

Policy wording

Design and construct professionals  
professional insurance  
portfolio

April 2022

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# Welcome to AXA

## Welcome to AXA

Thank **you** for choosing AXA. Please read carefully all documents that **we** have provided and keep them in a safe place.

If **you** have any questions, need anything explaining or believe this contract does not meet **your** needs, please contact **us** or Pen.

## Your policy

**Your policy** is divided into a number of sections. The sections of cover that apply are shown under **your** cover summary which is in the schedule. **Your** cover summary contains a list of sections available, but only those shown as 'insured' apply. Where a section does not apply **your** cover summary will state that it is 'not insured' and this section will not be included within the **policy**.

**Your policy** is a contract of insurance between **you** and **us** and **you** have a duty to make a fair presentation of the risk to **us** in accordance with the law.

The **policy** describes the cover for which **we** have accepted **your** premium. The **policy** wording, schedule and any endorsements must be read together.

**Your policy** is renewable provided **we** agree to accept **your** premium for any subsequent **period of insurance**. A new schedule will be issued for each **period of insurance** showing any changes to **your** cover.

Throughout **your policy**, **we** use defined terms. Defined terms are used to explain what a word means and are highlighted in bold blue print.

Headings have been used for **your** guidance to help **you** understand the cover provided. The headings do not form part of the contract.

Under the heading 'What is covered' **we** give information on the insurance provided. This must be read with 'What is not covered', the Policy conditions and any conditions of cover that are applied to each section.

Under the heading 'What is not covered' **we** draw **your** attention to what is excluded from **your policy**.

## About your policy

This **policy** has been produced by Pen Underwriting Limited a Managing General Agent of the Insurer AXA Insurance UK plc. The Insurer has delegated authority to Pen Underwriting Limited to underwrite Insurance on their behalf.

## Data Protection

Pen Underwriting Limited are the data controller of any personal information **you** provide to us or personal information that has been provided to us by a third party. We collect and process information about **you** in order to arrange insurance policies and to process **claims**. **Your** information is also used for business purposes such as fraud prevention and detection and financial management. This may involve sharing **your** information with third parties such as insurers, brokers, reinsurers, claims handlers, loss adjusters, credit reference agencies, service providers, professional advisors, our regulators, police and government agencies or fraud prevention agencies.

We may record telephone calls to help us monitor and improve the service we provide. For further information on how **your** information is used and **your** rights in relation to **your** information please see our Privacy Policy – <https://www.penunderwriting.co.uk/Privacy-and-Cookies>. If **you** are providing personal data of another individual to us, **you** must tell them **you** are providing their information to us and show them a copy of this notice.

## Sanctions Clause

Pen Underwriting Limited (Pen) is committed to complying with financial and trade sanctions legislation and export controls (Sanctions) in the United Kingdom, the European Union, United Nations and United States of America as well as the applicable Sanctions laws and regulations in the jurisdictions in which we operate. This requirement is also extended to any brokers and coverholders who undertake any insurance intermediation activity in relation to this **policy**.

To comply with Sanctions, Pen cannot place, provide insurance cover or make any payment in circumstances where it would be considered a breach of Sanctions. We may be required to take actions such as freezing the funds of parties subject to Sanctions, not performing claims handling activities, and making licence applications or notifications to relevant regulators.

Other third parties Pen deals with, such as financial institutions, may also apply their own policies or restrictions. Pen reserves the right to take steps to comply with Sanctions and we will not be liable to **you** for this or for similar steps taken by third parties.

## Making a claim

### Applicable to claims under Professional Indemnity section

If **you** need to notify a possible claim **you** must follow the Claims notification condition on page 22.

### Applicable to all other sections

If **you** need to make a claim please first check **your** policy to make sure **you** are covered. **You** must then follow the instructions provided on pages 6 and 7 under the Claims notification condition and Claims procedures condition under Policy conditions.

Please contact **your** insurance adviser who will help **us** deal with **your** claim quickly and fairly.

## Making a complaint

If **you** are not happy with the way in which a **claim** or any other matter has been dealt with please follow instructions within the 'Making a complaint' on page 40 of the **policy**.

# Meanings of defined terms

These meanings apply throughout **your policy** with the exception of the Professional indemnity section. If a word or phrase has a defined meaning it will be highlighted in bold blue print and will have the same meaning wherever it is used. There may be additional defined meanings in each section. The meanings that apply to the Professional indemnity section can be found on page 10.

## **Business**

The business shown in **your** schedule.

