



**PROFESSIONAL INDEMNITY INSURANCE**

**FOR CONTRACTORS DESIGN AND PROFESSIONAL  
SERVICES (D&C) (AGG)**

**POLICY DOCUMENT**

## IMPORTANT NOTICE TO THE INSURED

Whereas the INSURED has made to the INSURER a written proposal or Statement of Fact bearing the date(s) stated in the SCHEDULE and containing particulars and statements which it is hereby agreed are the basis of the contract and are to be considered incorporated herein.

In consideration of the INSURED having paid, or having agreed to pay, to the INSURER the premium set forth in the SCHEDULE the INSURER hereby agrees to provide the insurance described in this policy for the PERIOD OF INSURANCE shown in the SCHEDULE subject to all the terms and conditions herein or endorsed hereon.

This policy, SCHEDULE and any Memoranda shall be considered to be one document and any word or expression to which a specific meaning has been attached shall have such meaning wherever it appears.

This insurance is a legal contract. Please read it carefully to familiarise yourself with the wording and to ensure that you understand its terms and conditions. Please ensure that the policy is in accordance with your requirements. If any correction is necessary or if you have any queries regarding this insurance, please contact your insurance broker immediately.

**This is “a claims made” policy. It covers CLAIMS made or CIRCUMSTANCES notified during the PERIOD OF INSURANCE.**

## GENERAL INFORMATION

### Insurer:

This insurance is underwritten by Chaucer Insurance Company DAC. Registered in Ireland no. 587682. Registered office: 38 & 39 Baggot Street Lower, Dublin 2. Chaucer Insurance Company DAC is regulated by the Central Bank of Ireland.

### Administrator:

This policy is administered by Aston Lark Europe Limited t/a RL Underwriting.

Aston Lark Europe Limited t/a RL Underwriting, is regulated by the Central Bank of Ireland. Registered Ireland No. 338916. Registered office: 10 The Courtyard, Kilcarbery Park, Nangor Road, Dublin 22, Ireland.

### Data Protection Act

The defined terms used in this section shall have the meaning given to those terms in the Irish Data Protection Acts 1988 and 2003 where appropriate (as may be amended from time to time).

In the course of providing insurance services to the INSURED, the INSURER may have access to Personal Data. In providing those services, the INSURER will comply with its obligations under the Irish Data Protection Acts 1988 and 2003 (as amended). The INSURED warrants that it shall have obtained all necessary authorisations and approvals from Data Subjects prior to disclosing any Personal Data to the INSURER (whether such disclosure is made directly by the INSURED to the INSURER or indirectly by the INSURED to any agent acting on behalf of the INSURED or the INSURER. The INSURER shall be the Data Controller of any Personal Data provided to it.

The INSURER undertakes that it shall only use any Personal Data provided to it for the purposes of performing its services in connection with its contract of insurance with the INSURED. This will include the processes of underwriting, administration and claims assessment as well as any necessary services ancillary thereto.

The INSURER will hold all Personal Data provided to it securely and shall limit access to such Personal Data to authorised personnel. The INSURED hereby consents to the INSURER sharing any Personal Data provided to it with its group companies, intermediaries and agents, reinsurers, claims handlers, loss adjusters, medical professionals and other professional advisors, healthcare management companies and any other necessary service providers with whom the INSURER contracts in connection with the contract of insurance between the INSURED and the INSURER, and the INSURED confirms that it shall have obtained the necessary consent from the Data Subjects for the sharing of Personal Data by the INSURER with the parties listed above.

The INSURED acknowledges that the INSURER may be required as a matter of law or regulation to disclose Personal Data provided to it to a Court of Law or regulatory body such as the Central Bank of Ireland or any other public body or authority of competent jurisdiction, as well as for the purpose of participation in internal or market-level statistical exercises, and the INSURED hereby consents to any such disclosure.

The INSURED acknowledges that the insurance industry maintains certain registers for the purposes of fraud prevention and hereby consents to the INSURER sharing Personal Data provided to it with fraud prevention agencies and other insurance companies for the purposes of fraud prevention and to validate your claims history.

#### **Insurance Act 1936**

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

#### **Finance Act 1990**

The appropriate stamp duty has been or will be paid to the Revenue Commissioners in accordance with the provisions of Section 5 of the Stamp Duties Consolidation Act 1999.

#### **Law Applicable**

In the absence of any agreement in writing to the contrary this policy will be governed by and construed in accordance with the laws of Ireland. Any dispute relating to this policy will be subject to the jurisdiction of the courts of Ireland.

## **COMPLAINTS**

We wish to provide you with a high standard of service. However, there may be occasions when you feel that this objective has not been achieved. If you have any complaint about the insurance contract, you should:

- (i) In the first instance please contact:

Compliance,  
Aston Lark Europe Limited,  
10 The Courtyard,  
Kilcarbery Park,  
Nangor Road,  
Dublin 22  
E-mail: [compliance@astonlark.ie](mailto:compliance@astonlark.ie)

We will acknowledge your complaint within 5 working days of receipt stating how we will handle your complaint, who will handle it and what you need to do (if anything). Updates will be advised in intervals of not more than 20 working days. We will endeavour to resolve the complaint within 40 working days. The findings will be furnished to you within 5 working days of completion of the investigation.

- (ii) If you remain dissatisfied with the decision on your complaint or have not received a decision within ten business days, you may, if you wish, refer your complaint to the Insurer's Complaints Department who will investigate and assess this complaint and aim to provide you with a final response within 40 business days of the complaint being made to the party named above. The contact details are as follows:

Chaucer Insurance Company DAC - Complaints,  
38 & 39 Baggot Street Lower,  
Dublin 2. D02 T938,  
Ireland.  
E-mail: [complianceenquiries@chaucerplc.com](mailto:complianceenquiries@chaucerplc.com)  
Tel: +353 1 567 5580

- (iii) Should you remain dissatisfied with the final response from the Insurer, or if you have not received a final response within 40 business days of the complaint being made, you may refer your complaint to:

Financial Services and Pensions Ombudsman,  
3<sup>rd</sup> Floor, Lincoln House,  
Lincoln Place,  
Dublin 2,  
Tel: +353 1 567 7000  
Email: [info@fpso.ie](mailto:info@fpso.ie)

The complaints handling arrangements above are without prejudice to your rights in law.

