



Professional indemnity liability policy

We agree to insure **you** on the terms set out in this policy upon the basis of the proposal form and other information provided to **us** by **you** or anyone on **your** behalf. This means that if **you** have not told **us** anything that **we** consider **you** should have told **us**, **we** may choose either to treat the policy as if it had never existed or not cover **you** in respect of a **claim** or loss. If **you** are in any doubt about whether to tell **us** something **you** should let **us** know.

1. What we will cover

1.1 We agree to indemnify **you** against the following in connection with the conduct of **your** professional business:

- (a) any **claim** first made against **you** during the **period of insurance** in respect of any civil liability incurred but excluding any **claim** in respect of fees;
- (b) any final award of any Ombudsman appointed pursuant to the provisions of the Financial Services and Markets Act 2000 or any amendment or re-enactment thereof and the cost of taking any steps that **you** are directed to take in relation to a claimant during the **period of insurance**;
- (c) any loss first discovered in the **period of insurance** that is caused by any dishonest or fraudulent acts or omissions of any former or present partner, director, **member** or employee of **yours** subject to the provisions outlined in clause 7 of this policy;
- (d) any **claim** first made against **you** during the **period of insurance** that is caused by the destruction, damage or loss of documents or computer records; however, this cover excludes bearer bonds, coupons, bank notes, currency or negotiable instruments.

1.2 This policy is to be construed or rectified so as to comply with the requirements of the **Minimum Approved Policy Wording**, and any provision of this policy that is inconsistent with it is to be severed or rectified to comply.

2. Limit of cover

- 2.1 Our total liability is limited to the sum set out in item 4 of the Schedule plus **defence costs**.
- 2.2 If a payment greater than the limit of indemnity set out in item 4 of the Schedule is made for a **claim**, our liability for **defence costs** will be limited to the proportion that the limit of indemnity bears to the amount paid.
- 2.3 You will pay the amount of the **excess** for any one **claim**. The **excess** will not apply to **defence costs**.
- 2.4 All **claims** arising out of one occurrence or **circumstance** or a series of occurrences or **circumstances** consequent upon or attributable to one source or original cause will be deemed to be a single **claim**.

3. What we do not cover

We do not insure **you** for any **claim** or for any **defence costs** arising directly or indirectly, wholly or in part, from or in connection with:

- (a) any **circumstance** or occurrence that has been notified under earlier insurance;
- (b) carrying out **your professional business** prior to the **retroactive date**;
- (c) bodily injury, psychological injury, emotional distress or anguish, shock, sickness, disease or death sustained by any person who is or has been under a contract of service with **you** arising out of or in the course of his or her employment or for any breach of any duty owed to any such person or any person who has made an application for employment under a contract of service with **you** or any **member**;
- (d) the death, personal injury to or psychological injury, emotional shock or anguish, shock, sickness or disease of any person (not being a person who is or has been under a contract of service with **you**) save that this exclusion will not apply to any **claim** for psychological injury, emotional distress, anguish or shock (in each case not consequent upon physical injury) which arises from any actual or alleged breach of duty in the performance of (or failure to perform) **your professional business**;

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- (e) the loss of or damage to property except where it is covered under clause 1.1 (d);
- (f) the ownership, possession or use by **you** of land, buildings, aircraft, watercraft, vessels or mechanically propelled vehicles except where it is covered under clause 1.1 (d);
- (g) any **claim** brought by any person comprised in the definition of **you** against any other such person;
- (h) any **claim** arising from any obligation owed by **you** as an employer or potential employer to any employee, including **claims** for wrongful dismissal, unfair dismissal or under any contract of employment or under any retainer with any consultant or under any training contract;
- (i) any discrimination on grounds of race, age, sex or religion;
- (j) any **claim** made against **you** by any insurer arising out of **your** activities as their Insurance Agent;
- (k) any trading losses or trading liabilities incurred by any business managed by or carried on by **you** unless such **claim** arises from negligence in the normal course of **your** conduct of any receivership or office under the Insolvency Act 1986;
- (l) any express or implied warranty or guarantee relating to the financial return of any investment or portfolio of investments;
- (m) any fine or penalty or any multiple damages, exemplary or punitive damages or aggravated damages, save that this exclusion will not apply to any **claim** relating to any actual or alleged defamation arising out of the conduct of **your professional business** carried on by **you**, or on **your** behalf;
- (n) arising out of **you** acting as Company Secretary or Registrar or Director except in respect of the performance (or non-performance) of **your professional business**;
- (o) fraud or dishonesty as set out in clause 7 of this policy;
- (p) **your professional business** if it was carried out in the United States of America or Canada or is the subject of any proceedings in any Court in either the United States of America or Canada;
- (q) ionising radiations, radioactivity or any nuclear causes;
- (r) war, invasions, acts of foreign enemies, hostilities (whether war has been declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority;
- (s) any act of terrorism, which includes, but is not limited to, the use or threat of force or violence by any person or group(s) of people, whether acting alone, on behalf of, or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear for such purposes;
- (t) any action taken in controlling, preventing, suppressing or in any way relating to matters excluded by clauses 3 (r) and (s);
- (u) any seepage, pollution or contamination of any kind, save that this exclusion will not apply to any loss or any **claim** that arises from any actual or alleged breach of duty in the performance of (or failure to perform) **your professional business**;
- (v) any goods sold, supplied, repaired, altered, manufactured, constructed, installed or maintained by **you** or by any person acting for or on **your** behalf. For the avoidance of doubt, the term "goods" as referred to above will apply to packaged software but will not apply to any other **computer** software or any amendments or adaptations of packaged software. Packaged software will mean any software produced by a third party that is marketed for general distribution on a wholesale or retail basis. This exclusion will not apply to any **claim** or loss arising from amendments or adaptations made to packaged software by **you** or on **your** behalf;

