

Gallagher FirstBroker

Professional Indemnity Wording



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Basis of Contract

The Insured having made to Insurers a written proposal which together with any other related particulars and statements that have been supplied in writing are agreed to be incorporated herein and to form the basis of this Policy and having paid the Insurers the premium stated in the Schedule, the Insured is indemnified subject to the Policy terms, conditions, limitations and exclusions for any Claim made during the Policy Period arising out of the exercise and conduct by or on behalf of the Insured of the Professional Business within the Territorial Limits.

1. Insuring Clauses

Insurers shall indemnify the Insured for any Claim including claimant's costs first made against the Insured during the Policy Period and which arises from the Professional Business in respect of;

1.1 Civil Liability

any civil liability or breach of professional duty of care committed by the Insured or by any other person or company acting on behalf of the Insured including any Appointed Representative.

1.2 Libel and Slander

any libel, slander, slander of title, slander of goods or injurious falsehood.

1.3 Breach of Copyright

any unintentional infringement of intellectual property rights committed by the Insured or by any other person or company acting on behalf of the Insured.

1.4 Binding Authority

any civil liability incurred by the operation of any binding or delegated authority granted to the Insured by any insurer or underwriter provided that such binding or delegated authority has been declared or otherwise notified to and accepted by Insurers.

1.5 Financial Ombudsman awards

any amounts payable pursuant to any binding award or recommendation of any financial ombudsman including the costs of any necessary steps.

1.6 Prosecution costs

any liability in respect of the costs of any prosecuting or regulatory authority including the FSA and to the extent permitted by law or regulations.

1.7 Data Protection Act

Insurers will indemnify the Insured in respect of any legal costs, expenses and compensation incurred by reason of any breach of Section 13 of the Data Protection Act 1998

2. Defence Costs

Insurers shall indemnify the Insured for:

- 2.1** Defence Costs incurred, with the written consent of Insurers, in the defence or settlement of any Claim insured by this Policy.
- 2.2** Defence Costs in respect of the defence of any criminal or regulatory proceedings including any brought by the FSA brought against the Insured and notified to Insurers during the Policy period, which arises from the Professional Business.
- Provided always that in respect of Clause 2.2 only:
- 2.2.1** Insurers liability during any one Policy Period shall not exceed GBP 100,000. This limit will form part of and not be in addition to the limit of indemnity stated in the schedule.
- 2.2.2** Insurers must consent in writing to the appointment of any solicitor or counsel who is retained to act for and on behalf of the Insured.
- 2.2.3** The Insured shall give to Insurers immediate notice of any summons or other process served upon them which may give rise to proceedings.
- 2.2.4** Defence costs includes the costs of any appeal (including any application for judicial review) provided that solicitors or counsel appointed to act for and on behalf of the Insured have advised that there are greater than 50% prospects of such appeal succeeding.
- 2.3** Defence costs incurred under Clause 2.1 will be paid in addition to the Limit of Indemnity provided that if a payment greater than the Limit of Indemnity available from Insurers has to be made to dispose of a Claim, or if the Insured becomes under an obligation to pay a sum greater than the Limit of Indemnity as a result of a judgment, award, settlement or otherwise then Insurers' liability for defence costs associated with such Claim shall be that proportion of the defence costs as the Limit of Indemnity available from Insurers for such Claim bears to the amount required to be paid to dispose of the Claim.

3. Special Extensions

The following extensions are granted as part of this Insurance, subject to the terms and conditions, exclusions and limitations of this insurance.

3.1 Loss of Documents

Insurers shall indemnify the Insured for reasonable and necessary costs first incurred during the Policy Period and with prior written consent of Insurers arising from;

- 3.1.1** the loss, destruction of or damage to any document which is in the care, custody or control of the Insured; and / or
- 3.1.2** the replacement, restoration or reconstruction of any document which is the property of the Insured or the responsibility of the Insured.
- 3.1.3** Insurers liability under clause 3.1 during any one Policy Period shall not exceed £250,000. This limit will be in addition to the limit of indemnity stated in the schedule.

3.2 Fidelity

Insurers shall indemnify the Insured for any loss sustained in consequence of any dishonest or fraudulent act or omission of any Employee involving loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes belonging to the Insured or for which the Insured is legally liable.

