

## PROFESSIONAL INDEMNITY INSURANCE

### SECTION 1

#### BASIS OF INSURANCE CONTRACT

##### Note:

Various words and phrases have a standard meaning within this policy and such definitions and interpretations are as set out in Section 6. Headings and notes are for information purposes only and are not to be construed as part of the policy wording.

##### 1.1 Insuring Clause

In consideration of the Assured having agreed to pay the premium shown in the Schedule, Underwriters agree, subject to the terms, conditions and exclusions of this policy to indemnify the Assured, up to the Limit of Indemnity, for any claim for compensation and/or damages (including claimant's costs and expenses) first made against the Assured and notified to Underwriters during the Period of this Policy which the Assured may become legally liable to pay and which arises out of any breach of professional duty in consequence of the exercise and conduct of the Assured's Professional Business by the Assured and/or by others on behalf of the Assured.

##### 1.2 Defence Costs in Addition

Underwriters will also indemnify the Assured for Defence Costs (see 6.6) where such costs have been incurred with the Underwriters' consent. Such Defence Costs are payable in addition to the Limit of Indemnity unless the Limit of Indemnity shown in the Schedule is in the aggregate.

In the event that a settlement is made with any party in excess of the amount of the Limit of Indemnity, Underwriters' liability in respect of Defence Costs shall be in the same proportion that the Limit of Indemnity bears to the sum which would be eligible for payment but for the restriction of the Limit of Indemnity.

## SECTION 2

### EXTENSIONS

Unless endorsed to the contrary and subject otherwise to the policy terms, conditions and exclusions the following extensions are given:

#### 2.1 Inadvertent Non-Disclosure

Notwithstanding the conditions contained within Section 3 of this policy, Underwriters will not exercise their right to:

- a) avoid this policy where there has been or it is alleged there has been
  - (i) non-disclosure or misrepresentation of facts and/or
  - (ii) incorrect particulars or statements and/or
  - (iii) non-disclosure of any Circumstance
- b) avoid any claim that results from the information referred to in 2.1 a) (iii)

provided always that the Assured shall establish to Underwriters' satisfaction that such alleged event referred to in 2.1 a) above was innocent and free of any fraudulent conduct or intent to deceive.

However, notwithstanding any rights that Underwriters may waive by the inclusion of this extension, Underwriters retain the right to modify the terms and conditions and premiums pertaining to this policy to reflect the basis on which the policy would have been underwritten had they been aware of the information in 2.1 a) above. Such modifications shall not infringe the benefit given to the Assured in 2.1 b) above.

In any case where the Assured could have notified under any preceding insurance any Circumstance as referred to in 2.1 a) (iii) above and the indemnity or cover available under this policy is greater or wider in scope than the indemnity to which the Assured would have been entitled under any such preceding insurance (whether with the Underwriters participating on this policy or not) then Underwriters participating on this policy shall only be liable to indemnify the Assured to the extent of the indemnity which would have been afforded by such preceding insurance.

Where the alleged non-disclosure 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 which, in Underwriters' reasonable opinion, would have been payable by them in the absence of such prejudice.

#### 2.2 Loss of or Damage to Documents

In the event of physical loss of or damage to Documents suffered during the Period of the Policy the Assured is indemnified for reasonable and necessary costs and expenses incurred in replacing, restoring or reconstituting any Documents which are the property of the Assured or in the care, custody or control of the Assured or for which the Assured is responsible.

#### 2.3 Liability for Loss of Documents

This policy is extended to indemnify the Assured for any liability other than the costs and expenses referred to in 2.2, which may arise in consequence of the physical loss of or damage suffered to any Document referred to in extension 2.2.

#### 2.4 Joint Venture/Consortium Clause

The Assured is indemnified for any claim made against them during the Period of this Policy which the Assured may become legally liable to pay, whether jointly or severally, which arises out of the exercise and conduct of the Assured's Professional Business whilst a member of a joint venture or consortium where such joint venture or consortium together with the turnover of the joint venture

or consortium has been declared to Underwriters, whether or not the joint venture or consortium is conducted through a separate legal entity.

