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Professional Indemnity Insurance for Design and Construction

Policy document



Contents

A warm welcome to Zurich	3
Your Professional Indemnity Insurance Policy	4
Section 1 – Definitions	6
Section 2 – The Cover	9
Section 3 – Exclusions	12
Section 4 – Provisions	17
Section 5 – Conditions	18
Helpline Services	21
Our complaints procedure	22

A warm welcome to Zurich

Thank **you** for taking out **your** Professional Indemnity Insurance policy with **us** and welcome to Zurich Insurance plc.

Zurich Insurance plc is a member of the insurance-based financial services provider Zurich Financial Services Group (Zurich). Zurich has a global network of subsidiaries and offices in North America and Europe as well as in Asia Pacific, Latin America and other markets. Founded in 1872, the Group is headquartered in Zurich, Switzerland. It employs approximately 60,000 people serving customers in more than 170 countries.

At Zurich **we** have **your** future in mind and look forward to working closely with **you**.

www.zurich.co.uk



Your Professional Indemnity Insurance Policy for Design and Construction

This policy is a contract between **you** and **us**. **You** have made to **us** a proposal which is the basis of and forms part of this contract.

This policy and any schedule and endorsement should be read as if they were one document.

We will insure **you** during any period of insurance for which **we** have accepted **your** premium provided always that all the terms and conditions of this policy are complied with.

Any reference to the singular will include the plural and vice versa.

Any reference to any statute or statutory instrument will include any modifications thereto or re-enactment thereof.

Any heading in this policy is for ease of reference only and does not affect its interpretation.

Law Applicable to this Contract

In the UK the law allows both **you** and **us** to choose the law applicable to this contract. This contract will be subject to the relevant law of England and Wales, Scotland, Northern Ireland, the Isle of Man or the Channel Islands depending upon **your** address as stated in the schedule. If there is any dispute as to which law applies it will be English law.

The parties agree to submit to the exclusive jurisdiction of the English courts.

For and on behalf of Zurich Insurance plc.

Stephen Lewis

Chief Executive Officer of Zurich Insurance plc, UK Branch.

This is a legal document and should be kept in a safe place.

Please read this policy and any schedule and endorsement carefully and if they do not meet **your** needs contact **us** or **your** insurance intermediary.

How we will Use your Data

We hold **your** personal data in accordance with the Data Protection Act 1998. The information supplied to **us** by **you** may be held on computer and passed to other insurers for underwriting and claims purposes. **You** should show this to anyone whose personal data may be processed to administer this policy.

Policy Administration

In order to administer **your** insurance policy and any claims made under this policy **we** may share personal data provided to **us** with other companies within the Zurich Financial Services Group and with business partners including companies inside and outside the European Economic Area. If **we** do transfer **your** personal data including where **we** propose a change of underwriter **we** make sure that it is appropriately protected.

Claims History

Under the conditions of this policy **you** must tell **us** about any **circumstance** that could be covered under this policy whether or not it is **your** intention to claim. When **you** tell **us** about any **circumstance** **we** will pass information relating to it to the relevant database. **We** may search these databases when **you** apply for insurance, in the event of any **circumstance** or **claim** or at time of renewal to validate **your** claims history or that of any other person or property likely to be involved in the policy or **claim**.

Fraud Prevention and Detection

In order to prevent and detect fraud **we** may at any time:

- a) share information about **you** with other organisations including the police
- b) undertake credit searches
- c) check and share **your** details with fraud prevention and detection agencies.

If false or inaccurate information is provided and fraud is identified details will be passed to fraud prevention agencies. Law enforcement agencies may access and use this information. **We** and other organisations may also access and use this information to prevent fraud and money laundering for example when:

- a) checking details on applications for credit and credit related or other facilities
- b) managing credit and credit related accounts or facilities
- c) recovering debt and tracing beneficiaries
- d) checking details on proposals and claims for all types of insurance
- e) checking details of job applicants and employees.

Please contact **us** if **you** want to receive details of the relevant fraud prevention agencies. **We** and other organisations may access and use from other countries the information recorded by fraud prevention agencies.

Section 1 – Definitions

Certain words in this policy have special meanings. These meanings are given below and apply where the words appear in bold.

Asbestos Surveys

A management survey or a refurbishment or demolition survey as described in HSG264 published by the Health and Safety Executive in connection with Regulation 4 of the Control of Asbestos Regulations 2006 or any comparable survey or inspection whether of commercial or residential land or property.

Business

The professional services provided in the conduct of the business stated in the schedule.