Provided always that in respect of Clause 3.2 only:

- 3.2.1** Such loss is first discovered by the Insured and notified during the Policy Period and, provided that the Policy is renewed with current Insurers, within 30 working days after the expiry of the Policy Period.
- 3.2.2** Insurers shall not be liable to indemnify the Insured for any loss sustained in consequence of any act or omission occurring after the date of the discovery of, or of reasonable cause for suspicion of, dishonest or fraudulent conduct on the part of the Insured concerned.
- 3.2.3** The Insured shall bear the burden of providing satisfactory proof to substantiate any loss hereunder (including any costs incurred in such process) and Insurers will be under no obligation to provide indemnity to the Insured until such time as Insurers are satisfied that such loss has, in fact, been sustained.
- 3.2.4** Any monies which but for the dishonest or fraudulent act or omission of the Insured concerned would have been payable by the Insured and any monies of the Insured concerned shall be deducted by the Insured, to the extent it is legally entitled to do so, from the amount payable under this Clause in diminution or extinction of any loss.
- 3.2.5** Insurers liability under clause 3.2 during any one Policy Period shall not exceed £250,000. This limit will be in addition to the limit of indemnity stated in the schedule.

3.3 Court Attendance, Staff Disruption, Formal Investigation

- 3.3.1** If a principal, partner, director or Employee of the Insured attends a court or arbitration hearing as a witness, Insurers shall compensate for that person being so occupied, by paying GBP 500 for each day on which that person attends as a witness;
- 3.3.2** If a principal, partner, director or Employee of the Insured is interviewed by the lawyers conducting the defence of the Claim for the purpose of composing a witness statement, Insurers shall compensate for that person being so occupied, by paying GBP 300 per hour in respect of the time certified by the lawyers as time being interviewed;
- 3.3.3** If a principal, partner, director or Employee of the Insured is reasonably needed to attend a conference or consultation with counsel (as that expression is used by the Bar of England and Wales), Insurers shall compensate for that person being so occupied, by paying GBP 50 per hour in respect of the time certified by the lawyers conducting the defence of the Claim as time spent in such conference or consultation;
- 3.3.4** If a principal, partner, director or Employee of the Insured attends a court or arbitration hearing as an observer, Insurers shall compensate for that person being so occupied, by paying GBP 50 for each day on which that person attends as observer, provided that the Insurers shall only be liable to compensate for the occupation of one observer for the Insured per day.
- 3.3.5** If a principal, partner, director or Employee of the Insured attends a Formal Investigation, insurers shall pay reasonable and necessary Formal Investigation Expenses.

Compensation provided for by this Clause 3.3.5 in respect of a person's attendance shall only be payable where that attendance is in connection with defending, not prosecuting a Claim.

3.3.6 Compensation payable by Insurers under Clause 3.3 shall be paid to the Insured against which the Claim is made, or, if there is more than one such Insured, to whichever of such Insured as the Insurer shall choose.

3.3.7 Insurers liability under Clause 3.3 during any one Policy Period shall not exceed GBP 50,000. This limit will form part of and not be in addition to the limit of indemnity stated in the schedule.

3.4 Public relations

Insurers will indemnify the Insured in respect of the cost of retaining a public relations consultancy to avert or mitigate any material damage to the Insured's reputation caused by adverse publicity in the news media.

Provided always that in respect of clause 3.4 only:

3.4.1 such material damage relates to a Claim or Circumstance notified to Insurers and for which cover is provided by this Policy during the Policy Period.

3.4.2 Insurers liability under clause 3.4 during any one Policy Period shall not exceed £20,000. This limit will form part of and not be in addition to the limit of indemnity stated in the schedule.

3.5 Data theft, Breach of Covenant and Breach of Confidence

Insurers will indemnify the Insured in respect of any legal and other expenses incurred in connection with the investigation and enforcement of any breach of covenant or confidence or theft of any data or other confidential business information by any Insured.

Provided always that in respect of Clause 3.6 only:

3.5.1 such breach or theft is first discovered by the Insured and notified during the Policy Period and, provided that the Policy is renewed with current Insurers, within 30 working days after the expiry of the Policy Period.

3.5.2 Insurers liability under clause 3.6 during any one Policy Period shall not exceed £20,000. This limit will form part of and not be in addition to the limit of indemnity stated in the schedule.

3.6 Merger and / or Acquisitions

In the event that the Insured merges with or acquires another entity during the Policy Period, such merged or acquired entity shall be deemed to be included as an Insured under this Policy, provided always that:

3.6.1 Indemnity will be provided for a period of thirty days from the effective date of such merger or acquisition. Thereafter, indemnity will only be provided subject to the agreement of Insurers who shall have the right to amend the limits, terms, and conditions of this Policy.

