

ARRANGED BY



INSURED BY



MISCELLANEOUS POLICY WORDING

Professional Indemnity Insurance Policy

Please read this insurance document carefully to make sure it meets your needs.
Keep this insurance document in a safe place.

Policy Arranged By:

KennCo is an Irish owned and run underwriting agency based in Rathfarnham, Co Dublin. It is registered in the Company Registration Office under Company number 454673 and its registered office is Suites 5 - 7, Grange Road Office Park, Grange Road, Rathfarnham, Dublin 16. KennCo Underwriting Ltd T/A KennCo Insurance is regulated by the Central Bank of Ireland.

Policy Insured By:

ERGO Versicherung AG is a German insurance company with its headquarters at ERGO-Platz 1, 40477, Düsseldorf, Germany. ERGO Versicherung AG is authorised by Bundesanstalt für Finanzdienstleistungsaufsicht and subject to regulation by the Central Bank of Ireland for conduct of business rules.

Important Notice to the INSURED

**Please read this Policy carefully to ensure that it is in accordance with your requirements and that you understand its terms, conditions, limitations, exclusions and any endorsement(s).
The insurance broker or other intermediary who arranged this POLICY should be contacted immediately if any correction is necessary.**

This Policy is provided on a "Claims-Made and Notified" basis, which means that it will only respond to Claims first made against you during the Period of Insurance and notified to the Underwriters during the Period of Insurance.

ERGO Complaints Procedure

If you have any questions or concerns about your Policy or the handling of a claim you should, in the first instance, please contact the Broker who arranged your insurance Policy.

If your Broker is unable to resolve the complaint to your satisfaction by close of business the following day, then you should contact:

The Complaints Manager
KennCo Underwriting Ltd.
Suites 5 - 7 Grange Road Office Park
Grange Road
Rathfarnham
Dublin 16
Phone: (01) 4994600
Fax: (01) 4954627
E-mail: complaints@kennco.ie

Your complaint will be acknowledged within 5 (five) business days of the complaint being made. You will also be informed of the name of one or more individuals that will be your point of contact regarding your complaint until the complaint is resolved or cannot be progressed any further. You will be provided with an update on the progress of the investigation of your complaint, in writing, within twenty business days of the complaint being made.

A decision on your complaint will be provided to you, in writing, within 40 (forty) business days of the complaint being made. Should you remain dissatisfied with the final response or if you have not received a final response within 40 (forty) business days of the complaint being made, you may be eligible to refer your complaint to the Financial Services and Pensions Ombudsman (FSPO). This option is only applicable to individuals or incorporated bodies with an annual turnover of €3M or less however. The FSPO contact details are as follows:

Financial Services and Pensions Ombudsman
Lincoln House
Lincoln Place
Dublin 2
D02 VH29
Republic of Ireland

E-mail: info@fspo.ie
Website: www.fspo.ie

If you have purchased your contract online you may also make a complaint via the EU's online dispute resolution (ODR) platform. The website for the ODR platform is www.ec.europa.eu/odr.

The complaints handling arrangements above are without prejudice to your right to commence a legal action or an alternative dispute resolution proceeding in accordance with your contractual rights.

Duty of Disclosure

We want to clarify your responsibilities when you take out an insurance policy so that your policy can give you the protection you need.

If you are a CONSUMER you have an obligation to answer any questions in our Proposal Form or Statement of Fact honestly and with reasonable care. Please note that where a specific question has been asked, this matter is material to the risk being undertaken and/or the calculation of the premium. Where non-disclosure of material information would have caused us not to have entered into this POLICY or would have altered the terms on which we entered into this POLICY, we are entitled to use the remedies available under the Consumer Insurance Contracts Act 2019 (including the remedy to repudiate liability or to limit the amount paid on foot of the contract of insurance). Following inception of your POLICY, or any other time while the POLICY is in force you must notify us of any circumstances or change that may affect the risk insured, and respond honestly and accurately to all questions asked by us to you.

If you are not a CONSUMER, We need to be told of any important and material facts (see below on what is a material fact) so we can give you the maximum support when you need it. For a start, you must provide complete and accurate information to us, in response to the questions asked in our Proposal Form or Statement of Fact before the cover starts and you must check that all the facts are correct on the Proposal Form or Statement of Fact. It's very important to remember that you must tell us about any material change to the risk following the inception of your policy, or any other time while the policy is in force. It's also important to note that in the case of property insurance, the failure to have property insurance in place could lead to a breach of the terms and conditions attaching to any loan secured on that property. A material fact is relevant information (or misinformation) which could influence our decision to either accept the risk, or the terms offered. Failure to disclose all material facts in response to the questions asked in our Proposal Form or Statement of Fact may entitle the Insurer to avoid this contract of insurance or to refuse all claims, or if different terms were to apply to the Policy, the Policy may be treated as if it had been entered into on those different terms. This failure to disclose could also have serious consequences when attempting to obtain insurance from any other provider.

If you are a CONSUMER failure to answer any questions in our Proposal Form or Statement of Fact honestly and with reasonable care could also have serious consequences when you are attempting to obtain insurance from any other provider.

Please make sure that you read all documents issued to you and ensure that you are aware of the cover, limits and other terms that apply. Always ask us if you are unsure of anything and we will be very happy to help.

Important Notice About Your Duty of Disclosure

You are entering a legal contract with an insurance company.

If you are a CONSUMER, that means you are obliged to answer all our questions as set out in the Proposal Form, or Statement of Fact honestly and with reasonable care. If you have any questions, just ask us and we'll answer them fairly. We would like to ensure that all claims are paid for you, but remember this is only possible when all questions are answered honestly and with reasonable care at the outset or when requested by the insurer. If you make a misrepresentation which is fraudulent we shall be entitled to avoid the contract, refuse all claims, and retain the premiums paid and in addition we are obliged to hand over any documentation/call recordings and/or video footage in our possession to the relevant authorities, which may result in prosecution.

If you are not a CONSUMER, that means you are obliged to answer or confirm all our questions honestly and disclose or confirm all information as set out in the Proposal Form or Statement of Fact. If you have any questions, just ask us and we'll answer them fairly. We would like to ensure that all claims are paid for you, but remember this is only possible when all the facts are disclosed at the outset or when requested by the insurer. It is really important that you disclose all information to us in full. If you fraudulently fail to disclose a material fact or fraudulently misrepresent a material fact in order to obtain insurance the Insurer shall be entitled to avoid the contract of insurance and in addition we are obliged to hand over any documentation/call recordings and/or video footage in our possession to the relevant authorities, which may result in prosecution.

For full details of our duty of disclosure policy please visit our website: <http://www.kennco.ie/duty-of-disclosure>

KENNCO UNDERWRITING LTD. PRIVACY AND DATA PROTECTION STATEMENT

Data Protection

Who we are

KennCo Underwriting Ltd is a data controller in relation to personal information held about you for the purpose of the EU General Data Protection Regulation (GDPR) & the Data Protection Acts 1988 - 2018. The information that you provide and any other information provided by any third party in connection with or in relation to your application will be held by us on a computer database and/or in any other way.

What personal data do we collect

We collect and may continue to collect certain information about you or any individuals connected to your Policy ('data subjects') in the course of conducting our relationship with you. 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 cover from which you benefit. This information may include more sensitive details such as information about your health and any criminal convictions you may have.

