

# Policy Wording

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## China Re Design and Professional Services of Contractors Professional Liability Insurance

Form: CR D&C Agg Inc 04/19

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# ***FREELANCER***

# Policy

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# Policy

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## 1 Introduction

This policy consists of this document, the **Schedule** and **Endorsements**, if any, all of which are a single document and are to be read as one contract. In this policy, certain words or phrases are specially defined.

In deciding to accept this policy and in setting the terms and premium **We** have relied on the information which **You** have provided to **Us**.

**We** will, in consideration of the payment of the premium, insure **You**, subject to the terms and conditions of this policy, against the events set out in What Is Covered and occurring in connection with the **Activities and Duties** during the **Period of Insurance** or any subsequent period for which **We** agree to accept payment of premium.

Please read this policy carefully and make sure that it meets **Your** needs. If any corrections are necessary **You** should contact **Your** broker through whom this policy was arranged.

Please keep this policy in a safe place – **You** may need to refer to it if **You** have to make a claim.

### 1.1 Accessibility

Upon request **We** can provide Braille, audio or large print versions of the policy and the associated documentation including the Key Facts document. If **You** require an alternative format **You** should contact **Your** broker through whom this policy was arranged.

### 1.2 Third Party Rights

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

### 1.3 Law and Jurisdiction

The parties are free to choose the law applicable to this policy. Unless specifically agreed to the contrary this policy shall be governed by English law and subject to the exclusive jurisdiction of the courts of England and Wales.

The language of this policy and all communications relating to it will be in English.

### 1.4 Interpretation

In this policy:

- (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 be in full force and effect;
- (c) the headings in this policy are for general reference only and shall not be considered when determining the meaning of this policy.

## 1.5 Cancellation and Cooling Off Period

### (a) Your Right to Cancel during the Cooling-Off Period

**You** are entitled to cancel this policy by notifying **Us** within fourteen (14) days of either:

- (i) the date **You** receive this policy; or
- (ii) the start of **Your Period of Insurance**;

whichever is the later.

A full refund of any premium paid will be made unless **You** have made a claim in which case the full annual premium is due.

### (b) Your Right to Cancel after the Cooling-Off Period

**You** are entitled to cancel this policy after the cooling-off period by notifying **Us**. Any return of premium due to **You** will be calculated at a proportional daily rate depending on how long the policy has been in force unless **You** have made a claim in which case the full annual premium is due.

### (c) Our Right to Cancel

**We** are entitled to cancel this policy, if there is a valid reason to do so, including for example:

- (i) any failure by **You** to pay the premium; or
- (ii) a change in risk which means **We** can no longer provide **You** with insurance cover; or
- (iii) non-cooperation or failure to supply any information or documentation **We** request, such as details of a claim;

by giving **You** fourteen (14) days' notice in writing. Any return of premium due to **You** will be calculated at a proportional daily rate depending on how long the policy has been in force unless **You** have made a claim in which case the full annual premium is due.

## 1.6 Information You Have Given Us

In deciding to accept this policy and in setting the terms including premium **We** have relied on the information which **You** have provided to **Us**. **You** must take care when answering any questions **We** ask by ensuring that any information provided is accurate and complete.

If **We** establish that **You** deliberately or recklessly provided **Us** with untrue or misleading information **We** will have the right to:

- (a) treat this policy as if it never existed;
- (b) decline all claims; and
- (c) retain the premium.

If **We** establish that **You** carelessly provided **Us** with untrue or misleading information **We** will have the right to:

- (i) treat this policy as if it never existed, refuse to pay any **Loss** and return the premium **You** have paid, if **We** would not have provided **You** with cover;

- (ii) treat this policy as if it had been entered into on different terms from those agreed, if **We** would have provided **You** with cover on different terms;
- (iii) reduce the amount **We** pay on any claim in the proportion that the premium **You** have paid bears to the premium **We** would have charged **You**, if **We** would have charged **You** more.

