

EXCESS LAYER LIABILITY INSURANCE CERTIFICATE

The Contract of Insurance

This **Certificate** is a contract of insurance between **You** and **Us**. In return for the premium shown in the **Schedule** that **You** have paid or agreed to pay **We** agree to insure **You** in accordance with the terms and conditions contained in this **Certificate** and any **Endorsement**.

You should take the time to read all its terms, especially the conditions which **You** have to fulfil to ensure that **Your** insurance remains valid and what **You** have to do when making a Claim.

Important

In deciding to insure **You** and in setting the terms and premium, **We** have relied on the **Proposal**. **You** must ensure that all information provided in the **Proposal** is accurate and complete. **You** must disclose every material fact and circumstance **You** know or ought to know, and provide a fair presentation of the information required to enable **Us** to assess **Your** insurance risk, both at the commencement of the **Period of Insurance** and at any subsequent renewal of this **Certificate**.

It is important that **You**:

- check that the information **You** have given **Us** is accurate and complete;
- comply with **Your** duties as set out in this **Certificate** and any **Endorsement**.

If this **Certificate** does not meet **Your** requirements, or if **Your** requirements change, **You** should contact **Your Broker** at **Your** earliest opportunity.

Renewal

MUM will write to **Your Broker** at least 21 days before the **Period of Insurance** ends with renewal terms or with full details of the information that **MUM** will require in order to offer renewal terms. Please contact **Your Broker** if **You** do not want to renew this **Certificate**. Occasionally, **We** may not be able to offer to renew **Your Certificate**. If this happens, **We** will write to **Your Broker** at least 21 days before the expiry of **Your Certificate** to allow enough time for **You** to make alternative insurance arrangements.

Interpretation

- 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**.
- references to masculine include the feminine and vice versa;
- the singular includes the plural and vice versa;
- reference to any legislation, statute or statutory provision shall include any amendment or replacement;
- references to any position, title or legislation shall include their equivalent in the relevant jurisdiction.

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INSURING CLAUSE

What is covered

In return for the premium shown in the **Schedule** that **You** have paid or agreed to pay **We** shall **Indemnify You** as follows for all sums which **You** become legally liable to pay as damages and claimant's costs fees and expenses in the event of:

- i) accidental **Bodily Injury** to any person
- ii) accidental loss of or damage to **Property**

occurring during the **Period of Insurance**.

Limits of Indemnity

Our total liability to pay damages and claimants' costs fees and expenses shall not exceed the **Limits of Indemnity** shown in the **Schedule** and shall only be payable in excess of the **Underlying Limits** and after the **Primary and Underlying Excess Insurers** have paid or been held liable to pay the full amount of the **Underlying Limits**.

EXCLUSIONS

What is not Covered

These exclusions are applicable to the entire **Certificate** unless otherwise specified.

We will not **Indemnify You** against:

- 1 a) **Your** liability directly or indirectly caused by or alleged to be caused by or contributed to in whole or in part by or arising from the existence of or exposure to asbestos and/or any asbestos containing materials or
b) **Your** obligation to defend any claim or suit alleging liability resulting from 1 a) above nor to any liabilities for any costs fees or expenses arising therefrom;
- 2 **Your** liability directly or indirectly caused by, happening through or following war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power;
- 3 **Your liability** directly or indirectly caused by or contributed to by or arising from:
 - a) ionising radiation or contamination from radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
 - b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component of an explosive nuclear assembly;
- 4 anything where or to the extent that to do so would expose **Us** or **MUM** 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 or any other economic or financial sanctions and embargos legislation applicable to **Us** or **MUM**. Sanctions, prohibitions or restrictions of the United States of America shall only apply provided that they do not violate current European and / or any other law applicable to **Us** or **MUM**;
- 5 any judgment award payment or settlement made within countries which operate under the laws of **North America** (or to any order made anywhere in the world to enforce such judgment award payment or settlement in whole or in part) nor in respect of legal costs fees and expenses pertaining thereto;
- 6 **Your** liability directly or indirectly caused by or arising out of **Terrorism** or any loss, damage, costs or expenses directly or indirectly caused by or arising out of any action taken in controlling, preventing, suppressing or in any way relating to any act of **Terrorism**.