#### 2.5 Self Employed Persons Extension

The Assured is indemnified for the liability devolving upon them arising out of the use of self employed or contract hire persons in connection with the Assured's Professional Business. The use of such persons need not be disclosed to Underwriters. For the purpose of this policy such persons are deemed to be employees of the Assured.

#### 2.6 Indemnity to Employees, Former Employees and/or Consultants

Employees or former employees of the Assured are indemnified in respect of any claim made against them during the Period of this Policy which arises out of the exercise and conduct of the Assured's Professional Business.

Former partners, former directors or former employees of the Assured who have continued as consultants to the Assured and such persons who were formerly consultants to the Assured are indemnified in respect of any claim made against them during the Period of this Policy which arises out of the exercise and conduct of the Assured's Professional Business.

#### 2.7 Libel and Slander

The Assured is indemnified for all sums which the Assured may become legally liable to pay in respect of claims made upon them during the Period of this Policy in direct consequence of any libel or slander committed by the Assured in the exercise and conduct of the Assured's Professional Business.

#### 2.8 Infringement of Copyright or Patents

- a) This policy is extended to indemnify the Assured in respect of actions or claims brought against them arising out of inadvertent breach of confidential information, patents, copyrights, other intellectual property rights or the unauthorised use or infringement of the systems or designs of others.
- b) In addition the Assured is indemnified for reasonable professional or legal costs and expenses first incurred with the Underwriters' consent during the Policy Period in the defence or instigation by the Assured of any injunction and/or proceedings in respect of infringement or alleged infringement of any copyright or patents or other intellectual property rights vested in or otherwise enjoyed by the Assured.

In respect of paragraph b) of this extension only, an Excess of £500 each claim and not the Excess shown in the Schedule shall apply.

#### 2.9 Legal Defence

The Assured is indemnified for

- a) all costs charges and expenses of legal representation of the Assured which are not otherwise covered by this policy.
- b) any award of costs against the Assured at any proceedings before any duly constituted court or tribunal of enquiry or otherwise having the power to compel attendance of witnesses at which the Assured in the opinion of Underwriters should be represented by reason of any conduct which might give rise to or has given rise to a claim under this Policy or by reason of any prejudice which might be occasioned to the Assured's professional reputation.

Provided always that:

- (i) this indemnity will only extend to circumstances notified to the Underwriters during the Period of this Policy

- (ii) the Underwriters shall not be liable to pay any penalty, or fine made against the Assured
- (iii) no costs, charges and expenses of any kind other than those incurred with the written consent of Underwriters shall be payable hereunder
- (iv) the Underwriters shall be entitled if they so desire to nominate a Solicitor and if appropriate a Barrister to represent the Assured
- (v) the Underwriters' liability hereunder is limited to £200,000 each loss which amount shall be payable in addition to the Limit of Indemnity shown in the Schedule
- (vi) the Assured shall bear 10% of the total amount payable under this extension or £500 whichever is the greater in respect of each loss.

#### 2.10 Assured's Own Losses

This policy is extended to indemnify the Assured for :

- a) any outstanding fees or payments owed to the Assured, including amounts which the Assured legally owes to sub-contractors, where such indemnity would, in the reasonable opinion of the Underwriters, avoid the possibility of a claim against the Assured which would have been the subject of an indemnity under this Policy for a greater sum.
- b) any reasonable additional costs and expenses incurred by the Assured to avoid or reduce the amount of any claim against the Assured which would have been the subject of an indemnity under this Policy. No indemnity will be available to the Assured under this Clause 2.10 (b) unless Underwriters' approval is obtained prior to the Assured's incurring such additional costs and expenses.