**We** will notify **You** in writing if (i), (ii) and/or (iii) apply.

If there is no outstanding claim and (ii) and/or (iii) apply, **We** will have the right to:

- (1) give **You** thirty (30) days' notice that **We** are terminating this policy; or
- (2) give **You** notice that **We** will treat this policy and any future claim in accordance with (ii) and/or (iii), in which case **You** may then give **Us** thirty (30) days' notice that **You** are terminating this policy.

If this policy is terminated in accordance with (1) or (2), **We** will refund any premium due to **You** in respect of the balance of the **Period of Insurance**.

## 1.7 Changes We Need to Know About

**You** must tell **Us** as soon as practicably possible of any change in the information **You** have provided to **Us** which happens before or during any **Period of Insurance**.

When **We** are notified of a change **We** will tell **You** if this affects **Your** policy. For example **We** may cancel **Your** policy in accordance with the Cancellation and Cooling-Off Provisions, amend the terms of **Your** policy or require **You** to pay more for **Your** insurance. If **You** do not inform **Us** about a change it may affect any claim **You** make or could result in **Your** insurance being invalid.

## 1.8 Fraud

If **You**, or anyone acting for **You**, makes a fraudulent claim, for example a loss which is fraudulently caused and/or exaggerated and/or supported by a fraudulent statement or other device, **We**:

- (a) will not be liable to pay the claim; and
- (b) may recover from **You** any sums paid by **Us** to **You** in respect of the claim; and
- (c) may by notice to **You** treat this policy as having been terminated with effect from the time of the fraudulent act.

If **We** exercise **Our** right under (c) above:

- (i) **We** shall not be liable to **You** in respect of a relevant event occurring after the time of the fraudulent act. A relevant event is whatever gives rise to **Our** liability under this policy (such as the occurrence of a loss, the making of a claim, or the notification of a potential claim); and.
- (ii) **We** need not return any of the premium paid.

## 1.9 Sanctions

**We** shall not provide any benefit under this policy to the extent of providing cover, payment of any claim or the provision of any benefit where doing so would breach any sanction, prohibition or restriction imposed by law or regulation.

## 1.10 Complaints Procedure

**We** are dedicated to providing a high quality service and **We** want to ensure that **We** maintain this at all times.

If **You** have any questions or concerns about the policy or the handling of a claim please contact **Your** broker through whom this policy was arranged.

If **You** wish to make a complaint **You** can do so at any time by referring the matter to:

Compliance Manager  
Chaucer Syndicates Limited  
Plantation Place  
30 Fenchurch Street  
London  
EC3M 3AD

E-mail: [ComplianceEnquiries@chaucerplc.com](mailto:ComplianceEnquiries@chaucerplc.com)  
Telephone Number: +44 (0) 20 7397 9700

If **You** remain dissatisfied after **We** have considered **Your** complaint, it may be possible in certain circumstances to refer the complaint to Lloyd's. 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 Chaucer Syndicates Limited at the above address or from Lloyd's at:

Lloyd's Complaints  
One Lime Street  
London  
EC3M 7HA

If **You** remain dissatisfied after Lloyd's has considered **Your** complaint, or **You** have not received a decision by the time Chaucer Syndicates Limited and Lloyd's have taken eight (8) weeks overall to consider **Your** complaint, **You** can refer **Your** complaint to the Financial Ombudsman Service at:

Exchange Tower  
London  
E14 9SR

E-mail: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

### **From within the United Kingdom**

Telephone Number: 0800 0234 567 (free for people phoning from a "fixed line", for example, a landline at home)

Telephone Number: 0300 1239 123 (free for mobile-phone users who pay a monthly charge for calls to numbers starting 01 or 02)

### **From outside the United Kingdom**

Telephone Number: +44(0)20 7964 1000

Fax Number: +44(0)20 7964 1001

The Financial Ombudsman Service can look into most complaints from consumers and small businesses. For more information contact them on the above number or address, or view their website: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

