

HDFC ERGO Professional Indemnity Policy Architects and Engineers Endorsement Wording

I. The Policy is amended as follows:

1. The Preamble is deleted and replaced with the following:

In consideration of the payment of the premium, and in reliance upon the statements made in the **Proposal**, and subject to the terms and conditions of this Policy (including any endorsement hereto), coverage under this Policy is afforded solely for **Financial Loss** resulting directly from **Claims** first made against the **Insured**, or **Professional Investigations**, Loss Mitigation or other Extensions of Cover first occurring during the **Period of Insurance** or the **Extended Reporting Period** (if applicable) and notified to the **Insurer** as required by Section 6.1 of this Policy.

2. The following Coverage Extensions are added to Section 2. Extensions of Cover:

2.8 Civil Fines and Penalties

The **Insurer** will pay **Civil Fines and Penalties** imposed on an **Employee** that arise from a covered **Claim** or **Professional Investigation** made against such **Employee**, but only to the extent that such **Civil Fines and Penalties** are insurable under both the law applicable to this Policy and the jurisdiction in which such **Civil Fines and Penalties** are imposed.

The cover provided under this Extension shall be subject to both the applicable **Sub-Limit of Liability** and **Retention** specified in the Schedule.

2.9 Defamation

The **Insurer** shall indemnify the **Insured** for **Financial Loss** resulting directly from a **Claim** first made against the **Insured** during the **Period of Insurance** or the **Extended Reporting Period**, if applicable, based upon libel, slander, offence or injurious falsehood committed unintentionally by an **Insured** on or after the **Retroactive Date** and prior to the end of the **Period of Insurance** within the provision of **Professional Services**.

The cover provided under this Extension shall be subject to both the applicable **Sub-Limit of Liability** and **Retention** specified in the Schedule.

2.10 Professional Investigations

The **Insurer** shall indemnify the **Insured** for all **Professional Investigation Costs** resulting directly from a **Professional Investigation** arising from the rendering of or failure to render **Professional Services**.

The cover provided under this Extension shall be subject to both the applicable **Sub-Limit of Liability** and **Retention** specified in the Schedule.

1.11 Technology Services

The **Insurer** shall indemnify the **Insureds** for **Financial Loss** resulting directly from a **Claim** first made against the **Insured** during the **Period of Insurance** or the **Extended Reporting Period**, if applicable, based upon a **Wrongful Technology Act** taking place on or after the **Retroactive Date** and prior to the end of the **Period of Insurance**.

The cover provided under this Extension shall be subject to both the applicable **Sub-Limit of Liability** and **Retention** specified in the Schedule.

3. Section 4. Definitions is amended as follows:

- A. The last sentence of Definition 4.5 Claim is replaced with the following

For the purposes of Sections 5, 6 and 7 only, **Claim** shall also mean **Professional Investigation**, **Potential Claim** and the event insured under Extension 2.6 Loss of Documents and Data.

- B. The following is added to the end of Definition 4.10 Defence Costs:

Defence Costs shall not include **Professional Investigation Costs**.

- C. Definition 4.15 Employee is replaced with the following:

4.15 Employee

Employee means a natural person who, during the **Period of Insurance**, or after the **Retroactive Date**;

4.15.1 performs **Professional Services** in the regular service of the **Company** in the ordinary course of the **Company's** business and whom the **Company** compensates by salary, wages and/or commissions and has the right to govern, instruct and direct in the performance of such **Professional Services**; or

4.15.2 is seconded to the **Company**, or guest student pursuing studies or duties or any person engaged in work experience or on a training scheme with the **Company** while working under their direct control and supervision.

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The definition of **Employee** shall not include any:

- (i) **Director or Officer** of a **Company**, unless when:
 - a) performing acts within the scope of the usual duties of an employee (other than a **Director or Officer**) providing **Professional Services** to or for the **Company** under a contract of employment and direct control and supervision; or
 - b) while acting as a member of a committee duly elected or appointed by resolution of the board of directors of the **Company** to perform specific **Professional Services**, as distinguished from general directorial acts, on behalf of the **Company** and working under the direct control and supervision of the **Company**;
- (ii) **Service Provider**;
- (iii) independent contractor or any agent; or
- (iv) external lawyers or solicitors or employees of independent valuation firms.