3.6.2 The merged or acquired entity has a fee income of less than 10% of the Insured fee income.

3.6.3 The lines of business of the merged or acquired entity are not materially different to that of the Insured.

3.6.4 The merged or acquired entity is not domiciled in the United States of America.

3.6.5 The merged or acquired entity is able to provide previous claims experience acceptable to Insurers

3.6.6 The merged or acquired entity can provide Insurers with a work split that is similar to the Insured's

4. Excess

The self-Insured excess applicable in respect of all Claims shall be the amount stated in Item 5 of the Policy Schedule apart from the following:

4.1 In respect of Clauses 1.7, 2.1, 2.2, 3.3 and 3.4 the excess shall be GBP nil each and every claim.

4.2 In respect of Clauses 1.3, 1.8, 3.1 and 3.5 the excess shall be GBP 500 each and every claim.

5. Exclusions

Insurers shall not be liable to indemnify the Insured in respect of:

5.1 Excess

The Policy excess (as described in Clause 4 and in the Schedule Item 5).

5.2 Controlling Interest

Any Claim brought by any entity:

5.2.1 in which the Insured exercises a controlling interest; or

5.2.2 exercising a controlling interest over the Insured by virtue of their having a financial or executive interest in the operation of the Insured

unless such Claim is made against the Insured for an indemnity or contribution in respect of a Claim made by an independent third party.

This exclusion shall not apply if such controlling financial or executive Interest is 50% or less.

5.3 Transport, Property, Land

Any Claim emanating from the ownership, possession or use of any aircraft, watercraft, hovercraft, motor vehicle, trailer or other means of transport or any buildings, structures, shelters, premises or land or property.

5.4 Previous Claims or Circumstances

Any Claim against the Insured or Circumstance which is likely to give rise to a Claim against the Insured which has been notified under any previous Policy.

5.5 Bodily Injury and Property Damage

Any Claim, loss, liability, expenses, costs or Defence Costs arising indirectly or directly out of, or any way involving:

5.5.1 Bodily Injury, to any employee whilst in the course of their employment for or on behalf of the Insured

5.5.2 Bodily injury, to any person other than an employee, or damage to or destruction of any property (not otherwise insured under Clause 1.3) including loss of use thereof, provided that this exclusion shall not apply to Claims arising from breach of professional duty or civil liability in the conduct of the Insured's Professional Business.

5.6 Trading Losses

Any Claim arising from trading losses incurred by the Insured.

5.7 Fraud and Dishonesty

Any Claim arising out of any dishonest, fraudulent, criminal, reckless or malicious act or omission of any Insured or their consultants, sub-contractors, or Agents.

This exclusion shall not include any Insured who is innocent of committing or condoning any such act, error, omission or breach.

5.8 Warranties or Penalties

Any Claim emanating from any performance warranty, guarantee, penalty clause or liquidated damages agreement unless the liability of the Insured would have existed in the absence of such warranty, guarantee, penalty clause or similar provision.

5.9 Non Contribution

Any Claim for which the Insured is or but for the existence of this Policy would be entitled to indemnity under any other insurance except in respect of any amount which exceeds that which would have been payable under such other insurance had this Policy not been effected.

5.10 Nuclear Risks

Any Claim emanating from ionizing radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel.

5.11 War and Terrorism

5.11.1 Any Claim emanating from the consequence of war (whether declared or not), invasion, acts of foreign enemies, hostilities, civil war, rebellion, revolution, insurrection, insurgency caused by a regular or irregular military force.

5.11.2 Any Claim emanating from terrorist action or any action required to suppress control or prevent terrorist action.

5.12 Fines

Any criminal fines or penalties or any financial penalty imposed by the FSA pursuant to the Financial Services and Markets Act 2000.

5.13 Supply of goods

Any Claim emanating from any goods or products sold, supplied, made, constructed, installed, maintained, repaired, altered or treated by or on behalf of the Insured unless any Claim is a direct result of negligent design or specification of the Insured or any Employee or any other person or company acting on behalf of the Insured.

5.14 Underwriting losses

Any underwriting losses of the Insured.

5.15 Financial Services

5.15.1 Any activity regulated by the Financial Services and Markets Act 2000 save in respect of any mortgage or insurance mediation.

5.15.2 Failure to provide finance.

5.16 Pollution

Any Claim caused directly or indirectly by Pollution, provided that this exclusion shall not apply to Claims arising from breach of professional duty or civil liability in the conduct of the Insured's Professional Business and the limit of indemnity shall not exceed the limit stated in the schedule within the policy period.