The European Commission also provides an on-line dispute resolution (ODR) platform that allows consumers to submit their complaint through a central site, which will forward the complaint to the right Alternative Dispute Resolution (ADR) scheme. The ADR scheme for Chaucer Syndicates Limited is the Financial Ombudsman Service, which can be contacted directly using the contact details above. For more information about ODR please visit <http://ec.europa.eu/odr>

## 1.11 Financial Services Compensation Scheme

**We** are covered by the Financial Services Compensation Scheme. **You** may be entitled to compensation from the Scheme if **We** are unable to meet **Our** obligations under this policy. If **You** were entitled to compensation under the Scheme, the level and extent of the compensation would depend on the nature of this policy. Further information about the Scheme is available from the Financial Services Compensation Scheme (PO Box 300, Mitcheldean, GL17 1DY) and on their website: [www.fscs.org.uk](http://www.fscs.org.uk).

## 1.12 Regulatory Information

Chaucer Syndicates Limited is the managing agent of Syndicate 2088

Chaucer Syndicates Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority (Firm Reference No. 204915).

Registered Office 30 Fenchurch Street, London, EC3M 3AD.  
Registered in England - Company Number 00184915.

**You** can check this out on the FCA's website at [www.fca.org.uk](http://www.fca.org.uk) which includes a register of all the firms they regulate or by calling the FCA on 0800 111 6768.

## 1.13 Fair Processing Notice

This Privacy Notice describes how Certain Underwriters at Lloyd's in respect of Syndicate 2088 (for the purpose of this notice "we", "us" or the "Insurer") collect and use the personal information of insureds, claimants and other parties (for the purpose of this notice "you") when we are providing our insurance and reinsurance services.

The information provided to the Insurer, together with medical and any other information obtained from you or from other parties about you in connection with this policy, will be used by the Insurer for the purposes of determining your application, the operation of insurance (which includes the process of underwriting, administration, claims management, analytics relevant to insurance, rehabilitation and customer concerns handling) and fraud prevention and detection. We may be required by law to collect certain personal information about you, or as a consequence of any contractual relationship we have with you. Failure to provide this information may prevent or delay the fulfilment of these obligations.

Information will be shared by the Insurer for these purposes with group companies and third party insurers, reinsurers, insurance intermediaries and service providers. Such parties may become data controllers in respect of your personal information. Because we operate as part of a global business, we may transfer your personal information outside the European Economic Area for these purposes.

You have certain rights regarding your personal information, subject to local law. These include the rights to request access, rectification, erasure, restriction, objection and receipt of your personal information in a usable electronic format and to transmit it to a third party (right to portability).

If you have questions or concerns regarding the way in which your personal information has been used, please contact: [ComplianceEnquiries@chaucerplc.com](mailto:ComplianceEnquiries@chaucerplc.com)

We are committed to working with you to obtain a fair resolution of any complaint or concern about privacy. If, however, you believe that we have not been able to assist with your complaint or concern, you have the right to make a complaint to the UK Information Commissioner's Office.

For more information about how we process your personal information, please see our full privacy notice at: <http://chaucerplc.com/privacy> & cookie policy

# Policy

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## 2 Schedule

- 2.1 Please refer to your Insurance Schedule which is issued to you separately

# Policy

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## 3 What Is Covered

### 3.1 Insuring Clause

**We** shall cover **You**, up to the **Indemnity Limit**, for the amount of any claim including claimant's costs and expenses first made against **You** and notified to **Us** during the **Period of Insurance** in respect of any legal liability for any negligent act, negligent error or negligent omission which arises out of the exercise and conduct of the **Activities And Duties** by **You** and/or **Your Consultants**.

### 3.2 Costs and Expenses Incurred in Mitigation of a Claim or Circumstance

**We** shall also cover **You** for all costs and expenses incurred prior to hand-over of the contract works in taking any action for the sole purpose of mitigating a claim brought under Clause 3.1 or in seeking to avoid or mitigate such a claim arising out of any **Circumstance** discovered during the **Period of Insurance** where such costs and expenses have been incurred with **Our** prior written consent, as more fully described in Claims Condition 5.2(d).

