


Professional Indemnity for Chartered Surveyors

Policy document



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How to make a claim



Write to us
Zurich Insurance, Specialty Claims
Department, 70 Mark Lane, London,
EC3R 7NQ



Email us
[professionalandfinancial.lines.
newclaims@uk.zurich.com](mailto:professionalandfinancial.lines.newclaims@uk.zurich.com)

Data protection statement

Zurich takes the privacy and security of your personal information seriously. We collect, use and share your personal information so that we can provide policies and services that meet your insurance needs, in accordance with applicable data protection laws.

The type of personal information we will collect includes: basic personal information (i.e. name, address and date of birth), occupation and financial details, health and family information, claims and convictions information and where you have requested other individuals be included in the arrangement, personal information about those individuals.

We and our selected third parties will only collect and use personal information (i) where the processing is necessary in connection with providing a quotation and/or contract of insurance; (ii) to meet our legal or regulatory obligations; (iii) where you have provided the appropriate consent; (iv) for our 'legitimate interests'.

It is in our legitimate interests to collect personal information as it provides us with the information that we need to provide our services more effectively including providing information about our products and services. We will always ensure that we keep the amount of information collected and the extent of any processing to the absolute minimum to meet this legitimate interest.

A full copy of our data protection statement can be viewed via www.zurich.co.uk/dataprotection

How you can contact us

If you have any questions or queries about how we use your data, or require a paper copy of the statement, you can contact us via gbz.general.data.protection@uk.zurich.com or alternatively contact our Data Protection Officer at Zurich Insurance, Unity Place, 1 Carfax Close, Swindon, SN1 1AP.

Important notes

Fraud prevention and detection

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

- check your personal data against counter fraud systems
- use your information to search against various publicly available and third party resources
- use industry fraud tools including undertaking credit searches and to review your claims history
- share information about you with other organisations including but not limited to the police, the Insurance Fraud Bureau (IFB), other insurers and other interested parties.

If you provide false or inaccurate information and fraud is identified, the matter will be investigated and appropriate action taken. This may result in your case being referred to the Insurance Fraud Enforcement Department (IFED) or other police forces and fraud prevention agencies. You may face fines or criminal prosecution. In addition, Zurich may register your name on the Insurance Fraud Register, an industry-wide fraud database.

Claims history

We may pass information relating to claims or potential claims to the Claims and Underwriting Exchange Register (CUE), where the data is controlled by the Motor Insurers' Bureau, and other relevant databases.

We and other insurers may search these databases when you apply for insurance, when claims or potential claims are notified to us 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.

This helps to check information provided and prevent fraudulent claims.

Employers' Liability Tracing Office (ELTO)

We are members of the Employers' Liability Tracing Office (ELTO), an independent industry body who maintains a centralised database that helps those who have suffered injury or disease in the workplace to identify the relevant Employers' Liability insurer quickly and efficiently.

It is important, for the services of ELTO to be fully effective, that you inform us of your ERN (Employer Reference Number also known as the Employer PAYE reference) and all subsidiary company names and their ERNs if applicable.

As members of ELTO we will forward details of your policy if it contains Employers' Liability cover to ELTO together with details of any ERNs you have supplied to us.

Our complaints procedure

Our commitment to customer service

We are committed to providing a high level of customer service. If you feel we have not delivered this, we would welcome the opportunity to put things right for you.

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 at Zurich or your broker or insurance intermediary, as they will generally be able to provide you with a prompt response to your satisfaction.

Contact details will be provided on correspondence that we or our representatives have sent you.

Many complaints can be resolved within a few days of receipt

If we can resolve your complaint to your satisfaction within the first few days of receipt, we will do so. Otherwise, we will keep you updated with progress and will provide you with our decision as quickly as possible.

Next steps if you are still unhappy

If you are not happy with the outcome of your complaint, you may be able to ask the Financial Ombudsman Service to review your case.

We will let you know if we believe the ombudsman service can consider your complaint when we provide you with our decision. The service they provide is free and impartial, but you would need to contact them within 6 months of the date of our decision.

More information about the ombudsman and the type of complaints they can review is available via their website www.financial-ombudsman.org.uk.