Signed for and on behalf of the INSURER:

A handwritten signature in black ink, appearing to be 'RLK', with a stylized flourish at the end.

Robert Kennedy  
CEO  
Aston Lark Europe Limited

Dated: 29 March 2022

## DEFINITIONS

For the purpose of this insurance, some words appear in capital letters and where capitalized are defined as follows:

- 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 lossdue to presence or release of asbestos or asbestos containing materials in whatever form or quantity
- 1.2 **BODILY INJURY** – shall mean injury disease illness (including mental illness) and death
- 1.3 **CIRCUMSTANCE** shall mean information or facts or matters of which the INSURED is aware which may give rise to a CLAIM against the INSURED for which the INSURED could become legally liable to pay and which arises out of the exercise and conduct of the INSURED BUSINESS
- 1.4 **CLAIM(S)**: Any written or oral demand for monetary damages or other relief including non-pecuniary relief and/or any civil arbitration or adjudication proceedings including counterclaim and appeal
- 1.5 **CONSULTANT(S)**: shall mean consultants, sub consultants, contractors, specialist designers or others appointed by the INSURED in connection with the INSURED BUSINESS
- 1.6 **CO-OPERATE** shall mean that the INSURED:
  - 1.6.1 assists the INSURER and their duly appointed representatives to put forward the best possible defence of a CLAIM within the time constraints available
  - 1.6.2 shall have adequate internal systems in place which will allow ready access to material information
  - 1.6.3 shall at all times and at its own cost provide the INSURER or its appointed representatives with all such information, assistance, signed statements or depositions as may be required to facilitate all applicable civil procedure rules and recoveries
  - 1.6.4 shall pay the EXCESS on demand of the INSURER or its duly appointed representatives to comply with any settlement agreement by the INSURER
- 1.7 **DEFENCE COSTS** shall mean all costs and expenses reasonably incurred with the consent of the INSURER in the investigation, defence or settlement of any CLAIM or CIRCUMSTANCE notified under the terms of this insurance and/or the cost of representation at any enquiry or other proceedings which have a direct or indirect relevance to the investigation, defence or settlement of any matter notified under the terms of this insurance
- 1.8 **DOCUMENTS** shall mean all:
  - 1.8.1 documents (excluding bearer bonds, coupons, bank or currency notes or other negotiable instruments) the property of the Insured or for which they are responsible
  - 1.8.2 computer system records
- 1.9 **EMPLOYEE** shall mean any person including any trainee or consultant presently or formerly under a contract of service with the INSURED or predecessors at the time of any neglect error or omission giving rise to a CLAIM.
- 1.10 **EXCESS** shall be the amount shown in the SCHEDULE unless otherwise stated in the policy and shall be the first amount of each claim that is payable by the INSURED and which will not be indemnified by the INSURER. Where more than

one CLAIM is made during the PERIOD OF INSURANCE which arises from the same original cause then only a single EXCESS shall apply in respect of such CLAIMS.

- 1.11 **INSURED** shall mean any firm, company or limited liability partnership named in the SCHEDULE including:
- 1.11.1 any predecessors in business
  - 1.11.2 the firms principals, partners, directors and any former partner and director
  - 1.11.3 legal representatives of the present and former principals, partners and directors in the event of their bankruptcy, incapacity or death
- 1.12 **INSURED BUSINESS** shall mean the performance of and/or professional assistance with the following services by PROFESSIONAL STAFF on behalf of the INSURED:
- 1.12.1 design, specification, inspection, supervision of construction, feasibility studies, surveying, duty to warn of defects and the provision of advice and/or technical information
  - 1.12.2 such additional services as declared to and agreed by the INSURER
- 1.13 **INSURER** shall mean Chaucer Insurance Company DAC. Registered in Ireland no. 587682. Registered office: 38 & 39 Baggot Street Lower, Dublin 2. Chaucer Insurance Company DAC is regulated by the Central Bank of Ireland.
- 1.14 **LIMIT OF INDEMNITY** shall mean the sum shown in the SCHEDULE which is available to indemnify the INSURED in respect of each CLAIM provided that the total amount in respect of all CLAIMS payable, including DEFENCE COSTS, will not exceed in the aggregate the LIMIT OF INDEMNITY shown in the SCHEDULE.
- 1.15 **PERIOD OF INSURANCE** shall mean the period of insurance as specified in the SCHEDULE plus any extensions to the period which may be granted by the INSURER
- 1.16 **POLLUTION** shall mean
- 1.16.1 all pollution or contamination of buildings or land or structures or of water or the atmosphere
  - 1.16.2 all loss damage or BODILY INJURY directly or indirectly caused by or arising from such pollution or contamination
- 1.17 **PROFESSIONAL STAFF** shall mean those persons either qualified as architects, engineers, surveyors or quantity surveyors or having other professional qualification appropriate to the INSURED BUSINESS or having no less than five years' experience in undertaking such INSURED BUSINESS
- 1.18 **SCHEDULE** shall mean the document entitled "SCHEDULE" that relates to this insurance
- 1.19 **TERRITORIAL LIMITS** shall mean anywhere in the world excluding the United States of America and/or Canada or their Dominions or Protectorates or as varied in the SCHEDULE.