### 3.3 Defence Costs

**We** shall also cover **You** for **Defence Costs** where such costs have been incurred with **Our** prior written consent. Such **Defence Costs** shall not be in addition to the **Indemnity Limit** and shall be the subject of any **Excess**.

### 3.4 Infringement of Copyright and Patents

**We** shall cover **You**, up to the **Indemnity Limit**, for the amount of any claim including claimant's costs and expenses first made against **You** and notified to **Us** during the **Period of Insurance** in respect of any legal liability arising from any unintentional infringement of copyright, design right, registered design, trademark or patent committed by **You**.

### 3.5 Joint Venture/Consortium

**You** are covered for any claim for any negligent act, negligent error or negligent omission first made against **You** and notified to **Us** during the **Period of Insurance** which **You** may become legally liable to pay, whether jointly or severally, which arises out of the exercise and conduct of the **Activities And Duties** whilst a member of a joint venture or consortium where such joint venture or consortium together with the turnover/fees of the joint venture or consortium (not just **Your** proportion) has been declared to **Us**, whether or not the joint venture or consortium is conducted through a separate legal entity.

Provided always that:

- (a) the cover shall be limited to **Your** share of the total liability of the joint venture or consortium;
- (b) **You** shall not, without **Our** express agreement, waive any right of recovery against any joint venture or consortium partner or any claim for contribution against such partner;
- (c) **We** retain all rights against **Your** joint venture or consortium partners to which **We** may become subrogated.



### 3.6 Prosecution Defence Costs

**You** are covered for any **Defence Costs** incurred during the **Period of Insurance** with **Our** prior written consent in relation to any criminal proceedings against **You**, or any of **Your** employees, arising from alleged breach of any **United Kingdom** statutory regulation relating to building or construction works where such alleged breach arises out of the exercise and conduct of the **Activities and Duties** in the **United Kingdom**.

This clause is subject to the following:

- (a) **Our** belief that the defence of such proceedings would assist in the defence of any claim against **You** arising from such proceedings that would be subject to reimbursement under this policy;
- (b) any subsequent or concurrent claim that is subject to reimbursement under this policy and that arises out of any proceedings notified under this clause shall be treated as being a **Circumstance** and shall be subject to Section 5 – Claims Conditions;
- (c) any appeal against the outcome of any initial proceedings shall be treated as being proceedings for the purpose of this clause;
- (d) the maximum amount payable by **Us** shall be GBP 100,000 in the aggregate;
- (e) **We** shall not be liable for the first GBP 1,000 of **Defence Costs** incurred in respect of each prosecution.

### 3.7 Vicarious Liability

**You** are covered for any claim first made against **You** and notified to **Us** during the **Period of Insurance** which **You** may become legally liable to pay as a result of any negligent act, negligent error or negligent omission by **Consultants** or any other person or party for whom **You** are responsible arising out of the exercise and conduct of the **Activities And Duties**.

### 3.8 Adjudication

**We** agree to reimburse awards made against **You** by an adjudicator appointed to resolve a dispute in accordance with the Scheme for Construction Contracts as contained in the Housing Grants Construction and Regeneration Act 1996 or an adjudication clause or rules contained in a contract, subject to Claims Condition 5.6.

# Policy

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## 4 What Is Not Covered

This policy does not apply to or include cover for or arising out of or relating to:

### 4.1 Liability Involving Transport of Property Owned by You

the ownership, possession or use by **You** or on **Your** behalf of any aircraft, watercraft, hovercraft, motor vehicle or trailer or any buildings, structures, premises or land or that part of any building leased, occupied or rented by **You** or any of **Your** property or any property in **Your** care, custody or control.