You can also contact them as follows:

Post: Financial Ombudsman Service, Exchange Tower, London, E14 9SR

Telephone: 08000 234567 (free on mobile phones and landlines)

Email: complaint.info@financial-ombudsman.org.uk

If the Financial Ombudsman Service is unable to consider your complaint, you may wish to obtain advice from the Citizens Advice Bureau or seek legal advice.

The Financial Services Compensation Scheme (FSCS)

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

Helpline Services

The following services are provided by ARAG Legal Expenses Insurance Company Limited. The legal advice service is provided by ARAG Law Limited and/or a preferred law firm on behalf of ARAG Legal Expenses Insurance Company Limited.

ARAG Helplines, Employment Manual and ARAGbusinesslaw

You can contact our UK-based call centre 24 hours a day, seven days a week during the **period of insurance**. However, we may need to arrange to call you back depending on the enquiry. To help us check and improve our service standards, we may record all calls. When phoning, please quote your policy number and the name of the insurance provider who sold the policy.

Meaning of words

The following words have these meanings wherever they appear in this section in **bold**:

Appointed representative

The **preferred law firm**, law firm, tax consultancy, accountant or other suitably qualified person we appoint to act on the **insured person's** behalf.

ARAG Standard Terms of Appointment

The terms and conditions (including the amount we will pay to an **appointed representative**) that apply to the relevant type of claim. Where a law firm is acting on your behalf the amount we will pay is currently £100 per hour. This amount may vary from time to time.

Business

The business declared to us and covered by the commercial policy to which this section attaches.

Insured person

- You and the directors, partners, managers, employees and any other individuals declared to us by you.
- A person contracted to work for you who works for you on the same basis as your employees, and performs that work under your supervision and direction.

Period of insurance

The period for which we have agreed to cover the **insured person** and for which we have accepted the premium.

Preferred law firm

A law firm, barrister or tax expert we choose to provide legal or other services. These specialists are chosen as they have the proven expertise to deal with the **insured person's** claim and must comply with our agreed service standard levels, which we audit regularly. They are appointed according to the **ARAG Standard Terms of Appointment**.

We, us, our, ARAG

- In respect of the legal advice helpline: ARAG Law Limited and/or a **preferred law firm** on behalf of ARAG Legal Expenses Insurance Company Limited.
- In respect of the other services: ARAG Legal Expenses Insurance Company Limited.

You, your

The **business** that has taken out the commercial policy to which this section attaches.

Legal advice – Call 0344 893 0859

Advice can be provided on any commercial legal problem affecting your business under the laws of the United Kingdom of Great Britain and Northern Ireland, any European Union country, the Isle of Man, the Channel Islands, Switzerland and Norway.

Wherever possible the Legal Advice helpline aims to provide immediate advice from a qualified legal adviser. However, if this is not possible they will arrange to call you back at a time to suit you.

Advice on the laws of England and Wales can be provided 24 hours a day, 365 days a year. Beyond this jurisdiction, or for very specialist legal matters, we will refer you to one of our specialist advisers.

Specialist advice is provided 9am–5pm, Monday to Friday, excluding public and bank holidays. If calls are received outside of these times, we will arrange to call you back.

Tax advice – Call 0344 893 0859

Advice can be provided on any tax matters affecting the **business**, under UK law.

This service is provided 9am-5pm, Monday to Friday, excluding public and bank holidays. If calls are made outside these times, we will arrange to call you back.

Counselling service – Call 0344 893 9012

We will provide the **insured person** (and any members of their immediate family who permanently live with them) with a confidential counselling service over the phone if they are aged 18 or over (or aged between 16 and 18 and in full-time employment). This includes, where appropriate, onward referral to relevant voluntary and/or professional services. Any costs arising from the use of these referral services will not be paid by **us** or Zurich Insurance Company Ltd.

The counselling service helpline is open 24 hours a day, seven days a week.