Why we collect & who we share your personal data with

This information will be processed for the purpose of underwriting and managing your insurance policy, administering claims and preventing fraud. It may also be used in compliance with regulatory legal and tax laws and for participation in internal or market-level statistical exercises. For this purpose, information may be shared in confidence with third parties both inside and outside the European Economic Area, such as trustees, professional advisers and reputable external agencies, service providers, regulatory bodies and authorities, private investigators, other insurance and financial services companies (directly or via a central register) and as required by law. We will ensure that transfers of data are lawful and that your information is kept securely and only used for the purposes for which it is provided. We will only disclose your personal information in connection with the insurance cover that we provide and to the extent required or permitted by law.

Queries regarding your personal data

We abide by the EU General Data Protection Regulation (GDPR) & the Data Protection Acts 1988 - 2018 and if you have any queries with regards to how we use your personal data you may contact our Data Protection Officer at compliance@kennco.ie or alternatively the Office of the Data Protection Commissioner, Canal House, Station Road, Portarlinton, Co. Laois, Ireland, Tel +353 57 868 4800.

For full details of our data privacy policy, please visit our website: www.kennco.ie/privacy-statement

Rights of Customers

You have the right of access to the personal data held about you by Ergo and KennCo by sending a written request to the Data Protection Unit, KennCo Underwriting Ltd, Suites 5 - 7, Grange Road Office Park, Grange Road, Rathfarnham, Dublin 16. You also have the right to require Ergo and/or KennCo to correct any inaccuracies in the information we hold about you.

Sharing of Information

We shall not disclose personal information without the consent of the individual to which it relates except in limited circumstances as permitted or required by law. We may share personal information with agents or service providers in connection with providing, administering and servicing the products you have purchased from us or in the course of handling third party claims. Where we choose to have certain services provided by third parties, we do so in accordance with the applicable law and take reasonable precautions regarding the practices employed by the service provider to protect personal information.

Insurance-Link

Where you make a claim, we will pass details of the event to the Insurance-Link Central Register maintained by insurance companies under the aegis of the Irish Insurance Federation. The information will be shared with other insurance companies to safeguard against non-disclosure and help prevent fraudulent claims. Where there are reasonable grounds for suspicion, information may be passed to relevant enforcement agencies.

Other

If you decide to proceed or have any other communication with Ergo and/or KennCo through or in relation to their products and services you accept the use by Ergo and/or KennCo of your personal data as indicated.

Contents

	Pages
Definitions and Interpretations	8 - 11
Scope of Cover	12 - 13
Excess	14
Claims Conditions	15 - 17
General Conditions	18 - 21
Exclusions	22-26

The INSURED having made to INSURERS a PROPOSAL containing particulars and statements which shall form the basis of this contract and are incorporated herein and in consideration of payment of the PREMIUM, INSURERS will provide insurance in accordance with this POLICY during the POLICY PERIOD (or during any subsequent POLICY PERIOD agreed between INSURERS and the INSURED for which the INSURED may make a further PROPOSAL and for which INSURERS may accept payment) subject to the terms contained herein or endorsed hereon. This statement shall not apply where the INSURED is a CONSUMER. Any such written proposal containing particulars and statements made by the INSURED as a CONSUMER shall have effect solely as a representation made by the INSURED to INSURERS prior to entering into this contract.

If the INSURED is a CONSUMER during the POLICY PERIOD, the INSURED shall respond honestly and accurately to all questions asked by INSURERS and shall notify INSURERS in writing of any change in the details provided by the INSURED in the PROPOSAL. The INSURED should contact its insurance advisor if uncertain as to whether it is a CONSUMER.

The POLICY, SCHEDULE(S) and any ENDORSEMENTS shall be read as one contract and any word or expression to which a specific meaning has been attached in any part of the POLICY, its ENDORSEMENT(S) (if any) or the SCHEDULE shall bear the same meaning wherever it may appear.

In the event of any inconsistency between the PROPOSAL and the POLICY then the terms of the POLICY will prevail.

Any general or specific reference to statute(s) or statutory provisions shall be construed as including a reference to any statutory modification, consolidation or re-enactment thereof for the time being in force and to include any bye-laws, statutory instruments, rules, regulations, orders, notices, directions, consents or permissions made thereunder and any conditions attaching thereto.

Certain words in this POLICY are printed in capitals. Those words have been defined in section 1 of the POLICY and bear the meaning defined in that section.

In this contract unless the context otherwise requires -

- (a) the singular includes the plural, and vice versa;
- (b) the male gender includes the female and neuter genders;
- (c) person includes a body corporate;
- (d) headings and notes are for information purposes only and are not to be construed as part of the POLICY.

1 Definitions and Interpretations

The following words and phrases are used in this POLICY and in certain instances the words may be used in the plural or singular form. Wherever they appear they are deemed to have the meaning set out below.

1.1 ASBESTOS RISKS

Shall mean

- 1.1.1 BODILY INJURY or fear of suffering BODILY INJURY and / or
- 1.1.2 physical impairment or damage to any ecological system, land or property and / or
- 1.1.3 consequential, economic or financial loss attributable to the presence or release of asbestos or asbestos containing materials in whatever form or quantity.

1.2 BASIS OF INDEMNITY

This definition BASIS OF INDEMNITY shall be read in conjunction with Definition 1.13 INDEMNITY LIMIT FOR CLAIMS.

The BASIS OF INDEMNITY shall be stated in the SCHEDULE against 'Basis of Indemnity' and shall be understood to mean the following

- 1.2.1 '*Any One Claim*': the INDEMNITY LIMIT FOR CLAIMS shall be available in respect of any one CLAIM or SERIES OF CLAIMS. DEFENCE COSTS will be payable in addition to the INDEMNITY LIMIT FOR CLAIMS subject to Scope of Cover Clause 2.3
- 1.2.2 '*Aggregate Costs Inclusive*': the INDEMNITY LIMIT FOR CLAIMS shall be available in respect of any one CLAIM and in all but the total amount of indemnity available (including DEFENCE COSTS) in respect of all CLAIMS notified during the POLICY PERIOD shall not exceed the INDEMNITY LIMIT FOR CLAIMS in the aggregate
- 1.2.3 '*Aggregate Costs in Addition*': the INDEMNITY LIMIT FOR CLAIMS shall be available in respect of any one CLAIM and in all but the total amount of indemnity available in respect of all CLAIMS notified during the POLICY PERIOD shall not exceed the INDEMNITY LIMIT FOR CLAIMS in the aggregate. DEFENCE COSTS will be payable in addition to the INDEMNITY LIMIT FOR CLAIMS subject to Scope of Cover Clause 2.3

1.3 BODILY INJURY

Shall include death, injury, illness or disease whether bodily or mental.

1.4 CIRCUMSTANCE

Shall mean an incident, occurrence, fact, matter, act or omission that, regardless of the EXCESS, might give rise to a CLAIM (or any other entitlement to indemnity under the POLICY) and of which the INSURED first becomes aware and notifies to INSURERS during POLICY PERIOD including but not limited to:

- 1.4.1 An intimation of an intention to make a CLAIM
- 1.4.2 any known direct or indirect criticism or dispute (whether expressed or implied) relating to the performance of the PROFESSIONAL BUSINESS which might give rise to a CLAIM (whether justified or not)
- 1.4.3 the INSURED being aware of a failing in, or doubting the efficacy of, the performance of the PROFESSIONAL BUSINESS to the extent that such failing or inefficacy might give rise to a CLAIM

1.5 CLAIM

Shall mean:

- 1.5.1 any demand for, or assertion of a right to, damages or compensation or civil damages first made against the INSURED by a CLAIMANT during the POLICY PERIOD
- 1.5.2 any communication with the INSURED in whatsoever form invoking any Pre-Action Protocols as may be issued and approved from time to time first received by the INSURED during the POLICY PERIOD.

