

## **Chartered Surveyors Professional Indemnity Certificate**

### **Certificate Administration**

#### **Preamble**

This is to certify that in accordance with the authorisation granted under the Contract (the number of which is specified in Item 17 of the **Schedule**) to the undersigned by certain Underwriters at Lloyd's whose names and the proportions underwritten by them which will be supplied on application can be ascertained by reference to the said Contract which bears the Seal of Lloyd's Signing Office (whom are hereinafter referred to as **We** and or **Us**) and in consideration of the premium specified herein **We** are hereby bound each for **Our** own part and not for another **Our** Executors and Administrators to insure in accordance with the terms and conditions contained herein or endorsed hereon

**We** hereby agree to the extent and in the manner hereinafter provided to indemnify **You** against loss or **Damage** sustained or legal liability for accidents happening during the **Period of Insurance** stated in the **Schedule** after such loss **Damage** or liability are proved **Our** liability shall not exceed the limits of indemnity expressed in the said **Schedule** or such other limits of indemnity as may be substituted therefor by **Endorsement** hereon or attached hereto signed by or on **Our** behalf

In witness whereof this Certificate has been signed 100% with **Us**

Effected through Harman Wicks & Swayne Limited, 110 Fenchurch Street, London EC3M 5NA

**Our** obligations under contracts of insurance to which **We** subscribe are several and not joint and are limited solely to the extent of **Our** individual subscriptions

**We** are not responsible for the subscription of any co-subscribing Underwriters who for any reason do not satisfy all or part of their obligations

**You** are requested to read this Certificate and if it is incorrect return it immediately for alteration The Certificate is made and accepted subject to all the provisions conditions warranties and exclusions set forth herein attached or endorsed all of which are to be considered

#### **Scope of Cover**

This Certificate applies in respect of **Your** activities anywhere in the **Territory** but only in respect of **Business** conducted by **Your** companies listed in Item 2 of the **Schedule** from **Your** Premises

#### **Certificate Jurisdiction**

Unless endorsed to the contrary the construction interpretation and meaning of the provisions of this Certificate shall be determined in accordance with the law of England and Wales and any disputes relating thereto shall be submitted to the exclusive jurisdiction of the Courts of England however where **Your** registered office or principal place of business is situated in Scotland Northern Ireland Jersey Guernsey or the Isle of Man the law of that territory shall apply

#### **Conditions Precedent**

These are conditions with which **You** must comply and failure to do so will invalidate **Your** right to indemnity under this Certificate

#### **Third Parties**

A person who is not party to this contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement but this does not affect any right or remedy of a third party which exists or is available apart from the Act

#### **The Right to Cancel Cover**

If this cover does not meet **Your** requirements **You** should return all documentation to **Your** Broker Intermediary or Agent who arranged the Certificate within 14 days of receipt whereupon **We** will return any premium paid in full however if there has been an insured event **Claim** or **Circumstance** (whether reported to **Us** or not) **We** shall be under no obligation to make any return of such premium

## Termination

If **You** wish to terminate the cover provided by this Certificate at any other time after cover has commenced **You** should return all documentation to **Your** Broker Intermediary or Agent who arranged the Certificate

If there has been an insured event **Claim** or **Circumstance** (whether reported to **Us** or not) **We** shall be under no obligation to make any return of premium In all other circumstances **You** shall be entitled to the return of a proportionate part of the premium corresponding to the unexpired portion of the insurance subject to **Our** retaining **Our** designated minimum premium for the Certificate Full details of minimum premiums may be obtained in writing from **Us**

**We** may at any time cancel this Certificate by giving 30 days notice by registered post to **You** at **Your** last known address and in such event **You** shall become entitled to the return of a proportionate part of the premium corresponding to the unexpired portion of the insurance subject to **Our** retaining **Our** designated minimum premium for the Certificate

## How to Make a Claim

**Claims** must be made in accordance with the claims notification provisions in Section 6.0 Claims Conditions of the Certificate In the first instance **You** should contact the Broker Intermediary or Agent who arranged the Certificate quoting the Certificate number as specified in Item 1 of the **Schedule**

## Complaints and Enquiries

**We** are dedicated to providing the highest possible level of customer satisfaction in all areas of **Our** business If for any reason **You** have a query or feel that the service **You** receive has fallen below those standards **You** should report this to **Us** at once All complaints will be handled promptly and a policy of open communication will be adopted

