



## Policy Documentation



## DESIGN & CONSTRUCTION POLICY SCHEDULE

**Policy Number:**

**The Insured:**

**Address:**

**Professional Business:** Design & Construction and as defined in the Proposal Form

**Period of Insurance:** From:  
To:  
both days inclusive

**Premium Breakdown**

**Section A – Professional Indemnity:** GBP

**Applicable Taxes:** GBP

**Total Premium Payable:** GBP

**Proposal Form Dated:**

**Declaration Dated:**

**Payment Terms:** Within 60 Days of Inception of this Policy

**Signed by Omnyy LLP on behalf of Insurers as noted in each applicable Section.**

Dated

## SECTION A PROFESSIONAL INDEMNITY INSURANCE

**Limit of Indemnity:** GBP in the aggregate, costs inclusive

**Excess:** GBP each and every claim

**Premium:** GBP

**Applicable Taxes:** GBP

**Total Premium:** GBP

**Written Line:** %

**Wording:** Omnyy Design & Construction PII vSept2020

**Endorsements:**

**Territorial Limits:** Worldwide Excluding USA & Canada

**Jurisdictional Limits:** Worldwide Excluding USA & Canada

**Law Applicable to Contract Disputes:** England & Wales

**Jurisdiction Applicable to Contract Disputes:** England & Wales

**Retroactive Date:**

**The Underwriters:** Omnyy LLP writing on behalf of:  
Accelerant Insurance Limited – 100%

**Binding Authority attaching to:**

## IMPORTANT INFORMATION

**These notes do not form part of your contract of insurance and are issued for your assistance.**

This document details the cover provided under the contract of insurance between the **Insured** and the **Underwriters**, and it is essential for you to read it thoroughly to familiarise yourself with the terms and conditions, limitations, and exclusions specified herein.

Please advise your broker, intermediary or agent immediately if you consider that the cover is not correct or does not meet your requirements.

### **Who We Are**

Omnyy LLP is a limited liability partnership registered in England & Wales at The St Botolph Building, 138 Houndsditch, London, EC3A 7AG. Company number: OC359366. Omnyy LLP and the Lloyd's Managing Agents of the Syndicates on whose behalf we underwrite are authorised and regulated by the Financial Conduct Authority (FCA). A list of the Designated Members of Omnyy LLP is available for inspection at the registered office.

Your policy is administered by Omnyy LLP and underwritten by Accelerant Insurance Limited.

Accelerant Insurance Limited is a company registered in Malta (Company number C92407) with registered office at SOHO, The Strand, Office 2, Fawwara Building, Triq L-Imsida, Gzira GZR 1401, Malta. Accelerant Insurance Limited is authorised under the Insurance Business Act (Cap. 403 of the Laws of Malta) to carry on general business and is regulated by the Malta Financial Services Authority.

## DUTY OF FAIR PRESENTATION

In accordance with Section 3 of the Insurance Act 2015, you must have made a fair presentation of the risk to the **Underwriters** prior to entering into this contract.

In summary you must:

- (a) disclose to the **Underwriters** every material circumstance which you know or ought to know. Failing that, you must give the **Underwriters** sufficient information to put a prudent insurer on notice that it needs to make further enquiries in order to reveal material circumstances. A matter is material if it would influence the judgement of a prudent insurer as to whether to accept the risk, or the terms of the insurance (including premium);
- (b) make the disclosure in clause (a) above in a reasonably clear and accessible way; and
- (c) ensure that every material representation of fact is substantially correct, and that every material representation of expectation or belief is made in good faith.

The duty of fair presentation is a continuing obligation and applies when there are changes in your circumstances which materially affect the risk or relate to compliance with a warranty or condition in the policy. You must notify your broker, intermediary or agent of any such changes as soon as you become aware of them.

In the event that there is a breach of the duty to make a fair presentation of the risk, the **Underwriters** will have various remedies available to them under the Insurance Act 2015. If you are in any doubt as to the scope of the duty of fair presentation or whether any information is material and ought to be disclosed, please contact your insurance intermediary.

## CLAIMS AND COMPLAINTS

IN RESPECT OF SECTION A OF THIS POLICY DOCUMENT:

### HOW TO MAKE A CLAIM

It is vitally important for you to appreciate that this insurance is underwritten on a “claims made” basis. This means that any **Claims** are dealt with under the terms of the contract of insurance in force at the time the **Claim** or **Circumstance** is notified and not the one that was in force at the time of the original error or omission that has led to the **Claim**.

In the event that you wish to make a **Claim** please notify the following, in writing:

Reynolds Colman Bradley LLP  
4<sup>th</sup> Floor  
4 Colston Avenue  
Bristol  
BS1 4ST

Tel: +44 (0) 117 332 0769  
Web: [www.rcblp.com](http://www.rcblp.com)  
Email: [omnyyclaims@rcblp.com](mailto:omnyyclaims@rcblp.com)

Notice to the **Underwriter** shall be deemed to have been properly made if received in writing by the above.