Employment Manual – Visit www.arag.co.uk/customer/business-legal-expenses-insurance/employment-manual

The ARAG Employment Manual offers comprehensive, up to date guidance on employment law. To view it, please visit www.arag.co.uk/customer/business-legal-expenses-insurance/employment-manual

If **you**'d like notifications of when updates are made to the Employment Manual, please email **us** at employmentmanual@arag.co.uk

ARAGbusinesslaw – Visit www.aragbusinesslaw.co.uk

Visit www.aragbusinesslaw.co.uk to access the free online law guide and download legal documents to help **your business**.

Developed by solicitors and tailored by **you** using **our** smart document builders **you** can create ready-to-sign contracts, agreements and letters in minutes. **You** can also buy legal documents from the site, ranging from simple debt recovery letters to employment contracts.

Register using the voucher code **DAS472301** to gain access to a range of free documents.

In using these services **you** acknowledge that all rights and obligations relating to the provision of these services rest with **ARAG** and that **you** will have no recourse to Zurich Insurance Company Ltd in this regard.

We will not accept responsibility if the above services are unavailable for reasons **we** cannot control.

Data protection

To comply with data protection regulations **we** are committed to processing personal information fairly and transparently. Please refer to www.arag.co.uk/privacy for ARAG's privacy notice and details of **your** rights.

Your Professional Indemnity policy for Chartered Surveyors

This policy is a contract between **you** and **us**.

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

We will insure **you** during any period of insurance for which **we** have accepted **your** premium. **Our** liability will in no case exceed the limit of indemnity stated in this policy, the schedule or any endorsement to this policy.

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

Any reference to any statute or statutory instrument will include any amendments 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 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.

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** broker or insurance intermediary.

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

- a) Services including the giving of advice which are undertaken by a member of the Royal Institution of Chartered Surveyors or have otherwise been declared to **us** and which are performed by any **insured** or on **your** behalf other than the completion of the EWS 1 (or as revised) unless specifically declared to, and agreed by **us**
- b) services including the giving of advice performed by any current or former **business partner**, director, **member**, principal or **employee** while holding an individual appointment in respect of work connected with **you** where those services are undertaken by a member of the Royal Institution of Chartered Surveyors or have otherwise been declared to **us**.

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

- a) A 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
- b) any notice of intention to commence legal proceedings against **you**
- c) any communication with **you** invoking any Pre-Action Protocol.

Computer System

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

Consultant

Any person who undertakes **business** on **your** behalf including any person whose name and designation appear on **your** business stationary or in business communications or material issued on **your** behalf or who is employed by **you** in offering surveying services.

Cyber Act

Any actions or instructions constructed or generated with the ability to cause damage to, or destruction of, computer programs, software or other electronic data stored within a **computer system** caused by an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof, involving access to, processing of, use of or operation of any **computer system**.

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) self-employed
- c) under a work experience or similar scheme
- d) 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 amount stated in this policy, schedule or endorsement in respect of each and every **claim** for which **you** are responsible.

Insured

You and **your** predecessors including:

- a) any current or former **business partner**, director, **member** or principal of **yours** and any other person who may at any time during the period of insurance become a **business partner**, director, **member** or principal of **yours**
- b) any current or former **consultant** of **yours** and any other person who becomes a **consultant** during the period of insurance
- c) any current or former **employee** of **yours** and any other person who becomes an **employee** during the period of insurance
- d) the estates and or legal representatives of any person noted under a), b) or c) above 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) which is controlled, operated or managed by **you**.

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 Company Ltd.

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 policyholder.

Section 2 – The Cover

We will indemnify any **insured** in respect of any **claim** first made against any **insured** and notified to **us** during the period of insurance in respect of any civil liability including liability for claimants' costs and expenses arising out of the conduct of the **business** within the **territorial limits**.

In addition to the limit of indemnity **we** will pay **defence costs**.

Defence costs and any payment under clauses 2.3, 2.6, 2.7 and 2.8 will not be subject to any **excess**.

Where **you** become liable to pay a sum in excess of the amount of indemnity available under this policy **we** will pay only the proportion of any **defence costs** that the amount of indemnity available under this policy bears to the **insured's** total liability.

2.1 Adjudication

We will also indemnify any **insured** in respect of:

- a) 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
- b) any award by an arbitrator or tribunal of arbitrators whether under The Royal Institution of Chartered Surveyors Dispute Resolution Service or otherwise.