Business Partner

Any person in business with **you** under the terms of a partnership agreement whether express or implied under legislation.

Circumstance

Incident, occurrence, fact, matter, act or omission that may give rise to a **claim**.

Claim

Demand for or an assertion of a right to civil compensation or civil damages or an intimation of an intention to seek such compensation or damages.

Defence Costs

Reasonable costs and expenses necessarily incurred with **our** written consent in the investigation, defence or settlement of any **claim** or investigation into any **circumstance** which may be the subject of indemnity under this policy.

Employee

Any natural person who is:

- a) under a contract of service or apprenticeship with **you**
 - b) a labour master or labour only subcontractor or persons supplied by any of them
 - c) self-employed
 - d) under a work experience or similar scheme
 - e) hired or borrowed by **you** from another employer
- and working for **you** in connection with the **business** while under **your** direct control or supervision.

Environmental Audit

Any investigation specifically intended to assess whether there is actual **pollution** or **contamination** present.

Excess

The first amount of any **claim** that is not covered under this policy.

Insured

Firm, partnership, unincorporated organisation or the company stated in the schedule as the insured and **your** predecessors including:

- a) any current or former **business partner**, director, **member** or principal or any person who becomes a **business partner**, director, **member** or principal during the period of insurance

- b) any current or former **employee** or any person who becomes an **employee** during the period of insurance
- c) the personal representative of any **business partner**, director, **member**, principal or **employee** in the event of their death, incapacity, insolvency or bankruptcy.

Member

A member of **your** limited liability partnership as defined in the Limited Liability Partnerships Act 2000.

Nuclear Installation

Any installation of such class or description as may be prescribed by regulations made by the relevant Secretary of State from time to time by statutory instrument being an installation designed or adapted for:

- a) the production or use of atomic energy
- b) the carrying out of any process which is preparatory or ancillary to the production or use of atomic energy and which involves or is capable of causing the emission of ionising radiation
- c) the storage, processing or disposal of nuclear fuel or of bulk quantities of other radioactive matter being matter which has been produced or irradiated in the production or use of nuclear fuel.

Nuclear Reactor

Any plant including any machinery, equipment or appliance whether affixed to land or not designed or adapted for the production of atomic energy by a fission process in which a controlled chain reaction can be maintained without an additional source of neutrons.

Pollution or Contamination

Pollution or contamination of buildings or other structures or of water or land or the atmosphere.

Related Entity

Any individual or entity or its subcontractors or assignees:

- a) which wholly or partially own, operate or manage **you**
- b) in which **you** have an ownership interest in excess of 20%
- c) which is controlled, operated or managed by **you**.

Services

The performance by **you** or on **your** behalf of any:

- a) design or specification
- b) supervision of construction or installation works
- c) feasibility studies including work in relation to applications for planning consent
- d) technical information calculation
- e) surveying
- f) planning supervision
- g) duty to warn of defects in the services of others
- h) other activity stated in the schedule.

Provided always that they are undertaken only by or under the direction and direct control of a qualified architect, engineer or surveyor or other person having other relevant professional qualifications or five years experience appropriate to the work undertaken.

Territorial Limits

Worldwide excluding:

- a) the United States of America
- b) Canada

and any territories under their jurisdiction.

We, Us, Our or Ours

Zurich Insurance plc.

You, Your, Yours or Yourselves

The person, people (either acting in partnership or on behalf of an unincorporated organisation) or the company stated in the schedule as the insured including your predecessors.

Section 2 – The Cover

We will indemnify any **insured** in respect of any **claim** first made against any **insured** during the period of insurance including liability for claimants' costs and expenses arising out of the conduct of **services** within the **territorial limits** for:

- a) any breach of professional duty due to any negligent act, error or omission committed or alleged to have been committed by any **insured** or by any other person, firm or company directly appointed by and acting on behalf of any **insured**
- b) any act of libel or slander committed or uttered in good faith by any **insured**
- c) unintentional infringement of any intellectual property right, design right, registered design, trademark or patent committed by any **insured**
- d) unintentional breach of confidence by any **insured**
- e) the consequence of any loss of or damage to records associated with **services** including computer systems records held by **you** or for which **you** are legally responsible but excluding negotiable instruments of whatsoever nature. Provided always that any computer systems records are backed up no less frequently than once every 7 days or as otherwise agreed by **us** and such backed up records are held at a separate location.

The limit of indemnity will include **defence costs**.

Defence costs will not be subject to any excess.

2.1 Adjudication

We will also indemnify any **insured** in respect of 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 the Scheme for Construction Contracts Regulations (NI) 1997 which may otherwise be the subject of indemnity under this policy.