1.6 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, or any electronic documents utilised in the ownership, security and management of the INSURED'S electronic communication system, world-wide web site, internet site, intranet site, extranet site, or web address(es).

1.7 CONSUMER

Shall have the meaning set out in the Consumer Insurance Contracts Act 2019.

1.8 DAMAGE

Shall mean accidental physical destruction of or accidental damage to or loss of tangible property.

1.9 DEFENCE COSTS

Shall mean all legal costs, disbursements and investigative expenses reasonably and necessarily incurred with the prior written and continuing consent of INSURERS (not to be unreasonably withheld or withdrawn) in:

- 1.9.1 defending any proceedings relating to a CLAIM or
- 1.9.2 conducting any proceedings for indemnity, contribution or recovery relating to a CLAIM or
- 1.9.3 investigating, assessing, negotiating, mediating, arbitration, compromising or otherwise settling any CLAIM (or CIRCUMSTAMCE) as the case may be).

DEFENCE COSTS do not include any internal or overhead expenses of the INSURED or INSURERS or the cost of any INSURED's time.

1.10 DOCUMENTS

Shall mean:

- 1.10.1 documents (excluding bearer bonds coupons bank or currency notes or other negotiable instruments) or
- 1.10.2 records held on computer systems (provided the INSURED maintains duplicates of such records stored at a separate location) or other data storage systems.

1.11 EMPLOYEE

Shall mean:

- 1.11.1 any person acting under a contract of service with the PRACTICE (including students, trainees, locums, staff seconded to the PRACTICE and work experience staff) in respect of the conduct of PROFESSIONAL BUSINESS: but
- 1.11.2 EMPLOYEE shall not include any partner and / or director and / or MEMBER of the PRACTICE.

1.12 ENDORSEMENT

Shall mean an endorsement attaching to and forming part of the POLICY.

1.13 EXCESS

Shall mean the sum (if any) stated in the SCHEDULE against 'Standard Excess' or, where applicable, against 'Variable Excess'.

1.14 INDEMNITY LIMIT FOR CLAIMS

Shall mean the last day of INSURERS' liability under this contract stated in the SCHEDULE against 'Limit of Indemnity' or any lesser applicable limit where such lesser limit appears elsewhere in this POLICY.

The INDEMNITY LIMIT FOR CLAIMS shall be applied according to the BASIS OF INDEMNITY except where a more specific basis of indemnity appears elsewhere in this POLICY.

1.15 INSURED

Shall mean each of the following in respect of PROFESSIONAL BUSINESS only;

1.15.1 the PRACTICE

1.15.2 the partners and / or directors and / or MEMBERS of the PRACTICE during the POLICY PERIOD

1.15.3 former partners and / or former directors and / or former MEMBERS of the PRACTICE

1.15.4 any retired partner, director or MEMBER of the PRACTICE remaining as a consultant to the PRACTICE

1.15.5 any EMPLOYEE and / or former EMPLOYEE of the PRACTICE

1.15.6 the estate, heirs and executors and / or legal / mentioned in 1.14 to 1.14.5 in the event of their death, incapacity, insolvency or bankruptcy.

1.16 INSURERS

Shall mean ERGO Versicherung AG, with its headquarters at Ergo-Platz1, 40477 Düsseldorf, Germany.

1.17 MEMBER

Shall mean a member of a limited liability partnership.

1.18 POLICY

Shall mean this contract of insurance between INSURERS and the INSURED. This POLICY is or shall be deemed to be and shall be treated as a joint insurance policy.

1.19 POLICY PERIOD

Shall mean the period stated in the SCHEDULE as 'Period of Insurance' commencing on the INCEPTION DATE and ending on the EXPIRY DATE.

1.20 POLLUTION

Shall mean pollution or contamination (including, but not limited to, impairment or damage to land property, the environment or ecological systems) or BODILY INJURY caused by naturally occurring or man-made substances, forces or organisms or any combination of them whether permanent or transitory and however occurring.

1.21 PREMIUM

Shall mean the sum(s) of money payable by the INSURED to INSURERS in consideration for INSURERS providing insurance in accordance with this POLICY, being either the sum agreed prior to the INCEPTION DATE or the RENEWAL DATE or as may be adjusted during the POLICY PERIOD.

1.22 PROFESSIONAL BUSINESS

Shall mean those professional services (including the giving of advice) which are listed in the SCHEDULE (or have otherwise been declared to INSURERS) and are performed by or on behalf of the PRACTICE within the TERRITORIAL LIMITS.

1.23 PROPOSAL

Shall mean any signed proposal form and/or declaration and any other information in addition thereto or in substitution thereof supplied to INSURERS by or on behalf of the INSURED prior to the INCEPTION DATE or to any RENEWAL DATE.

1.24 RETROACTIVE DATE

Shall mean the date (if any) stated in the SCHEDULE against 'Retroactive Date'.

1.25 SCHEDULE

Shall mean the schedule to the POLICY issued with the wording at INCEPTION DATE and as appropriate during the POLICY PERIOD to record any amendments to the cover.

1.26 SERIES OF CLAIMS

Shall mean two or more CLAIMS (whether made against or involving one or more persons or entities comprising the INSURED and whether made by the same CLAIMANT or different CLAIMANTS and whether falling under one or more Scope of Cover clauses of this POLICY and whether notified separately or in a consolidated notification to INSURERS) that:

1.26.1 arise directly or indirectly from or are attributable to the same originating cause source or event, or

1.26.2 arise from one act or omission, or

1.26.3 arise from one series of related acts or omissions, or

1.26.4 arise from the same act or omission in a series of related matters or transactions or

a SERIES OF CLAIMS shall be deemed to be and treated as a single CLAIM for the purposes of applying the INDEMNITY LIMIT FOR CLAIMS.

1.27 TERRITORIAL LIMITS

Shall mean worldwide excluding United States of America and Canada, unless otherwise stated by ENDORSEMENT.

1.28 CLAIMANT

Shall mean any person or entity (OTHER THAN AN Insured) who or which has made or may make a CLAIM.

1.29 NEGLIGENT ACT

Shall mean negligent act(s), negligent error(s) or negligent omission(s).

1.30 EXPIRY DATE

Shall mean the last day of the POLICY PERIOD ending at midnight.

1.31 INCEPTION DATE

Shall mean the first day of the POLICY PERIOD commencing at 00.01 hours.

1.32 PRACTICE

Shall mean the person, practice, firm or company named in the SCHEDULE as 'Named Insured'. This definition extends to include only those predecessor businesses to the PRACTICE that are disclosed in the PROPOSAL and for which cover has been agreed by INSURERS.

1.33 RENEWAL DATE

Shall mean the first day immediately subsequent to the EXPIRY DATE.

