



Professional Indemnity Insurance
Members of Royal Institution of Chartered Surveyors

Chubb Insurance Company of Europe S.A.

Policy Number:

Declarations

Item 1. **Policyholder:**

Address:

Item 2. **Practices:** The **Policyholder** [XX list other persons and organisations to be in definition of Practice XX]

Item 3. Consultants and former consultants:

Item 4. Claims Limit (each **Claim**): £

Item 5. Cyber Liability Limit (**Policy Period** aggregate): £250,000 _____

Item 6. Ombudsman Award Limit (each **Claim**): £250,000

Item 7. Asbestos Limit (**Policy Period** aggregate): £250,000

Item 8. Court Attendance Compensation Limit (**Policy Period** aggregate): £10,000

Item 9. Estate Agents and Safety Legislation Limit (**Policy Period** aggregate): £100,000

Item 10. Legal Representation Costs Limit (**Policy Period** aggregate): £10,000

Item 11. (A) **Documents** Costs Limit (each occasion of loss, damage or destruction): £50,000

(B) **Documents** Costs Limit (**Policy Period** aggregate): £150,000

Item 12. Excess: £ _____

Item 13. **Policy Period:** From:
To: both days inclusive.
Local time at the address shown in Item 1.



**Professional Indemnity Insurance
Members of Royal Institution of Chartered Surveyors**

Contents

	Page
Declarations	1
1. Insuring Clause 1: Civil Liability	5
2. Insuring Clause 2: Ombudsman Awards	5
3. Insuring Clause 3: Defence Costs	5
4. Insuring Clause 4: Compensation for Court Attendance and Staff Disruption	5
5. Insuring Clause 5: Estate Agents and Health and Safety Legislation	6
6. Insuring Clause 6: Legal Representation Costs	6
7. Insuring Clause 7: Appointed Representative	7
8. Insuring Clause 8: Documents	7
9. Definitions	7
10. Exclusions	10
11. Adjudication	13
12. Ombudsman Review	14
13. Limits of Liability and Excess	14
14, 15, 16. Reporting and Notice	15
17. Defence and Settlement	16
18. Notice	17
19. Subrogation	17
20. Representations	17
21. Policyholder as Agent	17
22. Alteration and Assignment	17
23. Contracting Parties and Rights of Action	17
24. Special Institution Condition	17
25. Dispute as to Definition of Professional Business	18
26. Valuation and Foreign Currency	18
27. Termination	18
28. Several Liability Notice	19



**Professional Indemnity Insurance
Members of Royal Institution of Chartered Surveyors**

29.	Choice of Law and Forum	19
30.	Difference in Conditions	19

Endorsements issued at inception are attached after page 19.



Professional Indemnity Insurance Members of Royal Institution of Chartered Surveyors

In consideration of payment of the premium and subject to the terms of this Policy, the **Company** and the **Policyholder** agree as follows:

Insuring Clause 1: Civil Liability

1. The **Company** shall indemnify the **Insured** against:
 - (a) any **Claim** first made against the **Insured** during the **Policy Period** in respect of any civil liability which arises in consequence of the conduct of **Professional Business** by the **Insured** or by others acting for or on behalf of the **Insured**;
 - (b) liability for claimants' costs and expenses which the **Insured** incurs on account of any **Claim** described in (a) immediately above; and
 - (c) liability on account of any **Claim** first made against the **Insured** during the **Policy Period** which the **Insured** incurs as a result of:
 - (i) any decision by an adjudicator appointed to resolve a dispute in accordance with the Scheme for Construction Contracts as contained in the Housing Grants Construction and Regeneration Act 1996 or an adjudication clause or rules contained in a contract; or
 - (ii) any award by an arbitrator or tribunal of arbitrators (whether under the Surveyors and Valuers Arbitration Scheme 1998 or otherwise).

Insuring Clause 2: Ombudsman Awards

2. The **Company** shall indemnify the **Insured** against any **Ombudsman Award** made on account of a **Claim** first made against the **Insured** during the **Policy Period** in respect of the conduct of **Professional Business** by the **Insured** or by others acting for or on behalf of the **Insured**.

Insuring Clause 3: Defence Costs

3. The **Company** shall indemnify the **Insured** against **Defence Costs** in connection with a **Claim** first made against the **Insured** during the **Policy Period** or a **Circumstance** notified to the **Company** in compliance with Section 14(b) below, 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 Claims Limit stated in Item 4 of the Declarations, the **Company's** liability in respect of **Defence Costs** shall be limited to the same proportion that that Claims Limit bears to the amount of such settlement or other payment.