### HOW TO MAKE A COMPLAINT

We aim to provide our clients with a high standard of service. Consequently, should we fail to meet your expectations; we will aim to resolve your concerns promptly and fairly.

If you have an enquiry or a complaint arising from a claim made on your policy please contact Reynolds Colman Bradley LLP:

Compliance Officer for Legal Practice  
Reynolds Colman Bradley LLP  
Bury House  
Bury Street  
London  
EC3A 5AR

Tel: +44 (0) 20 7220 4700  
Email: [info@rcblp.com](mailto:info@rcblp.com)

If you have an enquiry or a complaint about the policy or the service we offer please contact Omnyy LLP:

Compliance Department  
Omnyy LLP  
9th Floor  
John Stow House  
18 Bevis Marks  
London  
EC3A 7JB

Tel: +44 (0) 20 7933 2100  
Email: [complaints@omnyy.com](mailto:complaints@omnyy.com)

When making a complaint, please include in any initial correspondence, details of your complaint and policy, including your policy reference number, to enable the enquiry to be dealt with efficiently.

If you remain dissatisfied after your complaint has been considered, or you have not received a final decision within eight (8) weeks, you may be eligible to refer your complaint to the Financial Ombudsman Service:

The Financial Ombudsman Service  
Exchange Tower  
Harbour Exchange  
London  
E14 9SR

Tel: +44 (0) 800 023 4567  
Fax: +44 (0) 20 7964 1001  
Web: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)  
Email: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

Making a complaint does not affect your right to take legal action.

## SECTION A - PROFESSIONAL INDEMNITY

### INSURING CLAUSES

#### 1 Negligence

The **Underwriter** will indemnify the **Insured** up to the **Limit of Indemnity** specified in the **Schedule** in respect of **Claims** first made against the **Insured** during the **Period of Insurance** in respect of any legal liability incurred arising out of:

- (a) a breach of professional duty by the **Insured** in the course of the **Insured's Professional Business**;
- (b) any dishonest or fraudulent act or omission on the part of any **Employee**, provided that:
  - (i) no person committing or condoning such dishonest or fraudulent act or omission shall be entitled to an indemnity;
  - (ii) no indemnity shall be provided for dishonest or fraudulent acts committed by any person or after discovery by the **Insured** of any reasonable cause for suspicion of fraud or dishonesty on the part of that person;
  - (iii) in relation to this clause 1(b), **Employee** shall not include sub-consultants.
- (c) libel and slander committed without intention or malice by the **Insured** during the course of the **Insured's Professional Business**.

#### 2 Defence Costs

The **Underwriter** will in addition pay **Defence Costs** in connection with any **Claim** or **Circumstance** that may give rise to a **Claim** under Insuring Clause 1 (Negligence).

However, if the amount required to dispose of a **Claim** exceeds the available **Limit of Indemnity** the **Underwriter's** liability for **Defence Costs** in relation to such **Claim** shall be limited to the proportion that the available **Limit of Indemnity** bears to the amount payable to dispose of such **Claim**.

For the avoidance of doubt, the maximum indemnity including **Defence Costs** shall not exceed the **Limit of Indemnity** as stated in the **Schedule**.

#### 3 Mitigation of Losses

The **Underwriter** will indemnify the **Insured** against costs and expenses reasonably incurred with the **Underwriter's** prior written consent (such consent not to be unreasonably withheld or delayed) in respect of any action taken to mitigate a loss, or potential loss, that otherwise would be the subject of a **Claim** under this **Policy**. The onus of proving such loss or potential loss, under this Insuring Clause 3, shall be upon the **Insured** who will be obliged to give prior written notice to the **Underwriter** during the **Period of Insurance** of the intention to take action that will incur such costs and expenses.

#### 4 Loss of or Damage to Documents

The **Underwriter** will, in the event of loss of or damage to **Documents** occurring in the conduct of the **Professional Business** and advised to the **Underwriter** during the **Period of Insurance**, indemnify the **Insured** in respect of all sums which the **Insured** shall become liable at law to pay in replacing or restoring **Documents** up to a maximum of GBP 250,000 during the **Period of Insurance**.



Provided that:

- (a) such loss or damage is sustained while the **Documents** are either in transit or in the custody of the **Insured**, or of any person to whom the **Insured** has entrusted them;
- (b) where the **Documents** are in electronic format the **Insured** can demonstrate, to the reasonable satisfaction of the **Underwriter**, that the **Insured** had in place sufficient and proper procedures for the security and the daily back-up of **Documents**;
- (c) the **Underwriter** shall not be liable for loss of or damage to **Documents** arising directly or indirectly from the:
  - (i) transmission or impact of any **Virus**;
  - (ii) unauthorised access to a **System**.