CLAIMS AND HOW TO MAKE A CLAIM

It is a condition precedent to **Our** liability to **Indemnify You** or to make any payment under this **Certificate** that **You** will comply with "Claims and How to Make a Claim".

Notification

You must give notice in writing to Sedgwick International UK as soon as reasonably practicable, but in any event within fourteen days, of any claim(s) made against **You** (or any specific event or circumstance that may give rise to a claim(s) being made against **You**) in respect of which the largest possible amount recoverable from **You** may exceed 50% of the total **Underlying Limits** 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.

Notice shall include the reasons for the anticipation of a claim, with full particulars as to the circumstances, dates and persons involved. All documents related to the above requirements must be forwarded to Sedgwick International UK as soon as reasonably practicable, but no later than fourteen days after receipt.

New Claims, reportable accident notifications, or any notices of, or intention to, any adjudications should be made to MUM@uk.sedgwick.co.uk or Sedgwick International UK, 2 The Boulevard, City West One Office Park, Gelderd Road, Leeds, LS12 6NY (tel. 0113 387 9032).

GENERAL CONDITIONS

- 1 This **Certificate** is subject to the same warranties conditions definitions terms and exclusions as the **Primary Policy** (except as regards the premium the obligation to investigate and defend the renewal agreement (if any) the amount and limits of indemnity and except as otherwise stated herein) which were applicable at the time the **Bodily Injury** and/or damage to **Property** occurs. This **Certificate** shall not automatically follow settlements in discharge of **Primary and Underlying Excess Insurers** liability under the **Underlying Policies**.
- 2 Liability to pay under this **Certificate** shall not attach unless and until the **Primary and Underlying Excess Insurers** shall have admitted liability for the **Underlying Limits** or unless and until **You** have by final judgement been held liable to pay an amount which exceeds such **Underlying Limits** and then only after **Primary and Underlying Excess Insurers** have paid or have been held liable to pay the full amount of the **Underlying Limits**.
- 3 It is a condition precedent to liability of this **Certificate** that the **Underlying Policies** are maintained in full force and effect during the currency of this **Certificate** except for any reduction of any aggregate limits contained therein solely by payment of claims thereunder.
- 4 In the event of reduction or exhaustion of any **Underlying Limits** for which an aggregate is stated in the **Underlying Policies** this **Certificate** subject to its terms conditions definitions and exceptions shall
 - a) in the event of reduction pay the excess of such reduced amounts
 - b) in the event of exhaustion apply in place of the **Underlying Policies** but not in respect of which any reduced inner aggregate underlying amount applies.
- 5 Where the premium is provisionally based on **Your** estimates **You** must keep accurate records and within ninety (90) days of the expiry of the **Period of Insurance** declare actual values as **We** require. The premium will then be adjusted and any difference paid or allowed to **You**, except that if the premium stated in the **Schedule** is expressed as "minimum and deposit" and the premium adjustment calculation results in an amount which is less than the "minimum and deposit" stated in the **Schedule**, a rebate of premium will not be paid to **You**. Failure to declare these particulars to **Us** will entitle **Us** to estimate those actual values if **We** so wish and to assess further premium payment due calculated on **Your** original estimated values.
- 6 In the event of any dispute between us as to the meaning, effect or validity of this **Certificate**, or the amount to be paid under this **Certificate** (liability being otherwise admitted by **Us**), then the dispute should be referred to an arbitrator to be appointed by **You** and **Us** in accordance with Insurance and Reinsurance Arbitration Society (ARIAS) (UK) Arbitration Rules (or any subsequently amending authority or rules). All costs of the arbitration will be at the discretion of the arbitrator who will decide how much each of the parties in dispute must pay and to whom. The seat of the arbitration will be in London, England and the arbitration tribunal will apply the proper law of this contract and of this arbitration condition as stated in General Condition 19.