D. Definition 4.19 Financial Loss is amended as follows:

- 1. Subsection 4.19.1 is replaced with the following:

4.19.1 the total amount the **Insured** is legally liable to pay for:

 - (i) compensatory, punitive, exemplary or multiple damages (to the extent insurable under the law of this Policy and the law of the jurisdiction in which the payment is to be made) and related costs (including pre-judgment and post-judgment interest, plaintiff's or claimant's legal fees, attorney's fees and expenses, court costs, accountant's costs and loss adjuster's costs) resulting from a **Claim** made against such **Insured**, for which coverage applies, awarded pursuant to a final judgment or other final adjudication of a court or tribunal by whose jurisdiction the **Insured** is bound, or following arbitration or other alternative dispute resolution processes whose findings are binding upon the **Insured**;
 - (ii) compensation for damages awarded by an **Official Body**, or
 - (iii) a settlement negotiated by the **Insured** with the **Insurer's** prior written consent; or

- 2. The first sentence of Subsection 4.19.3 is replaced with the following:

4.19.3 the fees, costs, expenses and amounts covered under Extensions 2.5 Loss Mitigation, 2.6 Loss of Documents and Data, and 2.8 Civil Fines and Penalties in Section 2 of this Policy.

- 3. The following subsection is added:

4.19.4 **Professional Investigation Costs** resulting from a **Professional Investigation**;

- E. Definition 4.27 Mental Anguish is replaced with the following:

4.27 Mental Anguish

Mental Anguish means mental injury, mental distress, emotional distress, emotional pain, and emotional suffering or shock.

- F. The following definitions are added:

Civil Fines and Penalties

Civil Fines and Penalties means civil money penalties and fines directly assessed by an **Official Body** against an **Employee** for personal civil liability or arising out of the provision or failure to provide **Professional Services**, but only if such fines and penalties are not relating to or resulting from a knowing, wilful or criminal violation of law.

Official Body

Official Body means any government, governmental or administrative body or agency or similar public body with authority over the **Professional Services** of the **Insured**, that has the legal authority to regulate, control, supervise, conduct **Professional Investigations**, perform audits, assess and levy fines and penalties, issue orders or directives, or to undertake other actions or measures; as well as, any other public or administrative agency or self-regulatory body or professional body that is empowered by statute or statutory regulation to perform the above functions.

Professional Investigation

Professional Investigation means any formal civil, administrative or regulatory investigation, hearing, examination or inquiry commenced or brought by an **Official Body** concerning:

- (i) the affairs of a **Company** in the provision of or failure to provide **Professional Services**; or

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- (ii) an **Employee** acting in his capacity as such, commenced or brought by an **Official Body**, where no **Wrongful Professional Act** has been specified;

once an **Employee** of the **Company** is identified in writing and receives formal written notice from an **Official Body** requiring such **Employee** to cooperate or attend, or to produce documents, provided that:

- (a) such formal written notice from an **Official Body** first arises during the **Period of Insurance** or **Extended Reporting Period** (if applicable); and
- (b) the **Professional Investigation** concerns acts or conduct or a **Wrongful Professional Act** that occurs after the inception date of this Policy and the **Retroactive Date**; and
- (c) the **Insured** has notified the **Insurer** of such formal written notice from an **Official Body** in accordance with Section 6.2 of this Policy.

Professional Investigation does not mean any routine regulatory supervision, inspection or compliance reviews, or any industry wide investigation, hearing, examination or inquiry which focuses on five (5) or more industry actors rather than the **Insured**.

Professional Investigation Costs

Professional Investigation Costs means reasonable and necessary fees, costs, charges and expenses incurred, with the prior written consent of the **Insurer** (except as provided for under Extension 2.5, for or on behalf of an **Employee** or the **Employee's** legal representative:

- (a) in preparing for, attending or producing documents to a **Professional Investigation**; or
- (b) in responding to a raid on, or on-site visit to, any **Insured** by an **Official Body** that involves the production, review, copying or confiscation of files or interviews of any **Insured**.