## **INSURING CLAUSE**

**This is "a claims made" policy. It covers CLAIMS made or CIRCUMSTANCES notified during the PERIOD OF INSURANCE.**

- 2.1 The INSURER will indemnify the INSURED up to the LIMIT OF INDEMNITY for the amount of any CLAIM, including claimants costs and expenses, first made against the INSURED and notified during the PERIOD OF INSURANCE for:
- 2.1.1 any legal liability for any negligent act, negligent error or negligent omission which arises out of the exercise and conduct of the INSURED BUSINESS by the INSURED

- 2.1.2 any legal liability for any negligent act, negligent error or negligent omission which arises out of the exercise and conduct of the INSURED BUSINESS by CONSULTANTS provided always that any rights of recourse against CONSULTANTS have not been waived or otherwise impaired
- 2.1.3 arising from any unintentional breach of confidentiality committed by the INSURED or an EMPLOYEE

## **EXTENSIONS**

### **3.1 Loss of DOCUMENTS**

In the event of any physical loss of or damage to DOCUMENTS suffered and notified to the INSURER during the PERIOD OF INSURANCE, the INSURER will indemnify the INSURED for any CLAIM or reasonable and necessary costs and expenses incurred (for which the INSURER has given prior written consent) in replacing, restoring or reconstituting DOCUMENTS either owned by the INSURED or which are in the INSURED's custody, care or control.

Indemnity is not provided in respect of DOCUMENTS which are stored on magnetic or electrical media unless such DOCUMENTS are duplicated on magnetic or electrical media and deposited at a separate location with the intention that in the event of loss or damage the duplicate can be used as the basis for restoring the documents to their original status.

The total liability of the INSURER under this extension is €250,000 any one claim and in the aggregate any one PERIOD OF INSURANCE and is included in, not in addition to, the LIMIT OF INDEMNITY shown on the SCHEDULE. If the LIMIT OF INDEMNITY shown in the SCHEDULE is less than €250,000, the LIMIT OF INDEMNITY noted in the SCHEDULE will apply. An EXCESS of €2,500 each and every claim will apply to this section.

### **3.2 DEFENCE COSTS**

The INSURER will pay DEFENCE COSTS which are incurred by the INSURER or by the INSURED with the INSURER's written consent in connection with any CLAIM under this policy. Such DEFENCE COSTS shall not be payable in addition to the LIMIT OF INDEMNITY but will be included within the LIMIT OF INDEMNITY.

### **3.3 Mitigation Costs**

The INSURER will indemnify the INSURED for costs reasonably incurred with the INSURER's prior written consent which will not be unreasonably withheld in respect of any action taken to avert or mitigate a loss that would otherwise be the subject of a CLAIM under this insurance.

### **3.4 Criminal Prosecution**

The INSURER will indemnify the INSURED for any DEFENCE COSTS incurred by the INSURED (with the INSURER's prior written consent) and notified to the INSURER during the PERIOD OF INSURANCE in the defence of any criminal proceedings taken against the INSURED or any EMPLOYEE arising from an alleged breach of any Irish statutory regulation relating to building or construction works where such an alleged breach arises out of the exercise and conduct of the INSURED BUSINESS in Ireland. Provided always that:

- 3.4.1 the proceedings are likely to give rise to a CLAIM against the INSURED for which indemnity would be provided under this insurance
- 3.4.2 it is the reasonable belief of the INSURER that the defence of such proceedings would assist in the defence of a CLAIM against the INSURED arising from such proceedings for which indemnity would be provided under this insurance
- 3.4.3 any subsequent or concurrent claim that would be indemnified under this insurance and that arises out of any proceedings notified under this extension shall be the subject to Claims Condition 5.2

The total liability of the INSURER under this extension is €250,000 any one claim and in the aggregate any one PERIOD OF INSURANCE and is included in, not in addition to, the LIMIT OF INDEMNITY shown on the SCHEDULE. If the LIMIT OF INDEMNITY shown in the SCHEDULE is less than €250,000, the LIMIT OF INDEMNITY noted in the SCHEDULE will apply. An EXCESS of €2,500 each and every claim will apply to this section.

### 3.5 **Infringement of Copyright**

The INSURER will indemnify the INSURED for reasonable costs and expenses incurred (for which the INSURER has given prior written consent) during the PERIOD OF INSURANCE and notified to the INSURER during the PERIOD OF INSURANCE to enable the INSURED to pursue any claim for infringement of any copyright or patent or other intellectual property owned by, invested in or otherwise enjoyed by the INSURED provided that the INSURER is satisfied, as a result of obtaining legal opinion, that the INSURED's claim has a reasonable chance of success.

The total liability of the INSURER under this extension is €50,000 any one claim and in the aggregate any one PERIOD OF INSURANCE and is included in, not in addition to, the LIMIT OF INDEMNITY shown on the SCHEDULE.

### 3.6 **Joint Venture**

The INSURER will indemnify the INSURED in respect of any CLAIM for any negligent act, negligent error or negligent omission first made against the INSURED and notified to the INSURER during the PERIOD OF INSURANCE which the INSURED becomes legally liable to pay, whether jointly or severally, which arises out of the exercise and conduct of INSURED BUSINESS whilst a member of a joint venture or consortium whether or not the joint venture or consortium is conducted through a separate legal entity and provided always that the relevant fees or turnover (not merely the INSURED's fees/turnover) have been declared to the INSURER. This extension shall only apply to acts of the INSURED.