However, **You** may not need to engage in arbitration if **You** meet the criteria for the Financial Ombudsman Service to deal with the dispute and **You** follow the complaints procedure, all of which is contained in "Complaints".

- 7 **You** must give notice to **Us** of any alteration or circumstance which materially affects the risks insured under this **Certificate** and until **We** are advised of that alteration or circumstance and have expressly agreed in writing to accept liability for that altered risk and **You** have paid or agreed to pay the additional premium (if any) **We** will not be liable in respect of any claim or claims due wholly or partially to that alteration or circumstance.

 - 8 **We** may at any time pay to **You** in connection with any claim or series of claims under this **Certificate** to which an **Indemnity** applies the limit of indemnity (after deduction of any sums already paid) or any lesser amount for which those claims can be settled and, upon payment being made, **We** will relinquish the conduct and control of and be under no further liability in connection with those claims except for the payment of defence costs incurred with **Our** consent before the date of payment (unless the limit of indemnity is stated to be inclusive of defence costs). However, if **We** exercise the above option and the amount required to dispose of any claim or series of claims exceeds the limit of indemnity and the balance of the amount required to dispose of the claim is insured either in whole or in part with defence costs payable in addition to the limit of indemnity under this **Certificate** then **We** will also contribute **Our** proportion of subsequent defence costs incurred with **Our** consent. Our proportion will be calculated as the percentage of the relevant limit of indemnity under this **Certificate** to the total limit of indemnity provided by the insurances to which **You** are entitled to an **Indemnity**.

 - 9 If **We** determine that any claim is in any respect fraudulent or if **You** or anyone acting on **Your** behalf makes any claim or any statement knowing this to be false or fraudulent in any way, **We** will cancel this **Certificate** from the date of the fraudulent claim or the date that the false or fraudulent statement was made and **We** will not pay or **Indemnify** **You** in relation to any fraudulent claim or any subsequent claims.

 - 10 If **You** deliberately or recklessly breach **Your** duty to provide a fair presentation **We** will be entitled to avoid this **Certificate**, refuse all claims and not return any of the premiums paid.
 - a) If the breach is neither deliberate nor reckless, **We** will avoid this **Certificate** and return the premiums only if **We** would not have entered into this contract had **We** known the true position. If **We** would have entered into this contract, but on different terms, those terms will be deemed to be incorporated in this **Certificate**. In addition, if **We** would have entered into this contract, whether the terms would have been the same or different, but would have charged a higher premium, **We** may reduce proportionately the amount to be paid on a claim.
 - b) The burden of proof for this condition will be on **Us**.

For the purpose of this condition, the acts, omissions or knowledge of one of the policyholders will not be imputed to any other policyholder.
- We** or **Your Broker** will write to **You** if **We**:
- c) intend to treat this insurance as if it never existed; or
 - d) need to amend the terms of **Your** insurance.