Professional Investigation Costs shall not mean any fees, costs, charges or expenses incurred by the **Company** in connection with a **Professional Investigation**, remuneration of **Employees**, costs of their time or costs of overheads of the **Company**.

Professional Services

Professional Services means services provided by or on behalf of the **Insured** to a **Third-Party Client** in the **Insured's** capacity as an:

- (i) architect or engineer;
- (ii) landscape architect, land surveyor or planner;
- (iii) project manager;
- (iv) interior designer or space planner;
- (v) scientist; or
- (vi) technical consultant;

including any related service or operation of the **Insured** to support the provision of such services;

provided, that the:

- (a) **Professional Services** are provided to a **Third-Party Client** for compensation pursuant to a written contract or agreement;
- (b) **Professional Services** are allowed under applicable laws, statutes, rules, regulations issued by any **Official Body** having jurisdiction over the **Insured**; and
- (c) **Insured** providing such **Professional Services** is duly authorised, licensed and/or approved to provide such **Professional Services**.

Technology Services

Technology Services means:

- (i) the design, development, licensing, provisioning, maintenance and support of an on-line platform used to provide a **Third-Party Client** 1) **Professional Services** or 2) access to tools and resources related to the **Company's Professional Services**; or
- (ii) the provisioning, maintenance and support of Building Information Modelling (BIM) systems, including but not limited to modification, alteration, transfer, protection, manipulation, use, or misuse thereof, or design assist system or program.

Wrongful Technology Act

Wrongful Technology Act means any act, error, omission, misrepresentation, misstatement, misleading statement, neglect, or breach of duty actually or allegedly committed or attempted by an **Insured**, or by someone for whom the **Insured** is legally responsible in connection with the **Insured's** rendering or failure to render **Technology Services** in conjunction with **Professional Services**.

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4. Section 5. Exclusions is amended as follows:
- A. Exclusion 5.3Bodily Injury and Property Damage is deleted in its entirety.
 - B. Exclusions 5.2, 5.9 and 5.16 are deleted and replaced with the following:

5.2 Assumed Liability, Guarantee, Warranty

arising from, based upon, in connection with, attributable to or as a consequence of any:

- 5.2.1 liability assumed or accepted by an **Insured** or **Service Provider** under any contract or agreement except to the extent that actual legal liability would have attached to an **Insured** or **Service Provider** in the absence of such contract or agreement as a matter of civil or common law as applicable; or
- 5.2.2 any express guarantee or warranty, including but not limited to, any express warranty ensuring that what is being designed, built or supplied is or will be fit for its intended purpose. Provided however, this exclusion will not apply to a warranty or guarantee by the **Insured** that the **Professional Services** performed by the **Insured** are in conformity with the standard of care applicable to such **Professional Services**.

5.9 Governmental Regulatory Action

arising from, based upon, in connection with, attributable to or as a consequence of any action or investigation brought by, in the right of, on behalf of or at the behest of, or instigated or maintained against an **Insured** by an **Official Body** or any other government, regulatory or licensing authority or commission, whether directly or indirectly, and whether brought in its capacity as an **Official Body**, government, regulatory or licensing authority or commission, or as a receiver, conservator, liquidator, securities holder or assignee of an **Insured**, provided, that this exclusion shall not apply to:

- 5.9.1 a **Claim** by such entity when acting solely in its own interests in its capacity as a **Third-Party Client** of an **Insured**;
- 5.9.2 a **Claim** brought by such entity by, on behalf of or for the benefit of a **Third-Party Client** of any **Insured** seeking compensation for a specified **Wrongful Professional Act** of an **Insured**;
- 5.9.3 **Civil Fines and Penalties** covered under clause 4.19.3 of the definition of **Financial Loss**; or
- 5.9.4 **Professional Investigation Costs** covered under Extension 2.10.