5.17 Insolvency

Any loss caused by the insolvency of the Insured, an Agent or an insurance company.

5.18 Penal damages

Any punitive, multiple, aggravated or exemplary damages and which can be specifically identified as such.

5.19 Director and Officer

Any Claim emanating from liability as a director or officer or trustee of any other company or trust except where the Claim arises from the Insured's Professional Business.

5.20 Jurisdiction

5.20.1 Any Claim instituted or pursued outside of any location as described in Item 7 of the schedule:

5.20.2 Any Claims, loss, liability, expenses, Defence Costs or costs of whatsoever nature in respect of any judgment, award, payment or settlement delivered, made or incurred within countries which operate under the laws of United States of America, its territories and possessions (or to any order made anywhere in the world to enforce such judgement, award, payment, defence costs or settlement either in whole or in part) unless a USA operations extension is stipulated on the schedule.

5.21 Unauthorised Activities

Any Claim, loss, liability, costs of expenses or Defence Costs whatsoever directly or indirectly arising out of, or in any way involving Unauthorised Activities.

5.22 Asbestos Risks

Any Claim caused directly or indirectly by Asbestos, provided that this exclusion shall not apply to Claims arising from breach of professional duty or civil liability in the conduct of the Insured's Professional Business and the limit of indemnity shall not exceed the limit stated in the schedule within the policy period..

5.23 Contractual Liabilities and Guarantees

Any claim arising from contractual agreement in respect of:

5.23.1 any express guarantee given by the Insured or

5.23.2 any express contractual penalty made between the Insured and a third party or

5.23.3 any acceptance by the Insured or liability for liquidated damages

in so far as the liability assumed by the Insured exceeds the amount of the Insured's liability in the absence of such agreement.

5.24 Pension and Benefit Schemes

Any claim arising from any plan programme or scheme providing benefits to the Insured or any Employees

6. Claims and Notification Conditions

6.1 When to Notify

6.1.1 If during the Policy Period the Insured shall receive any Claim, or any notice of an intention to make a Claim, the Insured shall give written notice to Insurers as soon as reasonably practicable and, provided the Policy is renewed with current Insurers, within 30 working days after the expiry of the Policy Period.

6.1.2 All Circumstance(s) must be notified as soon as reasonably practicable and, provided the Policy is renewed with current Insurers, be notified within 30 working days after expiry of the Policy Period.

6.1.3 Insurers agree that any Circumstance(s) notified to them during the Policy Period (or within 30 working days after the expiry of the Policy Period) which subsequently gives rise to a Claim after expiry of the Policy Period shall be deemed to be a Claim first made during the Policy Period.

6.1.4 If during the Policy Period the Insured shall discover

- i) a reasonable cause for suspicion of dishonesty or fraud on the part of a past or present partner, director, member, employee or consultant of the Practice or
- ii) an occurrence that may require representation at a properly constituted hearing, tribunal or proceeding

the Insured shall give written notice to Insurers of such discovery as soon as reasonably practicable but in any event prior to the expiry of the Policy Period.

Insurers agree that any such discovery notified to them during the Policy Period which subsequently gives rise to a Claim after expiry of the Policy Period shall be deemed to be a Claim first made during the Policy Period.

6.2 What to Notify

6.2.1 If during the Policy Period the Insured becomes aware of any Claim or Circumstance(s), the Insured shall give written notice to Insurers of such Claim or Circumstance(s) as soon as reasonably practicable, supplying full particulars of the relevant Claim or Circumstance(s) including (where possible):

- i) the name(s) of the potential Claimant;
- ii) the date of the incident, occurrence, fact, matter, act or omission which has given rise to the Claim or Circumstance(s);
- iii) the name(s) of the individual(s) involved in the Claim or Circumstance(s);

- iv) the date of the Insured's first awareness or discovery of such Claim or Circumstance(s);
- v) in the event of a Circumstance, the estimated amount of any potential Claim which may arise thereafter.

6.2.2 In addition, the Insured shall provide such further information as Insurers may reasonably require.

6.3 Who to notify

Notification will be deemed to have been made properly if received in writing by Gallagher London, 9 Alie Street, London E1 8DE.