- 11 Manchester Underwriting Management Limited acts as **Our** agent and not for **You**.
- 12 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:
- 12.1 by **You** if it is sent to **Your** last known address or to **Your Broker**; and
- 12.2 by **Us** if sent to **MUM**.
- 13 The due observance and fulfilment of the provisions of this **Certificate** insofar as they may relate to anything to be done or complied with by **You**, or are already described in the **Certificate** as conditions precedent, will be a condition of this **Certificate**.
In the event of a breach of any provision of the **Certificate**, and without prejudice to any of **Our** other rights, **We** may reject or reduce claims connected with the breach, providing **We** can demonstrate some prejudice, and continue the **Certificate** on such terms as it may determine and if any payment on account of any claim has already been made, **You** will repay forthwith all payments on account to **Us**.
- 14 If in respect of any claim under this **Certificate** there is any other insurance or **Indemnity** in **Your** favour in force relative to that claim, or there would be but for the existence of this **Certificate**, **Our** liability will be limited to the amount in excess of that which is or would have been payable (but for the existence of this **Certificate**) in respect of that claim but always limited to the limit of indemnity.
- 15 **You** agree to pay the premium in full to **Us** within 60 days of inception of the **Period of Insurance** and that if the premium has not been so paid **We** shall have the right to cancel this **Certificate** by giving **You** 14 days' notice in writing. If **We** exercise this right then the premium payable by **You** shall be due to **Us** pro-rata for the period during which **We** have been on risk during the **Period of Insurance** unless any notification has been made in accordance with "Claims and How to Make a Claim" section 1 prior to the expiry of the notice period in which case the full premium shall be due and payable.
- We** agree that if the premium due is paid in full to **Us** before the notice period expires, **Our** notice of cancellation shall be withdrawn automatically.
- 16 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.
- 17 **You** and **We** are the only parties to this contract and no other person or party has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any rights under this **Certificate**, but this does not affect the ability of any third party to enforce any other right or remedy they may have.
- 18 **We** may at any time during the **Period of Insurance** serve written notice on **You** at **Your** last known address cancelling the **Certificate** with effect from the thirtieth day after service of the notice. Such cancellation shall not affect the coverage or premium attributable under this insurance to the period prior to cancellation. **We** will return to **You** a part of the premium paid in excess of that proportionate to the pre-cancelled **Certificate**. If the

premium at the commencement of the **Period of Insurance** has been calculated on any estimates provided by **You**, it will be adjusted in accordance with General Condition 5 before calculating the return of premium.

Without prejudice to any other forms of service, the notice of cancellation is deemed to be served on the third day after being posted if sent by pre-paid letter post properly addressed.

If **You** pay **Your** premium by direct debit and there is any default in payment, **We** will contact **You** to request payment by a given date. If payment is still not received by this date, **We** may then cancel this insurance. No refund or credit of premium will be due when cancellation takes place in these circumstances.

- 19 This **Certificate** is governed by English law unless, at the commencement of the **Period of Insurance**, **You** are either:
- i) a resident of; or
 - ii) a business with its registered office or principal place of business situated in Scotland, Northern Ireland, the Channel Islands or the Isle of Man, in which case the laws of that country, crown protectorate or dependency will apply.
- 20 The language of **Your Certificate** and any communication throughout the duration of the **Period of Insurance** will be English.
- 21 The insolvency bankruptcy receivership or any refusal or inability to pay by **You** and/or any insurer shall not operate to
- a) reduce or exhaust the **Underlying Limits**
 - b) increase the **Our** liability under this **Certificate**.
- 22 Where these Conditions require notice to be given to **Us** that notice shall be given in writing to **MUM**.

DEFINITIONS

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

Bodily Injury	Death, injury, illness, disease or nervous shock
Certificate	This document and any accompanying Schedule and Endorsements to it
Deductible	The amount payable by You and not indemnifiable by the Primary and Underlying Excess Insurers under the Underlying Policy/ies
Endorsement	A document detailing a change in the terms and conditions of this insurance
Excess	The amount payable by You before the Primary and Underlying Excess Insurers are obliged to make any payment under the Underlying Policy/ies
Indemnity / Indemnify / Indemnified	The principle according to which a person who has suffered a loss is restored (so far as possible) to the same financial position that they were in immediately before the loss, subject to the limits of indemnity as specified in the Schedule .
Limit of Liability	The amount stated in the Schedule
MUM	Manchester Underwriting Management Limited whose address is Link House, St. Mary's Way, Chesham, Buckinghamshire HP5 1HR, who act as Our agent
North America	The United States of America or Canada or any countries, territories, possessions, dependencies or protectorates which operate under the laws of the United States of America or Canada.
Primary Policy	The Primary Policy specified in the Schedule that is not an excess layer policy
Proposal	All information supplied by You to Us by written, electronic or any other means
Period of Insurance	The period stated in the Schedule
Property	Property which is both material and tangible
Primary and Underlying Excess Insurers	The insurer or insurers subscribing to the Underlying Policy/ies
Schedule	The schedule attached to this Certificate