Provided always that the adjudication provisions in the contract:

- a) provide that the adjudicator must be independent of the parties to the dispute; and
- b) does not allow for the adjudicator's decision to finally determine the dispute; and
- c) does not allow the adjudicator to disregard the legal entitlements of the parties in order to reach a decision based on commercial or other considerations; and
- d) does not place any conditions upon the timing of commencement of legal or arbitration proceedings excluding adjudication proceedings.

It is a condition precedent to **our** liability under this clause that **you**:

- i) notify **us** within 2 working days and during the period of insurance of:
 - 1) the receipt of any notice of intention to adjudicate, notice of adjudication, referral notice or any adjudication notice pursuant to contract; and
 - 2) any matters of which **you** become aware which might reasonably be expected to give rise to a **claim** against **you** being referred to an adjudicator; and
- ii) promptly supply **us** with all details relating to any reference to adjudication including copies of all documentation made available to **you** or subsequently by **you** to the adjudicator; and
- iii) allow **us** to appoint advisers; and
- iv) co-operate with **us** and any advisers **we** may appoint in the conduct of the adjudication; and
- v) meet any request, direction or timetable of the adjudicator; and
- vi) must not agree to accept the decision of the adjudicator as finally determining the dispute without **our** prior written consent.

We will be entitled to pursue legal proceedings, arbitration or other proceedings in the name of and on behalf of **you** to challenge, appeal, re-open or amend any decision, direction, award or exercise of any power of the adjudicator or to stay the enforcement of any such decision, direction, award or exercise of power. **You** will give all such assistance as **we** may reasonably require in relation to such proceedings or arbitration.

2.2 Costs of Proceedings

We will also indemnify **you** against reasonable legal costs and expenses necessarily incurred with **our** prior consent in the defence of any proceedings first made against **you** and notified to **us** during the period of insurance under:

- a) the Bribery Act 2010
- b) the Construction (Design and Management) Regulations 2007
- c) the Corporate Manslaughter and Corporate Homicide Act 2007
- d) the Data Protection Act 1998
- e) the Health and Safety at Work etc Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978
- f) any statutory or secondary legislation implementing the Council Directive 92/57/EEC or similar legislation enacted elsewhere in the world.

Provided always that:

- i) the proceedings arise out of the conduct of the **business**; and
- ii) the circumstances giving rise to such proceedings may otherwise give rise to an indemnity under this policy; and
- iii) in **our** reasonable belief the defence of such proceedings would assist in the defence of any **claim** against **you**.

Any subsequent or concurrent civil action arising out of proceedings notified hereunder will be deemed to be notified in accordance with Condition 3.

For the purpose of this clause the **excess** will be £2,500 or the **excess** stated in the schedule whichever is the lesser.

Our liability will not exceed £1,000,000 in the aggregate or the limit of indemnity in the aggregate stated in the schedule whichever is the lesser during the period of insurance and this limit will form part of and not be in addition to the limit of indemnity stated in the schedule.

2.3 Court Attendance Costs

We will also pay **you** the daily rates stated below if any of these people are required to attend court as a witness at **our** request:

- | | |
|---|------|
| a) any business partner , director, member or principal | £500 |
| b) any employee | £250 |

Our liability will not exceed £25,000 in the aggregate during the period of insurance and this limit will form part of and not be in addition to the limit of indemnity stated in the schedule.

2.4 First Party Copyright Infringement

We will also pay any reasonable costs and expenses necessarily incurred in the issue of any proceedings notified to **us** during the period of insurance for any injunction or for damages for infringement of any copyright vested in **you** provided always that **we** will not be required to incur any obligation to meet such costs where **your** cause of action is not one that is reasonable to pursue. In the event of any dispute arising between **you** and **us** as to the reasonableness of pursuing any such cause of action the opinion of a Queen's Counsel the appointment of whom will be mutually agreed between **you** and **us** will be obtained and their decision will be binding.

If **you** and **us** cannot agree on the appointment of a Queen's Counsel the chairman of the Bar Council will appoint one.

Our liability will not exceed £25,000 in the aggregate during the period of insurance.

2.5 Loss of Documents

We will also pay reasonable costs necessarily incurred by **you** with **our** prior consent for the restoration or replacement of records associated with the **business** including computer systems records which have been accidentally lost or damaged. Provided always that any computer systems records are backed up no less frequently than once every 7 days or as otherwise agreed by **us** and such backed up records are held at a separate location. This clause does not apply to negotiable instruments of whatsoever nature.