Any complaint should be addressed in the first instance to

The Managing Director  
Glemham Underwriting Limited  
1 Pound Farm Cottages  
Great Glemham  
Saxmundham  
Suffolk  
IP17 2DQ

Should **You** remain dissatisfied **You** can ask the Complaints Department at Lloyd's to review the Complaint The address is

Complaints Department  
Lloyd's  
One Lime Street  
London EC3M 7HA

Referral can also be made to the Financial Ombudsman Service after the Complaints Department at Lloyd's have completed their investigation process or eight weeks if this is earlier The address is

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

## 1.0 Definitions

Each time **We** use one of the words or phrases listed below it will have the same meaning wherever it appears in **Your** Certificate unless **We** state otherwise

A defined word or phrase will be printed in bold each time it appears in this Certificate except for headings and titles

### 1.1 Application Form

The application or proposal form including all supporting information submitted to **Us** by **You** or on **Your** behalf and upon which **We** have underwritten the cover provided under this Certificate

## 1.2 Approved Person

an **Employee** who is

- (a) a Fellow or Professional Member of the Royal Institution of Chartered Surveyors (RICS)
- (b) a Fellow or Associate of the Incorporated Society of Valuers & Auctioneers (ISVA)
- (c) a Fellow or Associate of the Architects & Surveyors Institute (ASI)
- (d) a Fellow or Associate of the Faculty of Architects & Surveyors (FFAS)
- (e) a Fellow or Associate of the Royal Institute of British Architects (RIBA)
- (f) a Fellow or Associate of the Royal Incorporation of Architects in Scotland (RIAS)
- (g) a person who has not less than 5 years' experience of such work
- (h) any other person delegated by **You** to execute such work provided that
  - (i) such work by such person is supervised by a person qualified in accordance with (a) to (f) above
  - (ii) **We** have agreed in writing to cover such person under this Certificate

## 1.3 Asbestos Inspections

Type 1 2 or 3 inspections as defined in Health & Safety Executive document MDHS100 (or its subsequent replacement) issued in connection with Regulation 4 of the Control of Asbestos at Works Regulations 2002 (CAWR) or any comparable inspection of commercial or residential land or property

## 1.4 Bodily Injury

Death bodily injury illness disease mental anguish or nervous shock

## 1.5 Circumstance

An actual or alleged civil liability which could reasonably be foreseen to give rise to a **Claim**

## 1.6 Claim

- (a) Any threat or demand or series of threats or demands whether verbal or written made against **You** for damages or compensation
- (b) Any notice or intention whether verbal or written to commence legal arbitration or adjudication proceedings
- (c) Any
  - (i) complaint to or
  - (ii) appeal against the decision of any Ombudsman

## 1.7 Collateral Warranty

Any written agreement signed by the contracting parties that creates a duty of care owed by **You** to any party other than **Your** direct client

## 1.8 Computer Virus

Any computer program including but not limited to any file virus boot sector virus macro virus hostile applet trojan horse program Java virus ActiveX virus or other executable program which contains instructions to initiate an event on the infected computer causing modification of or **Damage** to data memory or data media

## 1.9 Damage

Accidental loss destruction or damage

#### 1.10 Documents

- (a) Documents whether written printed or reproduced by any other method (excluding any bearer bonds coupons bank or currency notes or other negotiable instruments)
- (b) Computer records and electronic data

entrusted to or deposited with **You** in the ordinary course of **Your Business** and for which **You** are responsible

#### 1.11 Employee

Any person who is or was at the time of any **Claim** or **Circumstance** under a contract of service with **You** in respect of the conduct of **Your Professional Business**

#### 1.12 Endorsement

An alteration to the terms of this Certificate as specified in Item 15 of the **Schedule**

#### 1.13 Excess

The amount shown in this Certificate and specified in Item 7 of the **Schedule** or any **Endorsement** which **You** must bear for each and every **Claim** and **You** will reimburse any such amount paid by **Us** immediately upon request

#### 1.14 Period of Insurance

The period from the effective date of this Certificate until the expiry date of this Certificate specified in Item 4 of the **Schedule**

#### 1.15 Pollution

Pollution consequent pollution seepage or contamination caused by contributed to by or arising from any electronic solid liquid gaseous or thermal irritant or contaminant including but not limited to electromagnetic fields noise radio waves smoke vapour water-borne disease soot fumes acids alkalis chemicals and waste Waste includes material to be recycled reconditioned or reclaimed