6.4 Insured's duties in the event of a Claim

In the event of any Claim or Circumstance, the Insured shall

- 6.4.1** not admit liability, make no admission, offer, promise, payment or incur expense without Insurers' prior written consent;
- 6.4.2** give all such information, assistance and forward all document to enable the Insurer to investigate, settle or resist any Claim as the Insurer may require.

6.5 Insurers Rights

- 6.5.1** It is agreed that Insurers shall be entitled to pursue legal, arbitration or other proceedings in the name of and on behalf of the Insured to challenge, appeal, open up or amend any decision, direction, award, or the exercise of any power of the Adjudicator or to stay the enforcement of any decision, direction, award or exercise of any power of the Adjudicator. The Insured shall give all such assistance as Insurers may reasonably require in relation to such proceedings. For the avoidance of doubt this Clause does not in any way limit Insurers' rights to subrogation.
- 6.5.2** Insurers shall be entitled, if they so desire, to take over and conduct in the name of the Insured the investigation representation defence or settlement of any Claim circumstance or event.
- 6.5.3** The Insured shall not be required to contest any legal proceedings unless a Queen's Counsel (or by mutual agreement between the Insured and Insurers a similar authority) shall advise that such proceedings could be contested with the probability of success

6.6 Subrogation

In the event of any payment under this Policy, Insurers shall be subrogated to the extent of such payment to all the Insured's rights of recovery, and the Insured shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of documents necessary to enable Insurers effectively to bring proceedings in the name of the Insured provided Insurers shall not exercise any right of subrogation that may exist against any Partner, Director, member or principal of the firm, Employee or former Employee of the Insured unless Insurers shall have made a payment brought about or contributed to by the act or omission of the Partner, Director, member or principal of the firm, Employee or former Employee which was dishonest, fraudulent, criminal or malicious.

6.7 Allocation

6.7.1 If both liability from a Claim or loss covered by this Policy and liability for a Claim or loss not covered by this Policy arises, either because:

- i) a Claim against any Insured or a loss includes both covered and uncovered matters; or
- ii) a Claim against any Insured is made and other uninsured parties are a party to the proceedings or demand to which the Claim relates;

then the Insured and Insurers shall use their best efforts to agree the allocation of such amount between covered loss and uncovered loss based on a fair and proper assessment of the relative legal and financial exposures.

Provided that 6.7.1 (ii) shall only apply where Insurers would be entitled but for the operation of Clause 8.1.1:

- i) To avoid the Policy;
- ii) To reject a request for indemnity; or
- iii) To claim to be discharged from any liability.

6.7.2 If Insurers and the Insured are unable to agree any allocation, the dispute shall be submitted to the decision of a Queen's Counsel (to be mutually agreed upon by the Insured and Insurers or failing such agreement to be nominated by the Chairman for the time being of the Bar Council of England and Wales or where appropriate by a similar official of any similar body or any other applicable jurisdiction) on the basis that such a Queen's Counsel is entitled to determine a fair and proper allocation in accordance with Clause 6.7.1.

6.7.3 Any allocation of Defence Costs on account of a Claim which is negotiated or determined in accordance with Clause 6.7.2 shall be applied retrospectively to all Defence Costs on account of such Claim.

7. General Conditions

The following General Conditions apply to this Policy:

7.1 Discharge of Liability

Insurers may at any time pay to the Insured at any time in connection with any Claim under this Policy up to the Limit of Indemnity (less any sums already paid) or any lesser sum for which such Claim can be settled and upon such payment Insurers shall not be under any further liability in respect of such Claim except for Defence Costs incurred prior to such payment and with Insurers' prior written consent.

7.2 Limit of Indemnity and Excess

7.2.1 The Limit of Indemnity and the Excess apply to all the Insureds jointly.

7.2.2 All Claims or losses resulting from:

- i) one and the same act error or omission; or
- ii) a series of acts errors or omissions arising out of or attributable to the same originating cause, source or event; or

- iii) the acts errors or omissions of one person or persons acting together or in which such person or persons is/are concerned or implicated;

shall jointly constitute one Claim under this Policy, and only one Excess and one Limit of Indemnity shall be applicable in respect of such Claim or loss.

7.3 Combined Claim

7.3.1 Where the same originating cause gives rise to an entitlement on the part of the Insured to indemnity under Section 1 (Insuring Clauses) and Section 3 (Special Extensions), the maximum amount payable by Insurers (apart from Insuring Section 2 (Defence Costs)) shall not exceed the Limit of Indemnity.

7.3.2 Where a Claim is brought against more than one Insured it shall be deemed to be one Claim and Insurers' liability shall be the same as if the Claim had been brought against one Insured only.