Our liability will not exceed £1,000,000 in the aggregate or the limit of indemnity in the aggregate stated in the schedule whichever is the lesser during the period of insurance and this limit will form part of and not be in addition to the limit of indemnity stated in the schedule.

2.6 Mitigation Costs

We will also with **our** prior written consent indemnify **you** against any reasonable costs and expenses necessarily incurred in respect of any action to mitigate a loss or potential loss that would otherwise be the subject of a **claim** under this policy.

2.7 Representation Costs

We will also pay reasonable costs and expenses necessarily incurred by **you** with **our** written consent for representation at any official examination, enquiry, investigation or other proceedings ordered or commissioned by a body legally empowered to investigate **your** affairs that is first instigated against **you** and notified to **us** during the period of insurance and which may give rise to a **claim** under this policy.

Our liability will not exceed £25,000 in the aggregate during the period of insurance and this limit will form part of and not be in addition to the limit of indemnity stated in the schedule.

Section 3 – Exclusions

This policy does not cover:

1. Asbestos

liability, loss, cost or expense directly or indirectly caused by, contributed to by or arising out of any asbestos, asbestos fibres or any derivatives of asbestos including any product containing any asbestos fibres or derivatives unless arising out of a breach of professional duty due to any negligent act, error or omission committed or alleged to have been committed in the conduct of the **business**.

Provided always that:

- a) this policy will not cover liability for:
 - i) **asbestos surveys**
 - ii) death, bodily injury, mental injury, sickness, disease, mental anguish, shock or the fear of suffering thereof sustained by any person
- b) **our** liability including **defence costs** will not exceed £1,000,000 in the aggregate or the limit of indemnity in the aggregate stated in the schedule whichever is the lesser during the period of insurance and this limit will form part of and not be in addition to the limit of indemnity stated in the schedule

2. Bodily Injury and Property Damage

liability for:

- a) death, bodily injury, mental injury, sickness, disease, mental anguish or shock sustained by any person other than emotional distress arising from libel or slander
- b) loss of or damage to property

unless arising out of a breach of professional duty from the provision of **services** due to any negligent act, error or omission committed or alleged to have been committed by any **insured** or on **your** behalf

3. Claims by Related Entities

any **claim** brought by any **insured** or any **related entity** unless such **claim** emanates from an independent third party

4. Collateral Warranty and Contractual Liability

liability arising from any express warranty, guarantee, contractual promise, indemnity, waiver or express agreement given by **you** unless:

- a) **you** would have been liable even if there had not been any such express warranty, guarantee, contractual promise, indemnity, waiver or express agreement
- b) the liability arises from a collateral warranty or duty of care agreement in which case **we** will not indemnify **you** for liability arising from:
 - i) any fitness for purpose guarantee
 - ii) any greater or longer lasting benefit than that given to the party with whom **you** originally contracted
 - iii) any express guarantee including any relating to performance or the period of a project
 - iv) **your** agreement to exercise a standard of care greater than would normally be implied by common law or statute
- c) the liability arises from a novation agreement in which case **we** will indemnify **you** if **your** rights of recourse against any specialist designer, consultant or sub contractor for whom **you** assume responsibility have not been waived

5. Cost Estimates

liability arising out of any estimate provided for construction or design costs unless provided by a chartered quantity surveyor

6. Courts Jurisdiction

any **claim** made or brought:

- a) in the United States of America or Canada or territories under their jurisdiction
- b) under or in consequence of any judgment or order in or under the laws of the United States of America or Canada or territories under their jurisdiction

7. Criminal or Malicious Acts

liability arising out of any criminal, dishonest, fraudulent or malicious act, error or omission committed by any **insured** or on the direction of any **business partner**, director, **member** or principal

8. Directors' and Officers' and Trustee Liability

liability while any **insured** is carrying out the duties of:

- a) a director or officer of **you** or any other body corporate
- b) a trustee of any pension fund or any other employee benefit scheme

9. Employment

liability arising out of:

- a) death, bodily injury, mental injury, sickness, disease, mental anguish or shock of any **business partner**, director, **member**, principal or **employee** while in the course of their employment with **you**
- b) any obligation owed by **you** as an employer or potential employer to any director or **employee** or applicant for employment
- c) any express or implied terms of a partnership agreement or membership agreement

10. Failure to Effect or Maintain Insurance

liability arising out of the advising, requiring, obtaining or maintaining of any form of insurance, suretyship or bond or the failure to do so

11. Financial Investment

liability arising out of any activities regulated by the Financial Services Authority or any advice or services relating to the financing or investment for any project, scheme or venture