This Definition shall not include pollution or contamination caused by contributed to by or arising from asbestos

#### 1.16 Premises

The premises stated in the **Application Form** and specified in Item 3 of the **Schedule** and any other premises or work site within the United Kingdom the Channel Islands or the Isle of Man from which **You** conduct **Your Business**

#### 1.17 Product

Any commodity article or thing computer software and firmware (including their containers packaging labelling and instructions for use) manufactured supplied installed erected commissioned or maintained by **You**

#### 1.18 Professional Business

- (a) The provision of advice or services by **You** which are normally undertaken by members of the Royal Institution of Chartered Surveyors and are declared to **Us** in the **Application Form** and specified in Item 5 the **Schedule** as Business
- (b) Any individual personal appointment held by **You** but only in respect of advice or services as described in 1.18(a) above

#### 1.19 Retroactive Date

The date specified in Item 8 of the **Schedule**

#### 1.20 Schedule

The document which specifies details of **You** the **Premises** the covers insured and any **Excess Endorsements** and other conditions applying to this Certificate

#### 1.21 Series of Claims

A number of **Circumstances** or **Claims** (whether made by the same or different claimants and whether falling under one or more insuring clauses of the Certificate) that arise directly or indirectly from one source or originating cause

### 1.22 Territory

The Territory specified in Item 10 of the **Schedule**

### 1.23 Terrorism

Any act including but not limited to the use of force or violence and/or the threat thereof or the use of any **Computer Virus** electronic mail denial of service attack or other attack using electronic means against people property data or infrastructure by any person whether acting alone or on behalf of or in connection with any organisation or government committed for political religious ideological or similar purposes including the intention to influence any government and/or put the public or any section of the public in fear

### 1.24 War

War invasion acts of foreign enemies hostilities or warlike operations (whether war be declared or not) civil war mutiny civil commotion assuming the proportions of or amounting to popular rising military rising insurrection rebellion revolution or military or usurped power

### 1.25 We/Us/Our

Certain Underwriters at Lloyd's in respect of all sections evidenced by the Lloyd's Contract (the number of which is specified in Item 17 of the **Schedule**)

### 1.26 You/Your/Yourself

- (a) The person company partnership unincorporated association or trading style specified in Item 2 of the **Schedule** as the Certificate Holder or any predecessor in business of such person company partnership unincorporated association or trading style declared to **Us** in the **Application Form**
- (b) any person who is or was your partner director principal or **Employee** but only in respect of their employment with you
- (c) any consultant working for you but only in respect of your liability for such consultant
- (d) an Executor or Administrator of any person referred to in (a) to (c) above but only in respect of your employment of such person
- (e) any internet website or email identity adopted by such person company partnership unincorporated association or trading style and specified in Item 2 of the **Schedule** as the Certificate Holder

## 2.0 The Cover

This Certificate is underwritten on a claims-made basis This means that **We** will only handle and settle **Claims** that are made during the **Period of Insurance** and notified in accordance with the Claims Conditions in Section 6 of this Certificate

### 2.1 Claims Made Against You

**We** will pay all sums for which **You** become liable arising out of **Your** negligence or a breach of **Your** professional duty that results in a **Circumstance** or **Claim** against **You** for

- (a) economic loss
- (b) accidental **Bodily Injury** and/or **Damage** to physical property
- (c) unintentional breach infringement or unauthorised use of the confidential information trade secrets copyrights trademarks designs or computer routines and programs not owned by **You** and committed in good faith
- (d) loss of or **Damage** to **Documents** not owned by **You**
- (e) unintentional defamation
- (f) the dishonest fraudulent malicious or criminal action of any **Employee**
- (g) the inadvertent transmission of any **Computer Virus** or other program that contains instructions to initiate an event which causes modification of or **Damage** to data memory or data media provided that such **Computer Virus** or other program is not written by **You**
- (h) any other civil liability but not any liability for breach of intellectual property rights or dishonesty beyond that specifically set out elsewhere in this Certificate

provided that such **Circumstance or Claim**

- (i) is first discovered by **You** made against **You** or intimated to **You** during the **Period of Insurance**
- (ii) is notified to **Us** during the **Period of Insurance**
- (iii) arises from an act error omission or event which occurred or commenced on or after the **Retroactive Date** and does not form part of an inter-related series of acts errors omissions or events which commenced prior to such date
- (iv) arises in connection with the conduct of **Your Professional Business** within the **Territory**