2 Scope of Cover

INSURERS agree, subject to the terms of this POLICY:

2.1 Civil Liability

- 2.1.1 To indemnify the INSURED up to the INDEMNITY LIMIT FOR CLAIMS against any CLAIM or SERIES OF CLAIMS (including CLAIMANTS' costs and expenses) in respect of any civil liability which arises out of the conduct of PROFESSIONAL BUSINESS by reason of:
- 2.1.1.1 any NEGLIGENT ACT occurring or committed in good faith by the INSURED and / or others expressly authorised to act for and / on behalf of the INSURED
 - 2.1.1.2 unintentional infringement of intellectual property rights, breach of confidence or infringement of any rights of privacy committed in good faith by the INSURED and / or other expressly authorised to act for and / or on behalf of the INSURED
 - 2.1.1.3 any dishonest and / or fraudulent act or omission on the part of any partner, director, MEMBER, EMPLOYEE or consultant or any agent expressly authorised to act for and / on behalf of the INSURED (whether committed alone or in collusion with others) provided that:
 - 2.1.1.3.1 no person committing or condoning such dishonest or fraudulent act or omission shall be entitled to indemnity
 - 2.1.1.3.2 no indemnity shall be afforded in respect of any CLAIM arising out of such dishonesty or fraud on the part of any person after discovery by any other INSURED in relation to that person, of reasonable cause for suspicion of fraud or dishonesty
 - 2.1.1.3.3 any dishonesty and / or fraud committed by a person or persons acting in concert shall for the purposes of this POLICY be treated as one CLAIM
 - 2.1.1.3.4 the annual accounts and client accounts where applicable of the INSURED have been prepared and / or certified by an independent and properly qualified accountant or auditor
 - 2.1.1.4 libel and slander (including slander of title and slander of goods) or malicious falsehood committed in good faith by the INSURED or any agent expressly authorised to act for and / or on behalf of the INSURED.

2.2 Awards by Ombudsmen

- 2.2.1 To indemnify the INSURED in respect of any award made by an Ombudsman in respect of any case accepted by the Ombudsman for review in his position as Ombudsman provided:
- 2.2.1.1 the case is first notified by the Ombudsman to the INSURED during the POLICY PERIOD (and notified to INSURERS in accordance with Claims Condition 4.6) or
 - 2.2.1.2 the case arises from a CLAIM or CIRCUMSTANCE notified to INSURERS during the POLICY PERIOD
 - 2.2.1.3 the case giving rise to the Ombudsman's award, if the subject of a CLAIM, would have fallen within the Scope of Cover Clause 2.1 and otherwise been covered under this POLICY
 - 2.2.1.4 INSURERS shall only be liable to indemnify the INSURED against any Ombudsman's award above the EXCESS
 - 2.2.1.5 notwithstanding the INDEMNITY LIMIT FOR CLAIMS, the maximum amount payable by INSURERS under Clause 2.2 of this POLICY in respect of any single award (or any series of awards attributable to the same original complaint, cause or event or series of related acts or omissions of the INSURED) by any Ombudsman shall not exceed €250,000.
- 2.2.2 Any payment in respect of any Ombudsman's award is not additional to and shall not increase the INDEMNITY LIMIT FOR CLAIMS.
- 2.2.3 INSURERS shall only be required to indemnify the INSURED in respect of that part of any award which falls within the terms of this POLICY and will only pay DEFENCE COSTS in the same proportion that the insured part of the award bears to the total amount of the award.

2.3 DEFENCE COSTS

- 2.3.1 To indemnify the INSURED for DEFENCE COSTS in connection with a CLAIM or CIRCUMSTANCE provided that in the event that a settlement or other payment has to be made to dispose of a CLAIM which exceeds the amount of the INDEMNITY LIMIT FOR CLAIMS, INSURERS' liability in respect of DEFENCE COSTS shall be limited to the same proportion that the INDEMNITY LIMIT FOR CLAIMS bears to the amount of such settlement or other payment.
- 2.3.2 The EXCESS shall not apply to DEFENCE COSTS.

2.4 Legal Representation Costs

- 2.4.1 To indemnify the INSURED against 80% of any costs and expenses which are incurred by the INSURED with the prior written and continuing consent of INSURERS (and which are not indemnified as DEFENCE COSTS pursuant to Scope of Cover Clause 2.3) for representation at properly constituted hearings, tribunals or proceedings arising out of any CIRCUMSTANCE or CLAIM.
- 2.4.2 The INDEMNITY LIMIT FOR CLAIMS under Scope of Cover Clause 2.4 of this POLICY shall not exceed €100,000 in the aggregate in the POLICY PERIOD.
- 2.4.3 The EXCESS shall not apply to Legal Representation Costs.

2.5 Damage to Documents

- 2.5.1 To indemnify the INSURED against any CLAIM (including CLAIMANTS' costs and expenses) in respect of any civil liability which arises by reason of DAMAGE to DOCUMENTS first discovered and notified to INSURERS during the POLICY PERIOD provided:
- 2.5.1.1 the DOCUMENTS are directly connected with the PROFESSIONAL BUSINESS and
- 2.5.1.2 such DAMAGE is sustained while either in transit or in the custody of the INSURED or of any person to whom the INSURED has entrusted them and that where DOCUMENTS are believed to be lost the INSURED has failed to find them after a diligent search.
- 2.5.2 The INDEMNITY LIMIT FOR CLAIMS under Scope of Cover clause 2.5 in respect of all CLAIMS and CIRCUMSTANCES notified during the POLICY PERIOD is €100,000 in the aggregate inclusive of DEFENCE COSTS. This indemnity is not additional to and shall not increase the INDEMNITY LIMIT FOR CLAIMS.

2.6 Court Attendance Compensation

- 2.6.1 To provide compensation to the PRACTICE in the event that INSURERS require any of the INSURED to attend court of any arbitration or adjudication hearing as a witness of fact in connection with a CIRCUMSTANCE or CLAIM for which cover is afforded under this POLICY. Such compensation will be provided at the following rates for each day or part thereof on which attendance is required;
- | | |
|--|------|
| 2.6.1.1 any principal partner, MEMBER or director of the Insured | €300 |
| 2.6.1.2 any EMPLOYEE | €150 |
| 2.6.1.3 other relevant party | €150 |
- The maximum amount payable by INSUREDS under this clause shall not exceed €50,000 in the aggregate in the POLICY PERIOD. The EXCESS shall not apply to Court Attendance Compensation.

2.7 Criminal Prosecution Defence Costs

- 2.7.1 To indemnify the INSURED against 80% of any costs, disbursements, investigative and related expenses reasonably and necessarily incurred with the prior written and continuing consent of INSURERS for the defence of any proceedings first brought against the INSURED during the POLICY PERIOD and notified to INSURERS during the POLICY PERIOD under;
- 2.7.1.1 The Consumer Information Act 1978 and/or
- 2.7.1.2 The Safety, Health and Welfare at Work Act 2005 and or
- 2.7.1.3 The Safety health and Welfare (Construction) Regulations 2006 to 2010 and/or
- 2.7.1.4 The Data Protection Act 1998 and/or
- 2.7.1.5 similar or successor legislation to that detailed in 2.7.1.1 to 2.7.1.5 above but only where, in INSURERS' reasonable opinion, defending such proceedings could protect the INSURED against any CLAIM or potential CLAIM arising from PROFESSIONAL BUSINESS undertaken by the INSURED
- Provided:
- a) Such proceedings arise from PROFESSIONAL BUSINESS and an indemnity is available under this POLICY only where INSURERS believe that defending such proceedings could protect the INSURED against any concurrent or subsequent CLAIM arising from PROFESSIONAL BUSINESS and subject to INSURERS not being liable in respect of any criminal penalties or fines.
- b) INSURERS shall not be liable in respect of any CLAIM relating to proceedings consequent upon any deliberate act or omission or relating to the health and safety of any EMPLOYEE.

The INDEMNITY LIMIT FOR CLAIMS under Scope of Cover Clause 2.7 is €50,000 in the aggregate in the POLICY PERIOD.

The EXCESS shall not apply to Criminal Prosecution Defence Costs.