## 5 Compensation for Court Attendance

In the event of:

- (a) the legal advisers acting on behalf of the **Insured**, with the consent of the **Underwriter**, requiring any principal, partner, **Member**, director or **Employee** of the **Insured** to attend any court tribunal, arbitration, adjudication, mediation or other hearing as a witness; or
- (b) the **Underwriter** requesting the attendance of any principal, partner, **Member**, director or **Employee** as an interested party at any mediation;

in connection with a **Claim** made against the **Insured** and notified under this **Policy**, the **Underwriter** will provide compensation to the **Insured** at the following rates for each day on which attendance is required:

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

## 6 Joint Venture or Consortium

The **Underwriter** will indemnify the **Insured**, in respect of any **Claim** first made against the **Insured** during the **Period of Insurance**, in their capacity as a member of a joint venture or consortium in respect of their civil liability arising out of the **Insured's Professional Business**, provided that:

- (a) the **Underwriter** having been previously notified by the **Insured** of any joint venture or consortium created prior to or during the **Period of Insurance**;
- (b) the indemnity shall only be to the extent of the **Insured's** own proportionate share of any joint liability they may have as a member of that joint venture or consortium.

## 7 Acquisition or Creation of Subsidiary

If the **Insured** creates or acquires during the **Period of Insurance** a new **Subsidiary** (either directly or indirectly), the new **Subsidiary** shall be automatically covered under this **Policy** in relation to any act, error or omission committed, or alleged to have been committed, on or after the date the new **Subsidiary** was created or acquired by the **Insured**.

The **Underwriter** shall not be liable in respect of any **Claim** or loss in relation to any such new **Subsidiary** where:

- (i) the total turnover or gross fee income of the new **Subsidiary** represents more than 20% of the **Insured's** total turnover or gross fee income; and/or
- (ii) the new **Subsidiary** has an office or representation outside of the United Kingdom;
- (iii) the **Professional Business** of the new **Subsidiary** is not the same (or substantially the same) as the **Insured**.

The **Insured** must provide the **Underwriter** with particulars of the new **Subsidiary** as soon as reasonably practicable following the creation or acquisition of the new **Subsidiary**.

Upon specific request by the **Insured**, the **Underwriter** shall consider the provision of retroactive cover for any new **Subsidiary** in respect of any act, error or omission committed, or alleged to have been committed, prior to the date of any such acquisition or creation. If the **Underwriter** agrees to provide such cover it shall be recorded by way of **Endorsement**.

## LIMITS OF INDEMNITY

1. The liability of the **Underwriter** shall not exceed the **Limit of Indemnity** specified in the **Schedule**.
2. Where the **Underwriter** is liable to indemnify more than one person, firm, company or body, the total amount of indemnity payable under this policy shall not exceed the **Limit of Indemnity**.
3. All **Claims** attributable to the same act, error or omission, or series of acts, errors or omissions, consequent upon or attributable to the same original cause or source, will be regarded as one **Claim**.

## EXCLUSIONS

The **Underwriter** shall not be liable to indemnify any **Insured** or to make any payment under this **Policy** in respect of any **Claim**, liability or **Defence Costs** arising out of, caused by, resulting from, in consequence of, in connection with or in any way involving any of the following:

### 1 Adjudication and Arbitration

- (a) any decision made against the **Insured** by an adjudicator who was not independent of the parties to the dispute;
- (b) any adjudication arising from an adjudication clause in a contract which contains timetable provisions for adjudication which are more onerous to the **Insured** than those contained in the Scheme for Construction Contracts, referred to in the Housing Grants Construction and Regeneration Act 1996;
- (c) any arbitration award made in respect of any **Claim** or counterclaim where the seat of the arbitration was located outside England Wales Scotland or Northern Ireland, unless that seat was agreed to by the **Underwriter**.

### 2 Asbestos Risks

any **Asbestos Risk**, whether relating directly to, indirectly to, or in consequence of **Asbestos Risk**.

This shall not apply to any such liability arising from any actual or alleged breach of duty in the performance of (or failure to perform) **Professional Business**, provided that no indemnity shall be granted in respect of:

- (a) any liability directly or indirectly resulting from **Asbestos Inspections** carried out by the **Insured**;
- (b) any liability arising out of or in any way involving any **Bodily Injury** or fear of suffering **Bodily Injury**;

The liability of the **Underwriter** for civil liability and **Defence Costs** arising out of all **Claims** notified during the **Period of Insurance** directly or indirectly resulting from **Asbestos Risks** shall not exceed GBP 250,000 in the aggregate.

### 3 Bodily Injury to Employees

any **Bodily Injury** to an **Employee** arising out of and in the course of his or her employment for, or on behalf of, the **Insured**.

### 4 Bodily Injury to Others or Damage to Property

any **Bodily Injury** to any person or loss of or damage to property (except as provided by Insuring Clause 4, Loss of or damage to Documents) unless arising from any actual or alleged breach of duty in the performance of (or failure to perform) **Professional Business**.