## 2.2 Limit of Indemnity

The Limit of Indemnity specified in Item 6 of the **Schedule** shall apply as follows

- (a) The Limit of Indemnity shall apply in respect of any one **Claim** or **Series of Claims**
- (b) **We** will pay a further Limit of Indemnity in respect of costs incurred under Additional Covers Clause 3.1 Costs and the total amount payable in respect of such costs shall not exceed the Limit of Indemnity specified in Item 6 of the **Schedule** in respect of any one **Claim** or **Series of Claims**

Notwithstanding (a) and (b) above the maximum amount payable by **Us** under Clause 2.1 (d) of The Cover shall be GBP100 000 in respect of all such **Claims** made during any one **Period of Insurance**

## 2.3 Excess

- (a) In respect of any one **Claim** or **Series of Claims** **We** will not be liable for the amount of the **Excess** (or any lesser amount for which a **Claim** may be settled) specified in Item 7 of the **Schedule**
- (b) **We** shall only be liable for that part of each and every **Claim** (including all costs and expenses incurred in the investigation defence or settlement of such **Claim**) which exceeds the amount of **Excess** specified in Item 7 of the **Schedule**
- (c) In respect of **Claim** arising from Additional Covers Clause 3.5 Ombudsman Awards **We** shall only be liable for that part of
  - (i) any single award made by any Ombudsman
  - (ii) any series of awards by any Ombudsman attributable to one source or originating cause which exceeds the amount of **Excess** specified in Item 7 of the **Schedule**
- (d) The **Excess** shall not apply to **Claims** arising solely from Additional Covers Clause 3.1 Costs

## 3.0 Additional Covers

### 3.1 Costs

**We** will pay

- (a) all other costs and expenses incurred by **Us** or by **You** in connection with any **Claim** under this Certificate
- (b) GBP300 per person for every day that any **Employee** is required by **Your** legal representatives to attend court in connection with any **Claim** for which this Certificate provides indemnity The maximum amount payable by **Us** under this clause shall be GBP10 000 during any one **Period of Insurance**
- (c) the fees of any accountant or other professional advisor incurred to substantiate the amount of any loss referred to in Clause 2.1 (f) of The Cover provided that the maximum amount payable by **Us** shall be GBP10 000 during any one **Period of Insurance**

provided that all costs are incurred with **Our** prior written consent



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### 3.2 Housing Grants Construction and Regeneration Act 1996

When not otherwise provided for under Clause 2.1 of The Cover **We** will pay any sums for which **You** become liable as a result of

- (a) any decision made against **You** by an adjudicator in relation to a **Claim** which has been referred to such adjudicator in accordance with the provisions of the Housing Grants Construction and Regeneration Act 1996 or any analogous adjudication clause in a contract
- (b) any award by an arbitrator or arbitration tribunal (including an arbitrator appointed under the prescribed rules of the Surveyors and Valuers Arbitration Scheme)

Any **Claim** made under this clause must be notified in accordance with Claims Condition 6.2 Housing Grants Construction and Regeneration Act 1996

### 3.3 Collateral Warranties

Subject to Exclusion 5.1 (b) Contractual Liability **We** will pay all sums for which **You** become liable as a result of any breach of a **Collateral Warranty**

### 3.4 Estate Agents and Health & Safety Legislation

**We** will pay up to 80% of any costs and expenses incurred with **Our** prior written consent in the defence of any proceedings brought against **You** during the **Period of Insurance** and notified to **Us** during the **Period of Insurance** under the Property Misdescriptions Act 1991 Estate Agents Act 1979 The Health & Safety at Work &c Act 1974 The Health & Safety at Work (Northern Ireland) Order 1978 the Construction (Design & Management) Regulations 1994 or similar or succeeding legislation to the preceding Acts where in **Our** opinion the provision of such defence could protect **You** against a **Claim**

**Our** liability under this clause shall not exceed GBP 100 000 in total for the **Period of Insurance**

### 3.5 Ombudsman Awards

**We** will pay on **Your** behalf any award made against **You** by any Ombudsman (including the Ombudsman for Estate Agents) where the **Claim** is first brought against **You** during the **Period of Insurance** and notified to **Us** during the **Period of Insurance**

**Our** liability under this clause shall not exceed GBP 250 000 in total for the **Period of Insurance** in respect of any single award or in respect of any series of awards attributable to one source or originating cause