3 Excess

Subject to the terms and conditions set out in this POLICY and the applicable INDEMNITY LIMIT FOR CLAIMS:

- 3.1** INSURERS shall be liable under clause 2.1, 2.2 and 2.5 of this POLICY only for that part of the loss arising from each and every CLAIM which exceeds the EXCESS.
- 3.2** Notwithstanding the applicable BASIS OF INDEMNITY it is the express intention and shall be the effect of the POLICY that the INSURED shall pay an EXCESS in respect of each and every CLAIM even if comprised in a SERIES OF CLAIMS.
- 3.3** The EXCESS does not reduce the INDEMNITY LIMIT FOR CLAIMS.
- 3.4** Subject to clause 2.3.3 the EXCESS shall not apply to Scope of Cover Clauses 2.3, 2.4, 2.6, and 2.7.

4 Claims Conditions

4.1 Notification of a CLAIM or CIRCUMSTANCE

- 4.1.1 If during the POLICY PERIOD the INSURED shall receive any CLAIM, or any notice of an intention to make a CLAIM, the INSURED shall give written notice to INSURERS as soon as reasonably possible during the POLICY PERIOD. All CLAIMS must in any event be notified to INSURERS by the EXPIRY DATE.
- 4.1.2 If during the POLICY PERIOD the INSURED becomes aware of any CIRCUMSTANCE, the INSURED shall give written notice to INSURERS of such CIRCUMSTANCE as soon as reasonably possible with such notice supplying full particulars of the relevant CIRCUMSTANCE, including (where possible):
- 4.1.2.1 the name of the potential CLAIMANT
 - 4.1.2.2 the date of the incident, occurrence, fact, matter, act or omission which has given rise to the CIRCUMSTANCE
 - 4.1.2.3 the name of the individual involved in the CIRCUMSTANCE
 - 4.1.2.4 the date of the INSURED'S first awareness or discovery of such CIRCUMSTANCE
 - 4.1.2.5 the estimated amount of any potential CLAIM which may arise thereafter.

In addition, the INSURED shall provide such further information as INSURERS may reasonably require.

All CIRCUMSTANCES must in any event be notified prior to the expiry of the POLICY PERIOD prior to the EXPIRY DATE.

INSURERS agree that any CIRCUMSTANCE notified to them during the POLICY PERIOD which subsequently gives rise to a CLAIM after the EXPIRY DATE shall be deemed to be a CLAIM first made during the POLICY PERIOD.

- 4.1.3 If during the POLICY PERIOD the INSURED shall discover:
- 4.1.3.1 a reasonable cause for suspicion of dishonesty or fraud on the part of a past or present partner, director, MEMBER, EMPLOYEE or consultant of the PRACTICE which might give rise to a CLAIM or
 - 4.1.3.2 an occurrence that may require representation at a properly constituted tribunal or proceeding and which might give rise to a CLAIM
- the INSURED shall as soon as reasonably possible give notice to INSURERS of such CIRCUMSTANCE. Any such CIRCUMSTANCE must in any event be notified to INSURERS by the EXPIRY DATE.
- 4.1.4 Notification of CLAIMS and CIRCUMSTANCES will only be deemed to have been made to INSURERS if made to the claims department of KennCo Underwriting Ltd at: Suit 7 Grange Road Office Park, Grange Road, Rathfarnham, Dublin 6w

4.2 No Admission of Liability

In the event of a CLAIM or the discovery of a CIRCUMSTANCE, the INSURED shall not admit liability, incur any costs or make any offers of settlement in connection therewith or otherwise prejudice the conduct or the defence or settlement of such CLAIM or CIRCUMSTANCE without INSURERS' prior written consent (such consent not to be unreasonably withheld or unreasonably delayed), regardless of:

- 4.2.1 the provisions of any complaints handling procedure or
- 4.2.2 whether the amount in dispute is less than the EXCESS.

4.3 Conduct of CLAIMS

Following notification of a CLAIM or notification of any CIRCUMSTANCE, INSURERS shall be entitled, if they so desire, to take over and conduct in the name of the INSURED the investigation, defence or settlement of any such matter. The INSURED shall co-operate with INSURERS and shall give such information and assistance (as set out at clause 4.4 below) as INSURERS may reasonably require.

4.4 CLAIMS and CIRCUMSTANCES Control and Co-operation

- 4.4.1 The INSURED shall give to INSURERS all such information and assistance as INSURERS may reasonably require and that are in the INSURED'S power to provide and will concur in doing all such things as INSURED'S may reasonably require.
- 4.4.2 The INSURED shall co-operate with INSURERS and their appointed representatives:
- 4.4.2.1 by providing all such information, assistance, signed statements or depositions as may be required to facilitate compliance with all and any Civil Procedure Rules, Practice Directions and Pre-Action Protocols as may be issued
 - 4.4.2.2 by assisting them to present the best possible defence of a CLAIM within the time constraints available
 - 4.4.2.3 by ensuring access to all and any information that INSURERS or their representatives may require in the defence of a CLAIM or in the investigation of any CIRCUMSTANCE, whether or not privileged
 - 4.4.2.4 by making payment on demand of the EXCESS in order to comply with the terms of any settlement agreed by INSURERS
 - 4.4.2.5 by providing all such information, assistance, signed statements or depositions as may reasonably be required to permit INSURERS to exercise rights of subrogation
 - 4.4.2.6 by ensuring that all documents of any description (whether kept in paper, magnetic or electronic form) relevant to any CLAIM or CIRCUMSTANCE are preserved in their entirety
 - 4.4.2.7 by providing such information and assistance as may be required in investigating issues of POLICY response.
- 4.4.3 The INSURED shall bear their own costs and expenses incurred in complying with any Claims Condition.

4.5 Fraudulent Requests for Indemnity

If the INSURED is not a CONSUMER and makes any request for indemnity or compensation under this POLICY knowing such request to be false or fraudulent as regards the amount or otherwise this POLICY shall become void ab initio and the INSURED shall forfeit all benefit hereunder and if INSURERS so require, all previous payments by INSURERS shall be refunded by the INSURED.

If the INSURED is a CONSUMER and makes any request for indemnity or compensation under this POLICY which contains information that is false or misleading in any material respect and which the INSURED either knows to be false or misleading or consciously disregards whether it is false or misleading, INSURERS shall be entitled to refuse to pay the claim and shall be entitled to avoid the Policy.

If the INSURED is a CONSUMER and makes any request for indemnity or compensation under this POLICY knowing such request to be false or fraudulent as regards the amount or otherwise INSURERS may, as soon as is practicable after becoming aware of that fact, give written notice to the INSURED that POLICY will be avoided from the date of submission of the fraudulent claim whereupon INSURERS may refuse all liability to the INSURED in respect of any CLAIM made after the date of the fraudulent act, INSURERS need not refund any of the premiums paid under the insurance contract, and if INSURERS so require, all previous payments by INSURERS shall be refunded by the INSURED. Notwithstanding the above, any claim made prior to the submission of the fraudulent claim which is validly made will not be affected by any subsequent fraudulent claim.

4.6 OMBUDSMAN

In respect of any indemnity under Clause 2.2 the INSURED shall as soon as reasonably possible give notice to INSURERS in writing after it becomes aware that a case directly affecting the INSURED is being reviewed by any Ombudsman. Notice must in any event be given to INSURED'S by the EXPIRY DATE.

4.7 Recovery of Payment Following Change to Known Material Facts

The INSURED undertakes that should indemnity be provided in relation to any CLAIM or CIRCUMSTANCE this shall not be treated as a waiver of rights of INSURERS and where subsequent investigation of the circumstances reveals material facts that would have entitled the INSURERS to decline indemnity or to avoid the POLICY then in these circumstances INSURERS shall be entitled to a full recovery from the INSURED of all payments made in connection with such indemnity. -

4.8 Dishonesty and Fraud CLAIMS

In respect of any CLAIM falling to be dealt with under Scope of Cover Clause 2.1.1.3 if INSURERS so request the INSURED shall take all reasonable steps to effect recovery from the person committing or condoning such dishonest or fraudulent act or omission or from the estate and / or legal representatives of such person.