This exclusion shall not apply to any property or item which is owned, used or occupied by **You** or in **Your** possession for the sole or dominant purpose of performing **Your** obligations to any customer, client or third party or which forms part of any permanent or temporary works of any construction contract in which **You** are involved.

### 4.2 Liability Arising Out of Employment

any injury, disease, illness (including mental stress) or death of

- (a) any employee under a contract of service with **You** or any claim arising out of any dispute between **You** and any present or former employee or any person who has been offered employment with **You**; and/or
- (b) any other person except to the extent that any liability on **Your** part was due to **Your** negligent act, negligent error or negligent omission and/or others acting on **Your** behalf in the conduct and exercise of the **Activities And Duties**.

### 4.3 Fraud, Dishonesty or Criminal Act

any claim or loss arising out of any dishonest, fraudulent or criminal act, error or omission committed or alleged to have been committed by any of **Your** past or present partners, directors, trustees or employees or any other person or entity working on **Your** behalf.

This exclusion shall not apply in respect of any civil claim arising out of any breach of any **United Kingdom** statutory regulation relating to building or construction works, subject to the act, error or omission not being deliberate on **Your** part.

### 4.4 Controlling Interest

any claim made against **You** by either:

- (a) any entity in which **You** exercise a controlling interest; or
- (b) any entity exercising a controlling interest over **You** by virtue of having a financial or executive interest in **Your** operations;

unless such claim is made against **You** for a reimbursement or contribution in respect of a claim made by an independent party against the said entities detailed in (a) and (b) and arises out of the exercise and conduct of the **Activities and Duties**.

## 4.5 Contractual Liability

any of the following:

- (a) any performance warranties, penalty clauses, guarantees or liquidated damages unless **Your** liability would have existed in the absence of such warranties penalties or guarantees.
- (b) any collateral warranty where **You** provide any express guarantee (including fitness for purpose), agree to any express penalty or liquidated damages, or agree to provide any party with a greater or longer lasting benefit than that given to the original party.

This exclusion shall not apply where **Your** liability would have existed in the absence of any of the above or where **We** have expressly approved the relevant terms of the particular contract.

## 4.6 Nuclear Risks

any of the following:

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

## 4.7 War and Terrorism

any of the following:

- (a) war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, riot, civil commotion;
- (b) usurped power;
- (c) confiscation or nationalisation or requisition or destruction or damage or loss of property by or under the order of any government or public or local authority;
- (d) any act or acts of terrorism, force or violence for political, religious or other ends directed towards the overthrowing or influencing of the government, or for the purpose of putting the public in fear, by any person or persons acting alone or together or on behalf of or in connection with any organisation;
- (e) any action taken in controlling, preventing, suppressing or in any way relating to (a), (b) and (d) above.

## 4.8 Area of Activities and Duties

any **Activities and Duties** undertaken by **You** outside the **Geographical Limits**.

## 4.9 Jurisdiction

any claim brought (or the enforcement of any judgment or award entered against **You**) outside the courts of the **United Kingdom** and Member States of the European Union.

## 4.10 Fines, Penalties, Punitive, Multiple or Exemplary Damages

fines, penalties, punitive, multiple or exemplary damages.

## 4.11 **Pollution**

**Pollution** unless it was caused by a negligent act, negligent error or negligent omission by **You**, **Your Professional Staff**, and/or **Consultants** acting on **Your** behalf, provided that:

- (a) such **Pollution** was not caused by **Your** intentional act; and
- (b) such **Pollution** was sudden and accidental.

In respect of any claim arising from **Pollution** the **Indemnity Limit** for all claims payable under this clause including **Defence Costs** shall not exceed in the aggregate the sum shown in the **Schedule**. This means that only one **Indemnity Limit** shall be payable in relation to claims arising from **Pollution**.

## 4.12 **Directors' and Officers' Liability**

any claim arising from being **Your** director, officer or trustee (as opposed to those duties and functions carried out in furtherance of the **Activities and Duties**) or from the acceptance of any directorship or trusteeship in any other company not forming part of **You**.