## 4.0 Exclusions

**We** will not pay

### 4.1 Contractual Liability

- (a) any **Claim** other than in respect of Additional Covers Clause 3.3 Collateral Warranties arising from an agreement by **You** to assume liability where **Your** liability under such agreement exceeds the amount of **Your** liability in the absence of such an agreement
- (b) any **Claim** under Additional Covers Clause 3.3 Collateral Warranties arising from
  - (i) any fitness for purpose guarantee
  - (ii) any express guarantee
  - (iii) the assignment of such **Collateral Warranty** where the provision of any benefit to a party other than that provided by **You** to the party with whom **You** originally contracted is greater or of longer lasting effect
  - (iv) **Your** agreement to exercise a standard of care greater than that which would have applied in the absence of such **Collateral Warranty**
- (c) any **Claim** arising from an agreement by **You** to pay penalties or liquidated damages save that this exception shall not apply to any award covered by Additional Covers Clause 3.2 Housing Grants Construction and Regeneration Act 1996
- (d) any **Claim** in respect of which **You** have agreed with another party to exclude or limit **Your** rights of recovery from another party unless **We** have approved such agreement and endorsed the Certificate accordingly

#### 4.2 Fraud and Dishonesty

any **Claim** arising out of dishonesty or fraudulent action save to the extent that such **Claim** arises by reason of and was solely and directly caused by the (actual or alleged) dishonest and/or fraudulent act of any of **Your** past or presents partners directors members consultants or **Employees** (whether committed alone or in collusion with others) and results in any client of **Yours** suffering a loss and provided always that

- (a) no indemnity shall be afforded in respect of any **Claim** arising out of dishonesty or fraud on the part of any party committing or condoning any dishonest and/or fraudulent action which was known or ought reasonably to have been known by **You**
- (b) no indemnity shall be afforded in respect of any **Claim** arising out of dishonesty or fraud on the part of any person after discovery by **You** in relation to such person of reasonable cause for suspicion of dishonesty or fraud
- (c) any **Claim** or **Series of Claims** arising out of dishonesty and/or fraud whether of a similar nature or otherwise committed by a person or persons acting in concert shall for the purposes of this Certificate be treated as one **Claim** and only one Limit of Indemnity shall apply
- (d) **Your** annual accounts (and client accounts where applicable) have been prepared and/or certified by an independent and properly qualified accountant or auditor in accordance with the RICS Rules of Conduct
- (e) **You** shall at **Our** request and expense take all reasonable steps to obtain reimbursement from such person
- (f) any monies but for which the dishonest or fraudulent action would be due to such person or any monies of such person held by **You** shall be deducted from any amount payable hereunder
- (g) nothing herein shall preclude **Us** from exercising any right of subrogation against any person committing or condoning such dishonest or fraudulent action

#### 4.3 Survey and Valuation

any **Claim** directly or indirectly arising out of or involving any Survey and/or Valuation undertaken by **You** unless

- (a) any report produced is made in writing and
- (b) such Survey or Valuation is undertaken by an **Approved Person**

#### 4.4 Adjudication and Arbitration

- (a) any sums for which **You** become liable as a result of any decision made against **You** by an adjudicator who was not independent of the parties to the dispute
- (b) any **Claim** arising from an adjudication arising from an arbitration clause in a contract which contains a timetable or provisions more onerous to **You** than those contained in the Scheme for Construction Contracts contained in the Housing Grants Construction & Regeneration Act 1996
- (c) any sums for which **You** become liable as a result of any arbitration award (whether made under the Surveyors' & Valuers' Arbitration Scheme 1998 or otherwise) made in respect of any **Claim** or counterclaim where the seat of the arbitration was located outside England Wales Scotland or Northern Ireland unless such seat was agreed in writing by **Us**

#### 4.5 Bodily Injury and Property Damage

any **Claim** in respect of **Bodily Injury** or **Damage** to physical property unless directly arising from a breach of **Your** professional duty in the conduct of **Your Professional Business**

#### 4.6 Pollution

any **Claim** arising out of **Pollution**

However this exclusion shall not apply in respect of any **Claim** which arises from **Your** negligent structural design or specification or failure to report a structural defect in any property and **We** shall only be liable for that part of such **Claim** which relates to the cost of redesigning respecifying remedying and rectifying the defective structure and not the cost of remedying and rectifying any loss of or **Damage** to the land or environment or any loss of value

#### 4.7 Liability arising out of employment

any **Claim** in respect of

- (a) **Bodily Injury** to any **Employee**
- (b) any breach of any obligation owed by **You** as an employer to any **Employee**