## 5 Combustibility and Fire Safety

The **Underwriter**, in addition to the exclusions contained elsewhere in this **Policy**, shall not be liable to indemnify the **Insured** against any **Claim** or loss arising directly or indirectly out of or in any way involving the combustibility or fire safety requirements of any cladding, glazing, doors, external wall system and/or internal wall system of any building or structure; including any component or material used in the manufacture, assembly or construction thereof.

## 6 Contractual Liabilities including Collateral Warranties

any **Claim** arising out of liability assumed by the **Insured** under any contractual agreement (including any Collateral Warranty or Duty of Care agreement) in respect of:

- (a) any warranty or agreement under which the **Insured** assumes a standard of care greater than the standard of reasonable skill and care normally expected in the **Insured's** profession;
- (b) any acceptance or guarantee of fitness for purpose;
- (c) any warranty or agreement which provides greater or longer lasting benefit than that given to the party with whom the **Insured** originally contracted;
- (d) any express guarantee contractual penalty or liquidated damages in so far as liability assumed by the **Insured** exceeds the amount of the **Insured's** liability in the absence of such agreement.

Notwithstanding this Exclusion, this **Policy** will indemnify the **Insured** in respect of **Claims** or **Defence Costs** arising out of liability assumed under the standard Warranty Agreements published by the British Property Federation the Construction Industry Council or the Scottish Building Contract Committee.

## 7 Controlling Interest

any **Claim** made against the **Insured** by

- (a) any entity in which the **Insured** or any partner, **Member** or director, or any combination of partners, **Members**, or directors of the **Insured**, exercises or has exercised a controlling interest;
- (b) any entity 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** emanates from an independent third party.

## 8 Cyber

any circumstance arising directly or indirectly from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer **Virus** or process or any other electronic system.

## 9 Defective Workmanship

any **Claim** arising out of defective workmanship or defective materials or the failure to supervise or inspect work carried out.

**9 Directors' and Officers' Liability**

any **Insured** in their capacity as a director, officer or trustee in respect of the performance or non-performance of their duties as a director, officer or trustee.

**10 Dishonesty**

any dishonest or fraudulent act or omission committed by any person after there is reasonable cause for suspicion of fraud or dishonesty in relation to such person.

Furthermore, no indemnity shall be given to any person committing, condoning or knowingly participating in any way in any act or omission of a fraudulent or dishonest nature.

**11 Effecting Insurance**

any **Claim** arising out of the effecting or maintenance of insurance.

**11 Employment**

any liability to any **Employee**, former employee or prospective employee, in respect of employment related libel, slander, humiliation or defamation, wrongful dismissal, repudiation or breach of any employment contract or arrangement, termination of a training contract or contract of apprenticeship, harassment, discrimination or like conduct.

**12 Estimates**

any **Claim** arising in connection with the estimate of construction costs where such estimates are undertaken in the **Insured's** capacity as building or engineering contractor.

**13 Excess**

The **Insured's Excess**, as stated in the **Schedule**.

**14 Finance**

any **Claim** arising out of the provision of finance or advice on financial matters.

**15 Fines Penalties and Punitive Damages etc.**

any fines, penalties, punitive exemplary or aggravated damages where such damages have been identified separately within any award of a court or the multiple portion of any multiplied damage award.

**16 Insolvency of the Insured**

any insolvency or bankruptcy of the **Insured**

Provided that this shall not apply to any **Claim** for which the **Insured** would otherwise be indemnified by this **Policy** but for the insolvency or bankruptcy of the **Insured**.

**17 Nuclear Risks**

any:

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

**18 Pollution**

any **Claim** arising directly or indirectly from **Pollution**. However, this Exclusion shall not apply to any such **Claim** arising from any actual or alleged breach of duty in the performance of (or failure to perform) **Professional Business**.

Provided that:

- (a) no indemnity shall be granted in respect of any such **Claim** directly or indirectly resulting from **Environmental Audits** carried out by the **Insured**;
- (b) the liability of the **Underwriter** for civil liability and **Defence Costs** arising out of all such **Claims** notified during the **Period of Insurance** shall not exceed GBP 1,000,000 but shall apply in the aggregate and not any one **Claim**.

For the purposes of this Exclusion only **Asbestos** is deemed not to be a contaminant or a pollutant.

**19 Previous Claims or Circumstances**

any:

- (a) **Claim** first made against any **Insured** prior to the commencement of the **Period of Insurance**;
- (b) acts, errors, omissions, circumstances or facts which any **Insured** knew, or ought to have known prior to the commencement of the **Period of Insurance** that may give rise to a **Claim**;
- (c) litigation or civil, criminal, administrative or regulatory proceedings, investigation or arbitration pending as at the commencement of the **Period of Insurance** or prior to the **Period of Insurance**;
- (d) new litigation derived from the same or essentially the same facts alleged in any pending or prior litigation.