5.16 Prior and Pending Claims or Notifications

arising out of, based upon, in connection with, attributable to or as a consequence of:

- 5.16.1 any act, fact, same or related **Wrongful Act**, event, **Circumstance**, situation, or **Claim** or other matter which has been the subject of any written notice given under any insurance policy or any policy of which this Policy is a direct or indirect renewal or replacement, or any policy expiring prior to the inception date of this Policy;
- 5.16.2 any act, error or omission or **Wrongful Act, Professional Investigation, Employee Dishonesty**, fact, event, **Circumstance**, situation, or **Claim** occurring, initiated, committed or commenced prior to:
 - 1) the inception date of this Policy or of any policy issued by the **Insurer** to the **Policyholder** of which this Policy is a continuous renewal or replacement, of which a **Responsible Officer** became aware, knew or could have reasonably foreseen that could give rise to a **Claim** or coverage under this Policy; or
 - 2) the **Retroactive Date**;
- 5.16.3 any written demand, suit or proceeding, order, decree or judgment entered, against any **Insured**, or **Professional Investigation**, pending or initiated or commenced on or prior to the inception date of this Policy or of any policy issued by the **Insurer** to the **Policyholder** of which this Policy is a continuous renewal or replacement; or
- 5.16.4 any **Interrelated Wrongful Act, Professional Investigation, Employee Dishonesty**, loss of **Documents** as covered by Extension 2.6 or **Defamation** as covered by Extension 2.9 which has the same originating cause as any item referenced in 5.16.1, 5.16.2 or 5.16.3 above; or any **Mitigation Costs** relating to the foregoing.

- C. The following exclusions are added:

Construction

arising from, based upon, in connection with, attributable to or as a consequence of construction performed by the **Insured**, its agent or its subcontractor, including but not limited to performing construction, erection, fabrication, installation,

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assembly, manufacture, demolition, dismantling, drilling, excavation, dredging, remediation or supplying any materials, parts or equipment; provided however, this exclusion does not apply to:

- (i) supplying furnishings as a part of interior design services; or
- (ii) drilling, excavation or other sampling or testing procedures necessary to perform **Professional Services**.

Cost Overrun

arising from, based upon, in connection with, attributable to or as a consequence of any cost overrun or any error in estimation of the cost of a project, irrespective of the cause.

Mental Anguish

arising from, based upon, in connection with, attributable to or as a consequence of **Mental Anguish**; provided, that this exclusion shall not apply to:

- (i) **Mental Anguish** resulting directly from Bodily Injury caused by a **Wrongful Professional Act**;
- (ii) Loss of Documents or Data, in accordance with Extension 2.6; or
- (iii) **Mental Anguish** resulting from a **Wrongful Privacy Act**.

Products Liability

arising out of, based upon, in connection with, attributable to or as a consequence of any the sale or distribution of any product developed by the **Insured** or by others under license or trade name from the **Insured** for multiple sale or mass distribution;

This exclusion does not apply to Extension 2.11Technology Services.

5. Subsection 6.1 is amended as follows:

A. Subsection 6.1.1. is deleted and replaced with the following:

6.1.1 The **Insurer** shall only be liable under this Policy for **Claims** that have been reported to the **Insurer** in writing as soon as reasonably practicable after a **Responsible Officer** first becomes aware of such **Claim** but no later than thirty (30) days after the expiry of the **Period of Insurance** or within the **Extended Reporting Period** (if applicable).

Written notice under this section shall include, but not be limited to, a description of the **Claim**, the nature

of the alleged or potential **Financial Loss**, the details of the actual or potential claimants and the date and manner in which the **Insured** first became aware of the **Claim** or **Professional Investigation**.

B. The following subsection is added after subsection 6.1.2:

If an **Insured** is unable to notify the **Insurer** as set forth Item 6.1.1 above as a result of a specific direction or prohibition from disclosing information by an **Official Body**:

- (a) the **Insured** shall notify the circumstance to the **Insurer** as set forth in item 6.1.2 above; and
- (b) the **Insured** shall advise the **Insurer** of the existence of the non-disclosure agreement and provide full disclosure of relevant information as permitted by an **Official Body** within thirty (30) days from being allowed to make such disclosure by the **Official Body**; and
- (c) the **Insured** shall always keep the **Insurer** informed as set forth in Items 6.1.1 and 6.1.2 to the fullest extent permitted by the **Official Body** during this disclosure limitation and afterwards provide full details as requested by the **Insurer** once this limitation is removed.

ALL OTHER TERMS, CONDITIONS AND LIMITATIONS OF THIS POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.