12. Insolvency

liability arising out of **your** insolvency or bankruptcy or awareness of financial difficulties or that of any of **your** subcontractors. However this exclusion will not apply to any **circumstance** or **claim** that may be covered under this policy but for the insolvency, bankruptcy or awareness of financial difficulties of **you** or **your** subcontractors

13. Joint Ventures

liability arising out of **your** involvement in any joint venture, consortium or other profit sharing scheme unless a **claim** emanates from **your** acts or omissions provided always that **we** will not be liable for any **claim** made by any associated party within the joint venture, consortium or other profit sharing scheme unless such **claim** emanates from an independent third party

14. Liquidated or Punitive Damages or Fines

any amount in respect of:

- a) liquidated damages, penalties or fines
- b) punitive or exemplary damages unless arising out of libel or slander committed or uttered in good faith

15. Market Fluctuation

liability arising out of any:

- a) depreciation or loss of investment when such depreciation or loss arises from fluctuations in any financial stock or commodity or other markets
- b) express or implied warranty or guarantee relating to the financial return of any investment

16. Nuclear and War Risks and Government or Public Authority Order

death, injury, disablement or loss or damage to any property or any loss or expense 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:

- a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any **nuclear installation, nuclear reactor** or other nuclear assembly or nuclear component thereof
- c) any weapon employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
- d) i) war, invasion, act of foreign enemy, hostilities whether war be declared or not, civil war, rebellion, revolution, insurrection, military or usurped power
ii) nationalisation, confiscation, requisition, seizure or destruction by any government or public authority

17. Pollution or Contamination

liability, loss, cost or expense directly or indirectly caused by, contributed to by or arising out of:

- a) **pollution or contamination** unless arising out of a breach of professional duty due to any negligent act, error or omission committed or alleged to have been committed in the conduct of the **business**
- b) any **environmental audit**.

Our liability including **defence costs** will not exceed the limit of indemnity in the aggregate during the period of insurance and this limit will form part of and not be in addition to the limit of indemnity stated in the schedule

18. Prior Circumstances and Claims

liability arising from:

- a) any **circumstance** that:
 - i) **you** knew or that in **our** reasonable opinion **you** ought to have known prior to inception of this policy which may give rise to a **claim** against **you**
 - ii) was notified by **you** under any other insurance policy prior to inception of this policy
 - iii) was disclosed or in **our** reasonable opinion ought to have been disclosed on **your** latest proposal to **us**
- b) any **claim** made against any **insured** prior to inception of this policy

19. Products and Buildings

liability arising out of any:

- a) supply, repair, alteration, manufacture, installation or maintenance of goods, materials or products
- b) construction, repair, installation, erection, removal or demolition of buildings, building works or physical structures

by any **insured**, **your** subcontractor or any **related entity** unless such **claim** is the direct consequence of any negligent act, error or omission arising out of the provision of **services**

- c) defective materials or goods or equipment or products any **insured**, **your** subcontractor or a third party have supplied, manufactured, sold or distributed

20. Project Specific Insurance

liability arising out of any project that is insured under a project specific insurance policy provided always that this exclusion will not apply where cover has been provided with **our** prior written consent and **your** liability is in excess of the limit of indemnity under such project specific insurance

21. Property and Transport

liability arising out of the ownership, possession or use by **you** or on **your** behalf of any land, building, aircraft, watercraft, mechanically propelled vehicle or trailer

20. Retroactive Date

liability for any **claim** arising from the conduct of the **business** prior to the retroactive date stated in the schedule

23. Supervision of Construction Work

liability arising out of any supervision by any **insured** of their own work, **your** subcontractors' work or the work of any **related entity** where such supervision is undertaken in their capacity as building or engineering contractor

24. Terrorism

loss, damage, consequential loss, cost or expense directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with:

- a) any act or preparation in respect of action or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation by any person or group whether acting alone or on behalf of or in connection with any organisation or government de jure or de facto and which:
 - i) involves violence against one or more persons
 - ii) involves damage to property
 - iii) endangers life other than that of the person committing the action
 - iv) creates a risk to health or safety of the public or a section of the public
 - v) is designed to interfere with or to disrupt an electronic system
- b) any action in controlling, preventing, suppressing, retaliating against or responding to any act or preparation in respect of action or threat of action described in a) above.