**20 Retroactive Date**

any **Claim** or loss, otherwise eligible for indemnity under this **Policy**, where the cause of such **Claim** or loss occurred or was alleged to have occurred prior to any **Retroactive Date** specified in the **Schedule**.

**21 Trading Losses**

any **Claim** arising out of, or in connection with, any trading losses or liabilities incurred by the **Insured** or any business managed by or carried on by the **Insured**.

**22 Transportation or Property**

the ownership, use, occupation or leasing of mobile or immobile goods or property by, or on behalf of, the **Insured**.

**23 USA and/or Canada**

- (a) damages or other monetary awards, judgments or negotiated settlements, claimant's costs and expenses and **Defence Costs** connected with or arising out of any **USA and/or Canada Claim**.
- (b) the enforcement, upholding or registration against the **Insured** by any arbitrator, tribunal or court outside **USA and/or Canada** of any damages or other monetary awards, judgments or negotiated settlements, claimant's costs and expenses and **Defence Costs** connected with or arising out of any **USA and/or Canada Claim**.
- (c) the operations of the **Insured** or any principal, partner, **Member**, director, **Employee**, agent, branch, subsidiary or parent company of the **Insured** in **USA and/or Canada**.

**24 War and Terrorism**

any **Claim** arising directly or indirectly out of **War Risks** or **Terrorism**.



## DEFINITIONS

For the purposes of this Professional Indemnity Insurance:

- 1 Agency Worker** means

any person supplied by a temporary work agency working temporarily for, and under the direction and supervision of, the **Insured** or its **Predecessors**.
- 2 Alternate** means

any individual practitioner partnership limited liability partnership or company who is acting in connection with the arrangements to cover the incapacity or death of a sole practitioner.
- 3 Asbestos** means

crocidolite, amosite chrysotile, fibrous actinolite, fibrous anthophyllite or fibrous tremolite or any mixture containing any of those minerals.
- 4 Asbestos Containing Materials** means

any material containing **Asbestos** or **Asbestos Dust**.
- 5 Asbestos Dust** means

fibres or particles of **Asbestos**.
- 6 Asbestos Inspections** means

type 1, 2 or 3 inspections as set out in MDHS 100 published by the Health and Safety Executive in connection with regulation 4 of the Control of Asbestos Regulations 2006, or any other comparable inspection whether of commercial or residential land or property.
- 7 Asbestos Risks** means

  - (a) the presence of **Asbestos**, **Asbestos Dust** or **Asbestos Containing Materials**;
  - (b) the release of **Asbestos dust**;
  - (c) the exposure of persons buildings or property to **Asbestos Dust** or **Asbestos Containing Materials**.
- 8 Bodily Injury** means

accidental physical or mental injury, sickness or disease to, or death of, a person.
- 9 Claim** means

  - (a) service of a claim form, counterclaim other additional claim application notice, notice of appeal witness summons, or similar legal document, including an application for any related injunction; or
  - (b) a reference to or notification of intention to commence or the commencement of proceedings of any kind including arbitration proceedings or a complaint to an ombudsman; or

- (c) a communication including electronic communications (whether or not containing a demand for compensation or damages) asserting a legal liability on the part of the **Insured** or the assertion of a right against the **Insured**; or
- (d) any communication, in whatsoever form, invoking any Pre-Action Protocols contained in the Civil Procedure Rules.

**10 Defence Costs** means

all costs and expenses (other than costs incurred in connection with Claims Condition 8B Dishonesty and Fraud) which are incurred by the **Underwriter**, or by the **Insured** with the **Underwriter's** written consent, in connection with the defence, investigation or settlement of any **Claim**, or in connection with any circumstances which might give rise to a **Claim**.

The **Underwriter** shall not unreasonably withhold or delay its consent to the incurring of **Defence Costs**.

**11 Documents** means all

- (a) documents (excluding bearer bonds, coupons, bank or currency notes, or other negotiable instruments);
- (b) computer systems records;

that are the property of the **Insured**, or for which the **Insured** is responsible.

**12 Employee** means

any person including any trainee or consultant, volunteer, work experience, seasonal, temporary or **Agency Worker** under a contract of service with the **Insured**, or the **Predecessors**, in respect of the **Professional Business** at the time of any conduct giving rise to a **Claim** against the **Insured** or at the time of any other occurrence which may be the subject of indemnity under this **Policy**.

**13 Endorsement** means

an amendment to the **Policy** terms and conditions, including amendments described as memoranda in the **Schedule**.

**14 Environmental Audit** means

an investigation which is specifically intended to assess whether there is actual **Pollution** present.

**15 Excess** means

the amount for which the **Insured** is responsible in respect of any one **Claim** under the following Insuring Clauses of this policy:

- (a) Insuring Clause 1 (Negligence)
- (b) Insuring Clause 3 (Mitigation of Costs)
- (c) Insuring Clause 4 (Loss of or Damage to Documents)
- (d) Insuring Clause 6 (Joint Venture or Consortium)

The **Excess** shall not apply to **Defence Costs**.