7.4 Retroactive Date

Where a Retroactive Date is specified in Item 9 of the Schedule, this Policy shall not indemnify the Insured for any Claim notified under the terms of this Policy that arises out of the conduct of Professional Business prior to the said Retroactive Date.

7.5 Several Liability Notice

The subscribing Insurers' obligations under this Policy are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing Insurers are not responsible for the subscription of any co-subscribing Insurer who for any reason does not satisfy all or part of its obligations hereunder.

7.6 Rights of Third Parties

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999, or otherwise it is hereby agreed that:

7.6.1 This Policy does not confer and does not purport to confer any rights upon any third party (whether or not an interest of any third party is noted in this Policy).

7.6.2 The parties hereto shall be entitled to rescind or vary this Policy without the consent of any third party (whether or not any interest of any third party is noted in this Policy).

7.6.3 In the event of proceedings by a third party against the Insurers for the enforcement of a term of this Policy the Insurers shall have available to it by way of defence and set-off any matter which would have been available by way of defence and set-off if the proceedings had been brought by the Insured.

7.7 Choice of law, Disputes and Jurisdiction

7.7.1 This Policy shall be governed by and construed in accordance with the laws of England and Wales.

7.7.2 Save as aforesaid, the Courts of England and Wales are to have exclusive jurisdiction for hearing and determining any dispute arising out of or in connection with this Policy.

7.7.3 Any dispute between Insurers and the Insured arising out of or in connection with this Policy shall be referred by either party for arbitration in accordance with the law and procedure of England and Wales to any person nominated by the

Chairman for the time being of the British Insurance Brokers Association, whose decision shall be binding on both parties.

7.7.4 If the Insured and Insurers cannot agree a common course of action with regard to the contesting of any legal proceedings (whether defence or prosecution), the dispute will be resolved by reference to Queen's Counsel of the English Bar to be mutually agreed between Insurers and the Insured whose decision shall be binding. In resolving the dispute, the Queen's Counsel shall have due regard to the interests of both the Insured and Insurers. In the event of disagreement regarding the appointment of Queen's Counsel, the Queen's Counsel shall be appointed by the Chairman for the time being of the Bar Council. The costs of such an exercise shall be allocated by the agreed or appointed party on a fair and equitable basis.

7.8 Fraud

If any request for indemnity is made and the same is false or fraudulent as regards the amount or otherwise this Policy shall become void and any indemnity hereunder shall be forfeited.

7.9 Interpretation

7.9.1 Any marginal note is for information purposes only and shall not be incorporated in or construed as part of the Policy.

7.9.2 Words in the singular include the plural and words in the plural include the singular.

7.9.3 If the term, condition, exclusion or endorsement or part thereof is found to be invalid or enforceable the remainder shall be in full force effect.

7.9.4 The headings herein are for reference only and shall not be considered when determining the meaning of this Policy.

7.10 Alteration to Risk

The Insured shall give to Insurers written notice as soon as practicable of any material alteration to the risk during the Policy Period including but not limited to:

7.10.1 the Insured going into voluntary bankruptcy, receivership or liquidation or the Insured failing to pay debts or breaching any other obligation giving rise to the appointment of a receiver or bankruptcy or winding-up proceedings;

7.10.2 any material change in the nature of Professional Business of the Insured

7.10.3 any failure to obtain, or maintain, or any material change in, FSA Authorisation, and/or any enquiries, investigations, interventions, warnings, variations, cancellations, waivers or enforcement procedures initiated by the FSA.

7.10.4 any material omission from, change in, or addition to, the proposal form or any other information given to Insurers for underwriting purposes either before or during the Policy Period.

Upon receipt of such notice, Insurers shall be entitled to continue the Policy on such new terms and conditions as it may consider appropriate. Failure to give such notice shall entitle Insurers to reject or reduce Claims connected with the failure and/or continue the Policy on such new terms and conditions as it may consider fit.

7.11 Waiver or Amendment

The terms of this Policy can only be waived or changed by endorsement issued by Insurers or intended to be issued by Insurers to form part of this Policy. No other act, omission, course of dealing, forbearance, delay, or indulgence of any kind whatsoever by Insurers, whether by its officers, employees, servants, agents or otherwise, can be treated or relied upon as a waiver or change of any of the terms of this Policy.