## 4.13 **Other Insurance**

any claim where **You** are entitled to reimbursement under any other insurance except in respect of any amount for which **You** would otherwise be entitled to reimbursement under this policy beyond the amount for which **You** are entitled to reimbursement under such other insurance.

## 4.14 **Previous Claims and Circumstances**

any claim or circumstance that may give rise to a claim:

- (a) which has been notified and accepted by insurers in respect of any other insurance that was in force prior to the inception of this policy, or;
- (b) with **You** having taken all practical care should have disclosed and notified to insurers any claim or circumstance that may give rise to a claim of which **You** were or should have been aware prior to the inception of this policy.

## 4.15 **Trading Losses**

any trading losses or trading liabilities incurred by any business managed or carried on by **You** including loss of any client account or business.

## 4.16 **Failure to Arrange Insurance and/or Finance**

any loss which follows from **Your** failure to arrange and/or maintain insurance and/or finance.

## 4.17 **Asbestos**

any claim involving asbestos.

## 4.18 **Tender at Less than Economic Terms**

the deliberate decision by **You** to tender for a contract at less than economic terms.

#### 4.19 **Construction Costs**

any estimate of probable design and/or construction costs, being exceeded provided that this exclusion shall not apply to any claim arising from negligence of a quantity surveyor employed by **You** or appointed on **Your** behalf to carry out those activities normally undertaken by a quantity surveyor in private practice.

#### 4.20 **Turnover Declared as Non-Design Related**

any claim arising from **Your** activities where it is, has been, or would be disclosed that **You** and/or **Your Consultants** or subcontractors have no responsibilities for design or other professionally-related activities.

#### 4.21 **Retroactive Date**

any claim notified to **Us** which arises out of the exercise and conduct of the **Activities and Duties** prior to the retroactive date stated in the **Schedule**.

#### 4.22 **Defective Workmanship or Materials**

any defective workmanship or materials relating to physical works of construction.

#### 4.23 **Bodily Injury and/or Property Damage**

any claim arising out of injury, disease, illness (including mental stress) or death of any person(s) or loss of or damage to property (except as provided under Clause 3.3) unless such claim arises directly out of any negligent act, negligent error or negligent omission by **You** arising from the exercise and conduct of **Your Business**.

# Policy

## 5 Claim Conditions

### 5.1 Important Conditions

This Section of the policy explains **Your** responsibilities when making a claim under the policy. If the conditions listed below are not followed, then a claim may not be paid, may be reduced or may be treated as invalid.

### 5.2 Discovery of a Claim or Circumstance

(a) If during the **Period of Insurance You** receive notice of any claim that is subject to reimbursement under this policy other than any claim provided for in Claims Condition 5.2(b), **You** shall give notice (in accordance with Claims Condition 5.3) to **Us** as soon as practicably possible and, in any event, before expiry of the **Period of Insurance**.

If during the **Period of Insurance You** receive a Letter of Claim, as detailed in any applicable Civil Procedure or Criminal Procedure Pre-Action Protocols, **You** shall give notice (in accordance with Claims Condition 5.3) to **Us** as soon as practicably possible after receipt of such Letter of Claim and before expiry of the **Period of Insurance**.

(b) If during the **Period of Insurance You** become aware of any **Circumstance**, **You** shall give notice (in accordance with Claims Condition 5.3) to **Us** of such **Circumstance** as soon as practicably possible and, in any event, before expiry of the **Period of Insurance**.

(c) **We** agree that any **Circumstance** notified to **Us** during the **Period of Insurance** which subsequently gives rise to a claim after expiry of this policy shall be treated as being a claim first made during the **Period of Insurance**.

(d) **You** shall not incur any costs and/or expenses in connection with the cover provided under Clause 3.2 – Costs and Expenses Incurred in Mitigation of a Claim or Circumstance without **Our** prior written consent which shall not be unreasonably withheld.