#### 2.11 Dishonesty

The Underwriters will indemnify the Assured in respect of any legal liability arising from any claim caused by any dishonest or fraudulent act or omission committed by any past or present Director, Partner, Principal or Employee of the Assured in connection with the conduct of the Professional Business, and made against the Assured during the Period of the Policy, provided that:

- a) no person committing or conspiring to commit or condoning any such dishonest or fraudulent act or omission shall be entitled to indemnity
- b) if the Underwriters so request the Assured shall take all reasonable steps to effect recovery from the person committing or conspiring to commit or condoning any such dishonest or fraudulent act or omission or from the personal representatives of such person
- c) the following shall be deducted from any amount payable under this Policy
  - (i) any money which but for such dishonest or fraudulent act or omission would be due from the Assured to the person committing, conspiring to commit or condoning such dishonest or fraudulent act or omission.
  - (ii) any money held by the Assured and belonging to such person
  - (iii) any money recovered following action for which provision is made in subparagraph (b) above
- d) the Underwriters shall not be liable for any claims arising from any dishonest or fraudulent acts or omissions of any person after the discovery in relation to that person of reasonable cause for suspicion of his having been dishonest or fraudulent.

#### 2.12 Witness Expenses

In the event of any Director, Partner or Principal of the Assured being required with the consent of Underwriters to attend court in connection with any claim notified under this Policy and made against the Assured, the Underwriters will provide compensation at the rate of £250 per day or part of day on which attendance is required.

Provided that the liability of the Underwriters shall not exceed £10,000 in all in any one Policy Period.

#### 2.13 Breach of Warranty of Authority

The Underwriters will indemnify the Assured in respect of any legal liability arising from any claim against the Assured for breach of warranty of authority, and which arises out of the exercise and conduct of the Assured's Professional Business.

## SECTION 3

### CLAIMS CONDITIONS

The following claims conditions and the more general conditions listed under Section 4 apply to this policy:

3.1 All conditions contained in Section 3 are deemed to be conditions precedent to liability

#### Discovery of a Claim or Circumstance

- 3.2 a) If during the Period of this Policy the Assured shall receive any claim, the Assured shall give notice (see 3.3) to Underwriters as soon as practicable, but in any event not later than expiry of the Period of this Policy.
- b) If during the Period of this Policy the Assured becomes aware of any Circumstance, the Assured shall give notice (see 3.3) to Underwriters of such Circumstance as soon as practicable but in any event not later than expiry of the Period of this Policy.

Underwriters agree that any such Circumstance notified to them during the Period of this Policy and which subsequently gives rise to a claim after expiry of this Policy shall be deemed to be a claim first made during the Period of this Policy.

#### Notice

3.3 Notice to underwriters under Clause 3.2 shall be deemed to have been properly made if received in writing by:

McParland Finn Ltd  
Barlow House  
Minshull Street  
Manchester  
M1 3DZ

3.4 Notwithstanding Clause 3.2 if the Assured becomes aware of a claim or discovers any Circumstance and is unable, due to any reasonable cause, to give notice during the Period of this Policy, Underwriters will accept such notice up to 15 days after expiry of this policy provided always that the matter which is being notified first came to the Assured's attention during the Period of this Policy.

#### Conduct of Claims

- 3.5 In the event of a claim or the discovery of any Circumstance, the Assured shall not admit liability and no admission, offer, promise or payment shall be made by the Assured without Underwriters' consent
- 3.6 Following notification of a claim or notification of any Circumstance, Underwriters shall be entitled if they so desire to take over and conduct in the name of the Assured the investigation, defence or settlement of any such matter. The Assured shall give all such assistance as Underwriters may reasonably require.

Notwithstanding the provisions of the preceding paragraph, if the Assured and Underwriters cannot agree a common course of action with regard to the contesting of any legal proceedings (whether defence or prosecution), the dispute will be resolved by the operation of Clause 4.4.

## SECTION 4

### GENERAL CONDITIONS

The following general conditions apply to this policy:

#### 4.1 Retroactive Date

Where a retroactive date is specified in the Schedule, this policy shall not indemnify the Assured for any claim notified under the terms of this policy and arising out of the exercise and conduct of the Assured's Professional Business prior to the said retroactive date.

#### 4.2 Other Insurance

If at any time any claim arises under this Policy the Assured is, or but for the existence of this policy, would be entitled to indemnity under any other policy or policies, Underwriters shall not be liable except in respect of any sum in excess of the amount which is or which would have been payable under such other policy or policies.

#### 4.3 Subrogation

If any payment is made under the terms of this policy, the Assured grants Underwriters all rights of recovery against any parties from whom a recovery may be made. However, Underwriters agree to waive any rights of recovery against any employee or consultant or former employee or former consultant of the Assured 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.