## **Excess**

First amount of any claim or claims for which **you** are responsible.

## **Period of insurance**

Period from the start date to the expiry date of **your** cover shown in **your** schedule.

## **Policy**

Policy, schedule and any endorsements attached or issued.

## **Policy territories**

Great Britain, Northern Ireland, the Channel Islands and the Isle of Man.

## **We/us/our**

AXA Insurance UK plc.

## **You/your/yourself**

Person(s), firm, company or organisation shown in your schedule as the insured.

# Policy conditions

These conditions apply throughout **your policy** with the exception of the Professional indemnity section. The conditions which apply to the Professional Indemnity section can be found on page 20.

**You** must comply with the following conditions to have the full protection of **your policy**. If **you** do not comply then **we** may at **our** option take one or more of the following actions:

- 1 Cancel **your policy**
- 2 Declare **your policy** void (treating **your policy** as if it had never existed)
- 3 Change the terms of **your policy**
- 4 Refuse to deal with all or part of any claim or reduce the amount of any claim payments.

There are additional conditions under each section of cover.

If **you** are unsure about any of these conditions or whether **you** need to notify **us** about any matter, please contact **us**.

## Applicable law condition

**You** and **we** can choose the law which applies to this **policy**. **We** propose that the Law of England and Wales apply. Unless **we** and **you** agree otherwise, the Law of England and Wales will apply to this **policy**.

## Cancellation condition

- 1 **You** may cancel **your policy** within 14 days of receiving **your policy** in the first **period of insurance** if for any reason **you** are dissatisfied or the **policy** does not meet **your** requirements.
- 2 **You** may cancel **your policy** at any time if the **business** is sold by **you** or **you** cease trading or **you** sell all the property insured shown in **your** schedule.
- 3 **We** can cancel **your policy**
  - a at any time by giving 21 days' written notice to **your** last known address
  - b immediately without giving **you** notice if the premium has not been paid to **us**.

Where **your policy** is cancelled in accordance with any of the above provisions, **we** will refund part of the premium paid, proportionate to the unexpired **period of insurance** following cancellation, provided that no claim has been paid or is outstanding in the current **period of insurance**.

Cancellation of **your policy** will not affect any claims or rights **you** or **we** may have before the date of cancellation.

**We** do not have to offer renewal of **your policy** and cover will cease on the expiry date.

## Change in risk condition

**You** must tell **us** as soon as possible during the **period of insurance** of any change

- 1 to the **business**
- 2 in the person, firm, company or organisation shown in **your** schedule as the insured
- 3 to the information **you** provided to **us** previously or any new information that increases the risk of loss as insured under any section of **your policy**.

**Your policy** will come to an end from the date of the change unless **we** agree in writing to accept an alteration.

**We** do not have to accept any request to vary **your policy**. If **you** wish to make any alteration to **your policy** **you** must disclose any change to the information **you** previously provided or any new information that could affect this insurance.

If **we** accept any variation to **your policy**, an increase in the premium or different terms or conditions of cover may be required by **us**.

## Claims notification condition

**You** must

- 1 as soon as practical
  - a give **us** notice of any circumstances which might lead to a claim under **your policy**
  - b give **us** all the information **we** request
- 2 immediately
  - a on receipt send **us** every letter, court order, summons or other legal document served upon **you**

## Policy conditions *continued*

- b** tell **us** about any prosecution, inquest or fatal accident inquiry or dispute for referral to adjudication or court proceedings in connection with any potential claim under **your policy**
- c** notify the police of any loss or damage that has been caused by malicious persons, thieves, rioters, strikers or vandals.

**We** will not pay **your** claim where **you** have not complied with this condition.

### Claims procedures condition

- 1** **You** must take or allow others to take practical steps to prevent further injury, loss or damage, recover property lost and otherwise minimise the claim.
- 2** At **your** expense **you** must provide **us** with
  - a** full details in writing of any injury, loss or damage and any further information or declaration **we** may reasonably require
  - b** any assistance to enable **us** to settle or defend a claim
  - c** details of any other relevant insurances.
- 3** **You** may not accept, negotiate, pay, settle, admit or repudiate any claim without **our** written consent.
- 4** Following a claim **you** must allow **us** or anyone authorised by **us**
  - a** access to premises
  - b** to take possession of, or request delivery to **us** of any property insured.
- 5** **You** may not abandon any property to **us**.
- 6** **We** will be allowed complete control of any proceedings and settlement of the claim.