#### 4.8 Liability involving transport or property owned by You

- (a) any **Claim** arising from the ownership possession or use by **You** of any buildings premises structures land animal aircraft watercraft or vehicle licensed for road use
- (b) any **Claim** for loss of or **Damage** to property owned by leased hired rented or entrusted to **You** or otherwise in **Your** care custody or control save that this exclusion shall not apply in respect of **Claims** for loss of or **Damage** to **Documents** not owned by **You** (as insured by Clause 2.1 (d) of The Cover)

#### 4.9 Product Liability

any **Claim** caused by or arising from **Your** supply manufacture installation or maintenance of any **Product**

#### 4.10 Previous Claims and Circumstances

any **Claim** or **Circumstance** which has been notified or is notifiable under any other policy or certificate of insurance attaching prior to the effective date of this Certificate other than as set out in Claims Condition 6.4 Special Institution Condition

#### 4.11 Other Insurances

any **Claim** where **You** are entitled to indemnity under any other insurance except in respect of any excess beyond the amount which would have been payable under such insurance has this Certificate not been effected

If any other such insurance is subject to any provision whereby it is excluded from ranking concurrently with this Certificate whether in whole or in part or from contributing proportionately then **Our** liability hereunder shall be limited to any excess beyond the amount which would have been payable under such other insurance had this Certificate not been effected

#### 4.12 Fines Penalties and Damages

any fines punitive penal multiple or exemplary damages where such can be identified separately within any award of a Court

#### 4.13 Your Insolvency

any **Claim** arising out of or in connection with **Your** insolvency (including any **Claim** made by **Your** liquidator provisional liquidator or administrator) or any trading losses or trading liabilities incurred by any business managed or carried on by **You**

#### 4.14 Controlling Interest

any **Claim** arising from or brought by

- (a) any firm company or organisation in which **You** have a controlling interest or
- (b) any entity that has a controlling interest in **You** by virtue of their having a majority financial or executive interest in **Your** operation

unless such **Claim** originates from a source independent of such firm company organisation or entity

#### 4.15 Asbestos

any **Claim** caused by or arising from asbestos or any **Product** containing asbestos however this exclusion shall not apply to any such **Claim** caused by **Your** negligent act error or omission arising in connection with the provision of **Professional Business** provided always that **We** shall not be liable for any such **Claim**

- (a) directly or indirectly resulting from **Asbestos Inspections**
- (b) arising from **Bodily Injury** or the fear of suffering **Bodily Injury**

**Our** liability under this Clause shall not exceed GBP 250 000 in total in respect of all such **Claims** made against **You** during any one **Period of Insurance**

#### 4.16 Financial Services

any **Claim** arising from regulated activities as defined in the Financial Services & Markets Act 2000 and any succeeding legislation save that this exclusion shall not apply in respect of mortgage and general insurance mediation undertaken in connection with **Professional Business** where **You** have permission pursuant to Part IV of such Act

#### 4.17 Market Fluctuation Clause

any **Claim** arising from the financial return of any investment or the depreciation or loss of investments whether such financial return depreciation or loss results from normal or abnormal fluctuations in any financial stock commodity or other markets which are outside **Your** influence or control provided that this exclusion shall not apply to **Claims** arising from any Survey or Valuation of any tangible property for the purpose of any actual or proposed sale or purchase insurance or stock valuation

#### 4.18 Deliberate Acts

any **Claim** arising from any deliberate spiteful or reckless act omission breach or infringement by **You**

#### 4.19 Overcharging of Fees

Any **Claim** arising from overcharging of fees or commission by **You**

#### 4.20 Directors and Officers Liability

- (a) any **Claim** against **You** in **Your** capacity as a director officer or trustee in respect of **Your** performance or non-performance of **Your** duties as a director officer or trustee
- (b) any **Claim** made against **Your** principal partner director or executive officer in respect of a breach of his legal duty to manage **You** in accordance with his legal and/or regulatory obligations

#### 4.21 USA and Canada

any **Claim** made or action instituted

- (a) within the United States of America and/or Canada or any territories which come within the jurisdiction of the United States of America and/or Canada
- (b) to enforce a judgment obtained in any Court of the United States of America and/or Canada or any territories which come within the jurisdiction of the United States of America and/or Canada

### 5.0 General Conditions

#### 5.1 This Certificate

This Certificate the **Schedule** and any **Endorsement** shall be read together as one document