In any action or suit or other proceedings where **we** allege that by reason of this exclusion cover is not provided under this policy the burden of proving that cover is provided under this policy will be upon **you**

25. Valuation Reports

any valuation report prepared by any **insured** or by any other person, firm or company directly appointed by and acting on behalf of any **insured** unless for the purpose of measuring quantities or certifying payments due to contractors

26. Virus or Similar Mechanism, Hacking or Denial of Service Attack

liability arising out of:

- a) program code, programming instruction or any set of instructions intentionally constructed with the ability to damage, interfere with or otherwise adversely affect computer programs, data files or operations whether involving self-replication or not including but not limited to Trojan horses, worms and logic bombs
- b) unauthorised access to any computer or other equipment or component or system or item which processes, stores, transmits, retrieves or receives data
- c) any actions or instructions constructed or generated with the ability to damage, interfere with or otherwise affect the availability of networks, network services, network connectivity or information systems including but not limited to the generation of excess network traffic into network addresses, the exploitation of system or network weaknesses and the generation of excess or non-genuine traffic between and amongst networks.

Section 4 – Provisions

1. Contracts (Rights of Third Parties) Act 1999

For the purposes of the Contracts (Rights of Third Parties) Act 1999 this policy is not enforceable by any third party.

2. Discharge of Liability

We may at any time pay in connection with any **claim** the maximum amount payable under this policy after deduction of any sum already paid during the period of insurance or any lower amount for which the **claim** can be settled and then relinquish the conduct and control and be under no further liability in respect of the **claim**.

3. Joint Liabilities

If the **insured** comprises more than one party we will indemnify each party as though a separate policy had been issued to each of them provided always that the total amount of indemnity to all such parties will not exceed the amount payable if the **insured** comprised only one party.

4. Limit of Indemnity

The limit of indemnity stated in the schedule is **our** monetary limit and applies in the aggregate to all **claims** including **defence costs** made in any one period of insurance.

5. Queen's Counsel

You will not be required to contest any legal proceedings unless a Queen's Counsel or similar authority agreed upon by **you** and **us** advises that on the facts of the case such **claim** may be contested with a reasonable prospect of success.

If **you** and **us** cannot agree on the appointment of a Queen's Counsel the chairman of the Bar Council will appoint one.

Section 5 – Conditions

1. Arbitration

Provided always that liability for a **claim** has been admitted any dispute as to the amount to be paid will be referred to an arbitrator who will be appointed by the parties in accordance with the statutory provisions in force at the time and the making of an award will be a condition precedent to any right of action against **us**.

2. Cancellation

We may cancel this policy by giving 30 days notice in writing by special delivery mail to **you** at **your** last known address and in such event **you** will be entitled to a return of premium in respect of the unexpired portion of the period of insurance.

3. Claims Procedures

a) Your Responsibilities

It is agreed that:

- i) on the happening of any **circumstance** or on receiving verbal or written notice of any **claim** **you** will:
 - 1) as soon as reasonably possible give notice to **us**; and
 - 2) as soon as reasonably possible forward to **us** any **claim**, writ or summons issued against any **insured** and any notice of prosecution, inquest or fatal inquiry; and
 - 3) at **your** own expense and as soon as reasonably possible supply full details of the **claim** in writing to **us** together with any evidence and information that may be reasonably required by **us** for the purpose of investigating or verifying the **claim** and keep **us** up to date with any future evidence and information received by **you** or reasonably required by **us**
 - 4) in the case of notification of a **circumstance** supply full particulars including all material facts, dates and persons involved and the reasons for anticipating that it is by definition a **circumstance**
- ii) no settlement, admission of liability, payment or promise of payment will be made to a third party without **our** written consent.

b) Our Rights

We will:

- i) be entitled to conduct the defence or settlement of any **claim** made against any **insured** and they will give all assistance as may be reasonably required by **us**; and
- ii) be entitled to appoint legal counsel; and
- iii) be entitled to take the benefit of any rights of any **insured** against any other party before or after any **insured** has received indemnification under this policy and they will give all assistance as may be reasonably required by **us**; and
- iv) treat any **circumstance** notified during the period of insurance which subsequently gives rise to a **claim** after the period of insurance as a **claim** first made during the period of insurance.

c) Prejudice

Where in **our** opinion **you** have prejudiced the handling of or the settlement of any **claim** the amount payable in respect of such **claim** including **defence costs** will be reduced to such an amount as in **our** opinion would have been payable in the absence of such prejudice.

4. Contractual Right of Renewal (Tacit)

If **you** pay the premium using **our** direct debit instalment scheme **we** will have the right which **we** may choose not to exercise to renew this policy each year and continue to collect premiums using this method. **We** may vary the terms and conditions of this policy including the premium at renewal. If **you** do not wish to renew this policy **you** or **your** insurance intermediary must notify **us** prior to the next renewal date.