Insuring Clause 4: Compensation for Court Attendance and Staff Disruption

4. With regard to each **Claim** for which cover is afforded under this Policy:
 - (a) the **Company** shall, if a principal, partner, member or director of a **Practice** or any other relevant person (not including expert witnesses) attends a court, arbitration or adjudication hearing as a witness of fact, compensate for that person being so occupied, by paying £200 for each day or part thereof on which that person attends as such witness;
 - (b) the **Company** shall, if an **Employee** attends a court, arbitration or adjudication hearing as a witness of fact, compensate for that person being so occupied, by paying £100 for each day or part thereof on which that person attends as such witness;
 - (c) the **Company** shall, if a principal, partner, member, director or **Employee** of a **Practice** is interviewed by, and in the physical presence of, the lawyers conducting the defence of the **Claim** for the purpose of composing a witness statement, compensate for that person being so



Professional Indemnity Insurance Members of Royal Institution of Chartered Surveyors

occupied, by paying £100 for each day or part thereof on which that person is so interviewed;

- (d) the **Company** shall, if a principal, partner, member, director or **Employee** of a **Practice** is reasonably needed to attend a conference or consultation with a barrister, compensate for that person being so occupied, by paying £100 for each day or part thereof on which that person attends such conference or consultation; and
- (e) the **Company** shall, if a principal, partner, member, director or **Employee** of a **Practice** attends a court, arbitration or adjudication hearing as observer, compensate for that person being so occupied, by paying £100 for each day or part thereof on which that person attends as observer, provided that the **Company** shall only be liable to compensate for the occupation of one observer for all **Practices** together per day.

The **Company** shall pay the compensation to the **Policyholder**.

Compensation provided for by this Section in respect of a person's attendance shall only be payable where that attendance is in connection with defending, not prosecuting, a **Claim**.

Insuring Clause 5: Estate Agents and Health and Safety Legislation

5. The **Company** shall pay on behalf of the **Insured** 80% of reasonable costs and expenses incurred with the **Company's** prior written consent for the defence of any proceeding first brought against the **Insured** during the **Policy Period**, and notified to the **Company** during the **Policy Period**, under:

- (a) the Property Misdescriptions Act 1991;
- (b) the Estate Agents' Act 1979;
- (c) the Health and Safety at Work etc Act 1974;
- (d) the Health and Safety at Work (Northern Ireland) Order 1978;
- (e) the Construction (Design and Management) Regulations 1994; or
- (f) any similar or successor legislation to any legislation described in (a) to (e) immediately above,

but only where, in the **Company's** reasonable opinion, defending such proceeding could protect the **Insured** against a **Claim** or potential **Claim** arising from **Professional Business** undertaken by the **Insured**.

Insuring Clause 6: Legal Representation Costs

6. The **Company** shall pay on behalf of the **Insured** 80% of costs and expenses:

- (a) which are incurred by the **Insured** with the prior written consent of the **Company** for representation at a properly constituted hearing, tribunal or proceeding arising out of:
 - (i) a **Claim** first made during the **Policy Period**; or
 - (ii) a **Circumstance** notified to the **Company** in compliance with Section 14(b) below;

in respect of the conduct of **Professional Business** by the **Insured** and which may be or may become the subject of indemnity under this Policy; and

- (b) which are not indemnified as **Defence Costs** pursuant to Insuring Clause 3 above.



Professional Indemnity Insurance
Members of Royal Institution of Chartered Surveyors

Insuring Clause 7: Appointed Representative

7. It is noted that the **Insured** is, for the purposes of the Financial Services and Markets Act 2000, an Appointed Representative of the principals stated in Item 16 of the Declarations for the purposes stated in Item 16 of the Declarations. Notwithstanding Exclusion (j) in Section 10 below, the Policy will, subject to all its terms, indemnify the **Insured** in respect of any negligent act, negligent error or negligent omission in connection with such appointments provided that there shall be no indemnity for any liability assumed by the **Insured** under any express warranty, agreement or guarantee unless such liability would have attached to the **Insured** notwithstanding such express warranty, agreement or guarantee.

Insuring Clause 8: Documents

8. The **Company** shall pay on behalf of the **Insured** the reasonable and necessary costs and expenses of replacing, restoring or reconstituting **Documents** whose loss, damage or destruction is first discovered by the **Insured** during the **Policy Period** save that the **Company** shall not pay costs or expenses of replacing, restoring or reconstituting **Documents** which are stored on magnetic or electrical media unless such **Documents** are duplicated on magnetic or electrical media with the intention that in the event of loss, damage or destruction the duplicate can be used as the basis for replacing, restoring or reconstituting the **Documents**.

Definitions

9. In this Policy the word 'person(s)', wherever it appears, means legal or natural person(s) unless otherwise specified. When used in bold type in this Policy:

Adjudication means an adjudication pursuant to the Scheme for Construction Contracts as contained in the Housing Grants Construction and Regeneration Act 1996 or an adjudication clause or rules contained in a contract.

Adjudication Notice means a notice of intention to adjudicate, a notice of adjudication, a referral notice or an adjudication notice pursuant to contract.

Adjudicator means an adjudicator described in Insuring Clause 1(c)(i).

Allowed Asbestos Claim means an **Asbestos Claim** caused by a negligent act, negligent error or negligent omission in the conduct of **Professional Business** and which:

- (a) does not result directly or indirectly from any **Asbestos Inspection** carried out by the **Insured**; and
- (b) does not arise out of, or in any way involve, any **Bodily Injury** or any fear of suffering **Bodily Injury**.

Asbestos Claim means a **Claim** or proceeding directly or indirectly resulting from the presence or release, or possible presence or possible release, of asbestos or asbestos-containing materials in whatever form or quantity.