Provided always that any adjudication provisions in the contract:

- i) provide that the adjudicator must be independent of the parties to the dispute; and
- ii) does not allow for the adjudicator's decision to finally determine the dispute; and
- iii) does not place any conditions upon the timing of commencement of legal or arbitration proceedings excluding adjudication proceedings; and
- iv) does not contain timetable provisions for adjudication which are more onerous to **you** than those contained in the Scheme for Construction Contracts referred to in the Housing Grants Construction and Regeneration Act 1996.

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

- 1) notify **us** within 2 working days and during the period of insurance of:
 - A) receipt of any notice of intention to adjudicate, notice of adjudication, referral notice or any adjudication notice pursuant to contract; and
 - B) 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
- 2) must not serve any notice of intention to adjudicate, notice of adjudication, referral notice or any adjudication notice under contract without **our** prior written consent unless in **your** opinion service of those notices will not give rise to a **claim**; and
- 3) must not agree to accept the decision of the adjudicator as finally determining the dispute without **our** prior written consent.

Subject to **our** reasonable request **you** will permit **us** to pursue legal proceedings, arbitration or other proceedings in **your** name and on **your** behalf 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 legal proceedings or arbitration.

2.2 Appointed Representative

If **you** are for the purposes of the Financial Services and Markets Act 2000 (as amended) an Appointed Representative of any principal stated in the schedule for the purposes stated in the schedule notwithstanding exclusion 11 – Financial Services **we** will indemnify **you** in respect of any negligent act, error or omission in connection with such appointment provided always that there will be no cover for any liability assumed by **you** under any express warranty, agreement or guarantee unless such liability would have attached in the absence of such express warranty, agreement or guarantee.

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 or any arbitration or adjudication hearing as a witness at **our** request:

- a) any **business partner**, director, **member** or principal £500
- b) any **employee** or **consultant** £250
- c) any other relevant party excluding any expert witness £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 King'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 King'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 and this limit will form part of and not be in addition to the limit of indemnity stated in the schedule.

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 £100,000 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 Ombudsman Awards

We will also indemnify **you** in respect of:

- a) any amount paid or payable
- b) the cost of taking any steps which **you** are directed to take

in accordance with any final and binding award or determination of any ombudsman appointed in respect of any case accepted by the ombudsman for review under any recognised scheme applicable to **your business** and which may otherwise be the subject of indemnity under this policy. Provided always that **you** give written notice to **us** as soon as reasonably possible after becoming aware that a case directly affecting **you** is being reviewed by an ombudsman.

Any subsequent or concurrent civil action arising out of any complaint made to the ombudsman hereunder will be deemed to be notified in accordance with condition 2 – Claims Procedures.

Our liability will not exceed £250,000 any single award made by any ombudsman or any series of awards by any ombudsman attributable to the same originating cause.

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, inquiry, 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.

2.8 Statutory Liabilities

We will also indemnify **you** and at **your** request any **business partner**, director, **member**, principal, **employee** or **consultant** against 80% of the reasonable legal costs and expenses necessarily incurred with **our** prior consent in the defence of any criminal proceedings first brought against **you** and notified to **us** during the period of insurance brought under:

- a) the Bribery Act 2010
- b) the Business Protection from Misleading Marketing Regulations 2008
- c) the Construction (Design and Management) Regulations 2015
- d) the Consumer Protection from Unfair Trading Regulations 2008
- e) the Corporate Manslaughter and Corporate Homicide Act 2007
- f) Regulation (EU) 2016/679 (General Data Protection Regulation) and the Data Protection Act 2018
- g) the Estate Agents Act 1979
- h) the Health and Safety at Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978
- i) the Property Misdescriptions Act 1991
- j) 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 alleged breach arises out of the conduct of the **business** provided by **you**; and
- ii) the circumstances giving rise to such criminal proceedings may otherwise give rise to an indemnity under this policy; and
- iii) in **our** reasonable belief the defence of such criminal proceedings would assist in the defence of any **claim** against any **insured**.

Any subsequent or concurrent civil action arising out of criminal proceedings notified hereunder will be deemed to be notified in accordance with condition 2 – Claims Procedures.