5. Fraud

If any claim is in any respect fraudulent or if any fraudulent means be used by any **insured** or anyone acting on their behalf to obtain any benefit under this policy or if any loss, damage or injury be occasioned by their wilful act or with their connivance all benefit under this policy will be forfeited.

6. Non-Disclosure

In the event of misrepresentation, misdescription or non-disclosure:

- a) of any material particular at the inception of this policy or from the time of any variation in cover including at renewal **we** may at **our** discretion waive **our** right to avoid this policy but exclude the consequences of any matter which ought to have been disclosed to **us**
- b) at the time of any variation in cover or at renewal **we** will waive **our** right to avoid this policy provided always that:
 - i) **you** are able to establish to **our** satisfaction that such misrepresentation, misdescription or non-disclosure was innocent and free from any fraudulent conduct or intent to deceive
 - ii) where **you** should have notified during a preceding period any **circumstance** or **claim** or an entitlement under this policy and the indemnity or cover to which **you** would have been entitled was in any way more restrictive than that provided on the date of notification **we** will only be liable to the extent applicable during such preceding period of insurance.

Provided always that:

- 1) **we** will be entitled to adjust the premium and the terms and conditions to those which would have applied had the circumstances of the misrepresentation, misdescription or non-disclosure been disclosed
- 2) for the purposes of this condition renewal will mean a renewal of any immediately preceding professional indemnity insurance policy issued by **us** under which **you** were entitled to indemnity.

7. Observance

The due observance and fulfilment of the terms and conditions of this policy by **you** in so far as they relate to anything to be done or complied with by **you** will be a condition precedent to **our** liability to make any payment under this policy.

8. Other Insurances

If at the time of any occurrence giving rise to a **circumstance** or **claim** there is any other insurance effected by or on **your** behalf providing an indemnity in respect of such **circumstance** or **claim** **our** liability will be limited to its rateable proportion. If any other insurance is subject to any provision whereby it is excluded from ranking concurrently with this policy in whole or in part or from contributing proportionally **our** liability under this policy will be limited to any excess beyond the amount which would be payable under such other insurance had this policy not been effected.

9. Payment by Instalments

Reference to the payment of premium includes payment by monthly instalments. If **you** pay by this method this policy remains an annual contract and the date of the payment and the amount of instalments are governed by the terms of the credit agreement. If an instalment is not received by the due date then subject to the Consumer Credit Act 1974 if applicable the credit agreement and this policy will be cancelled immediately.

10. Sole Agent

It is agreed that:

- a) if the **insured** comprises more than one party the person, company or entity set out as **you** in the schedule will act for itself and be deemed to act as the sole agent for the **insured**.
All parties comprising the **insured** are deemed to have consented and agreed that rights of action under this policy are not assignable except with **our** prior written consent
- b) **you** have the sole right to file notice or proof of loss or make a claim
- c) **you** have the sole right to bring legal proceedings arising under or in connection with this policy
- d) knowledge possessed or discovery made by any person, company or entity forming part of **you** or by any **business partner**, director, **member**, principal or officer, departmental head or other senior manager or the equivalent thereof will be deemed to constitute knowledge possessed or discovery made by all other persons, companies or other entities forming part of **you**.

Helpline Services

To provide ongoing assistance to your business we have arranged five specialist helplines with DAS Legal Expenses Insurance Company Limited (DAS).

These DAS helplines provide confidential professional advice to **your** business 24 hours a day*.

Health and Medical Information Service – 0844 893 0858

DAS will provide information on general health issues and advice on a wide variety of medical matters such as lifestyle changes, medication and travel health.

Between the hours of 7pm and 9am DAS will take a recorded message and a health and medical adviser will contact any **business partner**, director, **member**, principal or **employee** the next day or at an agreed time.

Unfortunately no explanations about diagnosis or prescription can be offered.

Legal Advice – 0844 893 0858

The DAS legal advice team give clear, practical and helpful advice on any legal matter affecting **your business** under the laws of the members of the EU, the Isle of Man, the Channel Islands, Switzerland and Norway. Advice typically includes **your** legal rights and the course of action available to **you**.

While unusual or particularly complex issues can be researched equally the team will advise if it is necessary for **you** to instruct a lawyer.

If DAS deems further legal advice necessary or advises that **you** should instruct a lawyer these costs will be **your** responsibility.

Tax Advice – 0844 893 0858

Confidential advice on any tax matters affecting **your business** under the laws of the England and Wales, Scotland, Northern Ireland, the Isle of Man or the Channel Islands.