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- (w) any liability assumed by **you** under any express warranty or guarantee unless such liability would have attached to **you** notwithstanding such express warranty or guarantee;
- (x) any actual or alleged misappropriation, infringement or violation of any copyright, patent, trademark, trade name, trade secret, database rights or any other intellectual property rights;
- (y)(i) any **computer** viruses, worms or similar damaging or malicious electronically transmitted material or code, whether or not created or transmitted (directly or indirectly) by **you**; or
 - (ii) hacking, denial of service, attack or other **computer** misuse intended to cause damage to **you** or anyone else, whoever the perpetrator.

4. Special conditions

4.1 Non-disclosure, misrepresentation or untrue statement.

- (a) **We** will not exercise **our** right to avoid either this policy or a **claim** by **you** for indemnity under the policy on the grounds of non-disclosure or misrepresentation or untrue statement in the proposal form or in any other information supplied to **us** provided **you** establish to **our** reasonable satisfaction that the non-disclosure or misrepresentation or untrue statement was not made fraudulently.
- (b) The provisions set out in sub-paragraph (a) above apply only in relation to the cover that **you** are required to hold under the **Minimum Approved Policy Wording** and not to any additional cover provided under this policy.
- (c) In any case where **you** should have notified under any preceding insurance a **claim** made against **you** or **circumstances** that could give rise to a **claim** against **you**, and the indemnity or cover available under this policy is greater or wider in scope than the indemnity to which **you** would have been entitled under such preceding insurance, then **we** shall only be liable to indemnify **you** in respect of that **claim** to the extent of the indemnity that would have been afforded by preceding insurance.

4.2 Payment of premium

- (a) The **period of insurance** will not commence and there will be no cover under this policy until **you** pay either the full premium or the first payment by the date it is due under a credit agreement with any third party introduced by **us**.
- (b) Where there has been any non-disclosure, misrepresentation or untrue statement by **you**, **we** have the right to require **you** to pay such additional premium as **we** in **our** sole discretion consider would have been payable having regard to the prejudice caused to **our** interests by such non-disclosure, misrepresentation or untrue statement.
- (c) If **you** fail to pay a second or later instalment within twenty-one (21) days after the date upon which it is due under such a credit agreement or any additional premium due within twenty-one (21) days after a request for payment, the **period of insurance** will terminate as shown below:
 - (i) If no **claim** has been made or **circumstance** notified to **us** since the beginning of the **period of insurance**, on the date of the last cleared payment; or
 - (ii) If either a **claim** has been made or **circumstance** notified to **us** since the beginning of the **period of insurance**, twenty-one (21) days after the unpaid instalment was due.
- (d) **Our** right to payment against **you** will continue to be enforceable after the termination of the policy. Termination will not affect the rights and obligations of **you** and **us** accrued under the policy prior to the date of termination.
- (e) Any payment that is not cleared by a bank will be treated as a failure to pay.