## **EXCLUSIONS**

These exclusions are applicable to the entire policy unless otherwise specified

The INSURER will not indemnify the INSURED in respect of any liability for or directly or indirectly arising out of or in any way involving:

4.1 **Asbestos** - any CLAIM directly or indirectly resulting from ASBESTOS RISKS. However, where a CLAIM or CIRCUMSTANCE arises as a direct result of a negligent act, negligent error or negligent omission by the INSURED in the conduct of INSURED BUSINESS involving ASBESTOS RISKS, the INSURER will indemnify the INSURED solely for the cost or re-performance of the INSURED's work and/or rectification and/or remediation. Provided always that:

4.1.1 no indemnity shall be granted in respect of any damage to property other than the part of the building and/or structure which requires re-performance of the INSURED's work and/or rectification and/or remedy

4.1.2 no indemnity shall be granted in respect of or arising out of BODILY INJURY

4.1.3 the maximum amount payable by the INSURER in respect of any CLAIM or CIRCUMSTANCE including any claimants costs and any DEFENCE COSTS directly or indirectly resulting from ASBESTOS RISKS shall not exceed €250,000 in the aggregate any one POLICY PERIOD and is included in, not in addition to, the LIMIT OF INDEMNITY noted in the SCHEDULE

4.2 **BODILY INJURY and/or Property Damage** – any CLAIM arising from the injury, disease, illness (including mental illness) or death of any person or loss of or damage to property (including loss of use) unless arising out of a negligent act, negligent error or negligent omission arising from the exercise and conduct of the INSURED BUSINESS

4.3 **Known CLAIM and CIRCUMSTANCE**

4.3.1 any CLAIM made against the INSURED prior to inception of this insurance

4.3.2 any CIRCUMSTANCE of which the INSURED was aware or ought to have been aware prior to inception of this insurance or

4.3.3 any CLAIM or CIRCUMSTANCE which was notified by the INSURED under any other insurance policy prior to inception of this policy or



- 4.3.4 any CIRCUMSTANCE which was disclosed or ought to have been disclosed to the INSURER on the proposal form or statement of fact or other documentation which formed the basis of the INSURED's submission to the INSURER
- 4.4 **Collateral Warranties and Duty of Care agreements** – any CLAIM arising from an express warranty, guarantee contractual promise, waiver, indemnity or express agreement provided by the INSURED or any express acceptance by the INSURED of liability for liquidated damages. Provided that this exclusion shall not apply where:
- 4.4.1 the liability of the INSURED would have existed if there had not been such an express warranty, guarantee contractual promise, waiver, indemnity or express agreement provided by the INSURED or any express acceptance by the INSURED of liability for liquidated damages
- 4.4.2 the liability arises from a collateral warranty or duty of care agreement in which case the INSURER will not indemnify the INSURED in respect of any liability arising from:
- 4.4.2.1 any guarantee of fitness for purpose
- 4.4.2.2 any express penalty
- 4.4.2.3 any express guarantee including in relation to a project period
- 4.4.2.4 the agreement to any longer lasting benefit than that given to the party with whom the INSURED originally contracted
- 4.5 **Construction Costs** – any CLAIM arising from any estimate of probable design and/or construction costs being exceeded except where such estimate is compiled by a qualified quantity surveyor employed by or appointed on behalf of the INSURED to perform those activities normally undertaken by a quantity surveyor in private practice
- 4.6 **Controlling Interest** – any CLAIM or loss made against the INSURED by:
- 4.6.1 any entity in which the INSURED exercises a controlling interest, or
- 4.6.2 any entity exercising a controlling interest over the INSURED as a result of having a financial or executive interest in the operation of the INSURED unless such CLAIM or loss emanates from an independent third party and arises from the conduct of the INSURED BUSINESS
- 4.7 **Defective Workmanship and/or Materials** – any CLAIM arising as a result of defective workmanship or defective materials relating to physical works of construction
- 4.8 **Directors & Officers Liability** – any CLAIM arising from performing the duties of director, officer or trustee of the INSURED or any other entity
- 4.9 **Employers Liability** - any CLAIM arising from the injury, disease, illness (including mental stress) or death of any EMPLOYEE arising out of and in the course of his/her employment for or on behalf of the INSURED or any breach of any obligation owed by the INSURED as an employer to any EMPLOYEE or applicant for employment
- 4.10 **EXCESS** – The EXCESS as shown in the SCHEDULE. DEFENCE COSTS will be subject to the EXCESS
- 4.11 **Failure to Arrange Insurance and/or Finance** – any CLAIM or loss arising from the advising, effecting, placement or ongoing maintenance of any insurance, bond and/or finance
- 4.12 **Fines, Penalties, Punitive, Multiple or Exemplary Damages** - any CLAIM arising from or relating to fines, penalties, punitive damages, multiple or exemplary damages
- 4.13 **Fraud Dishonesty and Criminal act** – any act, error or omission of any partner or director of the INSURED which is dishonest, fraudulent, criminal, malicious or any CLAIM where any person has committed a dishonest, fraudulent, malicious or criminal act after discovery by the INSURED or reasonable suspicion that such an act has been committed