Asbestos Inspection means a Type 1, 2 or 3 inspection as set out in MDHS 100 published by the Health and Safety Executive in connection with regulation 4 of the Control of Asbestos at Work Regulations 2002 or any other comparable inspection, whether of commercial or residential land or property.

Bodily Injury means death, injury, illness or disease, whether bodily or mental.

Circumstance means an incident, occurrence, fact, matter, act or omission that might give rise to a **Claim**.



Professional Indemnity Insurance
Members of Royal Institution of Chartered Surveyors

Claim means:

- (a) a demand for damages or compensation from, or an assertion of a right against, the **Insured**;
- (b) a notice of intention, whether orally or in writing, to commence legal proceedings against the **Insured**; or
- (c) a communication with the **Insured** in whatsoever form invoking any Pre-Action Protocols as may be issued and approved from time to time,

which is in respect of the conduct of **Professional Business** by the **Insured** or by others acting for or on behalf of the **Insured**.

Collateral Warranty Agreement means a written agreement that creates a duty of care by the **Insured** to any party other than the **Insured's** direct client.

Company means Chubb Insurance Company of Europe S.A. and such other insurers as have subscribed to this Policy.

Computer System means a 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.

Cyber Liability Claim means a **Claim** relating to:

- (a) defamation;
- (b) malicious falsehood (including slander of title and slander of goods);
- (c) unintentional false attribution of authorship or passing off;
- (d) unintentional infringement of intellectual property rights (including copyright, trademark, service mark, moral rights, patent rights, registered design), breach of confidence or infringement of any rights of privacy;
- (e) unintentional misuse of any information which is either confidential or subject to statutory restrictions on its use; or
- (f) misuse by any **Employee** of the **Insured's** electronic signature or external email

and arising in consequence of the conduct of **Professional Business** transacted via the internet, extranet or via the **Insured's** own web-site, internet site, web-address or via the transmission of electronic mail or documents by electronic means.

Defence Costs means legal costs and expenses incurred with the prior written and continuing consent of the **Company** (such consent not to be unreasonably withheld, delayed or withdrawn) in the investigation, defence, or settlement of any **Claim** or **Circumstance**.

Documents means any of the following owned by the **Insured** or for which the **Insured** is legally responsible to any person other than an **Insured**: project models or displays, deeds, wills, agreements, maps, plans, records, photographs or negatives, written or printed books, letters, certificates or written or printed documents or forms of any nature whatsoever, including computer software and systems records (electronic data shall be deemed to be physical property for the purposes of this Policy). **Documents** does not include bearer bonds, evidence of share ownership (whether in electronic or other form), coupons, bank or currency notes, stamps or other negotiable paper.



Professional Indemnity Insurance Members of Royal Institution of Chartered Surveyors

Employee means a natural person acting under a contract of service with a **Practice** in respect of the conduct of the **Professional Business** of the **Practice**.

Indemnity Limit means a Limit stated in Item 4, 5, 6, 7, 8, 9, 10 or 11 of the Declarations.

Insured means a person or organisation who is:

- (a) a **Practice**;
- (b) a partner, director or member of a **Practice** during the **Policy Period**;
- (c) a former partner, former director or former member of a **Practice** in respect of **Claims** first made against the **Practice** and notified to the **Company** during the **Policy Period** arising out of the conduct of **Professional Business**;
- (d) a person named as a consultant or former consultant stated in Item 3 of the Declarations acting for or on behalf of a **Practice** in the conduct of **Professional Business**;
- (e) a retired partner, director or member of a **Practice** remaining as a consultant to the **Practice**;
- (f) an **Employee** or former **Employee** or a self-employed person acting for or on behalf of a **Practice** in the conduct of **Professional Business**; or
- (g) the estate, heir, executor or legal or personal representative of a party mentioned in (a) to (f) of this definition, in the event of their death, incapacity, insolvency or bankruptcy.

Mediation Activity means insurance mediation activity relating to general insurance contracts or mortgage mediation activity.

Ombudsman Award means an award made by an ombudsman in respect of any case accepted by that ombudsman for review in his position as ombudsman under any recognised scheme.

Policy Period means the period of time specified in Item 13 of the Declarations, subject to termination in accordance with Section 27 below.

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

Practice means a person or organisation stated in Item 2 of the Declarations and its predecessors.

Professional Business means:

- (a) such services (including the giving of advice) performed within the **Territories** by the **Insured** on behalf of a **Practice** as are undertaken by members of the Royal Institution of Chartered Surveyors;
- (b) such services (including the giving of advice) performed within the **Territories** by the **Insured** on behalf of a **Practice** as have been declared to the **Company** in the written application for this Policy; and
- (c) services (including the giving of advice) performed within the **Territories** by the **Insured** pursuant to the **Insured's** individual appointment in respect of work connected with a **Practice** where:
 - (i) those services are undertaken by members of the Royal Institution of Chartered Surveyors or have been declared to the **Company** in the written application for this Policy; and
 - (ii) if a fee was charged for those services, that fee is taken into account in ascertaining the income of that **Practice** and has been disclosed to the **Company**.