#### 4.4 Policy Disputes

This contract is governed by English Law. Any dispute or difference between the Assured and Underwriters arising from this policy shall be referred to Queen's Counsel of the English Bar, to be mutually agreed between Underwriters and the Assured or any other party as may be mutually agreed. In the event of disagreement regarding the appointment, the Chairman of the Bar Council shall appoint a suitable party.

The findings of the agreed or appointed party shall be binding on Underwriters and the Assured, and the costs of such exercise shall be allocated by the agreed or appointed on a fair and equitable basis.

In respect of extension 2.1, if Underwriters and the Assured cannot agree on the amount payable in consequence of any alleged prejudice then the sum payable shall be determined by a party to be nominated by the President of the Chartered Institute of Arbitrators from time to time whose opinion shall be final and binding upon both parties. The role of the nominated party shall be to state their opinion as to the amount payable as the indemnity based upon and within the parameters of the written submissions of each of the parties and their representatives. The nominated party shall have no authority to nominate an amount that is lower or higher than the amounts put forward by the parties.

#### 4.5 Terms of Appointment and Collateral Warranties

It is not necessary for terms of appointment/engagement to be shown to, and agreed by, Underwriters. However, Exclusion 5.1 g) will apply to liabilities incurred in consequence of signing such documents.

#### 4.6 Claim Settlements

The Underwriters may at any time pay to the Assured in connection with any claims or series of claims under this Policy the Limit of Indemnity (less any sums already paid) or any lesser sum for which such claims can be settled and upon such payment the Underwriters shall not be under any further liability in respect of such claims except for costs and expenses incurred prior to such payment.

If a payment exceeding the Limit of Indemnity has to be made to dispose of a claim the liability of the Underwriters to pay all costs fees and expenses in connection therewith shall be limited to such of the said costs and expenses as the Limit of Indemnity bears to the amount paid to dispose of a claim.

## SECTION 5

### EXCLUSIONS

5.1 This policy shall not indemnify the Assured in respect of the following:

a) Excess

The amount of the Excess shown in the Schedule or in any extension as appropriate.

Defence Costs referred to in Clause 1.2 shall not be the subject of any Excess unless either the Assured is domiciled outside the UK, Channel Islands or Isle of Man or the claim is made in a jurisdiction outside the UK, Channel Islands or Isle of Man.

b) Liability involving Transport or Property owned by the Assured

Any claim against the Assured arising solely and directly out of the ownership, possession or use by or on behalf of the Assured of any aircraft, watercraft, hovercraft, motor vehicle or trailer or any buildings, premises or land or that part of any building leased, occupied or rented by the Assured or any property of the Assured.

c) Liability arising out of Employment

Any claim arising out of injury, disease, illness or death of any employee under a contract of service with the Assured or any claim arising out of any dispute between the Assured and any present or former employee or any person who has been offered employment with the Assured, being brought under or relating to the Employment Protection Act 1975 or equivalent legislation in countries other than England.

d) Supply of Goods

Any claim against the Assured arising out of the supply of any goods by the Assured or products manufactured, constructed, altered, repaired, treated, sold, supplied or distributed by the Assured.

This exclusion shall not apply to project models or displays.

The exercise and conduct of the Assured's Professional Business shall not be excluded by this exclusion even where the exercise and conduct of such Professional Business is held to be a "product" or "goods" in consequence of the Consumer Protection Act 1987 or equivalent legislation in countries other than England.

e) Fraud, Dishonesty or Criminal Act

Any claim directly or indirectly contributed to or caused by any act or omission of any partner or director of the Assured which is dishonest, fraudulent, criminal or malicious.

f) Controlling Interest Exclusion Clause

Any claim made against the Assured by either:

- (i) any entity in which the Assured exercises a controlling interest

or

- (ii) any entity exercising a controlling interest over the Assured by virtue of their having a financial or executive interest in the operation of the Assured

unless such claim is made against the Assured for an indemnity or contribution in respect of a claim made by another party against:

- (a) the said entity in which the Assured exercises such a controlling interest

or

- (b) the said entity exercising such a controlling interest in the operation of the Assured

and arises out of the exercise and conduct of the Assured's Professional Business

g) Contractual Liability for Performance Warranties, Penalty Clauses

Any contractual liability arising from the following unless the liability of the Assured would have existed in the absence of the features listed in (i)-(iv) below or Underwriters have expressly approved the terms of engagement giving rise to the said liability.