7.12 Data Protection

- 7.12.1 Insurers records and holds data in accordance with the Data Protection Act 1998. Insurers also follow strict security procedures in the storage and disclosure of information provided to prevent unauthorised access or loss of such information.
- 7.12.2 Insurers may find it necessary to pass data to other firms or businesses that supply products and services associated with this Policy.
- 7.12.3 Further, by accessing and updating various databases Insurers may share information with other firms and public bodies, including the police, in order to substantiate information and prevent or detect fraud. If the Insured provide false or inaccurate information and Insurers suspect fraud this fact will be recorded and the information will be available to other organisations that have access to the databases.
- 7.12.4 Insurers can supply details of databases Insurers access or contribute to on request.

7.13 Document Management

Insurers may hold documents relating to this Policy and any Claim or loss in electronic form and may destroy the originals. An electronic copy of any such document will be admissible in evidence to the same extent as, and carry the same weight as, the original.

8. Special Conditions

8.1 Innocent non-disclosure

8.1.1 Insurers will not exercise their right to avoid the Policy, reject a request for indemnity or claim to be discharged from any liability when it is alleged that there has been:

- i) Non-disclosure of facts; or
- ii) Misrepresentation of facts; or
- iii) Incorrect particulars or statements; or
- iv) Late notification of a Claim; or
- v) Late notification of intention to make a Claim; or
- vi) Late notification of a circumstance or event.

Provided always that the Insured shall establish to Insurers' satisfaction that such alleged non-disclosure, misrepresentation or incorrect particulars or statements or late notice was innocent and free of any fraudulent conduct or intent to deceive.

8.1.2 Nothing in this clause 8.1 shall entitle the Insured to indemnity wider or more extensive than is available to the Insured under this Policy (notwithstanding the terms of this clause).

8.1.3 Where the Insured's conduct or breach of or non compliance with any condition of this Policy has resulted in prejudice to the handling or settlement of any Claim, the indemnity afforded by this Policy in respect of such Claim (including defence costs) shall be reduced to such sum as in Insurers' opinion would have been payable by them in the absence of such prejudice.

9. Definitions and Interpretation

9.1 Agent

Agent shall mean any person or firm including any Appointed Representative directly appointed by the Insured to act on their behalf

9.2 Appointed Representative

Appointed representative shall mean any person as defined in Section 39 of the Financial Services and Markets Act 2000.

9.3 Asbestos

crocidolite amosite chrysotile fibrous actinolite fibrous anthophyllite or fibrous tremolite or any mixture containing any of those minerals

9.4 Asbestos Dust

Fibres or particles of Asbestos

9.5 Asbestos Containing Materials

any material containing Asbestos or Asbestos Dust

9.6 Asbestos Risks

9.6.1 the presence of Asbestos, Asbestos Dust or Asbestos Containing Materials

9.6.2 the release of Asbestos Dust

9.6.3 the exposure of persons buildings or property to Asbestos Dust or Asbestos Containing Materials

9.7 Claim

Claim shall mean;

9.7.1 any demand for damages or compensation from, or the assertion of a right against, the Insured;

9.7.2 any notice of intention, whether orally or in writing, to commence legal proceedings against the Insured;

9.7.3 any communication with the Insured in whatsoever form invoking any Pre-Action Protocols as may be issued and approved from time to time.

9.8 Circumstance

Circumstance shall mean any incident, occurrence, fact, matter, act or omission that is likely to give rise to a Claim.

9.9 Defence Costs

Defence Costs shall mean all costs and expenses incurred in the investigation defence or settlement of any Claim Circumstance or event and the costs of representation at any inquiry or other proceedings, whether civil or criminal, which have a direct impact on any Claim, Circumstance or event which is likely to form the subject of indemnity by Insurers with the prior written and continuing consent of Insurers.

9.10 Document

Document shall mean deeds, wills, agreements, maps, plans, records, written or printed books, letters, certificate or written or printed documents or forms of any nature whatsoever (excluding any bearer bonds or coupons, bank or currency notes or other negotiable paper), project models, displays and/or magnetic tape or other like means of recording information for use with any computer record system.

9.11 Employee

Employee shall mean:

9.11.1 any person who is or who has been under a contract of service or apprenticeship, unless that person is a partner, director, member or principal of the Insured.

9.11.2 any person who is or has been

- i) self employed.
- ii) a voluntary helper.
- iii) engaged under a work experience or training scheme.
- iv) seasonal or temporary personnel.
- iv) agency staff.
- vi) seconded to work for the Insured.