Professional Indemnity Insurance
Members of Royal Institution of Chartered Surveyors

Retroactive Date means the date (if any) stated in Item 14 of the Declarations.

Territories means the territories stated in Item 15 of the Declarations.

Terrorist Act means an act, including but not limited to the use of force or violence or the threat thereof, of any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government, committed for political or religious or similar purpose including the intention to influence any government or to put the public, or any section of the public, in fear.

USA means the United States of America, its territories and possessions;

War or Terrorism Risk means war, invasion, act of a foreign enemy, 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 or any **Terrorist Act**.

Exclusions

10. The **Company** shall not be liable under this Policy to indemnify the **Insured**, or pay on behalf of the **Insured**, in respect of:
- (a) any liability incurred as a result of a decision by an adjudicator who is not independent of the parties to the dispute;
 - (b) any adjudication proceeding arising from an adjudication clause in a contract which contains adjudication timetable provisions which are more onerous to the **Insured** than those contained in the Scheme for Construction Contracts referred to in the Housing Grants Construction and Regeneration Act 1996;
 - (c) any arbitration award (whether under the Surveyors' and Valuers' Arbitration Scheme 1998 or otherwise) where the seat of arbitration is located outside England, Wales, Scotland and Northern Ireland unless that seat was agreed to by the **Company**;
 - (d) any **Asbestos Claim** other than an **Allowed Asbestos Claim**;
 - (e) any contractual liability incurred as a result of:
 - (i) the acceptance by the **Insured** of an obligation, or the guarantee by the **Insured**, of fitness for purpose where this appears as an express term;
 - (ii) any express guarantee given by the **Insured** including any relating to the period of a project;
 - (iii) any express penalty contained in a contract between the **Insured** and another party; or
 - (iv) any express acceptance by the **Insured** of liability for liquidated damages;however this exclusion shall not apply to any liability which would have attached to the **Insured** in the absence of such acceptance, guarantee or penalty and this exclusion shall not apply if the **Company** has expressly approved such acceptance, guarantee or penalty;
 - (f) any liability arising in consequence of any assignment of a **Collateral Warranty Agreement** to more than one party, however:
 - (i) in the case of a **Collateral Warranty Agreement** given to a financier or funding party (not a purchaser or a tenant), this exclusion shall not apply to liability arising in consequence of either of the first two assignments of that **Collateral Warranty Agreement**;



Professional Indemnity Insurance
Members of Royal Institution of Chartered Surveyors

- (ii) this exclusion shall not apply to liability arising in consequence of any assignment of a **Collateral Warranty Agreement** entered into before 1st October 2001;
 - (iii) this exclusion shall not apply to any liability which would have attached to the **Insured** in the absence of such **Collateral Warranty Agreement**;
 - (iv) this exclusion shall not apply if the **Company** has expressly approved the **Collateral Warranty Agreement**; and
 - (v) this exclusion shall not apply to liability in consequence of any assignment of a **Collateral Warranty Agreement** given in the current or former standard wording of the British Property Federation or of the Construction Industry Council;
- (g) any **Claim** or proceeding brought about by either:
- (i) an entity in which the **Insured** exercises a controlling interest; or
 - (ii) an entity exercising a controlling interest over the **Insured** by virtue of having a financial or executive interest in the operation of the **Insured**;

unless such **Claim** or proceeding is made against the **Insured** for an indemnity or contribution in respect of a **Claim** or proceeding made by an independent third party;

- (h) any **Claim** or proceeding against an **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;
- (i) any **Claim** or proceeding arising out of any dishonesty or fraud of any **Insured**; however this exclusion shall not apply to the extent that the **Claim** or proceeding arises by reason of and is solely and directly caused by the actual or alleged dishonest or fraudulent act of any past or present partner, director, member, consultant or **Employee** of a **Practice** (whether committed alone or in collusion with others) which causes any client of the **Insured** to suffer loss, provided always that:
 - (i) the **Company** shall not be liable in respect of any **Claim** or proceeding arising out of dishonesty or fraud of any person after discovery by any other **Insured** (not acting in collusion with that person), in relation to that person, of reasonable cause for suspicion of fraud or dishonesty;
 - (ii) all **Claims** and proceedings arising out of dishonest acts and fraudulent acts committed by one person, or committed by more than one person acting in concert, shall be deemed to be one **Claim** and proceeding;
 - (iii) the annual accounts of the **Practices** have been (and where applicable are being) prepared or certified by an independent and properly qualified accountant or auditor in accordance with the RICS Rules of Conduct and the client accounts of the **Practices**, where applicable, have been kept in accordance with those rules;
- (j) any **Claim** or proceeding arising out of any Regulated Activity (as defined in the Financial Services and Markets Act 2000 as amended from time to time) other than **Mediation Activity** carried on by the **Insured** under permission given pursuant to Part IV of the Financial Services and Markets Act 2000;
- (k) any fines, penalties or punitive, multiple or exemplary damages where such have been identified separately within any award of any court or tribunal;
- (l) any **Claim** or proceeding arising out of or relating solely to the insolvency or bankruptcy of the **Insured**; however this exclusion shall not apply to:
 - (i) any **Claim** or proceeding in respect of monies held on behalf of third parties; or