- (i) Acceptance of or guarantee of fitness for purpose where this appears as an express term
- (ii) Any express guarantee including any relating to the period of a project
- (iii) Any express contractual penalty
- (iv) Any acceptance of liability for liquidated damages

where in respect of (i)-(iv) above such is given or accepted as part of the Assured's terms of engagement.

h) Nuclear Risks Exclusion

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

- (i) Ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- (ii) The radioactive, toxic or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

i) War Risks Exclusion

In respect of extension 2.2 only, any consequence of war including a terrorist act initiated by hostile parties, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.

j) Jurisdiction Exclusion

Any claim brought in the courts or countries (or the enforcement of a judgement found against the Assured) outside the jurisdictional limits referred to in the Schedule.

k) Punitive, Penal or Exemplary Damages

Punitive, penal or exemplary damages where such can be identified separately within any award of court

l) Loss of Documents - Magnetic or Electrical Media

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

m) Pollution

Any claim arising directly from pollution. However to the extent that the proximate cause of a claim arising from such pollution was a specific act error or omission by the Assured and/or by others on behalf of the Assured in the exercise and conduct of the Assured's Professional Business defined in this policy and PROVIDED ALWAYS that such pollution was not caused by an intentional act of the Assured this exclusion shall not apply.

Notwithstanding anything contained to the contrary elsewhere in this policy in respect of any claim or loss arising from this clause only the Limit of Indemnity is amended to "each claim and in the aggregate" and not as shown in the Schedule.

Furthermore for the purposes of this Clause only, Defence Costs as referred to in Insuring Clause 1.2 shall not be in addition to but included within the Limit of Indemnity available under this policy and such Defence Costs shall be subject to the Excess shown in the Schedule and not as stated in Exclusion 5.1 a).

n) Directors' & Officers' Liability

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

o) Year 2000 Compliance Exclusion

Any claim, loss, liability or costs and expenses directly or indirectly caused by or contributed to by or arising from or in connection with any Computer System whether or not the property of the Assured, not being Year 2000 Compliant.

In addition this Insurance shall not indemnify the Assured in respect of any claim, loss, liability or costs and expenses directly or indirectly caused by or contributed to or arising from or in connection with any or any attempted correction, conversion, renovation, rewriting or replacement of any Computer System, related to Year 2000 Compliance.

DEFINITIONS

(i) Computer System

For the purposes of this Exclusion Computer System shall mean any computer, data processing equipment, media or part thereof, or system of data storage and retrieval, or communications system, network, protocol or part thereof, or storage device, microchip, integrated circuit, real-time clock system or similar device, or any computer software (including but not limited to application software, operating systems runtime environments or compilers), firmware or microcode.

(ii) Year 2000 Compliant/Compliance

For the purposes of this exclusion Year 2000 Compliance shall mean that neither performance nor functionality of the Computer System is affected by any changes, prior to during and/or after, the Year 2000. In particular:

- (a) No value for current date will cause or give rise to any interruption in the operation of the Computer System
- (b) Date based functionality and performance must behave consistently for dates prior to, during and/or after, Year 2000.
- (c) In all interfaces and data storage the century in any date must be specified either explicitly or by unambiguous algorithms or inferencing rules.
- (d) The Year 2000 must be recognised as a leap year.

## SECTION 6

### DEFINITIONS AND INTERPRETATIONS

6.1 The following words and phrases are used in this policy. In certain instances the words may be used in their plural or singular form. Whenever they appear they are deemed to have the meaning set out below:

6.2 Assured

shall mean:

- a) (i) The Practice
- (ii) The present or future partners and present or future directors of the Practice
- (iii) Former partners and former directors of the Practice in respect of claims made during the Period of this Policy but arising out of the exercise and conduct of the Assured's Professional Business during the period whilst they were receiving salary or financial benefit from the Practice.
- b) the estate, heirs, executors and the legal representatives of those parties mentioned in 6.2 a).