9.11.3 any former partners, former directors or former employees of the Insured, who have continued as consultants to the Insured and such persons who were formerly consultants to the Insured.

in connection with the Professional Business of the Insured.

9.12 Excess

Excess shall mean the first amount of each Claim shown in the Schedule, which is to be borne by the Insured.

9.13 Formal Investigation

Formal Investigation shall be understood to mean any official investigation, examination or other proceedings ordered or commissioned by any Regulatory Body.

9.14 Formal investigation Expenses

Formal investigation Expenses shall mean that part of a Claim which consists of reasonable and necessary legal fees and related professional charges which an Insured incurs in respect of that Insured's representation at a Formal Investigation at which that Insured's attendance is required by the body which instituted the Formal Investigation, but which are only incurred after that Insured has been notified in writing by that body that it is looking into whether or not that Insured is culpable of misconduct.

9.15 FSA

FSA shall mean the UK Financial Services Authority.

9.16 FSA Authorisation

FSA Authorisation shall mean the Insured's permission to conduct Professional Business activities from the FSA.

9.17 Insured

Insured shall mean:

9.17.1 any person or firm for whom indemnity has been requested in the proposal form, their predecessors in business, any entity (In connection with the Professional Business) of which the Insured owns or has owned more than 50% of the issued and outstanding voting shares provided material facts pertaining to such entities have been declared to insurers hereon;

9.17.2 any other person who is, who has been or who may, during the Policy Period become a partner, director, member, principal or Employee of the firm;

in respect of the Professional Business of the Insured

9.18 Limit of Indemnity

Limit of Indemnity shall mean the sum shown in Item 4 of the Schedule.

9.19 Policy Period

Policy Period shall mean the period shown in Item 3 of the Schedule.

9.20 Professional Business

9.20.1 Professional Business shall mean any advice given or services performed by the Insured, which the Insured is reasonably qualified to provide by virtue of qualification or experience and has obtained FSA Authorisation to provide, provided the fee, if any, is included in any declaration to insurers.

9.20.2 Professional Business includes any personal appointment held by any of the Insured in which the individual is reasonably qualified to provide by virtue of qualification or experience provided such appointment is or was held in conjunction with the Professional Business of the Insured, provided the Insured has obtained FSA Authorisation for such Professional Business.

9.21 Pollution

Pollution shall mean pollution or contamination by naturally arising or man made substances, forces or organisms or any combination of them whether permanent or transitory and however occurring.

9.22 Territorial Limits

Territorial Limits shall mean any location anywhere in the world, as described in Item 6 of the Schedule.

9.23 Unauthorised Activities

Unauthorised Activities shall mean any activities carried out in the course of Professional Business for which the Insured should have obtained or maintained authorisation from the FSA but did not.

10. Additional services

10.1 Coverage Hotline

You have automatic access to our coverage hotline operated by Beale and Company Solicitors LLP, a specialist insurance law practice who have a team of lawyers dedicated to coverage disputes. The free service is designed to help you assist your clients with any coverage problems, including pre-notification advice on their behalf.

To use the service call the Beale and Company Solicitors LLP coverage hotline on

+44 (0) 20 7240 3474.

11. Complaints

Complaints should be reported to Gallagher London Compliance Chief Risk Officer who will deal with your complaint quickly and efficiently and attempt to resolve it as soon as possible.

Sarah Dalgarno
Chief Risk Officer
Gallagher London
9 Alie Street
London
E1 8DE
Tel: +44 (0)20 7204 6000
Fax: +44 (0)20 7204 6001
www.ajginternational.com
Registered in England and Wales No. 1193013

In the event that we are unable to resolve your complaint to your satisfaction, then you may be able to refer the matter to the Financial Ombudsman Service if you are an eligible complainant. They can be contacted at:

Financial Ombudsman Service
South Quay Plaza
183 Marsh Wall
London
E14 9SR
Tel: +44 (0)845 080 1800
<http://www.financial-ombudsman.org.uk/>

Arthur J. Gallagher (UK) Limited trading as Gallagher London. We are authorised and regulated by the Financial Services Authority. Our permitted business is arranging general insurance contracts. We follow the rules and principles established by the FSA for our general insurance business activities. The Financial Services Authority (FSA) regulates the insurance industry and requires those authorised by them to follow many different rules, one of them being 'Treating Customers Fairly'. Our FSA Register number is 312919. These details can be checked on the FSA's Register by visiting the FSA's website <http://www.fsa.gov.uk/Pages/register/index.shtml> or by contacting the FSA on 0845 606 1234.