### 5.3 Notice

If **You** want to make a claim under this policy, **You** should provide notice to **Us** using the details stated in the **Schedule** under Notification of a Claim or Circumstance.

### 5.4 Admission of Liability

In the event of any claim or **Circumstance**, **You** shall not admit liability or make any admission, offer, promise, or payment without **Our** prior written consent.

### 5.5 Conduct of Claims

Following notification of any claim or **Circumstance**, **We** shall be entitled to take over and conduct in **Your** name the investigation, defence or settlement of any such matter. **You** shall

(a) assist **Us** and **Our** duly appointed representatives to put forward the best possible defence of a claim within the time constraints available;

(b) shall have adequate internal systems in place, which will allow ready access to material information;

- (c) shall at all times and at **Your** own cost give to **Us** or **Our** duly appointed representatives all such information, assistance, signed statements or depositions as may properly be required to facilitate compliance with all applicable Civil Procedure Rules, Practice Directions and Pre-Action Protocols and recoveries;
- (d) shall pay the **Excess** on **Our** demand or that of **Our** duly appointed representatives to comply with any settlement agreed by **Us**.

and provide all such assistance as **We** may require.

## 5.6 **Adjudication**

In relation to the Clause 3.8 – Adjudication, **You**:

- (a) shall ensure that the timetable provisions in any contract are no more onerous to **You** than those contained in the Scheme for Construction Contracts referred to in the Housing Grants Construction and Regeneration Act 1996;
- (b) shall notify **Us** within two (2) working days of receipt of any notice of intention to adjudicate, notice of adjudication, referral notice or any adjudication notice pursuant to contract;
- (c) shall not serve any of the notices referred to in Claims Condition 5.6(b) without **Our** prior written consent, unless in **Your** opinion this will not give rise to a claim under this policy;
- (d) agree that **We** shall be entitled if **We** request to pursue legal, arbitration or other proceedings in **Your** name and on **Your** behalf to challenge, appeal, open up or amend any decision, direction, award or the exercise of any power of the adjudicator or to stay the enforcement of any decision, direction, award or exercise of any power of the adjudicator.  
**You** shall give all such assistance as **We** may require in relation to such proceedings;
- (e) shall not accept the decision of the adjudicator as finally determining the dispute without **Our** prior consent in writing;
- (f) must satisfy **Us** that any liability incurred under an adjudicator's decision for which reimbursement is being sought would otherwise be the subject of cover under this policy.

For the avoidance of doubt:

- (i) notification of a notice of intention to adjudicate and/or notice of adjudication and/or referral notice, and/or any adjudication notice pursuant to contract shall be considered to be a notification under the terms of this policy subject to all other terms, conditions, exclusions and limitations of this policy which are not in conflict with this condition;
- (ii) the adjudicator in any contract must be independent of the parties to the dispute;
- (iii) this condition does not in any way limit **Our** rights of subrogation.

# Policy

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## 6 General Conditions

### 6.1 Subrogation

If any payment is made by **Us**, **You** grant to **Us** all rights of recovery against any parties from whom a recovery may be made and **You** shall take all practical steps to preserve such rights. However, **We** agree to waive any rights of recovery against any of **Your** present or former employees unless liability has resulted, in whole or part, from any act or omission on the part of such persons which is dishonest, fraudulent, criminal or malicious.

### 6.2 Claims Settlement

**We** may at any time pay to **You** in connection with any claim or claims the **Indemnity Limit** (less any sums already paid including **Defence Costs**) or any lesser sum for which such claim or claims can be settled and upon such payment **We** shall not be under any further liability in respect of such claim or claims.

### 6.3 Combined Claims

Where the same original cause or **Contract** gives rise to an entitlement on **Your** part to reimbursement under Clauses 3.1, to 3.8 under this policy, the maximum amount payable by **Us** under Clauses 3.1 to 3.8 shall not exceed the **Indemnity Limit**.