Furthermore, any monies which but for such dishonest or fraudulent act or omission would be due from the INSURED to the person committing or condoning such at or omission or are held by the INSURED and belong to such person shall be deducted from any payment made under this POLICY by virtue of Scope of Cover Clause 2.1.1.3.

5 General Conditions

The following General Conditions apply to this POLICY:

5.1 Discharge of Liability

- 5.1.1 INSURERS may at any time pay to the INSURED in connection with any CLAIM or SERIES OF CLAIMS under this POLICY the INDEMNITY LIMIT FOR CLAIMS (less any sums already paid) or any lesser sum (after deduction of the EXCESS) for which such CLAIMS or SERIES OF CLAIMS can be settled and upon such payment INSURERS shall not be under any further liability in respect of such CLAIMS except for DEFENCE COSTS incurred prior to such payment and with INSURERS' prior written consent.
- 5.1.2 INSURERS shall not be liable for any loss which the INSURED may claim to have sustained in consequence of INSURERS taking the action described in clause 5.1.1.

5.2 INDEMNITY LIMIT FOR CLAIMS and EXCESS

The INDEMNITY LIMIT FOR CLAIMS and the EXCESS apply to all the INSUREDS jointly.

5.3 Combined CLAIMS

- 5.3.1 Where a CLAIM or SERIES OF CLAIMS gives rise to an entitlement on the part of the INSURED to indemnity under clause 2.1 and all or any of clauses 2.2, 2.4, 2.5, 2.6, and/or 2.7 of this POLICY, the maximum amount payable by INSURERS under clause 2.1 and such other clause or clauses as may entitle the INSURED to indemnity shall not exceed the INDEMNITY LIMIT FOR CLAIMS.

5.4 RETROACTIVEDATE

Where a RETROACTIVE DATE is specified in the SCHEDULE, this POLICY shall not indemnify the INSURED for any CLAIM or CIRCUMSTANCE notified under the terms of this POLICY that arises out of the conduct of PROFESSIONAL BUSINESS prior to the said RETROACTIVE DATE.

5.5 Choice of Law, Insurance Contract Disputes and Jurisdiction

- 5.5.1 This POLICY and any dispute, claim or difference concerning the POLICY (including as to its validity and application) shall be governed exclusively by and construed in accordance with the laws of the Republic of Ireland whose courts shall have exclusive jurisdiction.

5.6 Senior Counsel Clause

- 5.6.1 If the INSURED and INSURERS cannot agree a common course of action with regard to the contesting of any legal proceedings (whether defence or prosecution) or arbitration, the dispute will be resolved by reference to Senior Counsel, to be mutually agreed between INSURERS and the INSURED whose decision shall be binding. In resolving the dispute, the Senior Counsel shall have due regard to the interests of both the INSURED and INSURERS. In the event of disagreement regarding the appointment of Senior Counsel, the Senior Counsel shall be appointed by the Chairman for the time being of the Bar Council. The costs of such an exercise shall be allocated by the agreed or appointed party on a fair and equitable basis.
- 5.6.2 INSURERS and / or the INSURED will only be required to contest legal proceedings where the Senior Counsel shall advise that there are reasonable prospects of success fully defending the proceedings or limiting the exposure of the INSURED to legal liability.

The costs of referring a dispute under this clause 5.6 shall be allocated by the agreed or appointed party on a fair and equitable basis.

5.7 Reasonable Care

The principal, partners, MEMBERS or directors of the PRACTICE shall take all reasonable precautions to prevent losses or liability arising in connection with the insured risks and in the event of a CLAIM or CIRCUMSTANCES will take all reasonable steps (subject to the Claims Conditions) to prevent further loss.

5.8 Continuing Duty

The INSURED is under a continuing duty beginning with the PROPOSAL and throughout the POLICY PERIOD to disclose as soon as reasonably possible all material changes in information supplied to INSURERS as part of the PROPOSAL.

5.9 Cancellation

INSURERS may at any time cancel this POLICY by giving thirty days' written notice to the INSURED at the address stated in the SCHEDULE and will provide an explanation for any such cancellation. Upon such cancellation the INSURERS shall be entitled to retain or be paid such proportion of the premium as the period for which it was on risk bears to the POLICY PERIOD, but the full POLICY premium shall be payable to the INSURERS in the event of notification of a CLAIM, CIRCUMSTANCE of loss which may give rise to a CLAIM prior to the date of cancellation.

5.10 CHANGE IN CONTROL

Where the INSURED undergoes a CHANGE IN CONTROL during the POLICY PERIOD, the INSURED will notify the INSURERS within 14 days of the CHANGE IN CONTROL.

Irrespective of whether any such notification has been made by the INSURED (but without prejudice to the INSURED's obligation to make such notification), the INSURERS may refuse CLAIMS made by the INSURED where the CHANGE IN CONTROL constitutes a change in the subject matter of this POLICY and circumstances have so changed that it can properly be said by the INSURERS that the new risk as a result of a CHANGE IN CONTROL is something, which, on the true construction of this POLICY, the INSURER did not agree to cover. The foregoing does not limit or exclude and is without prejudice to any other remedies that may be available to the INSURERS, under this POLICY or otherwise, as a result of such CHANGE IN CONTROL.

For the avoidance of doubt, this POLICY will continue to provide cover until the expiry of the POLICY PERIOD but only in respect of NEGLIGENT ACTS committed prior to the effective date of the CHANGE IN CONTROL.

5.11 Alteration

The INSURED shall give the INSURERS written notice as soon as reasonably possible of any material change in the identity of the INSURED or the nature of the scope of the PROFESSIONAL BUSINESS. Irrespective of whether any such notification has been made by the INSURED (but without prejudice to the INSURED's obligation to make such notification), the INSURERS may refuse a CLAIM made by the INSURED where any alteration constitutes a change in the subject matter of this POLICY and circumstances have so changed that it can properly be said by the INSURERS that the new risk is something which, on a true construction of the POLICY, the INSURERS did not agree to cover. The foregoing does not limit or exclude and is without prejudice to any other remedies that may be available to the INSURERS, under this POLICY or otherwise, in connection with any such alteration.

However, the INSURERS agree not to refuse such CLAIMS if:

- 5.11.1 the INSURED has notified such alteration in writing in advance to the INSURERS in good time to enable the INSURERS to assess the alteration and the alteration is not of such a nature that, if it the alteration had occurred prior to the commencement of this POLICY, the INSURERS would not have entered into this POLICY on any terms;
- 5.11.2 the INSURED has answered all reasonable questions that the INSURERS may raise in connection with the alteration; and
- 5.11.3 the INSURED has paid or agreed to pay any additional premium charged;
- 5.11.4 the INSURED accepts any additional terms that the INSURERS impose with effect from the date of the alteration; and
- 5.11.5 the INSURERS have agreed in writing to accept the altered subject matter of the POLICY.

For the avoidance of doubt, if the criteria outlined in clauses 5.11.1 to 5.11.5 are not satisfied and the INSURERS do not agree to continue or amend the POLICY as a result of any such alteration, this POLICY will continue to provide cover from the time of the alteration until the expiry of the POLICY PERIOD but only in respect of NEGLIGENT ACTS committed prior to the date of the alteration.