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4.3 Material change in the practice

(a) **You** will give **us** prior notice in writing that **you** are going to:

- (i) merge **your** practice; or
- (ii) acquire a practice; or
- (iii) dispose of **your** practice; or
- (iv) absorb any other practice; or
- (v) appoint new partners (other than from existing employees) so as to increase the number of partners by more than the number of partners existing prior to the appointment; or
- (vi) change **your** name; or
- (vii) change **your** address

during the **period of insurance**. **We** may require further information and a new application for cover. **We** have the right either to refuse cover or to charge an additional premium.

(b) Unless **we** have agreed revised terms with **you** and **you** pay either the full additional premium or the revised payments by the date they are due under a credit agreement with any third party introduced by **us**, this policy will only provide cover in respect of **claims** arising from acts, errors or omissions committed prior to the change.

(c) **You** must give notice to **us** under this clause in one of the following ways:

- (i) in writing to Zurich Professional, 90 Fenchurch Street, London EC3M 4JX; or
- (ii) by fax on 020 7702 1667; or
- (iii) by e-mail to **accountants@zurichprofessional.co.uk**

We may notify **you** of changes to these details from time to time.

(d) **Your** compliance with requirements to give notice under this clause is a condition precedent to **our** liability to cover **you**. If **you** do not notify **us**, **we** shall not make any payments after **we** become aware of **your** failure to notify **us**.

(e) This policy may not be cancelled except if **you** and **we** agree mutually in writing to cancel the policy in which case this insurance may be cancelled by **us** mailing a written notice of cancellation to **you** at the address shown in item 1 of the Schedule stating when such cancellation will be effective being a date not less than seven days thereafter.

In the event of cancellation, **we** will immediately notify the relevant professional body of the cancellation.

4.4 Disputes between you and us

We shall seek to resolve any dispute with **you** in connection with this policy through mediation. The mediator will be agreed within 14 days of either party requesting mediation. Each party will bear its own costs of the mediation. If the dispute is not resolved within 30 days or one party refuses to participate in mediation, the dispute will be referred to arbitration. Failing agreement, the President of the Institute of Chartered Accountants in England and Wales will be asked to appoint a mediator or arbitrator as appropriate. Nothing in this clause will prevent either party seeking an injunction or other judicial relief if, in that party's opinion, such action is necessary to prevent irreparable damage.

4.5 Other applicable insurance

This insurance will apply only as excess insurance over any other valid and collectible insurance.

5. General provisions

5.1 Some words in this policy are in **bold** because they have important meanings that appear in clause 9 of this policy.

5.2 Headings in this policy are provided for convenient reference only and do not form part of the policy wording. **We** do not intend that **you** should rely on them in construing the meaning of the policy.

5.3 The Schedule and any endorsements form part of this policy.

5.4 The law of England and Wales will govern this policy and the courts of England and Wales alone will have jurisdiction to hear any proceedings relating to it.

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- 5.5 The burden of proving that any loss is recoverable under this policy, and the amount of any such loss and that no limitation or exclusion applies will rest on **you**.

6. Claims procedure

Conditions Precedent

- 6.1 It is a condition precedent to your right to be indemnified under this policy that:

- (a) You notify **us** immediately of:
- (i) any **claim**; or
 - (ii) receipt of notice of intention to make a **claim**; or
 - (iii) any loss suffered by **you**; or
 - (iv) the discovery of reasonable cause for suspicion of dishonesty or fraud by any present or former member of **your** practice, whether covered under this policy or not; or
 - (v) if **you** become aware of any **circumstance** that may give rise to a loss or **claim**.
Provided **you** do so during the **period of insurance**, any later **claim** arising out of that **circumstance** will be treated as having been made during the **period of insurance**.
- (b) **You** must not make any admissions or settle any **claim** without **our** written consent.
- (c) **You** give notice to **us** in one of the following ways:
- (i) in writing to the Claims Manager, Zurich Professional, 90 Fenchurch Street, London EC3M 4JX; or
 - (ii) by fax on 020 7481 3559; or
 - (iii) by e-mail to claims@zurichprofessional.co.uk

We may notify **you** of changes to these details from time to time.