- 4.14 **Insolvency** – any CLAIM or loss arising directly or indirectly from the insolvency, receivership or bankruptcy of the INSURED
- 4.15 **Other Insurances** – any CLAIM arising from any matter for which the INSURED is, or but for the existence of this policy would be, entitled to indemnity under any other contract of insurance except where such other insurance is arranged as specific excess insurance to this policy. In any event, this policy shall only apply to the extent of such part of the LIMIT OF INDEMNITY as exceeds the limit of the other policy.
- 4.16 **Investment Failure to Perform** – any CLAIM or loss arising from
- 4.16.1 the depreciation or lack of appreciation in the value of any investment as a result of fluctuations in any financial stock or commodity or other markets
  - 4.16.2 any express or implied guarantee or warranty relating to the financial return of any investment or portfolio of investments
- 4.17 **Jurisdiction** – any CLAIM brought or enforcement of any judgement or award entered against the INSURED outside the courts of Ireland, the United Kingdom, the Channel Islands, the Isle of Man and member states of the European Union.
- 4.18 **Liability involving transport or property owned by the INSURED** – any CLAIM or loss arising from the ownership, leasing, possession, or use by or on behalf of the INSURED of any
- 4.18.1 aircraft, watercraft, hovercraft, motor vehicle or trailer
  - 4.18.2 any building, structure, premises or land
- 4.19 **Sale or Supply of goods** - any CLAIM arising as a result of any defect or alleged defects in any goods or products sold, supplied, installed, maintained, repaired, altered, treated or manufactured by or on behalf of the INSURED unless such CLAIM arises from the INSURED BUSINESS as defined in 1.12
- 4.20 **Nuclear Risks and Radioactivity** - any CLAIM arising from loss or destruction of or damage to any property whatsoever or any loss or expenses whatsoever resulting or arising therefrom or any consequential loss or legal liability of whatsoever nature directly or indirectly caused by or contributed by or arising from:
- 4.20.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear component thereof
  - 4.20.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
- 4.21 **POLLUTION** – any CLAIM or loss arising out of, relating to, in consequence of or in any way involving POLLUTION unless it was caused by a negligent act, negligent error or negligent omission by the INSURED and provided such POLLUTION was not caused by an intentional act.
- In respect of any CLAIM arising from POLLUTION, the LIMIT OF INDEMNITY shall be amended to “€500,000 any one claim and in the aggregate any one PERIOD OF INSURANCE” and not as stated in the SCHEDULE. Further, in respect of any CLAIM for POLLUTION, DEFENCE COSTS shall not be paid in addition to but shall be included within, the LIMIT OF INDEMNITY and shall be the subject of the EXCESS.
- 4.22 **Pyrite/Mica** - any CLAIM or CIRCUMSTANCE arising in connection with or attributable to any products or materials containing or alleged to contain any form of pyrite, iron sulphite, mica or any other contaminated building material including, without limitation, all liability to pay claimants’ or INSURED’s legal costs and expenses or any other costs and expenses howsoever incurred in the investigation, defence and/or settlement of any claim or in respect of any other inquiry, enforcement action or proceedings in which the INSURED may be involved in relation to any of the foregoing
- 4.23 **Tenders** – any CLAIM arising from the deliberate decision by the INSURED to tender for a contract at less than economic terms for commercial or goodwill reasons

- 4.24 **TERRITORIAL LIMITS** – any INSURED BUSINESS or work or activities undertaken or performed by the INSURED outside the TERRITORIAL LIMITS as defined in 1.19
- 4.25 **Trading Losses** – any trading losses or liabilities incurred by the INSURED or any business managed by or carried on by or on behalf of the INSURED including loss of any client account or business
- 4.26 **Valuations** – any CLAIM or CIRCUMSTANCE arising from any valuation report undertaken or provided by the INSURED or any other person acting on the INSURED’s behalf other than valuations specifically relating to the measuring of quantities as would normally be undertaken by a qualified quantity surveyor. For the sake of clarity, indemnity is not provided in respect of any site or land valuation.
- 4.27 **War and Terrorism** – any consequence whether direct or indirect of any act of terrorism, war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, or military or usurped power
- 4.28. **Cyber and Data Protection Law**

It is hereby noted and agreed that

- 4.28.1. save as expressly provided in this clause, or by other restrictions in this insurance specifically relating to the use of, or inability to use, a COMPUTER SYSTEM, no cover otherwise provided under this insurance shall be restricted solely due to the use of, or inability to use, a COMPUTER SYSTEM
- 4.28.2. indemnity is not provided in respect of any CLAIM, loss, damage, costs, expense, fines, penalties, mitigation costs or any other amount directly caused by, directly resulting from, or directly arising out of
- 4.28.2.1. a CYBER ACT; or
- 4.28.2.2. any partial or total unavailability or failure of any COMPUTER SYSTEM
- provided the COMPUTER SYSTEM is owned or controlled by the INSURED or any other party acting on behalf of the INSURED in either case; or
- 4.28.2.3. the receipt or transmission of malware, malicious code or similar by the INSURED or any other party acting in the behalf of the INSURED
- 4.28.3. indemnity is not provided in respect of any CLAIM, loss, damage, liability, costs, expense, fines, penalties, mitigation costs or any other amount directly or indirectly caused by, directly or indirectly resulting from or directly or indirectly arising out of any failure or interruption of services provided
- 4.28.3.1. to the INSURED or any other party acting on behalf of the INSURED by an internet service provider, telecommunications provider or cloud provider but not including the hosting of hardware and software owned by the INSURED
- 4.28.3.2. by any utility provider, but only where such failure or interruption of service impacts a COMPUTER SYSTEM owned or controlled by the INSURED or any other party acting on behalf of the INSURED
- 4.28.4. indemnity is not provided in respect of any CLAIM, loss, damage, liability, costs, expense, fines, penalties, mitigation costs or any other amount for actual or alleged breach of DATA PROTECTION LAW by the INSURED or any other party acting on behalf of the INSURED
- 4.28.5. any cover for costs of reconstituting or recovering loss, inaccessible or damaged DOCUMENTS owned or controlled by the INSURED or any other party acting on behalf of the INSURED in this insurance shall not apply to DATA

For the purposes of this clause, the following definitions apply:

COMPUTER SYSTEM shall mean any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.

CYBER ACT means unauthorised, malicious or criminal act or series of unrelated unauthorised, malicious or criminal acts, regardless of time and place, or threat or hoax thereof, involving access to, processing of, use of or operation of any COMPUTER SYSTEM

DATA means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a COMPUTER SYSTEM

DATA PROTECTION LAW means any applicable data protection and privacy legislation or regulations in any country, province, state, territory or jurisdiction which governs the use, confidentiality, integrity, security and protection of personal data or any guidance or codes of practice relating to personal data issued by any data protection regulator or authority from time to time (all as amended, updated or re-enacted from time to time)

## **CLAIMS CONDITIONS**

The following claims conditions apply to this insurance:-

### **5.1 Conditions Precedent to Liability**

All conditions set out below 5.2 to 5.6 are deemed to be conditions precedent to INSURER's liability under this insurance.

