim** arises directly from negligent advice and/or negligent design and/or negligent specification by the **Insured** or by any **Employee** or by any other person, firm or company directly appointed by and acting for and on behalf of the **Insured** in the course of the **Insured's Business**.

## 16 Retroactive Date

Any act error or omission committed prior to the Retroactive Date specified in the Policy **Schedule**.

## 17 Insolvency Exclusion

The insolvency, receivership, bankruptcy, liquidation or financial inability to pay of any insurance company, reinsurance company, **Insured**, syndicate, agent, broker or intermediary, benefit plan, self-insurance plan, insurance pool or risk retention group with whom, or through whom, insurance cover has been placed or obtained.

## 18 Market Fluctuation

Any of the following:

- (a) Any depreciation or loss of investment when such depreciation or loss arises from fluctuations in any financial stock or commodity or other markets.
- (b) Any express or implied warranty or guarantee relating to the financial return of any investment or portfolio of investments.

## 19 Money Laundering/Market Abuse

Any of the following:

- (a) money laundering;
- (b) market abuse as defined in Part VIII of the Financial Services and Markets Act 2000.

## 20 FCA (formerly FSA) Review

Any of the following:

- (a) any pension **Transfer, Opt-Out, Non-Joiner** or rebate-only transaction carried out or advised upon during the period 29th April 1988 to 30th June 1994;
- (b) any **FSAVC** transaction carried out or advised upon during the period 29th April 1988 to 15th August 1999;
- (c) any advice on, arrangement of any transaction in or dealing in any endowment mortgage or other interest only mortgage linked to an investment vehicle or any financial promotion or advertisement thereof;
- (d) any advice on, arrangement of any transaction in or dealing in any **Income Withdrawal Schemes** or any financial promotion or advertisement thereof;
- (e) any advice on, arrangement of any transaction in or dealing in any **Split Capital Investment** or any financial promotion or advertisement thereof;
- (f) any advice on, arrangement of any transaction in or dealing in any **Structured Capital at Risk Products** or any financial promotion or advertisement thereof;
- (g) any **Equity Release Scheme**.
- (h) any advice on, arrangement of any transaction in or dealing in payment protection insurance.

## 21 Appointed Representatives

against any **Appointed Representative** unless the **Appointed Representative** was acting on behalf of the **Insured**, in the course of the **Insured's Business**, and that the **Insured** had accepted responsibility in writing in the **Insured's** contract with the **Appointed Representative** for the relevant act or omission.

## 22 Assumed Obligations

directly or indirectly arising out of, or in any way involving, any liability, duty or obligation incurred or assumed by the **Insured** which is not incurred or assumed in the normal conduct of businesses similar to the **Insured's Business**.

## 23 Contractual Liabilities

arising from any warranty, indemnity, guarantee, or undertaking given by any **Insured** in the course of the **Insured's Business** save where such liability would have attached to that **Insured** in the absence of such a warranty, indemnity, guarantee or undertaking.

## 24 Failure to Account for Monies

arising from the failure to account for monies by an **Insured** in the event of the insolvency, receivership, bankruptcy or liquidation of that **Insured**.

## 25 Partnership Disputes

arising under or in connection with any partnership agreement or arrangement to which any **Insured** may be party.

## 26 Preferred Market Agreements

incurred by the **Insured** in connection with any **Claim** made against any **Insured**, arising out of or based upon allegations that any **Insured** intentionally or negligently permitted or aided or abetted or was a participant in or was connected with the illegal or improper use of any agreements or arrangements between insurance broker and an insurance carrier involving the improper payment of increased fees, commissions or other compensation arising from either the volume of premium ceded to the insurance carrier or growth in the volume ceded to the insurance carrier.

## 27 Insurers Errors and Omissions Disputes Clause

It is hereby noted and agreed that Underwriters shall not provide an indemnity in respect of: Any underwriting losses of the **Insured**.

## 28 Sanctions Clause

No (re)insurer shall be deemed to provide cover and no (re)insurer shall 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 that (re)insurer 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.

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## 29 Communicable Disease Exclusion

1. Despite any provision to the contrary within this insurance, this insurance does not insure any loss, damage, liability, **Claim**, cost, expense or other sum caused by a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.
2. For the purposes of this exclusion, loss, damage, liability, **Claim**, cost, expense or other sum, includes, as an example, any cost to clean-up, detoxify, remove, monitor or test:
  - 2.1. for a Communicable Disease, or
  - 2.2. any property that is affected by such Communicable Disease.
3. As used in this exclusion, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
  - 3.1. the substance or agent includes, as an example, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
  - 3.2. the method of transmission includes, as an example, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms.
4. This exclusion applies to all coverage, coverage extensions, additional coverages, exceptions to any exclusion and other coverage grant(s).