Professional Indemnity Insurance
Members of Royal Institution of Chartered Surveyors

- (ii) any **Claim** or proceeding that the **Company** would otherwise be liable in respect of but for the insolvency or bankruptcy of the **Insured**;
- (m) any **Claim** or proceeding arising out of **Bodily Injury** of any **Employee** whilst in the course of employment for or on behalf of the **Insured**;
- (n) any **Claim** or proceeding by any **Employee**, former **Employee** or prospective **Employee** alleging 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 or like conduct;
- (o) any **Claim** or proceeding arising out of the ownership, possession or use by or on behalf of the **Insured** of any aircraft, watercraft, hovercraft, motor vehicle or trailer;
- (p) any **Claim** or proceeding arising out of 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**;
- (q) any **Claim** or proceeding relating to the financial return of any investment or the depreciation or loss of investments where such return, depreciation or loss results from any fluctuation in any financial, stock, commodity or other markets which are outside the influence or control of the **Insured**; however this exclusion shall not apply to **Professional Business** in connection with:
 - (i) the survey or valuation of any tangible property for the purpose of any sale, proposed sale, purchase or proposed purchase; or
 - (ii) the survey or valuation of any tangible property for insurance or stock valuation purposes.
- (r) any **Claim** or proceeding 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:
 - (i) ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
 - (ii) the radioactive, toxic, explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (s) any award by an ombudsman except to the extent covered under Insuring Clause 2 above;
- (t) any loss, cost or expense for which the **Insured** is entitled to indemnity under any other policy except in respect of any excess beyond the amount which would have been payable under such policy had this policy not been effected;
- (u) any **Claim** or proceeding arising directly or indirectly from **Pollution** (for the purposes only of this exclusion, asbestos is deemed not to be a contaminant or pollutant); however this exclusion shall not apply where such **Claim** or proceeding arises from the **Insured's** negligent structural design or specification or failure to report a structural defect in a property but cover shall nevertheless only extend to that part of any **Claim** or proceeding which relates to the cost of re-designing, re-specifying, remedying or rectifying the defective structure but shall not include the cost of remedying or rectifying any loss of or damage to land or the environment or any loss of value;
- (v) any **Claim**, proceeding or **Circumstance** the **Insured** was or should have been aware of prior to the inception of this Policy; however this exclusion shall not reduce the rights of the **Insured** under (or otherwise affect the application of) Section 24 below;



Professional Indemnity Insurance Members of Royal Institution of Chartered Surveyors

- (w) any **Claim** or proceeding arising out of the supply of any goods by the **Insured** or products manufactured, constructed, altered, repaired, treated, sold, supplied or distributed by the **Insured**; however this exclusion shall not apply to project models or displays;
- (x) any **Claim** or proceeding arising out of a survey or valuation unless it was undertaken by:
 - (i) a Fellow, Professional Member or Technical Member of the Royal Institution of Chartered Surveyors (RICS);
 - (ii) a Fellow or Associate of the Incorporated Society of Valuers and Auctioneers (ISVA);
 - (iii) a Fellow or Associate of the Architects and Surveyors Institute (ASI);
 - (iv) a Fellow or Associate of the Faculty of Architects and Surveyors (FFAS);
 - (v) a Fellow or Associate of the Royal Institute of British Architects (RIBA);
 - (vi) a Fellow or Associate of the Royal Incorporation of Architects in Scotland (RIAS);
 - (vii) anyone who has not less than five years' experience of such work; or
 - (viii) any other person delegated by the **Insured** to execute such work subject always to supervision of such work by a person qualified in accordance with (i) to (vii) immediately above or to agreement in writing having been obtained from the **Company** prior to cover being granted;
- (y) any **Claim** or proceeding arising out of any trading losses or trading liabilities incurred by the **Insured** including loss of any business or custom;
- (z) any **Claim** or proceeding instituted or pursued in the **USA** or Canada (whether for the enforcement of a judgement or finding of a Court or tribunal of another jurisdiction or otherwise) or in which it is contended that the laws of the **USA** or Canada should or do apply or which involves the enforcement or attempted enforcement of a judgement or finding of a Court or tribunal of the **USA** or Canada;
- (aa) any **Claim** or proceeding (or loss of, damage to or destruction of **Documents**) arising directly or indirectly out of the transmission or receipt of a virus, programme or code that causes loss of or damage to any documents or **Computer System** or prevents or impairs any **Computer System** from performing or functioning accurately or properly;
- (ab) any **Claim** or proceeding (or loss of, damage to or destruction of **Documents**) directly or indirectly caused by, resulting from or in connection with (regardless of any other cause or event contributing concurrently or in any other sequence) any **War or Terrorism Risk** or caused by, resulting from or in connection with (regardless of any other cause or event contributing concurrently or in any other sequence) any action taken to control, prevent, suppress, or in any way relating to, any **War or Terrorism Risk**; if the **Company** alleges that, by reason of this exclusion, it is not liable in respect of a **Claim** or proceeding, the burden of proving the contrary shall be on the **Insured**;
- (ac) in respect of any **Claim** or proceeding which arises out of the conduct of **Professional Business** prior to the **Retroactive Date**.