### **5.2 Notification Procedure**

The INSURED must notify the INSURER in writing as soon as practicable and in any event not later than the expiry of the PERIOD OF INSURANCE:

- 5.2.1 of any CLAIM received by the INSURED for which indemnity is provided under this insurance
- 5.2.2 if during the PERIOD OF INSURANCE the INSURED becomes aware of any CIRCUMSTANCE or any intimation that a claim will or may be made against the insured
- 5.2.3 if during the PERIOD OF INSURANCE the INSURED receives any claim form, particulars of claim, arbitration notice or any formal documentation commencing legal proceedings and the INSURED will submit a copy of such correspondence with the notification.

The INSURER agrees that any CIRCUMSTANCE notified to it during the PERIOD OF INSURANCE which subsequently gives rise to a CLAIM after expiry of the PERIOD OF INSURANCE shall be deemed to be a CLAIM first made during the PERIOD OF INSURANCE

Notification under 5.2.1, 5.2.2 or 5.2.3. is to be made irrespective of the INSURED's views on liability or validity

### **5.3 Notice**

Notice to the INSURER under condition 5.2.2 shall not be valid unless it has been received in writing by the persons noted in the schedule

### **5.4 No Admission of Liability**

The INSURED or EMPLOYEE or CONSULTANT shall not admit liability, make an offer of payment, compromise, settle, or negotiate in respect of any CLAIM or CIRCUMSTANCE where the INSURED has requested an indemnity under this insurance unless the prior written consent of the INSURER has been given.

#### 5.5 **Conduct of CLAIMS**

The INSURER shall be entitled to take over, and conduct in the name of the INSURED, the investigation, defence or settlement of any CLAIM or CIRCUMSTANCE or to prosecute in the name of the INSURED for its own benefit any CLAIM and shall retain full discretion in the conduct of any proceedings and settlement. The INSURED shall give all such assistance, at the INSURED's own expense, as the INSURER may reasonably require. The INSURER shall not be required to contest any legal proceedings unless by mutual agreement between the INSURED and the INSURER or unless a Senior Counsel shall advise that such proceedings should be contested with the probability of success

#### 5.6 **Fraudulent CLAIMS**

In the event that the INSURED seeks indemnity under this insurance for any CLAIM the INSURED knows to be false or fraudulent in any way, this insurance will become void and all CLAIMS hereunder shall be forfeited

#### 5.7 **Service of Suit**

The INSURER agrees that all summonses, notices or processes requiring to be served on the INSURER for the purpose of instituting legal proceedings against it in connection with this insurance will be deemed properly served if addressed to them and delivered to them care of:

DWF LLP  
5 George's Dock  
IFSC  
Dublin 1

### **GENERAL POLICY CONDITIONS**

#### 6.1 **Duty to CO-OPERATE**

It is a condition precedent to indemnity being provided under this insurance that the INSURED CO-OPERATES with the INSURER as defined in DEFINITION 1.6. Where the INSURED's failure to CO-OPERATE has resulted in prejudice to handling or settlement of a CLAIM, the INSURER shall at its sole discretion be entitled to reduce the indemnity provided by this insurance in respect of such CLAIMS (including indemnity in respect of any DEFENCE COSTS) to such a sum as in the INSURER's reasonable opinion would have been payable by the INSURER in the absence of such prejudice

#### 6.2 **Retroactive Date**

Where a Retroactive Date is specified in the SCHEDULE, this insurance will not indemnify the INSURED for any CLAIM or CIRCUMSTANCE arising from or attributable to the exercise and conduct of the BUSINESS of the INSURED prior to said Retroactive Date

#### 6.3 **Subrogation**

The INSURED grants to the INSURER all rights of recovery against any parties from whom a recovery may be made and the INSURED shall take all reasonable steps to preserve such rights. The INSURER agrees to waive such rights of recovery against any current or former EMPLOYEE or CONSULTANT unless liability has resulted in whole or in part from any act or omission of such person which is dishonest, fraudulent, criminal or malicious

#### 6.4 **Duty of Utmost Good Faith**

The INSURED owes the INSURER a duty of utmost good faith. The INSURED is under a duty to disclose all material facts and information, CLAIMS and CIRCUMSTANCES before and at the time this insurance is agreed. This duty continues throughout the PERIOD OF INSURANCE. Any material non-disclosure or misrepresentation may entitle the INSURER to avoid the insurance from inception.

All information given or representations made shall form the basis of the insurance and any materially inaccurate representation may entitle the INSURER to avoid the insurance from inception.

#### 6.5 **Cancellation Clause**

This insurance may be cancelled by the INSURER notifying the INSURED in writing by registered post at the address of the INSURED set out in the proposal form or Statement of Fact noted in the SCHEDULE, or in any updating documentation provided by the INSURED, at least 30 days in advance of the effective cancellation date. Proof of mailing shall be sufficient proof of notice and the insurance will be deemed cancelled at the date specified in the written notice issued by the INSURER. In such case the INSURED shall be entitled to a pro-rata return of premium.

#### 6.6 **Premium Payment Condition**

The INSURED undertakes that the premium will be paid to INSURERS in full within 60 days of inception of the insurance. In the event that payment is not made within this period, the INSURER may at their sole discretion and without being liable to the INSURED for any loss arising out the exercise of that discretion, give notice to the INSURED in writing via the INSURED's insurance broker of cancellation due to non-payment of premium and all indemnity provided by this insurance shall automatically be cancelled ab initio and be deemed never to have been in effect. The INSURER agrees not to give less than 14 days' notice to the INSURED via the INSURED's insurance broker of cancellation due to non-payment of premium. If the outstanding premium is paid in full to the INSURER before the notice period expires, the notice of cancellation will automatically be revoked.