All **Claims** attributable to the same act, error or omission, or series of acts, errors or omissions, consequent upon or attributable to the same original cause or source, will be regarded as one **Claim**.

**16 Insured** means

the **Insured** as named in the **Schedule**. Each of the following parties will in addition be deemed the **Insured** in respect of **Claims** arising out of the conduct of **Professional Business** carried on by, or on behalf of, the **Insured** as named in the **Schedule** (provided that each shall be subject to the terms of this policy to the extent such terms can apply):

- (a) any current partner, director or member, or former partner, director, or member of the **Insured**;
- (b) any person who may subsequently become a partner, director or member of the **Insured** during the **Period of Insurance**;
- (c) any former partner, director or member of the **Predecessors**;
- (d) any retired partner, director or member of the **Insured** remaining as a consultant to the **Insured**;
- (e) any **Employee** or former **Employee**;
- (f) those persons named in the **Proposal** by the **Insured** as consultants, or former consultants, and whose names have been accepted by the **Underwriter**;
- (g) any person who is acting on behalf of the **Insured** as an **Alternate**;
- (h) any estate, heirs, executors and/or legal representatives of any of those included in (a) to (g) above in the event of their death, incapacity, insolvency or bankruptcy.

**17 Limit of Indemnity** means

The limit of indemnity as set forth in the **Schedule**.

**18 Member** means

a member of a limited liability partnership as defined under the Limited Liability Partnerships Act 2000.

**19 Microchip** means

a unit of packaged computer circuitry manufactured in small-scale and made for program logic or computer memory purposes and expressly including integrated circuits and microcontrollers.

**20 Period of Insurance** means

the period from the inception to the expiration of this **Policy** as set forth in the **Schedule**.

**21 Policy** means

collectively the terms and conditions of this policy wording, the **Schedule**, and any **Endorsements** attaching thereto.

**22 Policy Territory** shall mean the territory specified as such in the **Schedule** but shall not, in any event, mean or include the **USA and/or Canada**.

**23 Pollution** means

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

**24 Predecessors** means

any person, practice or other firm to which the **Insured** has succeeded.

**25 Professional Business** means

the performance by the **Insured** or the **Predecessors** or on their behalf of any professional:

- (a) design or specification;
- (b) supervision of construction and installation;
- (c) feasibility study including work in relation to applications for planning consent;
- (d) technical information calculation;
- (e) surveying;
- (f) CDM co-ordination services or planning supervisory services;
- (g) project management and project co-ordination;

in connection with the **Insured's** business, undertaken only by or under the direction and direct control of a qualified architect, engineer, surveyor, quantity surveyor or other person having other relevant professional qualifications appropriate to the work undertaken, or having a minimum level of experience of five years in undertaking such work.

**Professional Business** shall not include supervision by the **Insured** of their own or their subcontractors' work where such supervision is undertaken in the **Insured's** capacity as building or engineering contractor and the **Insured** has no responsibility under the contract for provision of design. Such supervision will however be included within the **Professional Business** whenever the **Insured** has provided all of the design element of their building or engineering contracts or sub-contracts.

The **Professional Business** includes failure by the **Insured** to bring to the attention of any client any deficiency or otherwise in any design, specification, feasibility study or technical information calculation which is discovered by the **Insured** during the **Period of Insurance** as shown in the **Schedule**.

**26 Proposal** means

the proposal form, **Statement of Fact** and/or any declaration completed in respect of this insurance, including any renewal declaration and any information supplied by, or on behalf of, the **Insured** in addition to, or in substitution for, these documents.

**27 Retroactive Date** shall mean

the date (if any) as set forth in the **Schedule**.

**28 Schedule** means

the form, labelled as such and attached to this **Policy**, which forms a part thereof and contains contract details referred to in the wording.

**29 Statement of Fact** means

the document setting out information provided by the **Insured** and their representative as being relevant to the cover that has been applied for.

It also includes assumptions the **Underwriter** has made about factual circumstances relevant to the cover and which are confirmed by the **Insured** as true and correct.

**30 Subsidiary** means

any entity in which the **Insured** holds, directly or indirectly, more than fifty percent (50%) of the issued share capital. Where the **Insured** is a partnership, an entity shall be a **Subsidiary** of the partnership where such holding or right is held for the benefit of the partnership.

**31 System** includes

computers, other computing and electronic equipment linked to computer hardware, electronic data, processing equipment, **Microchips** and anything which relies on a **Microchip** for any part of its operation and includes, for the avoidance of doubt, any computer installation.

**32 Terrorism** means

an act of any person acting on behalf of, or in connection with, any individual or organisation which carries out activities directed towards the overthrowing or influencing by force or violence of Her Majesty's government in the United Kingdom, or any government, whether legally established or not.