Conditions

- 6.2 Notice pursuant to clause 6.1 must contain full particulars including all material facts, dates, and persons involved and, in the case of notice of a **circumstance**, the reasons for anticipating that the **circumstance** may give rise to a loss or **claim**.
- 6.3 **You** must provide **us** with any further information **we** request and keep **us** informed of all developments in relation to any **circumstance**, **claim** or loss.
- 6.4 **You** must comply with the terms of this policy and co-operate in the handling of **claims** at **your** own expense. If **you** do not do so and this causes prejudice to **us**, **we** shall only indemnify **you** to the extent which, in **our** reasonable opinion, **we** would otherwise have had to pay.
- 6.5 **You** must not incur any **defence costs** without **our** written consent.
- 6.6 **We** shall be entitled at **our** own expense to take over and conduct in **your** name the defence or settlement of any **claim** or proceedings or to bring proceedings in **your** name for **our** benefit.
- 6.7 **You** authorise any solicitor appointed by **us** to go on the court record in any proceedings.
- 6.8 **You** will comply with all rules of court and orders made by the court.
- 6.9 **You** will follow all reasonable advice given by any solicitor appointed by **us** and will attend any meetings, hearings or conferences as those solicitors or **we** may reasonably require.
- 6.10 **You** agree that any solicitor appointed by **us** will disclose to **us** any information, evidence or documents that **you** have provided to that solicitor whether or not **you** would otherwise be entitled to **claim** legal professional privilege.
- 6.11 This clause will apply to the conduct of **claims**, the defence and prosecution of **claims** and any claims against any other party that are within the **excess** or include uninsured losses and the conduct of matters notified to **us** as **circumstances**.
- 6.12 It is hereby noted and agreed for the purposes of the Contracts (Rights of Third Parties) Act 1999 that **we** and **you** do not intend any term of this contract to be enforceable by any third party.

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6.13 Neither **you** nor **we** will be required to contest any legal proceedings unless a mutually agreed Queen's Counsel advises that proceedings should be contested having regard to **your** and **our** interest. If **we** cannot agree upon the identity of the Queen's Counsel, one will be appointed by the President of the Institute of Chartered Accountants of England and Wales as applicable.

7. Fraud and dishonesty

7.1 **We** will not cover a **claim** against any one of **you** who has committed or condoned a dishonest or fraudulent act, error or omission.

7.2 If **we** make any payment in respect of a **claim**, **we** shall be subrogated to all **your** rights of indemnity, contribution or recovery to the extent of that payment. **You** will not surrender any such right or settle any such claim for indemnity, contribution or recovery, without **our** prior consent in writing.

7.3 Where a **claim** or loss involves the dishonest or fraudulent act or omission of any of **you**, **you** will, at **our** request and expense, take all reasonable steps to obtain reimbursement from that person. **You** will deduct the amount of the loss or **claim** from any money that **you** owe that person. **We** shall be entitled to bring a claim and proceedings in **your** name against anyone who committed or condoned the dishonesty or fraud.

7.4 If **you** make any **claim** under this policy knowing it to be false or fraudulent in any respect, **we** will not be liable to make any payments in relation to that or any other **claim** under this policy.

8. Reimbursement

8.1 If **you** intentionally or recklessly commit or condone:

- (a) non-disclosure or misrepresentation; or
- (b) breach of the terms or conditions of this policy; or
- (c) dishonesty or any fraudulent act or omission

you will reimburse **us** to the extent that is just and equitable having regard to the prejudice that the act or omission has caused **us**. **We** shall not be entitled to obtain reimbursement from an employee of **yours** unless that employee committed or condoned fraud or dishonesty.

8.2 **You** will reimburse **us** any sums that **we** have paid but for which **we** have no liability to indemnify under the terms of this policy.

8.3 Reimbursement will apply, but is not limited, to:

- (a) **defence costs**, whether relating to a **claim** or loss that is not covered, or a proportion of **defence costs** by **our** making a payment in excess of the applicable limit of liability; and
- (b) sums paid pending resolution of a coverage dispute; and
- (c) sums for which other insurers are liable; and
- (d) sums for which **you** are liable.

8.4 Where **we** make any payment and any sums are recovered from another party, those sums will be applied in the following order:

- (a) reimbursement of payments by **us**;
- (b) **defence costs** and costs of any recovery claim, whether litigated or not;
- (c) any surplus will be paid to **you**.

8.5 Any unrecovered costs incurred in pursuing recovery claims that comprise both insured and uninsured losses will be shared in the ratio that the sums recovered for the insured and uninsured losses bear to each other.

9. Definitions

9.1 Circumstance

means an incident, occurrence, fact, matter, act, error or omission that may give rise to a **claim** in respect of civil liability.

9.2 Claim

means:

- (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; or
- (b) any complaint or reference to any Ombudsman appointed pursuant to the provisions of the Financial Services and Markets Act 2000 or any amendment or re-enactment thereof

arising out of the conduct of **your** professional business.

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9.3 Computer

means any computer or other electronic data processing device, equipment or system, any hardware, software, program, instruction, data or component utilised or intended to be utilised therein or thereby, or any actual or intended function of or process performed by any of the foregoing.