Our liability will not exceed £100,000 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

Save as expressly provided in this policy specifically relating to the use of, or inability to use a **computer system**, no cover otherwise provided under this policy will be restricted solely due to the use of a **computer system**

This policy does not cover:

1. Arbitration

liability arising from any arbitration award whether made under The Royal Institution of Chartered Surveyors Dispute Resolution Service or otherwise in respect of any **claim** or counterclaim where the seat of the arbitration is located outside England, Wales, Scotland or Northern Ireland unless that seat is agreed by **us**

2. 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 £250,000 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

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. Computer Virus

any **claim**, loss, damage, liability, costs, expenses, fines, penalties, mitigation costs or any other amount directly caused by, directly resulting from or directly arising out of the receipt or transmission of malware, malicious code or similar by the **insured** or any other party acting on behalf of the **insured**

5. Contractual Liability

- a) liability arising from any contractual liability incurred by **you** in the conduct of the **business** carried on by **you** as a result of:
 - i) the acceptance by **you** of an obligation or the guarantee by **you** of fitness for purpose where this appears as an express term
 - ii) any express guarantee given by **you** including any relating to the period of a project
 - iii) any express penalty contained in a contract between **you** and a third party
 - iv) any express acceptance by **you** of liability for liquidated damages
 - v) any collateral warranty or duty of care agreement to more than one party except in the case of one and or the other given to a financier or funding party but not a purchaser or tenant where a total of two assignments is permissible. This only applies to contractual liabilities entered into on or after 1 October 2001.

Provided always that this exclusion will not apply where:

- 1) **you** would have been liable even if there had not been any such express warranty, guarantee, contractual promise, indemnity, waiver or express agreement
 - 2) **we** have expressly approved the contractual terms giving rise to the liability
 - 3) in respect of a collateral warranty or duty of care agreement the British Property Federation or Construction Industry Council's current or former standard collateral warranty wording is used
- b) liability arising where **you** have relied upon the External Wall Survey 1 (EWS 1) form (or as revised) and the valuation report does not exclude liability to the lender or any person deriving title to the mortgage for any losses or potential losses arising directly from and solely from the valuation being provided in reliance upon the EWS 1 form. Provided always that this exclusion will apply to all valuations undertaken after 01 May 2020

6. Courts Jurisdiction

any **claim** made or brought:

- a) in the United States of America or Canada or territories under their jurisdiction whether for the enforcement of a judgment or finding of a court or tribunal of another jurisdiction or otherwise
- 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 after discovery of or reasonable cause for suspicion in relation to any person committing such 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 unless:

- a) committed solely and directly by any current or former **business partner**, director, **member**, principal, **employee** or **consultant**
- b) it has caused **your** client to suffer loss.

Provided always that any criminal, dishonest, fraudulent or malicious act, error or omission committed by a person or persons acting in concert will be treated as one **claim**

8. Directors' and Officers' Trustee Liability

any **claim** against any **insured** in their capacity as a director, officer or trustee in respect of the performance or non-performance of their duties as a director, officer or trustee

9. Cyber Act

any loss, costs or expenses incurred by the **insured** to:

- a) determine the existence, extent and cause of a **cyber act**
- b) contain or stop a **cyber act** (including a privacy breach)
- c) implement remedial action arising from or connected with the **cyber act**
- d) comply with any notification obligations, including to regulators, third parties and/or individuals, including to notify and protect (including via credit and identity monitoring services) persons whose personal data was accessed as a result of the **cyber act**

10. 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

11. Financial Services

liability arising out of any Regulated Activities as defined in the Financial Services and Markets Act 2000 (as amended). This exclusion will not apply to mortgage mediation activity and insurance mediation activity relating to general insurance contracts only for which **you** have permission under Part IV of the Financial Services and Markets Act 2000 (as amended)

12. Fines and Penalties

any fines, penalties or punitive, multiple or exemplary damages where such have been identified separately within any award of any court or tribunal, including but not limited to any fines or penalties for a breach of any applicable data protection and privacy legislation or regulations in any country, province, state, territory or jurisdiction which govern the use, confidentiality, integrity, security and protection of personal data or any guidance or codes of practice relating to personal data issued by any data protection regulator or government entity