Terrorism	Act of terrorism means an act, including but not limited to the use of force or violence and/or the threat of an act of terrorism, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear
Underlying Limits	The amount stated in the Schedule as the “Total Primary and Underlying Excess Limits” and which is the cumulative maximum amount of the liability to Indemnify You by the Primary and Underlying Excess Insurers under the Underlying Policy/ies after payment by You of any applicable Excess and/or deduction of the Deductible
Underlying Policy/ies	The Primary Policy and Underlying Excess Policy/ies specified in the Schedule
Us/Our/We	The Insurer or Insurers stated in the Schedule of Insurers
You/Your	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

COMPLAINTS

If **You** have any questions or concerns about **Your** insurance **Policy** or the handling of a claim, **You** should contact:

In connection with the handling of a claim:

Sedgwick International UK 2, The Boulevard, City West One Office Park, Gelderd Road, Leeds, LS12 6NY

Tel.: 0113 387 9032

Email: MUM@uk.sedgwick.co.uk

In connection with all other matters, **MUM**:

The Complaints Manager, Manchester Underwriting Management Limited whose address is Link House, St. Mary's Way, Chesham, Buckinghamshire HP5 1HR

Tel.: +44 (0)1494 770700

E-mail: complaints@manchesterunderwriting.com

If **You** remain dissatisfied after **We** have considered **Your** complaint, or if **You** have not received a written final response within eight weeks from the date that **MUM** received **Your** complaint, **You** may be entitled to refer **Your** complaint to the Financial Ombudsman Service who will independently consider **Your** complaint free of charge. Their contact details are:

Post: The Financial Ombudsman Service, Exchange Tower, London E14 9SR

Telephone: 0800 023 4567 (calls to this number are now free on mobile phones and landlines) or 0300 1239123 or from outside the UK: +44 (0) 20 7964 0500 Fax: +44 (0)20 7964 1001

Email: complaint.info@financial-ombudsman.org.uk

Website: www.financial-ombudsman.org.uk

Please note:

- **You** must refer **Your** complaint to the Financial Ombudsman Service within six months of the date of the final response
- The Financial Ombudsman Service will normally only consider a complaint from a business that has an annual turnover or annual balance sheet which does not exceed 2 million Euros and has fewer than 10 employees.

COMPENSATION
(Financial Services Compensation Scheme)

We are covered by the Financial Services Compensation Scheme. **You** may be entitled to compensation from the Scheme if any of **Us** is / are unable to meet **Our** obligations to **You** under this **Certificate**. If **You** were to be entitled to compensation from the Scheme, the level and extent of the compensation would depend on the nature of this **Certificate**. Further information about the Scheme is available from the Financial Services Compensation Scheme, 10th Floor, Beaufort House, 15 St. Botolph Street, London EC3A 7QU and on their website www.fscs.org.uk.

PRIVACY NOTICE

Your information will be processed by **Us** and by **MUM** in compliance with the provisions of the Data Protection Act 1998 and will be used by **Us**, and **Our** associated companies, **MUM** and its associated companies, by reinsurers for the purposes of providing reinsurance, and by all parties for the purposes of claims and complaints handling. It may be disclosed to third parties for these purposes and to regulatory bodies for the purposes of monitoring and/or enforcing the insurer's compliance with any regulatory rules/codes. **Your** information may also be used for and disclosed to third parties in connection with offering renewal, research and statistical purposes and crime prevention. It may be transferred to any country, including countries outside the European Economic Area, for any of these purposes and for systems administration. Where this happens, **We** will ensure that anyone to whom **We** pass **Your** information agrees to treat **Your** information with the same level of protection as if **We** were dealing with it.

For any questions or comments, or requests to see a copy of the information that **We** or **MUM** hold about **You**, please write to **Our** Group Data Protection Controller or to the Group Data Protection Controller at **MUM**, as appropriate.