## Conditions

### 1 Notification

As a condition precedent to the right to be indemnified under this policy the **Insurer** must be **Notified** as soon as practicable during the **Period of Insurance** :

- (a) of any **Claim**;
- (b) regardless of any previous notice, of receipt of any **Claim** Form, Particulars of **Claim**, Arbitration Notice or any other formal document commencing legal proceedings;
- (c) of any circumstance(s) of which the **Insured** shall become aware which is (or are) likely to give rise to a **Claim** supplying full details of the civil liability, its date, the name(s) of the potential claimants, the name(s) of the individuals involved and the potential amount involved;
- (d) of any circumstance(s) of which the **Insured** shall become aware which is (or are) likely to give rise to an entitlement to be indemnified under this policy supplying full details of the act, omission, event, transaction or loss likely to give rise to an entitlement to indemnity.

In the event that the **Insurer** is **Notified** during the **Period of Insurance** of any circumstance(s) which in the **Insurer's** reasonable opinion is (or are) likely to give rise to a **Claim** or an entitlement to be indemnified under the policy then any subsequent **Claim** which arises directly from the circumstance(s) so **Notified** shall be deemed to have been made during the **Period of Insurance** .

### 2 Duty to Cooperate

As a condition precedent to the right to be indemnified under this policy the **Insured** must promptly provide to the **Insurer** full details concerning any **Claim** and any circumstance(s) likely to give rise to a **Claim** and any circumstance(s) where the **Insured** has requested to be indemnified under this policy and provide such co-operation and assistance as the **Insurer** and its representatives, legal advisers or agents may reasonably require. It is a condition precedent to the right to be indemnified under this policy that the **Insured** and any **Employee** (or any person, firm or company acting for or on behalf of the **Insured**) shall ensure that all **Documents** relevant to any **Claim** and any circumstance(s) likely to give rise to a **Claim** or an entitlement to be indemnified under the policy are maintained and preserved.

### 3 No Admission of Liability

As a condition precedent to the right to be indemnified under this policy the **Insured** (or any **Employee** or any person, firm or company acting for or on behalf of the **Insured**) shall not, without the prior written approval of the **Insurer**, admit liability for, compromise, settle, or make any offer or payment in respect of any **Claim** or any circumstance(s) likely to give rise to a **Claim** or any circumstance(s) where the **Insured** has requested to be indemnified under this policy. The **Insurer** shall have full discretion in the handling of any **Claim** and any circumstance(s) likely to give rise to a **Claim** or an entitlement to be indemnified under the policy (notwithstanding that a dispute may have arisen between the **Insurer** and the **Insured**) provided always that the **Insured** shall not be obliged to defend any legal proceedings unless a Counsel of not less than 15 years standing (to be mutually decided upon by the **Insurer** and the **Insured**) shall advise that such proceedings can be contested with a reasonable prospect of success.

### 4 Insurer Entitled to Defend

The **Insurer** shall be entitled, but not obliged, to take over the investigation, defence and settlement of any **Claim** and any circumstance(s) likely to give rise to a **Claim** and any circumstance(s) where the **Insured** has requested to be indemnified under this policy. If the **Insured** declines to enter into any compromise or settlement recommended by the **Insurer** then the **Insurer's** liability under this policy shall be limited to the amount for which the **Claim** or loss could have been settled or compromised at the date at which the **Insurer** reasonably considers the **Claim** or loss should have been settled or compromised, subject always to the **Limit of Indemnity**

## 5 Discharge of Liability

The **Insurer** may at any time pay to the **Insured** in connection with any **Claim** and/or loss under this policy the **Limit of Indemnity** (less any sums already paid) or any lesser sum for which such **Claim** and/or loss can be settled and upon such payment the **Insurer** shall not be under any further liability except for **Defence Costs and Expenses** incurred prior to such payment and with the **Insurer's** prior written consent

## 6 Subrogation

The **Insurer** shall be subrogated to all the rights of recovery of the **Insured** against any third party before or after any indemnity is given under this policy provided always that the **Insurer** shall not exercise any such rights against any **Employee** or former **Employee** unless the loss in respect of which indemnity is provided under this policy was caused or contributed to by a fraudulent, dishonest or malicious act or omission by the **Employee** or former **Employee**. As a condition precedent to the right to be indemnified under this policy, the **Insured** shall, without charge, provide such assistance as the **Insurer** may reasonably require in any subrogation and shall not at any time, whether before or after the happening of any event which may give rise to a **Claim** or loss, enter into any contractual or other arrangements excluding, limiting or in way restricting **Insurer's** rights of recovery without **Insurer's** prior written consent.

## 7 Dishonest and Fraudulent Claims

If the **Insured** makes any **Claim** under this policy (or has made a **Claim** under any previous policy) which the **Insured** knows or ought to know to be false or fraudulent in any way, this policy shall become void and all rights of the **Insured** under this policy shall be forfeited.

## 8 Contracts (Rights of Third Parties) Act

No rights to enforce any term of this policy under the Contracts (Rights of Third Parties) Act 1999 are given to any person who is not a party to this policy but this does not affect any right or remedy of any such person that arises apart from that Act.