Adjudication

11. It is a condition precedent to the **Company's** liability under this Policy to indemnify in respect of an **Adjudication** that:
 - (a) the **Insured** notifies the **Company** within 2 working days of receipt of any **Adjudication Notice**; and



Professional Indemnity Insurance
Members of Royal Institution of Chartered Surveyors

- (b) the **Insured** does not serve any **Adjudication Notice** without the prior written consent of the **Company** unless, in the **Insured's** reasonable opinion, service of that **Adjudication Notice** will not give rise to a **Claim**.

The **Insured** shall, if the **Company** reasonably so requests, permit the **Company** to pursue legal, arbitration or other proceedings in the name of and on behalf of the **Insured** to challenge, appeal or seek amendment of any decision, direction, award or exercise of power by an **Adjudicator** or to stay the enforcement of such decision, direction, award or exercise. The **Insured** shall give all such assistance as the **Company** may reasonably require in relation to such proceedings.

The **Insured** shall not accept the decision of any **Adjudicator** as finally determining a dispute without the prior written consent (not to be unreasonably withheld, delayed or withdrawn) of the **Company**.

Ombudsman Review

12. It is a condition precedent to the **Company's** liability to indemnify under Insuring Clause 2 that the **Insured** gives written notice to the **Company** as soon as reasonably practicable after becoming aware that a case directly affecting the **Insured** is being reviewed by an **Ombudsman**.

Limits of Liability and Excess

13. All **Claims** and proceedings (whether made against or involving one or more **Insureds**, whether made by the same or different claimants and whether falling under one or more insuring clauses of this Policy) which arise directly or indirectly from the same originating cause shall be deemed to be a single **Claim** or proceeding.

The **Company's** maximum liability under Insuring Clause 1 in respect of each **Claim**, whether made against or involving one or more **Insureds**, shall not exceed the Claims Limit stated in Item 4 of the Declarations. The **Company's** maximum aggregate liability under Insuring Clause 1 in respect of all **Cyber Liability Claims**, whether made against or involving one or more **Insureds**, shall not exceed the Cyber Liability Limit stated in Item 5 of the Declarations, which Cyber Liability Limit is part of and not in addition to the Claims Limit stated in Item 4 of the Declarations.

The **Company's** maximum liability under Insuring Clause 2 in respect of each **Claim**, whether made against or involving one or more **Insureds**, shall not exceed the Ombudsman Award Limit stated in Item 6 of the Declarations, which Ombudsman Award Limit is part of and not in addition to the Claims Limit stated in Item 4 of the Declarations.

The **Company's** maximum aggregate liability under this Policy for all liability, loss, costs and expenses of **Insureds** in respect of all **Asbestos Claims**, whether made against or involving one or more **Insureds**, shall not exceed the Asbestos Limit stated in Item 7 of the Declarations, which Asbestos Limit is part of and not in addition to the Claims Limit stated in Item 4 of the Declarations.

The only limits to the **Company's** liability for **Defence Costs** shall be:

- (a) the limit provided for in Insuring Clause 3 above; and
- (b) the Court Attendance Compensation Limit, the Estate Agents and Safety Legislation Limit, the Legal Representation Costs Limit and the Asbestos Limit stated in Items 8, 9, 10 and 7 of the Declarations respectively.

Apart from these, the **Company's** liability for **Defence Costs** shall be unlimited.

The **Company's** maximum aggregate liability for all compensation provided for under Insuring Clause 4 in respect of all **Claims**, whether made against or involving one or more **Insureds**, shall not exceed the Court Attendance Compensation Limit stated in Item 8 of the Declarations.



Professional Indemnity Insurance Members of Royal Institution of Chartered Surveyors

The **Company's** maximum aggregate liability for all costs and expenses provided for under Insuring Clause 5 in respect of all proceedings, whether made against or involving one or more **Insureds**, shall not exceed the Estate Agents and Safety Legislation Limit stated in Item 9 of the Declarations.

The **Company's** maximum aggregate liability for all costs and expenses provided for under Insuring Clause 6 in respect of all proceedings, whether made against or involving one or more **Insureds**, shall not exceed the Legal Representation Costs Limit stated in Item 10 of the Declarations.

The **Company's** maximum liability under Insuring Clause 8 in respect of each occasion of loss, damage or destruction of **Documents**, whether suffered by one or any number of **Insureds**, shall not exceed the **Documents** Costs Limit stated in Item 11(A) of the Declarations. The **Company's** maximum aggregate liability under Insuring Clause 8 for all costs and expenses on account of all occasions of loss, damage or destruction of **Documents**, whether suffered by one or any number of **Insureds**, shall not exceed the **Documents** Costs Limit stated in Item 11(B) of the Declarations.

Under Insuring Clauses 1, 2 and 7, the **Company** shall only be for that part of loss arising from each **Claim** as exceeds the Excess stated in Item 12 of the Declarations.