Where the alteration is such that if alteration had occurred prior to the commencement of this POLICY, the INSURERS would not have entered into this POLICY on any terms the INSURERS may avoid the POLICY or refuse claims.

5.12 Subrogation

INSURERS shall be subrogated to all the INSURED'S rights of recovery, contribution or indemnity against any person or entity before or after payment under this POLICY (save that where the INSURED is a CONSUMER, the rights afforded to INSURERS under this clause apply only to the extent permitted under the Consumer Insurance Contracts Act 2019). The INSURED shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The INSURED shall do nothing to prejudice such rights.

Any recovery made or contribution or indemnity obtained shall be applied first to INSURERS' outlay or anticipated outlay and then to the EXCESS in priority to any uninsured loss of the INSURED.

However, INSURERS agree to waive any rights of recovery against any EMPLOYEE unless liability has resulted in whole or in part from any act or omission on the part of the EMPLOYEE which is dishonest, fraudulent, criminal or malicious.

This waiver of subrogation rights, however, shall not apply to those consultants or former consultants who have been deemed EMPLOYEES by virtue of an ENDORSEMENT and where separate and valid professional indemnity insurance policy is maintained by or on behalf of those consultants.

5.13 'Consultants and Sub-Contractors' Professional Indemnity Cover

The INSURED shall take all reasonable steps to ensure that any party other than the INSURED who undertakes PROFESSIONAL BUSINESS on behalf of the PRACTICE under a contract with the INSURED takes out and maintains professional indemnity insurance with a limit of indemnity at least equal to the sum stated in the SCHEDULE against 'Limit of Indemnity' or €250,000 (whichever is the lower amount).

Such steps include, but are not limited to, obtaining documentary proof of such cover as the commencement of each consultant's / sub-contractor's appointment and annually thereafter.

In the event that the INSURED is unable to verify the existence of such insurance cover the INSURED undertakes to inform INSURERS as soon as reasonably possible and to provide such additional information as INSURERS may reasonably request. It is understood that in such circumstances INSURERS will be entitled to charge an additional PREMIUM and / or vary the POLICY terms as they see fit.

5.14 Due Observance

The due observance of the terms and ENDORSEMENTS of the POLICY by the INSURED and all persons comprising the INSURED insofar as they relate to anything to be done or complied with by the INSURED and the truth of the statements, answers and information supplied in connection with the PROPOSAL shall be a condition precedent to any liability of INSURERS to make any payment under this POLICY. If you are a CONSUMER, this clause only applies to the extent permitted by the Consumer Insurance Contracts Act 2019.

5.15 POLICY Voidance

If you are a CONSUMER where a misrepresentation would have caused us not to have entered into this POLICY or would have altered the terms on which we entered into this POLICY, we are entitled to use the remedies available under the Consumer Insurance Contracts Act 2019 (including the remedy to repudiate liability or to limit the amount paid on foot of the contract of insurance).

If you are not a CONSUMER the POLICY shall be voidable at the option of INSURERS in the event of non-disclosure, misrepresentation or any untrue statement by the INSURED in connection with the PROPOSAL regarding any fact or circumstance material to INSURERS.

5.16 No Refund of Premium

No refund or waiver of the PREMIUM is available from INSURERS in part or in full once the POLICY PERIOD has commenced except at INSURERS' sole discretion or as provided under clause 5.9.

5.17 Insurance Act 1936

All monies which become or may become payable by the Company under this POLICY shall in accordance with Section 93 of the Insurance Act 1936 be payable and paid in Ireland.

5.18 Finance Act 1990

The appropriate stamp duty has been or will be paid in accordance with the provisions of section 113 of the Finance Act 1990.

5.19 Cooling-off period

The INSURED may cancel this POLICY by providing notice in writing to the INSURERS within 14 working days of the date when the INSURED is informed the contract has been concluded.

If the INSURED chooses to cancel this POLICY during the "cooling-off period", they will have to pay a proportional amount of premium for the period of time they had insurance cover.

Where the INSURED entered into this POLICY by means of a distance contract, the 14-day period, known as the 'cooling-off period', starts on:

- a) the day the INSURED receives their policy documents following inception of the cover; or
- b) the date the POLICY PERIOD starts;

whichever is later.

6 Exclusions

INSURERS shall not be liable under this POLICY for:

6.1 Asbestos Risks

- 6.1.1 Any CLAIM or CIRCUMSTANCE arising directly or indirectly from ASBESTOS RISKS or asbestos inspection work (including the identification, assessment of condition, measurement, analysis and determination of risk) and / or the management supervision or inspection of asbestos control work undertaken in connection with The Safety, Health and Welfare at Work (Exposure to Asbestos) 2006 and successor legislation and regulations to that detailed in 6.1.1.

6.2 Contractual Liability

- 6.2.1 Any liability arising from any contractual promise, warranty or guarantee made by the INSURED (whether orally or in writing) which increases the INSURED'S liability above or beyond that which would have applied in the absence of such contractual promise, warranty or guarantee
- 6.2.2 any contractual liability arising from penalty Clauses or liquidated damages

unless INSURERS have expressly approved the contractual terms giving rise to the said liability.

6.3 Controlling Interest

Any CLAIM brought about by:

- 6.3.1 any entity in which the INSURED exercises a controlling interest, or
- 6.3.2 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 is made against the INSURED for an indemnity or contribution in respect of a CLAIM made by an independent third party.

6.4 Directors' and Officers' Liability

Any CLAIM or CIRCUMSTANCE against 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.

6.5 Deliberate and / or Dishonest Acts

Any CLAIM or CIRCUMSTANCE brought about or contributed to by any dishonest, fraudulent, malicious, deliberate or reckless act or omission of the INSURED or in circumstances where the INSURED condones such an act or omission. This exclusion, however, does not alter or amend any provision of Scope of Cover Clause 2.1.1.3.

6.6 Fines, Penalties, Punitive, Multiple or Exemplary Damages

Any taxes, fines, penalties or punitive, multiple, aggravated, or exemplary damages.

6.7 Insolvency of the INSURED

Any CLAIM or CIRCUMSTANCE arising out of or relating solely to the insolvency or bankruptcy of the INSURED. This exclusion, however shall not apply to:

- 6.7.1 any CLAIMS in respect of monies held on behalf of third parties and / or
- 6.7.2 any CLAIM that otherwise would be indemnified by this POLICY but for the insolvency or bankruptcy of the INSURED.

6.8 Liability arising out of BODILY INJURY

- 6.8.1 Any CLAIM or CIRCUMSTANCE arising out of BODILY INJURY to any person unless arising out of advice, design, specification or omission to perform a professional duty by the INSURED in the course of the PROFESSIONAL BUSINESS.
- 6.8.2 Any CLAIM or CIRCUMSTANCE arising out of BODILY INJURY of any EMPLOYEE whilst in the course of their employment for or on behalf of the INSURED.

6.9 Liability arising out of Employment

Any CLAIM or CIRCUMSTANCE arising from any liability to any EMPLOYEE, former EMPLOYEE or prospective EMPLOYEE, partner, director, MEMBER or prospective employee, partner, director or MEMBER in respect of employment related libel, slander, humiliation or defamation, unfair or wrongful dismissal, repudiation or breach of any employment contract or arrangement, termination of a training contract or contract of apprenticeship, harassment, discrimination failure to promote or make partner, director, MEMBER or associate or like conduct.