## 9 Special Condition Clause

Should circumstances arise which would entitle the **Insurer** to avoid liability under the Policy by reason of any misrepresentation, mis-statement or non-disclosure contained in the proposal for this Policy the **Insurer** may at their sole discretion, as an alternative to avoiding this Policy, give notice in writing to the **Insured** that they regard the cover afforded hereunder as continuing in full force and effect save that there shall be excluded from the indemnity afforded hereunder any **Claim** which has arisen or which may arise and which is related to circumstances involving such mis-statement, misrepresentation or non-disclosure, whereupon this Policy shall continue in full force and effect but shall be deemed to exclude as if the same had been specifically endorsed the particular or possible **Claim** referred to in such written notice.

## 10 Cancellation

This policy may be cancelled at any time by or on behalf of the **Insurer** by 30 days notice given in writing to the **Insured** at their last known address or registered office (if a company) and the **Premium** shall be adjusted on a pro rata basis.

This Policy may be cancelled at any time by the **Insured** by giving 30 days notice in writing to **Underwriters** at the address listed within the **Policy** schedule and the **Premium** shall be adjusted as per the Short Rate Cancellation Table.



## 11 Data Protection Act 1998

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

## 12 Appointed Representatives

The **Insured** shall give written notice to the **Insurer** prior to appointing any **Appointed Representative** during the **Period of Insurance**

## 13 Binding Authorities

The **Insured** shall give written notice to the **Insurer** prior to entering into any binding or delegated authority agreements during the **Period of Insurance**

## 14 Premium Payment

- 14.1 The **Insured** undertakes that the **Premium** will be paid in full to the **Insurer** within thirty days of inception of this policy (or, in respect of instalment premiums, when due).
- 14.2 If the **Premium** has not been so paid to the **Insurer** by the thirtieth day from the inception of this policy (and, in respect of instalment premiums, by the date they are due) the **Insurer** shall have the right to cancel this policy by notifying the **Insured** via the broker in writing. In the event of cancellation, premium is due to the **Insurer** on a pro rata basis for the period that the **Insurer** is on risk but the **Premium** shall be payable to the **Insurer** in full in the event of a notification prior to the date of termination which gives rise to a valid **Claim** under this policy.
- 14.3 It is agreed that the **Insurer** shall give not less than 15 days prior notice of cancellation to the **Insured** via the broker. If premium due is paid in full to the **Insurer** before the notice period expires, notice of cancellation shall automatically be revoked. If not, the policy shall automatically terminate at the end of the notice period.
- 14.4 Where the **Premium** is to be paid through a London Market Bureau, payment to the **Insurer** will be deemed to occur on the day of delivery of a premium advice note to the Bureau.

## Several Liability

The insurers named hereon bind themselves each for their own part and not one for another. Each insurer's liability under this Policy shall not exceed that percentage or amount of the risk shown against that insurer's name in the Schedule of Security.

## Professional Indemnity Cyber and Data Protection Law Endorsement

- 1) This endorsement takes priority over any other provision in this contract.
- 2) Save as expressly provided in this endorsement, or by other restrictions in this contract specifically relating to the use of, or inability to use, a **Computer System**, no cover otherwise provided under this contract shall be restricted solely due to the use of, or inability to use, a **Computer System**.
- 3) This contract excludes any loss, damage, liability, **Claim**, costs, expense, fines, penalties, mitigation costs or any other amount directly caused by, directly resulting from or directly arising out of:
  - a) a **Cyber Act**; or
  - b) any partial or total unavailability or failure of any **Computer System**; provided the **Computer System** is owned or controlled by the **Insured** or any other party acting on behalf of the **Insured** in either case; or
  - c) the receipt or transmission of malware, malicious code or similar by the **Insured** or any other party acting on behalf of the **Insured**.
- 4) This contract excludes any loss, damage, liability, **Claim**, costs, expense, fines, penalties, mitigation costs or any other amount directly or indirectly caused by, directly or indirectly resulting from or directly or indirectly arising out of any failure or interruption of service provided:
  - a) to the **Insured** or any other party acting on behalf of the **Insured** by an internet service provider, telecommunications provider or cloud provider but not including the hosting of hardware and software owned by the **Insured**;
  - b) by any utility provider, but only where such failure of interruption of service impacts a **Computer System** owned or controlled by the **Insured** or any other party acting on behalf of the **Insured**.
- 5) This contract excludes any loss, damage, liability, **Claim**, costs, expense, fines, penalties, mitigation costs or any other amount for actual or alleged breach of **Data Protection Law** by the **Insured** or any other party acting on behalf of the **Insured**.
- 6) Any cover for costs of reconstituting or recovering lost, inaccessible or damaged **Documents** owned or controlled by the **Insured** or any other party acting on behalf of the **Insured** in this contract shall not apply to **Data**.

For the purposes of this endorsement the following definitions apply:

**Computer System** means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.

**Cyber Act** means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof, involving access to, processing of, use of or operation of any **Computer System**.

**Data** means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **Computer System**.

**Data Protection Law** means any applicable data protection and privacy legislation or regulations in any country, province, state, territory or jurisdiction which govern the use, confidentiality, integrity, security and protection of personal data or any guidance or codes of practice relating to personal data issued by any data protection regulator or authority from time to time (all as amended, updated or re-enacted from time to time).

IUA 04-017 27.11.2020

**All other terms, conditions and exclusions of this insurance remain the same.**