Any word or expression to which a particular meaning has been given in the Definitions in this Certificate shall have that meaning wherever it appears in this Certificate

At all times the masculine shall include the feminine and neuter and the singular includes the plural and vice versa

#### 5.2 Misrepresentation and Fraud

This Certificate shall be voidable in the event of

- (a) misrepresentation misdescription or nondisclosure in any material particular
- (b) **You** making any **Claim** under this Certificate knowing the same to be false or fraudulent as regards amount or otherwise

and all **Claims** hereunder shall be forfeited and **You** shall repay **Us** any **Claims** already paid

#### 5.3 Change of Risk or Interest

This Certificate shall be avoided should

- (a) **Your** interest cease other than by death or
- (b) the **Business** be wound up or carried on by a liquidator or receiver or permanently discontinued or



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- (c) any alteration be made either in the **Professional Business** or in the **Premises** or in any property therein or in any other circumstances whereby the risk is increased at any time after the effective date of this Certificate unless **We** have agreed in writing to such alteration

#### 5.4 Premium Payment

It is a condition precedent to **Our** liability under this Certificate that

- (a) **You** have paid the premium to **Us** within 30 days of the end of the month in which this Certificate is effected whereupon **We** will provide the insurance stated herein otherwise all benefit under this Certificate shall be forfeited and this Certificate will be avoided from the effective date
- (b) where the premium is paid by **You** by means of a premium instalment facility each instalment shall be paid when due otherwise all benefit under this Certificate shall be forfeited and this Certificate shall be cancelled from the date when any unpaid instalment was due whereupon **We** will credit to **You** a pro rata premium for the unexpired part of the **Period of Insurance** provided that no **Claims** or **Circumstances** have been reported to **Us** since the effective date of such **Period of Insurance**

## 6.0 Claims Conditions

### 6.1 General Conditions

- (a) It is a condition precedent to **Our** liability under this Certificate that **You** shall give written notice to **Us** as soon as reasonably practicable of any **Claim** or intimation to **You** of a possible **Claim** against **You** or upon **Your** becoming aware of any **Circumstance** which might give rise to a **Claim** under this Certificate regardless of any **Excess** specified in Item 7 of the **Schedule**

Written notice shall be provided to **Us** by writing to

Devonshire Claims Services  
5<sup>th</sup> Floor Minster House  
42 Mincing Lane  
London  
EC3R 7AE

Such written notice should include full particulars of the **Claim** or **Circumstance** including (where possible) the following

- (i) the name of the potential claimant
- (ii) The date of the incident occurrence fact matter act error omission or event which has given rise to the **Circumstance**
- (iii) the name of the individual involved in the **Circumstance**
- (iv) the date when **You** first became aware of such **Circumstance**
- (v) the estimated amount of any potential **Claim** which may arise thereafter

together with any further information as **We** may reasonably require

All **Claims** must be notified within 10 working days after the expiry of the **Period of Insurance**

- (b) It is a condition precedent to **Our** liability under this Certificate that **You** will not admit liability for or settle any **Claim** or incur any costs or expenses in connection therewith without **Our** prior written consent
- (c) Where any **Circumstance** or **Claim** gives rise to an entitlement of indemnity under Clause 2.1 Claims Made Against You and any or all of the Additional Covers Clauses 3.2 to 3.5 the maximum amount **We** will pay shall not exceed the Limit of Indemnity specified in Item 6 of the **Schedule**

The Limit of Indemnity and the **Excess** apply to all of **You** jointly If more than one Certificate Holder is specified in Item 2 of the **Schedule** the total amount **We** will pay shall not exceed the amount **We** would be liable to pay to any one of **You**

- (d) **We** shall be entitled at any time to conduct in **Your** name the defence or settlement of any **Claim** and it is a condition precedent to **Our** liability under this Certificate that **You** do not agree that any other party may take over the conduct and control of any **Claim** without **Our** prior written consent
- (e) At **Your** own expense **You** will provide **Us** with all information or assistance requested by **Us** (or any party acting on **Our** instructions) in respect of the investigation or defence of a **Claim** made against **You**



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within 7 days of **Our** (or such party) requesting such information or assistance and will do and concur in doing all such things as **We** (or such party) may reasonably require