6.3 The Practice

Shall mean the professional practice(s) whether corporate, sole trader or partnership named as the Assured in the Schedule including any predecessors in business

The definition also includes any practice(s) or business(es) for which the Assured is legally liable in consequence of the acquisition of such practice(s) or business(es) prior to inception of this policy provided Underwriters have been notified in writing of the existence of such other practice(s) or business(es) and Underwriters have agreed to insure such entities.

Any office of the Practice as defined is included within the definition unless expressly stated otherwise.

6.4 Professional Business

Shall mean the business activities which are listed in the Schedule.

Where the Assured is liable for a sub-consultant or sub-contractor or responsible for the liability of a joint venture or consortium the definition of Professional Business is extended to include the other professional activities of the sub-consultant or joint venture or consortium for which the Assured is liable.

In addition, the definition of Professional Business is extended to include personal appointments of any party falling within the definition of the Assured provided the fees, if any, for such activities are credited to the Practice and such activities are related directly or indirectly to the Professional Business in the Schedule and the individual is qualified or experienced to carry out such work. For the avoidance of doubt, personal appointments shall be deemed to include arbitration, expert witness and lecturing work.

6.5 Limit of Indemnity

Shall mean the sum shown in the Schedule which is available to indemnify the Assured in respect of each claim provided always that where more than one claim arises from the same original cause all such claims shall be deemed to be one claim and only one limit of indemnity shall be payable in respect of the aggregate of all such claims.

6.6 Defence Costs

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

6.7 Excess

Shall mean the first amount of each claim which is payable by the Assured. Where, however, a series of claims is made during the Period of this Policy which arises from the same original cause then only one single excess shall apply in respect of all claims resulting from that original cause.

6.8 Geographical Limits

Shall mean the geographical limits referred to in the Schedule

6.9 Period of this Policy/Policy Period

Shall mean the period shown in the Schedule plus any extensions to the period which may be granted by Underwriters.

6.10 Documents

Shall mean project models or displays, deeds, wills, agreements, maps, plans, records, photographs or negatives, written or printed books, letters, certificates or written or printed documents and/or forms of any nature whatsoever and shall include computer software and systems records (electronic data shall be deemed to be physical property for the purposes of this policy). The definition excludes bearer bonds, coupons, bank or currency notes or other negotiable paper.

6.11 Circumstance

Shall mean information or circumstances of which the Assured is aware which suggests that a claim is likely to be made against the Assured which the Assured may become legally liable to pay and which arises out of the exercise and conduct of the Assured's Professional Business.

6.12 Underwriters

Shall mean those insurance companies or Lloyd's syndicates subscribing to this policy and detailed in the attachment to this policy.



**Endorsement No: 01**

**E.U. Disclosure Clause (UK)**

**Attaching to policy number – MFLS0600359**

Notice to the Proposal/Assured

The Parties are free to choose the law applicable to the Insurance Contract. Unless specifically agreed to the contrary this insurance shall be subject to Scottish Law.

Any enquiry or complaint should be addressed in the first instance to your Broker.

If you are not satisfied with the way a complaint has been dealt with you may ask the Complaints and Advisory Department at Lloyd's to review your case without prejudice to your rights in law.

The address is:

Complaints and Advisory Department Lloyd's  
One Lime Street,  
London EC3M 7HA  
Telephone: 0171 623 7100

## Endorsement No: 02

### UNITED STATES OF AMERICA AND CANADA - CONDITIONS CLAUSE

#### Attaching to policy number – MFLS0600359

In respect of legal proceedings that are brought in the USA its territories or possessions or Canada (whether for the enforcement of a judgment or finding of legal proceedings brought in another jurisdiction or otherwise) or in which it is contended that the laws of the United States of America, its territories and possessions or Canada should or do apply or which involves the enforcement or attempted enforcement of a judgment or finding of legal proceedings brought in the United States of America, its territories or possessions or Canada:-