13. Goods and Services

liability arising from any contract or arrangement for the supply to or use by **you** of goods or services

14. Infrastructure

any **claim**, loss, damage, liability, costs, expenses, fines, penalties, mitigation costs or any other amount directly caused by, directly resulting from or directly arising out of:

- a) the partial or total unavailability of any **computer system** owned or controlled by the **insured**; or
- b) failure or interruption of service provided:
 - i) to the **insured** or any other party acting on behalf of the **insured** by an internet service provider, telecommunications provider or cloud provider but not including the hosting of hardware and software owned by the **insured**
 - ii) by any utility provider, but only where such failure or interruption of service impacts a **computer system** owned or controlled by the **insured** or any other party acting on behalf of the **insured**.

Provided always this exclusion will not apply to any **claim** arising out of the actual or alleged breach of performance of (or failure to perform) the **insured's business**

15. Insolvency

liability arising out of **your** insolvency or bankruptcy. This exclusion will not apply to any **circumstance** or **claim**:

- a) in respect of monies held on behalf of third parties
- b) that may be covered under this policy but for **your** insolvency or bankruptcy

16. Market Fluctuation

liability arising out of the financial return of any investment or the depreciation or loss of investments when such financial return, depreciation or loss is as a result of fluctuations in any financial, stock, commodity or other markets which are outside **your** influence or control. This exclusion will not apply to any survey or valuation of any tangible property

17. Nuclear and War Risks, Government or Public Authority Order and Sonic Bangs

death, injury, disablement or loss or damage to any property or any loss or expense resulting or arising therefrom 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 or 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) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter but this exclusion d) will not apply to radioactive isotopes other than nuclear fuel when such isotopes are being prepared, carried, stored or used for commercial, agricultural, medical, scientific or other peaceful purposes
- e)
 - 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
- f) pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds

18. Pollution or Contamination

liability arising directly or indirectly out of:

- a) **pollution or contamination** unless arising out of any negligent act, error or omission in the conduct of the **business**
- b) any **environmental audit**.

Our liability 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 other than where a **claim** arises from **your** negligent structural design or specification or failure to report a structural defect in a property and relates solely to the cost of re-designing, re-specifying, remedying or rectifying the defective structure where the limit of indemnity will be any one **claim**

19. 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 any **insured**
 - 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

20. Products and Buildings

liability arising out of any supply, repair, alteration, manufacture, installation, construction, treatment, sale or distribution of goods, materials or products by **you**.

This exclusion will not apply to project models or displays

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

22. Retroactive Date

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

23. Survey and Valuation

liability arising out of any survey or valuation unless it was undertaken by:

- a)
 - i) a Fellow or Professional Member or Technical Member or an Associate Member of the Royal Institution of Chartered Surveyors
 - ii) a Fellow or Associate of the Incorporated Society of Valuers and Auctioneers
 - iii) a Fellow or Associate of the Architects and Surveyors Institute
 - iv) a Fellow or Associate of the Faculty of Architects and Surveyors
 - v) a Fellow or Associate of the Royal Institute of British Architects
 - vi) a Fellow or Associate of the Royal Incorporation of Architects in Scotland
 - vii) a RICS Registered Valuer in accordance with the RICS Valuation Standards
- b) someone who has not less than 5 years experience of such work
- c) any other person delegated by **you** to execute such work provided always that:
 - i) supervision of such work is by a person qualified in accordance with a) or b)
 - ii) **we** have given **our** prior written consent

24. Terrorism

loss, damage, 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. Trading Losses

liability arising out of **your** trading loss or liability incurred by **you** including loss of any business or custom

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 in respect of such **claim** 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** except for the payment of **defence costs** incurred with **our** written consent prior to the date of such payment.

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 and in any event will not exceed the limit of indemnity stated in the schedule.

4. King's Counsel

If **you** and **we** cannot agree a common course of action with regard to contesting any legal proceedings the dispute will be resolved by reference to a King's Counsel or similar authority to be agreed upon by **you** and **us** whose decision will be binding on both parties.