# Policy

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## 7 Definitions

7.1 "**Activities and Duties**" means the performance of and/or professional assistance with the following services by **Professional Staff** on **Your** behalf:

- (a) design, specification, inspection, supervision, feasibility study, surveying, procurement, CDM co-ordination and/or the provision of advice or technical information; and/or
- (b) such additional services as declared to and agreed by **Us**.

This definition shall not include:

- (i) **Your** inspection and/or supervision of **Your** own or **Your** sub-contractors' work where such inspection and/or supervision is undertaken in **Your** capacity as building or engineering contractor; and/or
- (ii) the services of a clerk of works or similar person carrying out inspection and/or supervision of construction.

7.2 "**Circumstance**" means information or facts or matters of which **You** are aware which is likely to give rise to a claim against **You** which **You** could become legally liable to pay and which arises out of the exercise and conduct of the **Activities And Duties**.

7.3 "**Consultants**" means consultants, contractors, specialist designers or others appointed by **You** in connection with the **Activities And Duties**.

7.4 "**Contract**" means any written or verbal contract entered into by **You** to undertake the manufacture, construction, alteration, repair, or maintenance services of any property or goods.

This definition shall include any manufacture, construction, alteration, repair, or maintenance services of any property or goods by **You** on **Your** own account where no such contract exists with another party.

7.5 "**Defence Costs**" means all costs and expenses incurred in the investigation, defence or settlement of any claim or **Circumstance** notified under the terms of this policy and/or the cost of representation at any inquiry or other proceedings which have a relevance to the investigation, defence or settlement of any matter notified under the terms of this policy.

This definition shall not include the costs and expenses incurred by **You** in preparing and presenting any claim under this policy or providing **Us** with information to defend or mitigate any claim.

7.6 "**Endorsement**" means a change in the terms and conditions of this policy that can extend or restrict cover.

7.7 "**Excess**" means the sum shown in the **Schedule** unless otherwise stated in this policy and shall be the first amount of each claim that is payable by **You** which shall not be reimbursed by **Us**.

Where, however, more than one claim is made during the **Period of Insurance** which arises from the same original cause then only a single **Excess** shall apply in respect of such claims.

7.8 "**Geographical Limits**" means anywhere in the world excluding the United States of America and/or Canada or their Dominions or Protectorates or as varied in the **Schedule**.

- 7.9 "**Indemnity Limit**" means the sum shown in the **Schedule** which is available to reimburse **You** in respect of each claim, provided that all claims payable under this policy including any **Defence Costs** shall not exceed in the aggregate the sum shown in the **Schedule**.
- 7.10 "**Period of Insurance**" means the period shown in the **Schedule** plus any extensions to the period which may be granted by **Us**.
- 7.11 "**Pollution**" means any one or a combination of a release, emission, discharge, dispersal, disposal or escape of any substances, which are capable of causing any harm to the health of any living organism or interference with ecological systems of which they form part and, in the case of a person, shall include offence caused to any of their senses to any person or any living organism, into or onto any water, land or air.
- 7.12 "**Professional Staff**" means those persons either qualified as architects, engineers or surveyors or having other qualifications appropriate to the **Activities and Duties** or having a minimum level of experience of five (5) years in undertaking the **Activities and Duties**.
- 7.13 "**Schedule**" means the document entitled Schedule that relates to and forms part of this policy.
- 7.14 "**United Kingdom**" means England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man.
- 7.15 "**We / Us / Our**" means Certain Underwriters at Lloyd's in respect of Syndicate 2088.
- 7.16 "**You / Your / Insured**" means the corporate body or bodies named in the **Schedule**, including:
- (a) any predecessors in business;
  - (b) any business for which **You** are legally liable in consequence of **Your** acquisition of such business (whether partial or otherwise) prior to inception of this policy provided **We** have been notified in writing of the existence of such other business and have not refused to insure it;
  - (c) any of **Your** offices or divisions as specified above unless expressly stated otherwise.