**We** will not pay **your** claim where **you** have not complied with this condition.

### Fair presentation of risk condition

**You** have a duty to make a fair presentation of the risk which **you** wish to insure. This applies prior to the start of **your policy**, if any variation is required during the **period of insurance** and prior to each renewal. If **you** do not comply with this condition then

- 1** If the failure to make a fair presentation of the risk is deliberate or reckless **we** can elect to make **your policy** void and keep the premium. This means treating the **policy** as if it had not existed and that **we** will not return **your** premiums, or
- 2** If the failure to make a fair presentation of the risk is not deliberate or reckless and **we** would not have provided cover had **you** made a fair presentation, then **we** can elect to make **your policy** void and return **your** premium or
- 3** If the failure to make a fair presentation of the risk is not deliberate or reckless and **we** would have issued cover on different terms had **you** made a fair presentation of the risk then **we** can:
  - a** reduce proportionately any amount paid or payable in respect of a claim under **your policy** using the following formula. **We** will divide the premium actually charged by the premium which **we** would have charged had **you** made a fair presentation and calculate this as a percentage. The same percentage figure will be applied to the full amount of the claim to arrive at the proportion of the claim to be paid or payable; and/or
  - b** treat **your policy** as if it had included the different terms (other than payment of the premium) that **we** would have imposed had **you** made a fair presentation.
- 4** Where **we** elect to apply one of the above then
  - a** if **we** elect to make **your policy** void, this will be from the start of the **policy**, or the date of variation or from the date of renewal
  - b** **we** will apply the formula calculated by reference to the premium that would have been charged to claims from the start of the **policy**, or the date of variation or from the date of renewal
  - c** **we** will treat the **policy** as having different terms imposed from the start of the **policy**, or the date of variation or from the date of renewal

depending on when the failure to make a fair presentation occurs.

### Fraud condition

**You** and anyone acting for **you** must not act in a fraudulent way.

If **you** or anyone acting for **you**

- 1 knowingly makes a fraudulent or exaggerated claim under **your policy**;
- 2 knowingly makes a false statement in support of a claim (whether or not the claim itself is genuine); or
- 3 knowingly submit a false or forged document in support of a claim (whether or not the claim itself is genuine)

**we** will:

- a refuse to pay the claim
- b declare **your policy** void from the date of the fraudulent act without any refund of premiums.

**We** may also inform the police of the circumstances.

### Instalments condition

If **you** fail to pay a premium instalment to **us** on the date due, this will result in **your policy** being cancelled from the date the missed instalment was due. **You** will not be entitled to any return of premium where this happens.

If a claim has been made or there has been any incident likely to lead to a claim during the current **period of insurance** the annual premium remains due in full.

### Other insurance condition

If a claim is made under **your policy** and there is other insurance cover for which **you** are, or would be but for this **policy**, entitled to have a claim paid under the other insurance, **we** will at **our** option, either pay

- 1 a proportionate share of the claim
- or
- 2 an amount beyond that which is or would be payable under the other insurance.

### Policy administration fees condition

**We** may charge **you** an administration fee if **we**

- 1 make any changes to **your policy** on **your** behalf
- 2 agree to cancel **your policy**, or
- 3 are requested to print and re-send **your policy** documents to **you**.

**We** will not make a charge without informing **you**.

### Reasonable care condition

**You** must take reasonable steps to

- 1 prevent or protect against injury, loss or damage
- 2 keep **your** premises, machinery, plant and equipment and all other property insured in good condition and in full working order
- 3 remedy any defect or any danger that becomes apparent, as soon as possible.

If required by **us**, **you** must allow access to **your** premises and/or activities of **your business** to carry out inspection or survey. **You** must complete any risk improvements that **we** ask for, within a reasonable period of time advised by **us**.

**We** will not pay **your** claim where **you** have not complied with this condition.

### Renewal term agreement condition

If **your** schedule shows that a renewal term agreement is operative, certain terms and conditions have been agreed by **you** and **us** that regulate the annual premium at which **we** will offer renewal. The agreement is included as part of the insurance contract and if **we** offer renewal in accordance with the agreement **you** agree that **your policy** will be renewed each year up to the expiry date of the agreement shown in **your** schedule.



### Sanctions condition

This contract of insurance is subject to sanction, prohibition or restriction under United Nations resolutions. It is a condition of **your policy** that **we** will not provide cover, or pay any claim or provide any benefit under **your policy** to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose **us**, or **our** parent, subsidiary or any AXA group member company, to any trade or economic sanctions, or violate any laws or regulations of the United Kingdom, the European Union, the United States of America or any other territory.

