

EXCESS LAYER PROFESSIONAL INDEMNITY CERTIFICATE

We have agreed to provide this insurance to **You** on the basis that the information provided in the **Proposal** was accurate and complete as at the date of commencement of the **Period of Insurance**. The **Proposal** shall be the basis of and incorporated into this contract of insurance.

The terms and conditions of the **Underlying Policy/ies** shall apply to and are incorporated into this Certificate save as provided below. In the event that there is any conflict between the terms and conditions of the **Underlying Policy/ies** and those of this Certificate then the terms and conditions of this Certificate shall prevail.

In this Certificate:

- words and expressions appearing in bold type shall bear the meanings given against the word or expression in the section of this Certificate headed 'Definitions' .
- headings are for ease of reference only and shall not be taken into account in construing this Certificate.

INSURING CLAUSES

In return for **Your** payment of the premium, **We** shall indemnify **You** as follows:

- 1 Indemnity**
for any amount in excess of the **Total Underlying Limit** and up to the **Limit of Liability** in respect of **Loss** arising from a claim in respect of which **You** are entitled to be indemnified under the terms of the **Underlying Policy/ies** first made against **You** during the **Period of Insurance** and arising from the ordinary conduct of **Your Professional Business**.
- 2 Defence costs and expenses**
in the event that **We** shall be obliged to indemnify **You** as provided by paragraph 1 above **We** shall pay, in addition to the **Limit of Liability**, **Defence costs and expenses** incurred on your behalf in such an amount as is proportionate to **Our** share of the total sum payable by way of **Loss**. However, in the event that
 - 2.1** the claim is settled or otherwise resolved or determined for an amount less than the **Total Underlying Limit** then **We** shall have no liability to pay any **Defence costs and expenses**; and
 - 2.2** **We** decide to make a payment to **You** pursuant to Claims Condition 3 below then **We** will have no further obligation to pay any **Defence costs and expenses** on **Your** behalf after the date upon which the payment is made.

EXCLUSIONS

We will not indemnify **You** against any claim :

- 1 **Radiation**
caused directly or indirectly or otherwise arising from
 - 1.1 ionising radiation or contamination by radioactivity from any nuclear fuel or
 - 1.2 the waste produced by the combustion or other treatment of nuclear fuel; or
 - 1.3 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or any nuclear component of an explosive nuclear assembly;

- 2 **War**
Loss or Damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.;

- 3 **Terrorism**
arising directly or indirectly or otherwise as a consequence of any act or acts of force or violence undertaken, for whatever reason, with the aim of influencing or overthrowing of any government or public authority or with the aim of making the public fearful;

- 4 **Limitations on Underlying Policy/ies**
in respect of which the indemnity provided under the terms of the **Underlying Policy/ies** is restricted because it:
 - 4.1 is the subject of a sub-limit whereby the liability of the **Underlying Insurers** to indemnify **You** is for a lesser amount than it is in respect of some other type or types of claim; or
 - 4.2 is provided on the basis that, although the **Total Underlying Limit** applicable to a single claim of this type is for or equal to the largest amount in respect of which **You** are entitled to be indemnified under the **Underlying Policy/ies** for any type of claim, the relevant **Total Underlying Limit** applies in the aggregate for all such claims during the **Period of Insurance**.

CLAIMS CONDITIONS

Claims Condition 1 below, General Condition 2 and **Your** compliance with all conditions precedent in the **Underlying Policy/ies**, are all conditions precedent to **Our** obligation to indemnify **You** under the terms of this Certificate. If, in relation to a particular claim or **Circumstance**, **You** fail to comply strictly with Claims Condition 1, General Condition 2 or any conditions precedent in the **Underlying Policy/ies** **We** may be entitled to decline to indemnify **You** against that claim or any claim that may arise from the **Circumstance**.

1 Notification

You must notify **Us** in writing as soon as possible, provided that **We** receive the notification before the end of the **Period of Insurance**, if you receive, discover or become aware of

- 1.1 any claim made against **You**;
- 1.2 any indication that someone intends to make a claim against **You**; or
- 1.3 a **Circumstance**

in respect of which the **Maximum Possible Loss** may exceed 50% of the **Total Underlying Limit**.

If **You** give **Us** notice under paragraphs 1.2 and 1.3 above then any claim made subsequently and arising from the notification will be deemed to have been notified to **Us** during the **Period of Insurance**.

2 Conduct

Subject only to any right of the **Underlying Insurers** to exercise control, in the event that, in relation to any claim, **We** consider that any **Loss** payable is likely to exceed the **Total Underlying Limit**, **We** shall be entitled to take over the conduct of any claim and to defend or settle the claim as **We**, in **Our** sole discretion, think fit. However, **We** cannot require **You** to continue to contest any claim unless a Senior Counsel (to be agreed upon between us) advises that the claim should be contested.

3 Payment of Limit of Liability

At any time:

- 3.1 **We** may pay to **You** an amount equal to the **Limit of Liability**; or
- 3.2 if **We** consider that a claim may be settled for an amount exceeding the **Total Underlying Limit** but less than the **Limit of Liability** then **We** may pay to **You** that lesser amount.

If **We** make such a payment it will be in full and final settlement of any liability **We** may have to indemnify **You** under this Certificate. **We** will then relinquish conduct and control of the claim and will have no further liability in respect of that claim. For the avoidance of doubt this means that **We** will not be liable for any **Defence costs and expenses** that may be incurred after the date upon which any such payment is made by **Us**.