**33 Underwriter** means

certain Underwriters at Lloyd's and/or other insurance companies as subscribed to this **Policy**, and as stated on the **Schedule**, authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.

**34 USA and/or Canada** means

the United States of America and Canada, and in each case its territories, possessions and any state or political sub-division thereof.

**35 USA and/or Canada Claim** means

a **Claim** brought against the **Insured** in the **USA and/or Canada**, or which is instituted or pursued before an arbitrator, tribunal or in courts in the **USA and/or Canada** (whether for enforcement of judgment or otherwise), or in which it is contended that the laws of any country, state or political subdivision in **USA and/or Canada** should apply.

**36 Virus** means

programming code or series of instructions designed to achieve an unexpected, unauthorised, or undesirable effect or operation when loaded onto a **System**, transmitted between **Systems** by transfer between computer systems via networks, extranets, internet, electronic mail (or attachments thereto), or via CD-ROMS, USB sticks or otherwise, and whether involving self-replication or not.

**37 War Risks** means

war, invasion, act of foreign enemy hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.

## GENERAL CONDITIONS

### 1 Other Insurance

If at the time any **Claim** arises under this **Policy** the **Insured** is, or would but for the existence of this **Policy** be, entitled to indemnity under any other policy or policies, the **Underwriter** shall not be liable except in respect of any excess beyond the amount which would have been payable under such other policy or policies had this **Policy** not been effected.

### 2 Governing Law and Jurisdiction

Unless otherwise stated on the **Schedule**, this **Policy** shall be governed by and construed in accordance with English law and any disputes arising out of or concerning this **Policy** shall be subject to the exclusive jurisdiction of the courts of England and Wales.

### 3 Contracts (Rights of Third Parties) Act 1999

Any 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**. This Condition does not affect any right or remedy which exists or would be available but for the operation of that Act.

### 4 Premium Payment Condition

- (a) The **Insured** undertakes that the premium due under this **Policy** shall be paid to the **Underwriter** in full within sixty (60) days of the commencement of the **Period of Insurance**.
- (b) If the premium has not been paid to the **Underwriter** in full within sixty (60) days of the commencement of the **Period of Insurance**, the **Underwriter** shall have the right to cancel this **Policy** by giving fifteen (15) days written notice to the **Insured**.
- (c) If the premium is paid to the **Underwriter** in full before the expiration of the notice period specified in 4(b), the notice of cancellation shall be automatically withdrawn. If not, this **Policy** shall automatically terminate at the end of the notice period.
- (d) In the event of cancellation, premium is due to the **Underwriter** for the period that the **Underwriter** is on risk. If, prior to or at the same time as any such cancellation, the **Insured** shall have notified the **Underwriter** of a **Claim** or of any circumstances which may give rise to a **Claim**, no premium refund shall be payable to the **Insured**. If no **Claim** or circumstances have been notified, the premium due to the **Underwriter** shall be on a pro rata basis for the period that the **Underwriter** is on risk.

### 5 Sanctions

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any **Claim** or provide any benefit hereunder to the extent that the provision of such cover, payment of such **Claim** or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

**6 Insurance Act 2015**

In respect of any:

- (a) breach of the duty to make a fair presentation of the risk;
- (b) effect of warranties;
- (c) effect of acts of fraud;

the rights and obligations applying to the **Insured** and the **Underwriter** shall be interpreted in accordance with the provisions of the Insurance Act 2015.

## CLAIMS CONDITIONS

### 1. Claims Notification

If during the **Period of Insurance** the **Insured** receives any **Claim**, the **Insured** shall give written notice of such **Claim** to the **Underwriter** as soon as reasonably possible. All **Claims** must be notified to the **Underwriter** no later than ten working days after the expiry of the **Period of Insurance**.

If during the **Period of Insurance** the **Insured** becomes aware of any circumstance which may produce a **Claim** against the **Insured**, the **Insured** shall give written notice of such circumstance to the **Underwriter** as soon as reasonably possible irrespective of either the **Insured's** views as to whether a **Claim** would succeed or as to whether the amount of the **Claim** would exceed the **Excess**. All circumstances must be notified to the **Underwriter** prior to the expiry of the **Period of Insurance**. Any **Claim** arising from any circumstance notified to the **Underwriter** in accordance with this Condition shall be deemed to have been made in the **Period of Insurance**.

### 2. Notifications of Adjudications

In order for **Claims** to be accepted under this **Policy** in respect of any adjudication for which indemnity is available under Insuring Clause 1 (Negligence) the **Insured** must comply with the following:

- (a) notify the **Underwriter** within 2 working days of receipt of any notice of intention to adjudicate, notice of adjudication, referral notice, or any adjudication notice pursuant to contract; and
- (b) not serve any of the notices referred to in Claims Condition 2(a) without the prior written consent of the **Underwriter** (such consent not to be unreasonably withheld or delayed) unless in the **Insured's** reasonable opinion service of those notices will not give rise to a **Claim** against the **Insured**.