1. The Underwriter's total liability (irrespective of the number of claims and/or losses and/or the number of claimants and/or the number or type of Assureds) including Defence Costs shall not exceed the Limit of Indemnity in the aggregate regardless of whether the Limit of Indemnity is reinstated (whether or not the claim or loss also arises under any other insuring clause).
2. Any payment by the Underwriters shall erode the Limit of Indemnity.
3. The following additional exclusions shall apply:

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

- a) any claim or other request to be indemnified under the policy based upon the Employment Retirement Income Security Act of 1974 (or similar legislation) and any amendments thereto, or any rules or regulations promulgated thereunder;
- b) any claim or other request to be indemnified under the policy arising out of any actual or alleged violations of the Racketeer Influenced and Corrupt Organisation Act 18 USC Sections 1961 et seq (or similar legislation) and any amendments thereto, or any rules or regulations promulgated thereunder;
- c) any claim or other request to be indemnified under the policy arising out of any actual or alleged violation of any of the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934 (or similar legislation) or any amendments thereto, or any rules or regulations promulgated thereunder;
- d) any claim or request to be indemnified under the policy arising out of pollution, seepage, discharge or contamination of any kind;
- e) any claim for punitive or exemplary damages;
- f) asbestos or any product or material containing asbestos in whatever form or quantity;
- g) Fungi.

For the purpose of this endorsement, "Fungi" shall mean any fungus or mycota, but not limited to mould, mildew, mycotoxins, spores, yeast or any biogenic aerosols.

4. A separate Excess of £1,000 shall apply to each and every claim, each and every loss and each and every claimant. The Excess shall apply to Defence Costs.

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

**Endorsement No: 03**

**General Memorandum - Activities**

**Attaching to policy number – MFLS0600359**

It is hereby noted and agreed that this Policy shall only cover claims emanating from work carried out by the Assured in a freelance capacity, including part-time and voluntary work.

All other terms, conditions, exclusions and limitations of this Policy remain unaltered.

## **Endorsement No: 04**

### **SVB FSA ENDORSEMENT**

**Attaching to policy number – MFLS0600359**

It is hereby noted and agreed that the following shall apply to the insurance [policy / certificate / declaration] (hereafter "policy") to which this endorsement is attached:-

#### Information

##### **Insurer**

This policy is underwritten by Lloyd's Syndicate No 2147. Syndicate No. 2147 is managed by SVB Syndicates Limited (SVBS), whose registered office is at 71 Fenchurch Street London EC3M 4HH.

##### **Law**

This policy shall be governed by and construed in accordance with the following laws, save that in the case of an individual (who is acting for purposes which are outside his trade, business or profession), where the parties are free to choose the law applicable, unless specifically agreed to the contrary, the following laws will also apply:-

The laws of England and Wales

##### **Queries**

Any query or question about this policy or any claim under it should be addressed in the first instance to your broker or coverholder (as applicable).

##### **Complaints**

In the event that the policy contains a complaints clause or notice, such is hereby replaced with the following:-

SVBS aims to provide a first class professional service to its customers. Should you have any questions or concerns about your policy or the handling of a claim you should, in the first instance, contact your broker or coverholder (as applicable).

Otherwise, if you wish to make a complaint concerning your policy you should contact the Chief Executive, SVB Syndicates Limited, 71 Fenchurch Street, London EC3M 5HH.

In the event that you are unable to resolve the situation you may, in certain circumstances, contact the Complaints Department at Lloyd's

Address: Complaints Department, Lloyd's, One Lime Street, London EC3M 7HA  
Tel No: 020 7327 5693; Fax No: 020 7327 5225; E-mail: [Complaints@Lloyds.com](mailto:Complaints@Lloyds.com)

Finally, in the event that the Complaints Department is unable to resolve your complaint, it may be possible for you to refer it to the Financial Ombudsman Service (FOS) or other local dispute resolution body. Further details will be provided at the appropriate stage of the complaints process.

This complaints procedure is without prejudice to your right to take legal proceedings.

##### **Retail Customers**

In certain circumstances, where you are a retail customer, i.e. **an individual who is acting for purposes which are outside your trade, business or profession**, then other provisions may also apply to you. Please refer to the information contained in the Policy Summary which would have been issued to you via your broker or coverholder (as applicable) and/or otherwise address any queries as outlined above.