9.4 Defence costs

means legal costs and disbursements, costs of investigations and related expenses reasonably and necessarily incurred with **our** prior written consent (which **we** shall not withhold unreasonably):

- (a) in defending any proceedings relating to a **claim**; or
- (b) in conducting any proceedings for indemnity, contribution or recovery relating to a **claim**; or
- (c) in investigating, reducing, avoiding or compromising any actual **claim** or circumstance; or
- (d) in relation to any investigation, inquiry or disciplinary proceedings during or after the **period of insurance** arising from **circumstances** first notified to **us** during the **period of insurance**.

Defence costs do not include:

- (a) **your** internal or overhead expenses or the cost of **your** time or any Value Added Tax insofar as **you** can recover such VAT from HM Customs and Excise; or
- (b) costs of investigation, inquiry or disciplinary proceedings that do not relate to any actual or potential liability for compensation, damages or an award by any Ombudsman or other regulatory body in connection with **your professional business**.

9.5 Excess

means the first amount of a **claim** that is not covered by the policy that **you** must bear. The amount is as stated in item 5 of the Schedule.

9.6 Member

means any **member** of a limited liability partnership, including, without limitation, a designated **member**, save that such a **member**

will only be an insured for the purpose of the policy if and insofar as any **claim** arises out of **your professional business** carried on by the **member** for or on behalf of any firm, limited liability partnership or anyone named in item 1 and/or 3 of the Schedule.

9.7 Minimum Approved Policy Wording

means the Minimum Approved Policy Wording of the Institute of Chartered Accountants in England and Wales.

9.8 Period of insurance

means the period set out in item 6 of the Schedule.

9.9 Retroactive date

means the date set out in item 2 of the Schedule.

9.10 We/Us/Our

means Zurich Professional Limited or Zurich Insurance Company. Please note that the cover under this policy is provided by Zurich Insurance Company. Zurich Professional Limited act only as its agent.

9.11 You/Your

means:

- (a) any firm, company, limited liability partnership or individual person named in item 1 of the Schedule and/or any predecessor in business named in item 3 of the Schedule;
- (b) anyone who was, is or becomes during the **period of insurance** a principal, director or **member** of any firm, company or limited liability partnership named in item 1 of the Schedule or predecessor in business named in item 3 of the Schedule;
- (c) anyone who is or has been under a contract of service with **you** including a consultant or employee;
- (d) the legal representative or estate of anyone noted under (a), (b) or (c) in the event of death, incapacity, insolvency or bankruptcy;
- (e) any individual practitioner, partnership, limited liability partnership or company who is acting in connection with the arrangements to cover the incapacity or death of a sole practitioner.

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9.12 Your professional business

includes:

- (a) advice given or services performed by **you** or any person on **your** behalf; and
- (b) any appointment as trustee or personal representative accepted in the course of **your** business; and
- (c) any appointment as Company Secretary, Registrar or Director but only in relation to services performed or advice given by **you** in connection with tax matters, secretarial work, share registration, financial advice to management, book-keeping, management accounting, financial investigation and reports, negotiation and settlement of financial claims, company formations, investment advice, insurance and pensions scheme advice and computer consultancy;

provided that any fees charged are taken into account in ascertaining **your** income.

Our complaints procedure

Zurich Professional is committed to providing a high level of service to all its customers. However, if you have any cause for complaint you should in the first instance, contact either the intermediary who arranged the policy for you, or Zurich Professional directly. Please quote the details of your policy, in particular, the policy number.

If the matter is not resolved to your satisfaction, please contact the Sales and Operations Director of Zurich Professional.

If you are still not satisfied, please contact the Chief Executive's Office.

The Grange
Bishops Cleeve
Cheltenham
Gloucestershire
GL52 8XX

Telephone: 0845 601 4937

Email: chiefexecutive@uk.zurich.com

A member of the Chief Executive's Office will respond to your complaint and offer resolution wherever possible.

If we are unable to resolve your complaint to your satisfaction within 8 weeks, or if we have provided you with a final decision letter, you may be able to refer your complaint to the Financial Ombudsman Service (FOS). This is a free and impartial service.

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

Telephone: 0845 080 1800

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

The FOS will only consider your complaint if, at the time of notification, you are a business with a group annual turnover of less than £1 million, a charity with an annual income of less than £1million or a trustee of a trust with a net asset value of less than £1 million.

Following the Complaints Procedure does not affect your legal rights.