All the **Indemnity Limits** and the Excess stated in Item 12 of the Declarations shall apply to all the **Insureds** jointly.

Reporting and Notice

14. (a) If, during the **Policy Period**, the **Insured** receives any **Claim** or any notice of an intention to make a **Claim**, the **Insured** shall give written notice to the **Company** as soon as reasonably practicable. All **Claims** first made during the **Policy Period** must in any event be notified in writing to the **Company** within 10 working days following expiry of the **Policy Period**.
- (b) If, during the **Policy Period**, the **Insured** becomes aware of any **Circumstance**, the **Insured** shall as soon as reasonably practicable give written notice to the **Company** containing full particulars of that **Circumstance**, including, where possible:
- (i) the names of the potential claimants;
 - (ii) the date of the incident, occurrence, fact, matter, act or omission which constitutes the **Circumstance**;
 - (iii) the names of the individuals involved in the **Circumstance**;
 - (iv) the date of the **Insured's** first awareness or discovery of the **Circumstance**; and
 - (v) the estimated amount of any potential **Claim** which might arise out of the **Circumstance**.

All **Circumstances** of which the **Insured** becomes aware during the **Policy Period** must in any event be notified in writing to the **Company** during the **Policy Period**. If a **Circumstance** is notified to the **Company** in compliance with this Section 14(b), any **Claims** subsequently arising from it shall be deemed to be first made during the **Policy Period**.

15. If, during the **Policy Period**, the **Insured** discovers an occurrence which may:
- (a) require defence of a proceeding referred to in Insuring Clause 5; or
 - (b) require representation at a properly constituted hearing, tribunal or proceeding referred to in Insuring Clause 6;

the **Insured** shall give written notice to the **Company** of such discovery as soon as reasonably practicable, but in any event during the **Policy Period**. If such discovery is notified to the **Company** in compliance with this Section 15, any **Claim**, hearing, tribunal or proceeding subsequently arising from such occurrence shall be deemed to be first made during the **Policy Period**.



Professional Indemnity Insurance
Members of Royal Institution of Chartered Surveyors

16. It is a condition precedent to the **Company's** liability under this Policy for costs and expenses of replacing, restoring or reconstituting **Documents** that the **Insured** gives the **Company** written notice as soon as practicable of the **Documents'** loss, damage or destruction and gives to the **Company** such information and co-operation as the **Company** may reasonably require.

Defence and Settlement

17. With regard to each **Claim** and **Circumstance**, the **Insured** shall not settle, offer to settle, incur any costs, admit liability or otherwise prejudice the conduct, defence or settlement of that **Claim** or **Circumstance** without the **Company's** prior written consent, which shall not be unreasonably withheld, delayed or withdrawn, regardless of:
- (a) the provisions of any complaints handling procedure; and
 - (b) whether the amount in dispute is less than the Excess stated in Item 12 of the Declarations.

With regard to each **Claim** and **Circumstance**, the **Company** shall be entitled, if it so desires, 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 the **Company** and shall give all that information and assistance which the **Company** may reasonably require and which is within the **Insured's** power to provide, including co-operating with the **Company** and its appointed representatives:

- (a) 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;
- (b) in assisting them to present the best possible defence of a **Claim**;
- (c) by ensuring access to all and any information that they or their representatives may require in the defence of the **Claim** or investigation of any **Circumstance**, whether or not privileged;
- (d) by paying on demand the Excess stated in Item 12 of the Declarations in order to comply with the terms of any settlement agreed by the **Company**;
- (e) by providing all such information, assistance, signed statements or depositions as may reasonably be required to permit the **Company** to exercise rights of subrogation; and
- (f) 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.

If the **Insured** and the **Company** cannot agree a common course of action with regard to the contesting of any legal proceedings, the dispute will be resolved by reference to a Queen's Counsel of the English Bar, to be mutually agreed between the **Company** and the **Insured**, whose decision shall be binding. In resolving the dispute, the Queen's Counsel shall have due regard to the interests of both the **Insured** and the **Company**. In the event of disagreement regarding the appointment of Queen's Counsel, the Queen's Counsel shall be appointed by the Chairman 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.

Notwithstanding the provisions of the preceding paragraph, with respect to any **Claim** or number of **Claims** arising directly or indirectly from the same originating cause, the **Company** may at any time pay to the **Insured** that **Indemnity Limit** (less any sums already paid) which applies to such **Claims** or any lesser sum for which such **Claims** can be settled. Upon such payment, the **Company** shall not be under any further liability in respect of such **Claims** except for **Defence Costs** incurred prior to such payment with the **Company's** prior written consent.



Professional Indemnity Insurance
Members of Royal Institution of Chartered Surveyors

Notice

18. Notice to the **Company** under this Policy shall be given in writing addressed to:

Notice of any matter to be notified under Section 14, 15 or 16 above: Claims Department
Other requests: Executive Protection

Chubb Insurance Company of Europe S.A.
106 Fenchurch Street
London
EC3M 5NB

Notice shall be effective on the date of receipt by the **Company** at such address.