#### 6.7 **Mediation of Insurance Disputes**

If any difference should arise between the INSURER and the INSURED in connection with or in relation to this insurance or to its existence, validity or termination, or to the determination of the amount or any amounts payable under this insurance, such differences shall, in the first instance, be referred to a mediator at the option of either party to the contract of insurance. Within 14 days of receiving notice of the intention to refer the matter to mediation, the parties will agree to appoint a suitable mediator to mediate the dispute between them, and in default of the parties being able to agree upon a mediator, the appointment of the Mediator shall be made by the President of the Incorporated Law Society of Ireland when requested to nominate one.

#### 6.8 **Multiple claims**

All claims attributable to the same act error or omission or series of acts errors or omissions consequent upon or attributable to the same original source or cause shall be regarded as one claim and shall not exceed the LIMIT OF INDEMNITY stated in the Schedule. Where the INSURER is liable to indemnify more than one person, firm, company or body the total amount payable under the policy shall not exceed the LIMIT OF INDEMNITY stated in the SCHEDULE

#### 6.9 **Severable Liability Notice**

The subscribing insurers obligations under insurances 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 whatsoever does not satisfy all or part of its obligations

#### 6.10 **Avoidance by the INSURER**

In the event that the INSURER is entitled to avoid this insurance ab initio for any reason, the INSURER may at its absolute discretion elect instead to give notice to the INSURED that it regards this insurance as being in full force and effect except that no indemnity will be provided under this insurance that arises from or is related to the grounds that entitled the INSURER to cancel this insurance.

#### 6.11 **Settlement of CLAIMS and Discharge of Liability**

The INSURER may, at its sole discretion and at any time in connection with any CLAIM or CIRCUMSTANCE, pay to the INSURED an amount in respect of the INSURER's liability to provide indemnity under this insurance up to the LIMIT OF INDEMNITY (less any sums already paid) or such lesser amounts for which the INSURER believes the CLAIM or CIRCUMSTANCE can be settled (including claimants costs). Upon discharge of this sum, the INSURER will cease to have any further liability under this insurance.

6.12 **Sanctions Endorsement**

This insurance shall not indemnify the INSURED in respect of any CLAIM to the extent that the payment of such a CLAIM would expose the INSURER to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America

SCHEDULE

POLICY NUMBER	
INSURED	
ADDRESS	
Description of Activities	
PERIOD OF INSURANCE	Click here to enter a date (00:01hrs) to Click here to enter a date. (23:59hrs)
RENEWAL DATE	Renewal date
LIMIT OF INDEMNITY	€Indemnity limit Indemnity basis
EXCESS	€Excess excess basis
RETROACTIVE DATE	Retroactive date
JURISDICTION	Select
TERRITORIAL LIMITS	Select
CONDITIONS	As per RLU D&C1 AGG policy wording plus the following endorsements:-  Intentionally blank Intentionally blank BESPOKE ENDT Consumer Insurance Contracts Act 2019
DATE OF PROPOSAL FORM or STATEMENT OF FACT	This insurance is based on the proposal form or statement of fact, the dates of which are noted below and supporting documentation (if any accompanying the proposal form): Proposal form date: <b>date</b> No Claims Material Changes Declaration Date (if applicable): <b>date</b>
NOTICE OF any CLAIM or CIRCUMSTANCE is to be given to:	RL Underwriting 10 The Courtyard, Kilcarbery Park, Nangor Road, Dublin 22 Tel: (01) 9131 155      Email: <a href="mailto:piclaims@rlunderwriting.com">piclaims@rlunderwriting.com</a>
PREMIUM	€      plus 5% Government levy and €1 stamp duty (€      inclusive)
<p>This Schedule of Insurance outlines the basis of the insurance policy. This insurance is underwritten by Chaucer Insurance Company DAC. Registered in Ireland no. 587682. Registered office: 38 &amp; 39 Baggot Street Lower, Dublin 2. Chaucer Insurance Company DAC is regulated by the Central Bank of Ireland. This policy is administered by Aston Lark Europe Limited t/a RL Underwriting under Binding Authority contract B1855E220002. Aston Lark Europe Limited t/a RL Underwriting, is regulated by Central Bank of Ireland. Registered Ireland No. 338916. Registered office: 10 The Courtyard, Kilcarbery Park, Nangor Road, Dublin 22, Ireland.</p>	



## **Endorsements to policy number :**

Click here to enter text.

### **BESPOKE ENDT Consumer Insurance Contracts Act 2019**

It is hereby noted and agreed that this endorsement only applies to an INSURED who is a consumer, as defined in the Consumer Insurance Contract Act 2019 (the Act) and any subsequent amendment thereto and applies only to new insurance policies or renewal of insurance policies entered into on or after 01 September 2020 and to variations of policies on or after that date.

This endorsement forms part of the insurance policy and should be attached to same. This endorsement and any previous policy documentation issued form the basis of the insurance contract and should be read as a single whole document. In the event that anything in the insurance policy is inconsistent with any provision of the Act, the insurance policy will be read in a manner consistent with the provisions of the Act. In the event of a conflict or inconsistency between this endorsement and the policy terms and conditions, this endorsement shall prevail.

#### **Representations and Basis of Contract**

- 1) Any statement of opinion or statement as to the existence of a state of affairs made by the INSURED in connection with the policy shall have effect solely as a representation made by the INSURED prior to entering into the policy
- 2) Any clause in the policy which converts any statement as set out in Clause 1) into a warranty, including any clause described as a warranty, a future warranty, a promissory warranty or a continuing warranty, is not valid and shall not be relied upon by the INSURER.
- 3) Any 'basis of the contract' clause in the policy or in any of the policy documentation, including but not limited to the proposal form (if any), is not valid and shall not be relied upon by the INSURER.