Failure to comply with this Condition will result in the **Claim** being rejected.

### 3. Notification of Reviews by an Ombudsman

The **Insured** must give notice to the **Underwriter** in writing within ten working days of it becoming aware that any ombudsman is, or will be, reviewing a case directly affecting the **Insured**.

Failure to comply with this Condition will result in the claim being rejected.

### 4. Supporting Documentation and Admissions

All documents supporting any **Claim** shall be forwarded to the **Underwriter** immediately on receipt. No admission, offer, promise, payment or indemnity shall be made or given by or on behalf of the **Insured** without the written consent of the **Underwriter** (such consent not to be unreasonably withheld or delayed).

### 5. Conduct of Claims

The **Insured** shall give all such assistance as the **Underwriter** may reasonably require.

The **Underwriter** shall be entitled to take over and conduct in the name of the **Insured** the defence or settlement of any **Claim** or to prosecute or bring proceedings in the name of the **Insured** for its own benefit any **Claim** and shall have full discretion in the conduct of any proceedings and in the settlement of any **Claim**.



The **Underwriter** shall not exercise any rights of recovery against any **Employee** unless the **Claim** has been brought about or contributed to by the dishonest, fraudulent, criminal or malicious act or omission of such **Employee**.

**6. Queen's Counsel Clause**

The **Insured** shall not be required to contest or compromise any legal proceedings unless a Queen's Counsel (or by mutual agreement between the **Insured** and the **Underwriter** a similar authority) shall advise that such proceedings could be contested or compromised with the probability of success.

**7. Disposal of Claims**

In connection with any **Claim** against the **Insured**, the **Underwriter** may at any time pay to the **Insured** the **Limit of Indemnity** (after deduction of any sums already paid as damages or claimant's costs and expenses in respect of such **Claim**) or any less amount for which such **Claim** can be settled and thereupon the **Underwriter** shall relinquish the control of such **Claim** and be under no further liability in connection therewith except for **Defence Costs** for which the **Underwriter** may be responsible under this policy in respect of matters prior to the date of such payment.

**8. Dishonesty and Fraud**

In respect of any **claim** under this **Policy** arising out of any dishonest or fraudulent act or omission:

- (a) the **Insured** must immediately take all reasonable steps to prevent further loss;
- (b) if the **Underwriter** so requests the **Insured** shall take all reasonable steps to effect recovery from the person committing or condoning or knowingly participating in such dishonest or fraudulent act or omission or from the personal representatives of such person;
- (c) any monies recovered following action as described in 8(b) above will be deducted from any amount payable under this **Policy**.

## DATA PROTECTION INFORMATION NOTICE

### WHO WE ARE

Omnyy LLP is a “data controller” providing regulated insurance services on behalf of Lloyd’s Underwriters and/or Insurers.

### THE BASICS

We collect and use relevant information about you to provide our insurance mediation services to you, including (as applicable) arranging the insurance cover from which you benefit or handling your claims, and to meet our legal obligations.

This information includes details such as your name, address and contact details and any other information that we collect about you in connection with the insurance mediation services we provide to you. This information may include more sensitive details such as information about your health and any criminal convictions you may have.

In certain circumstances, we may need your consent to process certain categories of information about you (including sensitive details such as information about your health and any criminal convictions you may have). Where we need your consent, we will ask you for it separately. You do not have to give your consent and you may withdraw your consent at any time. However, if you do not give your consent, or you withdraw your consent, this may affect our ability to provide our insurance mediation services to you, including (as applicable) arranging the insurance cover from which you benefit and may prevent us from providing cover for you or handling your claims.

The way insurance works means that your information may be shared with, and used by, a number of third parties in the insurance sector for example, insurers, agents or brokers, reinsurers, loss adjusters, sub-contractors, regulators, law enforcement agencies, fraud and crime prevention and detection agencies and compulsory insurance databases. We will only disclose your personal information in connection with the insurance mediation services that we provide and to the extent required or permitted by law.

### OTHER PEOPLE’S DETAILS THAT YOU PROVIDE TO US

Where you provide us or your agent or broker with details about other people, you must provide this notice to them.

### FURTHER DETAILS

For more information about how we use your personal information please see our full privacy notice, which is available online on our website ([www.omnyy.com](http://www.omnyy.com)) or in formats on request.

### CONTACTING US AND YOUR RIGHTS

You have rights in relation to the information we hold about you, including the right to access your information. If you wish to exercise your rights, discuss how we use your information or request a copy of our full privacy notice, please contact our Data Protection Manager at:

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9<sup>th</sup> Floor, John Stow House,  
18 Bevis Marks,  
London,  
EC3A 7JB  
Email: [dataprotection@uk.omnyy.com](mailto:dataprotection@uk.omnyy.com)