If **you** and **we** cannot agree on the appointment of a King's Counsel one will be appointed by the Chairman for the time being of the Bar Council. The costs of such an exercise will be allocated by the agreed or appointed party on a fair and equitable basis.

5. Limit of Indemnity

The limit of indemnity stated in the schedule is **our** monetary limit and applies to any one **claim**.

All **claims** against any one or more of the **insured** arising from:

- a) one act or omission
- b) one series of related acts or omissions
- c) the same act or omission in a series of related matters or transactions
- d) similar acts or omissions in a series of related matters or transactions
- e) one matter or transaction

will be regarded as one **claim**. All such **claims** will be considered first made on the date upon which the earliest **claim** is first made.

6. Run-off Cover

If **you** cease during or on expiry of this policy and have not obtained succeeding insurance which complies with the Royal Institution of Chartered Surveyors approved minimum professional indemnity policy wording and Professional Indemnity Requirements Version 4 with effect from 01 April 2019, **we** will indemnify **you** for any **claim** made against any **insured** by any natural person acting for purposes outside their trade, business or profession and arising from any act, error or omission of the **insured** prior to the date of cessation for a period of six years (run-off period) from the day immediately following the expiry date as stated in the schedule.

Provided always that **our** liability will not exceed £1,000,000 in the aggregate for the run-off period stated above.

Run-off cannot be cancelled for non-payment of premium.

7. Sanctions

Notwithstanding any other terms of this policy **we** will be deemed not to provide cover nor will **we** make payment or provide any service or benefit to **you** or any other party to the extent that such cover, payment, service, benefit and/or any business or activity of **yours** would violate any applicable trade or economic sanctions law or regulation.

Section 5 – Conditions

1. Arbitration

Any dispute between **you** and **us** arising out of or in connection with this policy will 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 whose decision will be binding on both parties.

2. Claims Procedures

a) Your Responsibilities

It is a condition precedent to **our** liability that:

- i) **you** will as soon as reasonably possible give written notice to **us** and in any event prior to the expiry of the period of insurance of:
 - 1) the happening of a **circumstance**
 - 2) any reasonable cause for suspicion of any criminal, dishonest, fraudulent or malicious act, error or omission
 - 3) any occurrence that may require representation at a properly constituted hearing, tribunal or proceeding
 - 4) becoming aware that a case directly affecting **you** is being reviewed by an ombudsman
- ii) on receiving verbal or written notice of any **claim** **you** will as soon as reasonably possible give notice to **us** and in any event within 10 working days after the expiry of the period of insurance provided always that any claim relating to **asbestos** or **pollution or contamination** must be notified within the period of insurance.

Provided always that:

- 1) **you** will 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
- 2) **you** will 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**; and
- 3) **you** will supply full particulars including all material facts, dates and persons involved and in the case of notification of a **circumstance** the reasons for anticipating that the **circumstance** is by definition a **circumstance**; and
- 4) 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 any **insured** has 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.

3. Contractual Right of Renewal (Tacit)

If **you** pay the premium to **us** 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 of this policy (including the premium) at renewal. If **you** decide that **you** do not want **us** to renew this policy provided **you** tell **us** or **your** broker or insurance intermediary before the next renewal date **we** will not renew it.

4. Difference in Conditions

This policy is designed to provide the minimum insurance requirements of the Royal Institution of Chartered Surveyors in accordance with the approved policy wording which for the purposes of this clause will mean the Royal Institution of Chartered Surveyors' approved minimum professional indemnity insurance wording other than in respect of:

- a) Fire Safety Exclusion(s)
- b) Unlimited Aggregate Round the Clock Limit of Liability basis of coverage; or
- c) Excess applicable to Defence costs.

However, for the avoidance of doubt, it is specifically understood and agreed that the cover provided by this policy will be no less favourable and provide no less protection to the **insured** than the Approved Minimum Wording other than in respect of:

- i) Fire Safety Exclusion(s)
- ii) Unlimited Aggregate Round the Clock Limit of Liability basis of coverage; or
- iii) Excess applicable to Defence costs.