#### **Insurable Interest**

- 4) If the policy requires the INSURED to have a financial interest in the subject-matter of the contract, the interest required shall not extend beyond an expectation either of
  - a) an economic benefit from the existence of the subject matter, or
  - b) of an economic loss on its destruction, damage or loss that would arise in the ordinary course of events.

#### **Alteration of Risk and Material Changes During the PERIOD OF INSURANCE**

- 5) The INSURER may refuse a CLAIM made by the INSURED where there is a change in the subject matter of the contract of insurance, including as described in any 'alteration of risk' provision in the policy and circumstances have changed to the extent that the new risk is something which the INSURER did not agree in writing to cover by an express term of the policy, endorsement, written confirmation or otherwise
- 6) Any clause of the policy which refers to an "alteration of risk" shall apply only in circumstances where the subject matter of the contract of insurance has altered and shall otherwise be superseded by this clause
- 7) Any clause of the policy which refers to a "material change" shall be interpreted as referring to changes that take the risk outside that which was within both the INSURED's and the INSURER's reasonable contemplation when the policy was concluded

#### **Suspensive Conditions**

- 8) A "continuing restrictive condition" is a condition that requires the INSURED to do, or not do, a particular act or acts, or requires the INSURED to act, or not act, in a particular manner, and any condition that requires a given set of circumstances to exist (or not to exist) or to be maintained
- 9) Any term in the policy or other documents issued by the INSURER that imposes a continuing restrictive condition on the INSURED (however described) shall be treated as a suspensive condition, and a breach of that term will suspend the INSURER's liability under the policy from the time of the breach until the time when the breach is remedied, if it is capable of being remedied. The INSURER will have no liability to the INSURED for any CLAIM if the loss occurs during the period when the INSURER's liability is suspended.

- 10) If a breach of a continuing restrictive condition has not increased the risk of the loss that has occurred (being the loss for which the INSURED is making a claim under the policy), the INSURER's liability will not be suspended and the INSURER will still be liable subject to other terms and conditions of the policy.
- 11) The following Clause 12) only applies to any term in the policy (however described) that has the effect of reducing the risk in the policy relating to:
  - a) a particular type of loss;
  - b) loss at a particular time; or
  - c) loss in a particular location
- 12) Any breach by the INSURED of the type of term in clause 11 a), 11 b) or 11 c) shall only suspend the INSURER's liability in respect of that particular type of loss, or loss at a particular time or loss in a particular location, and if the breach has been remedied by the time the loss giving rise to the CLAIM has occurred the INSURER will be liable for CLAIM, subject to the other terms and conditions of the policy.

### **Claims**

- 13) In addition to the claims co-operation provisions in the policy, it shall be a continuing restrictive condition of the policy that the INSURED shall cooperate with the INSURER in the investigation of CLAIMS, including by responding to reasonable requests for information in an honest and reasonably careful manner.

### **Notification of claims**

- 14) Notwithstanding any provision in the policy terms and conditions to the contrary, the INSURER will not refuse to indemnify the INSURED in respect of a CLAIM solely on the basis that the INSURED has failed to comply with a specified notification period, provided that the INSURED's failure to comply with the specified notification period does not prejudice the INSURER in any way.

### **Fraudulent Claims**

- 15) If a CLAIM contains information that is false or misleading in any material respect and the INSURED either knows or consciously disregards whether it is false or misleading, the INSURER:
  - a) shall be entitled to refuse to provide indemnity in respect of the CLAIM;
  - b) may terminate the policy by giving notice to the INSURED, and the policy will be treated as terminated from the date that the INSURED submitted the fraudulent CLAIM, and the INSURER shall refuse to provide indemnity for any CLAIM made after the fraudulent CLAIM and retain the premium
- 16) This does not affect the INSURED's rights in relation to any CLAIM made or loss occurring before the date of any fraudulent CLAIM or where fraudulent evidence or information is submitted or adduced in support of a valid CLAIM.

### **Third Party Rights**

- 17) The INSURED and the INSURER are the only parties to the policy. Nothing in this endorsement is intended to give any person any right to enforce any term of this policy which that person would not have had but for the Act
- 18) A third party has all of the rights as set out in the Act, including the right to request information from the INSURER and the right to make a CLAIM in the circumstances set out in the Act and in accordance with the Act, and in the event of a conflict or inconsistency between this endorsement and the policy, this endorsement shall prevail.

### **Subrogation**

- 19) The INSURER will not exercise its subrogation rights against some other person (the "other person") if the other person does not have insurance in respect of their liability to the INSURED, and where the INSURED has decided not to exercise the INSURED's rights against the other person because:
  - a) the INSURED and the other person are members of the same family or cohabitants, or
  - b) the INSURED expressly or impliedly consented to the use, by the other person, of a motor vehicle that is the subject matter of the policy

- 20) Notwithstanding clause 19), the INSURER is entitled to exercise its subrogation rights against the other person where the conduct of the other person that gave rise to the loss was serious or wilful misconduct.
- 21) The INSURER will not exercise any rights of subrogation against the INSURED's employee unless the loss was caused by the employee intentionally or recklessly and with knowledge that the loss would probably result.

**Distribution of Subrogated Recovery**

- 22) Notwithstanding any provisions of the policy, any amounts recovered when exercising the INSURED's rights of subrogation in respect of loss shall be distributed in accordance with the Act.

**Cancellation of Policy**

- 23) Where, in accordance with the policy terms, the INSURER notifies the INSURED that the INSURER is cancelling the policy, the INSURER will repay the balance of the premium for the unexpired term of the policy (regardless of the amount of the balance of the premium) without imposing any financial cost on the INSURED and will provide the reason or reasons for the cancellation

**Severability**

- 24) If any provision of this endorsement, or this endorsement in its entirety, or any provision of the policy is or becomes invalid, illegal or unenforceable, it shall be considered deleted but that shall not affect the validity and enforceability of the remainder of this endorsement and/or the policy

All other policy terms and conditions remain unaltered