6.10 Liability involving Transport or Property owned by the INSURED

Any CLAIM or CIRCUMSTANCE arising directly or indirectly out of:

- 6.10.1 the ownership, possession or use by or on behalf of the INSURED of any aircraft, watercraft, hovercraft, motor vehicle or trailer
- 6.10.2 the ownership or possession by or on behalf of the INSURED of any buildings, structures, premises, land or property (mobile or immobile) or that part of any building leased, occupied or rented by the INSURED.

6.11 Nuclear Risks

Any CLAIM or CIRCUMSTANCE whether directly or indirectly caused by, contributed to by, or arising from 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:

- 6.11.1 ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- 6.11.2 the radioactive, toxic, explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

6.12 Other Policies

Any CLAIM or CIRCUMSTANCE where the INSURED is entitled to indemnity under any other policy except in respect of any amount beyond the amount which would have been payable under such policy had this POLICY not been effected.

6.13 POLLUTION

Any CLAIM or CIRCUMSTANCE arising directly or indirectly from POLLUTION except where caused by a sudden, identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place after the RETROACTIVE DATE.

All POLLUTION which arises out of one incident shall be deemed to have occurred at the time such incident took place. The limit of INSURERS' liability in respect of CLAIMS or CIRCUMSTANCES falling to be dealt with under Exclusion Clause 6.13 shall not exceed the INDEMNITY LIMIT FOR CLAIMS for any one claim and in all in the aggregate in the POLICY PERIOD.

6.14 Previous CLAIMS or CIRCUMSTANCES

- 6.14.1 Any CLAIM or CIRCUMSTANCE the INSURED was or should have been aware of prior to the INCEPTION DATE of this POLICY, or which in the reasonable opinion of the INSURERS ought to have been known to the INSURED.
- 6.14.2 Any CLAIM or CIRCUMSTANCE the INSURED notified or which ought to have been notified under any other policy of insurance prior to the INCEPTION DATE of this policy (whether insured by the INSURERS or not).

6.15 Supply of Goods

Any CLAIM or CIRCUMSTANCE arising directly or indirectly out of the supply, manufacture, construction, erection, installation, fabrication, alteration, repair, treatment, sale or distribution of goods, materials, equipment or products by the INSURED.

6.16 Trading Losses

Any CLAIM or CIRCUMSTANCE arising out of any trading losses, trading liabilities or personal debt incurred by the INSURED or breach of any INSURED of any contract or arrangement for the supply to or use by the INSURED of goods and service including loss of any client goodwill or custom.

6.17 USA and Canada

- 6.17.1 Any CLAIM or CIRCUMSTANCE instituted or pursued in the United States of America, its territories and possessions or Canada (whether for the enforcement of a judgment or finding of a Court or tribunal or arbitration of another jurisdiction or otherwise) or in which it is contended that the laws of the United States of America, its territories and/or possessions or Canada should or do apply or which involves the enforcement or attempted enforcement of a judgment or finding of a Court or tribunal or arbitration of the United States of America, its territories and/or possessions or Canada.
- 6.17.2 Any CLAIM or CIRCUMSTANCE arising out of loss or damage sustained or alleged to have been sustained in the United States of America, its territories and possessions or Canada.

6.18 Viruses

Any CLAIM or CIRCUMSTANCE arising directly or indirectly out of the transmission or receipt of:

- 6.18.1 a virus and/or
- 6.18.2 a program and/or
- 6.18.3 a code
- that causes loss of or DAMAGE to any DOCUMENTS and/or COMPUTER SYSTEM and/or prevents or impairs any COMPUTER SYSTEM from performing and/or functioning accurately or properly.

6.19 War Risks

- 6.19.1 Any CLAIM or CIRCUMSTANCE of whatsoever nature directly or indirectly caused by, resulting from, or in connection with, any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the CLAIM:
- 6.19.1.1 War, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, riot, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, 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.
- 6.19.1.2 This exclusion also excludes any CLAIM or CIRCUMSTANCE, costs or expense of whatsoever nature directly or indirectly caused by, resulting from, or in connection with, any action taken in controlling, preventing, suppressing or in any way relating to any of the above.
- 6.19.2 If INSURERS allege that by reason of this exclusion, any CLAIM or CIRCUMSTANCE, cost or expense is not covered by this POLICY the burden of proving the contrary shall be upon the INSURED.

6.20 Terrorism

- 6.20.1 Any CLAIM or CIRCUMSTANCE of whatsoever nature directly or indirectly caused by, resulting from, or in connection with any act of terrorism following regardless of any other cause or event contributing concurrently or in any other sequence to the CLAIM.
- 6.20.2 For the purpose of clause 6.20.1 an 'act of terrorism' means an act, including but not limited to the use of force or violence and/or threat thereof, 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.
- 6.20.3 This exclusion also excludes any CLAIM, costs or expense of whatsoever nature directly or indirectly caused by, resulting from, or in connection with, any action taken in controlling, preventing, suppressing or in any way relating to any of the above.
- 6.20.4 If INSURERS allege that by reason of this exclusion, any CLAIM, cost or expense is not covered by this POLICY the burden of proving the contrary shall be upon the INSURED.

6.21 Market Fluctuation Clause

Any CLAIM or CIRCUMSTANCE relating to the financial return of any investment or the depreciation or loss of investments when such financial return, depreciation or loss is as a result of fluctuations in any financial, stock, commodity or other markets, which are outside the control of the INSURED.

6.22 Medical Malpractice

Any CLAIM or CIRCUMSTANCE arising out of or relating to the provision of, or failure to provide, medical treatment or professional medical services normally undertaken by members of the medical professions (including but not limited to: medical and dental practitioners, nurses, midwives, physiotherapists, psycho-therapists, psychiatrists and laboratory and technical support services to the medical professions).

6.23 Reclaimed Fees

Any fees, commission or other payments claimed back by a client of the INSURED or which have had to be refunded to a client of the INSURED due to the actual or alleged non-performance or mis-performance of, or overcharging for, the INSURED'S contractual or other obligations to that client.

6.24 Government Action

Any CLAIM or CIRCUMSTANCE arising from or attributable to the confiscation of or nationalisation of or damage to property by or under the order of any government, public or local authority

6.25 Damage to Documents

Any CLAIM or CIRCUMSTANCE arising from DAMAGE to DOCUMENTS except as provided by Scope of Cover Clause 2.5.

6.26 Damage to Property

Any CLAIM or CIRCUMSTANCE arising from damage to property unless arising out of advice design specification or omission to perform a professional duty (not applicable to Scope of Cover Clause 2.5)

6.27 Ombudsman

Any Ombudsman's costs or expenses associated with the investigation conduct or settlement of any case accepted by an Ombudsman for review in his position as Ombudsman.

6.28 Joint INSUREDS

Where INSUREDS are liable to indemnify more than one INSURED in respect of any CLAIM or SERIES OF CLAIMS the total amount of indemnity payable under this POLICY shall not exceed the INDEMNITY LIMIT FOR CLAIMS.

Furthermore, the EXCESS will apply to all the INSUREDS jointly.

6.29 Financial Services

Any CLAIM or CIRCUMSTANCE arising out of any activities which are regulated by the Central Bank of Ireland.

6.30 Cyber Liability

Any:

- (a) access to, damage to or loss, loss of use, total or partial destruction, modification, distortion, erasure, corruption, misuse, misinterpretation, misappropriation or alteration of electronic data.
- (b) errors in creating, amending, entering, deleting or using electronic data.
- (c) inability, total or partial interruption, delay or failure to receive, send, transmit, access, permit access, manipulate or use electronic data.

- (d) access to or disclosure of any personal or corporate information.
- (e) hacking, cyber attack, virus, worm, spyware, malware, trojan horse, phishing or malicious computer programme.