Any dispute between **us** and **you** as to whether the cover under this policy is in any respect less favourable or gives less protection to **you** than the Approved Minimum Wording would, will be referred by either party for arbitration in accordance with English law and procedure to any person nominated by the President for the time being of the Royal Institution of Chartered Surveyors, whose decision will be binding on both parties.

5. Fair Presentation of the Risk

This clause varies the terms of the Insurance Act 2015 in relation to **our** remedy for a breach of **your** duty to make a fair presentation of the risk.

- a) Where there has been a failure by **you** to comply with **your** duty to make a fair presentation of the risk to **us** and such failure would entitle **us** to avoid this policy, **we** agree only to exercise **our** right to avoid this policy if **you** have admitted, or **we** have established by way of a final adjudication in arbitration proceedings between **us** and **you** commenced in accordance with condition 1 – Arbitration (including any appeal therefrom), that **you** failed to make a fair presentation of the risk with the intention of misleading or deceiving **us**. Until such final adjudication (including any appeal therefrom) has been concluded, **we** will continue to honour **our** obligations, and make payment, under this policy.

Where **we** exercise **our** right to avoid this policy under this clause **we** may refuse all **claims** and need not return any of the premium paid by **you**.

- b) In any case where there has been a failure by **you** to comply with **your** duty to make a fair presentation of the risk to **us** and where clause a) does not apply:
 - i) in the case of a **claim** first made against **you** during the period of insurance where:
 - 1) **you** had previous knowledge of the **circumstances(s)** relating to such **claim**; and
 - 2) **you** should have notified the same under any preceding policy but did not do sothen, where the indemnity or cover under this policy is greater or wider in scope than that to which **you** would have been entitled under such preceding policy (whether with other insurers or not), **we** will only be liable to afford indemnity to such amount and extent as would have been afforded to **you** by such preceding policy; and
 - ii) regardless of whether or not clause i) applies, where **we** can demonstrate that, by reason of **your** failure to comply with **your** duty to make a fair presentation of the risk, **we** would not have written this policy, or would have written this policy but on different terms and conditions, then **we** will be entitled to charge a just and equitable additional premium in light of the prejudice caused to **our** interests by such failure to comply with that duty.
 - iii) otherwise, save as set out in i) and ii) above, **we** will not be entitled to any remedy by reason of **your** failure to comply with **your** duty to make a fair presentation of the risk where such failure was neither deliberate or reckless.

6. Fraudulent Claims

If **you** or anyone acting on **your** behalf:

- a) makes a fraudulent or exaggerated claim under this policy; or
- b) uses fraudulent means or devices including the submission of false or forged documents in support of a claim whether or not the claim is itself genuine; or
- c) makes a false statement in support of a claim whether or not the claim is itself genuine; or
- d) submits a claim under this policy for loss or damage which **you** or anyone acting on **your** behalf or in connivance with **you** deliberately caused; or
- e) realises after submitting what **you** reasonably believed was a genuine claim under this policy and then fails to tell **us** that **you** have not suffered any loss or damage; or
- f) suppresses information which **you** know would otherwise enable **us** to refuse to pay a claim under this policy

we will be entitled to refuse to pay the whole of the claim and recover any sums that **we** have already paid in respect of the claim.

We may also notify **you** that **we** will be treating this policy as having terminated with effect from the date of any of the acts or omissions set out in clauses a) to f) of this condition.

If **we** terminate this policy under this condition **you** will have no cover under this policy from the date of termination and not be entitled to any refund of premium.

If any fraud is perpetrated by or on behalf of an **insured** and not on behalf of **you** this condition should be read as if it applies only to that **insured's** claim and references to this policy should be read as if they were references to the cover effected for that person alone and not to the policy as a whole.

7. Other Insurances

If at the time any **claim** arises under this policy the **insured** is or would be but for the existence of this policy be entitled to indemnity under any other policy or policies **we** will not be liable except in respect of any excess beyond the amount which would have been payable under such other policy or policies had this policy not been effected

8. 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.

9. Sole Agent

It is agreed that:

- a) if the **insured** comprises more than one party then **you** will act for **yourself** 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**.

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Registered in England and Wales | Company Number 103274
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