4 Erosion of Total Underlying Limit

Subject always to the application of exclusion clause 4, if, because the **Underlying Insurers** have made payments in relation to any claim or claims first made during the **Period of Insurance**, the applicable **Total Underlying Limit** shall have been:

- 4.1 partially reduced then this Certificate shall apply in excess of the reduced amount of the **Total Underlying Limit** for the remainder of the **Period of Insurance**;
- 4.2 paid in full then **We** shall indemnify **You** on the terms contained in this Certificate as if **We** were the **Underlying Insurers**.

GENERAL CONDITIONS

1 **Ultimate net loss**

We shall only be liable for any **Loss** in excess of the **Total Underlying Limit** on an ultimate net loss basis, which means the sum actually paid by **You** or on **Your** behalf in settlement after deducting all sums recovered from any other party or under any other collectible policy of insurance other than the **Underlying Policy/ies**. All sums recovered after such time as **We** may have made any payment under this Certificate shall be applied as if they had been recovered or received before **We** made any payment.

2 **Underlying Policy/ies**

It is a condition precedent to **Our** obligation to indemnify **You** under this Certificate that the **Underlying Policy/ies** shall be maintained in full force and effect throughout the **Period of Insurance**.

3 **Amendment of Underlying Policy/ies**

No amendment of the terms and conditions of the **Underlying Policy/ies** made or deemed to come into effect during the **Period of Insurance** shall be binding on **Us** unless **We** agree in writing.

4 **Notices**

Any notice to be given under this Certificate must be sent by pre-paid first class post and shall be deemed to have been received :

- 4.1 by **You** if it is sent to **Your** last known address or to **Your** broker; and
- 4.2 by **Us** if sent to Manchester Underwriting Management Limited, Centennium Court, East Street, Chesham, United Kingdom HP5 1DG.

5 **Several Liability Notice**

The subscribing insurers' obligations under contracts of insurance to which they subscribe 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.

- 5.1 All claims and other enquiries shall be addressed to Manchester Underwriting Management Ltd, Centennium Court, East Street, Chesham, United Kingdom HP5 1DG.
- 5.2 All complaints must be referred in the first instance to Manchester Underwriting Management Ltd, Centennium Court, East Street, Chesham, United Kingdom HP5 1DG and, if no satisfaction is obtained, complaints can be referred to the Complaints Department, Lloyd's, Policyholder and Market Assistance, One Lime Street, London EC3M 7HA
- 5.3 Manchester Underwriting Management Ltd acts as **Our** agent and not for **You**;
- 5.4 Lloyd's is regulated by the Financial Services Authority ('the FSA') whose address is 25 The North Colonnade, Canary Wharf, London E14 5HS

DEFINITIONS

In this Certificate where the following words appear in bold type they shall have these meanings:

Circumstance shall mean

- (a) any complaint from a client about work undertaken by **You** and which cannot be resolved immediately;
- (b) any series of complaints from a client about work done by **You**;
- (c) any situation by which **You** become aware of any shortcoming in work carried out by **You** for a client (whether this is known to the client or not);
- (d) any situation in which a client, following a complaint, fails to pay fees invoiced by **You**;
- (e) any threat of a claim being brought against **You**
- (f) the discovery, or reasonable cause for suspicion, of dishonesty or fraud on the part of any current or former partner, director, member of **Employee of Yours**;
- (g) any circumstance, event or state of affairs which might reasonably be expected to lead to a claim against **You** or by **You** of a kind that may be covered under this Certificate

Defence costs

and expenses shall mean legal costs and expenses incurred by **You** or on **Your** behalf with **Our** prior consent in connection with the investigation, defence or settlement of any claim or potential claim in respect of which **You** are, or may be, entitled to an indemnity under this Certificate.

Excess

shall mean the amount payable by **You** before the **Underlying Insurers** are obliged to make any payment under the **Underlying Policy/ies**

Limit of Liability

shall mean the amount stated in the **Schedule** and which shall be the maximum amount of **Our** liability to pay any **Loss** in respect of any one claim or series of claims arising out of one originating cause or source

Loss

shall mean any amount that **You** are liable to pay as compensation together with any liability **You** may have to pay the legal costs and expenses of any other party as a result of any claim made against **You**

Maximum Possible Loss

shall mean, in relation to any claim or **Circumstance**, the largest possible **Loss** recoverable from **You** on the assumption that **You** have no defence on any aspect of liability or quantum and excluding the possibility that **You** may have any right of recovery from any third party

Period of Insurance

shall mean the period stated in the **Schedule**

Personal

Appointments shall mean any individual appointment of a personal nature and which arises out of **Your Professional Business** but not including any appointment as a director or officer of a company or as a trustee

Professional

Business shall mean the professional business of the kind ordinarily expected of a firm of the type specified in the **Schedule** together with any **personal appointments**

Proposal

shall mean the proposal form (whether in electronic or paper form) completed by **You** and received by **Us** together with any other information provided by **You** before the date of this Certificate

Schedule

shall mean the schedule attached to this Certificate

Total

Underlying

Limit

shall mean the amount stated in the **Schedule** and which is the cumulative maximum amount of the liability of the **Underlying Insurers** to pay any **Loss** under the terms of the **Underlying Policy/ies** after payment by **You** of any applicable **Excess**

Underlying

Insurers

shall mean the insurer or insurers subscribing to the **Underlying Policy/ies**

Underlying

Policy/ies

shall mean the underlying policy or policies specified in the **Schedule**

Us/Our/We

shall mean Lloyd's Syndicate 2001, the insurer under this Certificate

You/Your

shall mean the Insured named in the **Schedule** together with, individually and collectively, each of **Your** partners, members or directors including all former partners, members or directors, and all who may become partners, members or directors in **Your** firm during the **Period of Insurance** and any **Employee**.