If DAS deems further advice necessary outside of that provided by this advice line any costs incurred will be **your** responsibility.

Counselling Service – 0844 893 9028

Confidential counselling for any **business partner**, director, **member**, principal or **employee** and members of their immediate families who permanently reside with them including where appropriate onward referral to relevant voluntary or professional services. DAS counsellors will help clarify the problem, explore available options and offer support.

All calls to this helpline are treated in the strictest confidence and are not recorded.

Business Assistance – 0844 893 0858

In the event of any unexpected damage or emergency that affects **your business** premises, this national helpline gives **you** access to a list of vetted repairers and contractors.

All costs of assistance provided by the repairers and contractors will be **your** responsibility.

These helplines are provided by DAS. If **you** have a complaint about the service or about the way **you** have been treated, please write to: DAS Customer Relations Department at: DAS House, Quay Side, Temple Back, Bristol BS1 6NH.

Alternatively **you** can contact DAS by telephone on: 0117 934 0066, or email: customerrelations@das.co.uk.

To help check and improve service standards calls are recorded other than calls to the Counselling Service.

*Helplines will be available during the period of insurance. **We** accept no responsibility for the availability of the helplines or any advice given in relation to the helplines. By using these services **you** and others using the services are agreeing to calls being recorded other than calls to the Counselling Service.

Our complaints procedure

We value the opportunity to investigate any concerns you may have about any aspect of our service and are committed to handling all complaints fairly, thoroughly and promptly.

Who to contact in the first instance

Many concerns can be resolved straight away therefore in the first instance please get in touch with your usual contact as they will generally be able to provide you with an immediate response to your satisfaction.

Contact details will be provided on correspondence that we or our representatives have sent you. If we cannot resolve your complaint straight away we will aim to resolve your concerns as soon as possible and we will keep you informed of progress while our enquiries are continuing.

The majority of complaints we receive are resolved within 4 weeks of receipt.

Next steps if you are not happy with the response provided

We are dedicated to our customers and seek to do what is right however sometimes we may not be able to reach an agreement with you. If this is the case and you remain dissatisfied once you have received our response to your complaint we will refer your complaint to our Customer Relations Team for a separate review.

The Customer Relations Team will contact you to let you know they have received your complaint and when their review is complete they will provide you with a final response on our behalf.

The Financial Ombudsman Service (FOS)

If we are unable to resolve your complaint to your satisfaction within 8 weeks or if you remain dissatisfied following receipt of our final response letter you can ask the FOS to formally review your case. You must contact the FOS within 6 months of our final response.

The FOS contact details are as follows:

Financial Ombudsman Service
South Quay Plaza
183 Marsh Wall
London
E14 9SR

You can telephone for free on:

0800 234 567 for people phoning from a "fixed line" (for example, a landline at home)

0300 123 9 123 for mobile-phone users who pay a monthly charge for calls to numbers starting 01 or 02

Or e-mail: complaint.info@financial-ombudsman.org.uk

This is a free and impartial service and will not affect your legal rights.

The FOS can help with most complaints if you are:

- a consumer
- a business employing fewer than 10 persons that has an annual turnover or balance sheet that does not exceed €2 million
- a charity with an annual income of less than £1 million
- a trustee of a trust with a net asset value of less than £1 million.

If you are unsure whether the FOS will consider your complaint please contact them directly for further information.

You are entitled to contact the FOS at any stage of your complaint.

The Financial Services Compensation Scheme (FSCS)

We are covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation should we be unable to meet our obligations. Further information is available on www.fscs.org.uk or you may contact the FSCS on 0800 678 1100.

Following this complaints procedure does not affect your legal rights.



CommunityMark
developed by Business in the Community

Zurich Insurance plc.

A public limited company incorporated in Ireland Registration No. 13460

Registered Office: Zurich House, Ballsbridge Park, Dublin 4, Ireland.

UK Branch registered in England and Wales Registration No. BR7985.

UK Branch Head Office: The Zurich Centre, 3000 Parkway, Whiteley, Fareham, Hampshire PO15 7JZ.

Zurich Insurance plc is authorised by the Central Bank of Ireland and subject to limited regulation by the Financial Services Authority. Details about the extent of our regulation by the Financial Services Authority are available from us on request. FSA registration number 203093. These details can be checked on the FSA's register by visiting their website www.fsa.gov.uk/register or by contacting them on 0845 606 1234.

Communications may be monitored or recorded to improve our service and for security and regulatory purposes.

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