- (f) Following a payment in respect of a **Claim** made against **You We** may at **Our** absolute discretion seek recovery from any other party save that **We** will not exercise such rights against any principal partner director executive officer or other **Employee** of **You** unless the **Claim** arises as a result of or is contributed towards by the dishonest fraudulent malicious or criminal act or omission of such person
- (g) Any **Claim** arising from **Circumstances** notified to and accepted by **Us** shall be deemed to have been made during the **Period of Insurance** in which such notice is or was first given
- (h) Neither **We** nor **You** shall be required
  - (i) to contest any legal proceedings or
  - (ii) to take any steps to effect recovery from any person committing or conspiring to commit or condoning any dishonest or fraudulent act or omission or from the personal representatives of such person including the taking of legal proceedings against such person

unless a Queen's Counsel (to be mutually agreed upon between **You** and **Us**) advises that such action actually has a reasonable prospect of success taking into consideration the economics of the matter the damages and costs which are likely to be recovered by the claimant the likely costs and the prospects of **You** successfully defending the **Claim**

The cost of such Senior Counsel's opinion shall form part of the costs in Additional Covers Clause 3.1 Costs

- (i) In connection with any **Claim** against **You We** may at any time pay **You** the Limit of Indemnity specified in Item 6 of the **Schedule** (after deduction of any sums already paid as damages or claimant's costs and expenses in respect of such **Claim**) or any lesser amount for which such **Claim** can be settled and thereupon **We** will relinquish the control of such **Claim** and be under no further liability in connection therewith except for costs and expenses for which **We** may be responsible under this Certificate in respect of matters prior to the date of such payment
- (j) If any difference shall arise as to the amount to be paid under this Certificate (liability being otherwise admitted) such difference shall be referred to an arbitrator to be appointed by the parties in accordance with the statutory provisions regarding arbitration in force at the time

Where any difference is so referred to arbitration the making of an award shall be a condition precedent to any right of action against **Us**

## 6.2 Housing Grants Construction and Regeneration Act 1996

In respect of any **Claim** made under Additional Cover Clause 3.2 (a) Housing Grants Construction and Regeneration Act 1996 it is a condition precedent to **Our** liability that

- (i) **You** notify **Us** within 48 hours of receipt of any 'notice of intention to adjudicate' in respect of any **Claim** or **Circumstance** to which this cover applies
- (ii) **You** supply **Us** with all relevant detail and documentation relating to any reference to adjudication as soon as reasonably practicable in relation to the timetable for the adjudication
- (iii) **You** do not agree to accept any final decision given by an adjudicator without **Our** prior written consent

## 6.3 Difference in Conditions

This Certificate is designed to provide the minimum insurance required by the Royal Institution of Chartered Surveyors as set out in their approved minimum Professional Indemnity insurance wording for members in force at the effective date of this Certificate and the cover provided by this Certificate shall be no less favourable and provide no less protection to **You** than the Royal Institution of Chartered Surveyors approved minimum professional indemnity insurance wording for members in force at the time of the effective date of this Certificate

## 6.4 Special Institution Condition

In respect of any **Claim** made under this Certificate where there has been non-disclosure or misrepresentation of facts or untrue statements in the **Application Form** or in any other information or statements provided to or made to or warranted to **Us** and there has been no intention to deceive or mislead **Us We** will not exercise **Our** right to avoid this Certificate nor will **We** be discharged from any liability under this Certificate provided that

- (a) where such non-disclosure or misrepresentation has prejudiced **Our** consideration of terms under this Certificate **We** shall be entitled to charge a reasonable additional premium in light of such prejudice

- (b) in the case of a **Claim** first made against **You** during the **Period of Insurance** where
- (i) **You** had previous knowledge of the **Circumstances** relating to such **Claim** and
  - (ii) **You** should have notified the same under any preceding policy or certificate of insurance
- then where the indemnity or cover under this Certificate is greater or wider in scope than that to which **You** would have been entitled under such preceding policy or certificate (whether with other insurers or not) **We** shall only be liable to afford indemnity to such amount and extent as would have been afforded to **You** by such preceding policy or certificate
- (c) Where **Your** breach of or non-compliance with any Claims Condition of this Certificate has resulted in prejudice to the handling or settlement of any **Claim We** shall be entitled to reduce the indemnity afforded by this Certificate in respect of such **Claim** (including Costs) to such sum as in **Our** reasonable opinion would have been payable by **Us** in the absence of such prejudice
- (d) Clause (b) of this Condition shall not apply to Additional Covers Clause 3.5 Ombudsman Awards

Specimen