### Subrogation (our rights) condition

**We** will be entitled to undertake in **your** name or on **your** behalf

- 1 the defence or settlement of any claim
- 2 steps to enforce rights against any other party before or after payment is made by **us**.

### Third party rights condition

This contract is between **you** and **us**. The rights under this contract will not be enforceable by any other party because of the Contract (Rights of Third Parties) Act 1999.

# Professional indemnity section

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## Important information about this cover

This cover operates on a claims-made basis. This means that **we** will only provide cover for **claims** or **claim circumstances** made against **you** and notified to **us** during the **period of insurance**. **We** will not cover any **claim** or **claim circumstance** arising from an act, error or omission that occurred before the **retroactive date**.

Conditions apply regarding when **you** must tell **us** about **claims** or **claim circumstances** and these can be found below. **You** should read these carefully.

## Meanings of defined terms

These meanings apply within **your** Professional indemnity section. If a word or phrase has a defined meaning it will be highlighted in bold blue print and will have the same meaning wherever it is used in this **section**.

### Asbestos

Asbestos in any form, asbestos fibres or particles or derivatives of asbestos or any material containing asbestos.

### Asbestos survey

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.

### Claim(s)

Any verbal or written demand, notice or communication from a third party

- 1 making an assertion for legal remedy or any other form of compensation or remedy
- 2 containing reference to, or serving notice of, intent to start legal proceedings
- 3 invoking any pre-action protocol as set under the Civil Procedure Rules and/or
- 4 referring to arbitration, adjudication or complaint proceedings.

### Claim circumstance(s)

Any incident, occurrence, fact, matter or act that **you** become aware of that might reasonably give rise to a **claim**.

### Collateral warranty

Any written agreement that creates a duty of care between **you** and any party that is not **your** direct client or customer.

### Criminal prosecution defence costs

Costs and expenses that you incur with **our** prior written consent to defend any criminal proceeding first made against **you** and notified to **us** during the **period of insurance** arising from the conduct of your **professional business**.

### Defence costs

All costs and expenses incurred by **us** or by **you** with **our** prior written permission relating to the investigation, defence or settlement of any claim against **you**, which **your policy** covers.

This does not include profit costs or remuneration or expenses paid or due to **you**.

### Documents

Any documents, information or data, including computer records and data or information stored magnetically or electronically, that are **your** property or are looked after by or deposited with **you** in the ordinary course of **your professional business** and for which **you** are responsible. This does not include bearer bonds, coupons, stamps, bank or currency notes or negotiable instruments.

### Employee(s)

- 1 Any person working for **you** under a contract of service with **you** or
- 2 Any person working for **you** in connection with the **professional business**
  - a who is hired or lent to **you**
  - b who is self-employed
  - c on a voluntary basis

and who is under **your** control or supervision.

### Environmental audit

An investigation specifically intended to identify, locate or treat **pollution**.

### Excess

The amount stated in your schedule, being the first amount of loss for which **you** are responsible.

### Extended liability

Legal liability assumed by **you** under the express or implied terms of any contract or agreement that restrict **your** right of recovery or increase **your** liability at law beyond that applicable in the absence of those terms.

### Injury

Any death, illness, disease or sickness or any bodily, mental, psychological or emotional injury, distress or shock.

### Limit of indemnity

The amount shown in **your** schedule as the limit of indemnity.

### Loss

The amount that you are legally liable to pay due to a claim, including awards of damages, awards of claimant costs and amounts that are pursuant to settlements, but not including **defence costs**.

### Period of insurance

Period shown in **your** schedule, inclusive of both the stated start date and end date.

### Policy

This document, any schedule and any endorsements attached or issued.

### Pollutant

Any solid, liquid or gaseous pollutant contaminant or irritant substance or any biological agent that is a danger to human health, but not including **asbestos**.

### **Pollution**

Actual, alleged or threatened discharge, seepage, treatment, removal, disposal, dispersal, emission, release or escape of any **pollutant** or any regulatory order, direction or request to test for, monitor, remove, contain, treat, detoxify, or neutralise any **pollutant**.