Subrogation

19. Immediately on the notification to the **Company** of a **Claim, Circumstance** or loss, the **Insured** grants to the **Company** 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 **Company** agrees not to exercise any rights of recovery against an **Insured** unless liability or loss has resulted in whole or part from any dishonest, fraudulent, criminal or malicious act or omission on the part of that **Insured**.

Representations

20. In issuing this Policy to the **Policyholder**, the **Company** has relied upon the declarations and statements in the written application for this Policy. All such declarations and statements are the basis of cover and are incorporated into and constitute part of this Policy.

Policyholder as Agent

21. All persons falling within the definition of **Insured** agree that the **Policyholder** is their agent for all purposes in connection with this Policy. This Policy may be varied or rescinded by agreement between the **Company** and the **Policyholder** without the consent of any other person.

Alteration and Assignment

22. No change in, modification of, or assignment of interest under this Policy shall be effective except when made by written endorsement to this Policy duly executed on behalf of the **Company**.

Contracting Parties and Rights of Action

23. The parties to this Policy are the **Company** and the **Policyholder**. No person shall have any rights under or in connection with this Policy by virtue of the Contracts (Rights of Third Parties) Act 1999 or any amendment or re-enactment thereof. The **Policyholder** may not assign to any other person any right or cause of action against the **Company** under or in connection with this Policy.

Special Institution Condition

24. Where, in proposing for the insurance provided by this Policy, the **Insured** has committed a non-disclosure or misrepresentation with no intention to deceive or mislead the **Company**, the **Company** will not exercise its right to avoid this Policy for that non-disclosure or misrepresentation nor will that non-disclosure or misrepresentation discharge the **Company** from any liability under this Policy.



Professional Indemnity Insurance Members of Royal Institution of Chartered Surveyors

However:

- (a) where such non-disclosure or misrepresentation has prejudiced the **Company's** consideration of terms under this Policy, the **Company** shall be entitled to charge such additional premium and impose such different or additional terms as it would have done if the non-disclosure or misrepresentation had not been committed; and
- (b) in the case of a **Claim** or loss covered by this Policy in respect of which the **Insured** had knowledge, prior to the **Policy Period**, of an incident, occurrence, fact, matter, act or omission that might give rise to such **Claim** or loss and should have given notice of that incident, occurrence, fact, matter, act or omission under any preceding policy, if the indemnity or cover under this Policy is greater or wider in scope than that to which the **Insured** would have been entitled under such preceding policy (whether with other insurers or not), the **Company** shall not be liable to provide indemnity beyond the amount and extent which would have been provided to the **Insured** by such preceding policy.

Where the **Insured's** breach of or non-compliance with Section 14, 15, 16 or 17 of this Policy has resulted in prejudice to the handling or settlement of any **Claim** or loss, the **Company** shall be entitled to reduce the indemnity afforded by this Policy in respect of such **Claim** or loss (including for **Defence Costs**) to such sum as in the **Company's** reasonable opinion would have been payable by it in the absence of such prejudice. The provision in this paragraph is without prejudice to any condition precedent in this Policy and any other provision in this Policy as to the effect of breach of a condition of this Policy.

The paragraph immediately above shall not apply to Insuring Clause 2.

In the event of any dispute between the **Company** and the **Insured** regarding the application of this Section 24, such dispute shall be referred by either party for arbitration in accordance with the law and procedure of England and Wales to any person nominated by the President for the time being of the Royal Institution of Chartered Surveyors, and that nominated person's decision shall be binding on both parties.

Dispute as to Definition of Professional Business

25. Any dispute between the **Company** and the **Insured** as to the correct interpretation of the definition of **Professional Business** under this Policy shall be referred by either party for arbitration in accordance with the law and procedure of England and Wales to any person nominated by the President for the time being of the Royal Institution of Chartered Surveyors, and that nominated person's decision shall be binding on both parties.

Valuation and Foreign Currency

26. Any **Claim** or loss which is not in the currency stated in the Declarations or any endorsements to this Policy shall be converted to and paid in the currency of this Policy or any endorsements thereto based upon the rate of exchange published in The Financial Times on the date the final judgement is reached, the amount of the settlement is agreed upon or the other element of the **Claim** or loss is due, respectively.

Termination

27. Cover under this Policy shall terminate at the earliest of the following times:
 - (a) seven days after the receipt by the **Policyholder** of a written notice of termination from the **Company** for non-payment of premium;
 - (b) expiration of the **Policy Period**;



Professional Indemnity Insurance
Members of Royal Institution of Chartered Surveyors

- (c) such other time as may be agreed upon by the **Company** and the **Policyholder** in writing.

Several Liability Notice

28. The obligations of the insurers subscribing to this Policy are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations hereunder.

Choice of Law and Forum

29. The construction of the terms, and the validity and effect, of this Policy are governed by English law. Any dispute or difference arising under or in respect of this Policy shall be subject to and determined within the exclusive jurisdiction of the courts of England and Wales.

Difference in Conditions

30. In the event of any dispute in connection with the terms of this Policy, there shall take precedence over any terms of this Policy which are less favourable to the **Insured** the terms of the minimum insurance requirements of the Royal Institution of Chartered Surveyors as they stand at the start of the **Policy Period**.