### **Professional business**

Performance by **you** or on **your** behalf of the following, provided such activities are undertaken by or under the supervision of a qualified professional

- 1 design of or specification for any building or structure
- 2 supervision of or inspection of construction works
- 3 feasibility study or other scientific study for any construction works
- 4 calculation or provision of technical information
- 5 surveying or quantity surveying
- 6 materials measurement, testing and certification
- 7 testing and commissioning
- 8 safety management
- 9 other related consultancy or provision of advice
- 10 co-ordination and integration of design
- 11 quality control
- 12 testing and commissioning
- 13 training.

### **Qualified professional**

Properly qualified architect, engineer or surveyor, or any person with a minimum of five years relevant practical experience of that professional activity.

### **Retroactive date**

The date from when work you performed is covered. This date is shown on **your** schedule.

### **Subsidiary**

A company that **you** either directly or indirectly control through

- 1 holding a majority of the voting rights
- 2 the right to appoint or remove a majority of its board of directors, and/or
- 3 sole control of, pursuant to a written agreement with other shareholders, a majority of that company's voting rights.

### **Terrorist act**

Any act of a person or group directed towards the overthrowing or influencing of any government, or putting any section of the public in fear by threat, force or violence or other means.

### **Virus or similar mechanism**

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 or logic bombs.

### **We/us/our**

AXA Insurance UK plc.

### **You/your**

- 1 The person, firm, company or organisation shown in your schedule as the insured.
- 2 Any person, firm, company or organisation shown in your schedule as an additional insured.
- 3 Any predecessor in business to any firm, company or organisation that has been disclosed to **us**.
- 4 Any person who is or has been or who becomes a director, partner, member, principal or **employee** of any firm, company or organisation referred to in **1, 2 or 3** above and only for work undertaken for or on behalf of any such firm, company or organisation.

- 5 Any retired partner, retired director or retired member of the firm, company or organisation shown in your schedule as the insured and who remains as a consultant to any person, firm, company or organisation shown in your schedule as the insured.
- 6 The estate, heirs, executors, legal or personal representatives of any person referred to in 1, 2, 3, 4 or 5 above in the event of their death or incapacity.

### ✓ What is covered

We will cover **you** for any **claim** and **defence costs** that arise from the conduct of **your professional business**, where the **claim** is first made against **you** and notified to **us** during the **period of insurance**, arising from

- 1 a breach of professional duty
- 2 negligent misstatement or misrepresentation
- 3 unintentional libel, slander or defamation
- 4 unintentional breach of or misuse of confidentiality or any right to privacy
- 5 unintentional infringement of intellectual property rights including any act of passing-off (but not breach of patent)
- 6 any liability **you** incur as a result of a decision by an adjudicator appointed to resolve a dispute under the Scheme for Construction Contracts as contained in the Housing Grants Construction and Regeneration Act 1996, or an adjudication clause contained in a contract, or
- 7 any other civil liability that **you** incur.

The most **we** will pay for **loss** resulting from each **claim** is the **limit of indemnity**.

We will pay **defence costs** in addition to the **loss**. If the amount of **loss** exceeds the **limit of indemnity**, the most **we** will pay for **defence costs** will be an amount in the same proportion that the **limit of indemnity** has to the **loss**.

### Asbestos cover

We will cover **you** for any **claim** or **claim circumstance** arising directly or indirectly from the actual or possible dispersal or presence of **asbestos**, **we** will only pay the costs of

- 1 rectification
- 2 redemption
- 3 decrease in value

caused by that actual or possible dispersal or presence of **asbestos** and only where that **claim** or **claim circumstance** arises from **your** negligent act, negligent error or negligent omission. Where that **claim** relates to a decrease in value, **we** will only cover the decrease that arises from a survey that **you** performed and where that survey was not an **asbestos survey**.

The most **we** will pay for all **claims** and **defence costs** arising directly or indirectly from **asbestos** in any one **period of insurance** is £250,000.

### Collateral warranties cover

We will cover **you** for any **claim** and **defence costs** arising from **your** performance of obligations agreed by **you** under a **collateral warranty**, provided that

- 1 the **claim** arises from the performance of **your professional business** and was first made against **you** and notified to **us** during the **period of insurance**
- 2 the benefit of such **collateral warranty** is no greater and/or longer lasting than that in the original contract to which the **collateral warranty** relates.

The most **we** will pay for Collateral warranties cover is the **limit of indemnity**.

### Court attendance costs cover

In the event that any of **your** directors, partners, members, principals or **employees** are required to attend court, mediation or arbitration in connection with a **claim** that is covered by this **policy**, provided that **we** have first given **our** written consent, **we** will pay compensation to **you** at £300 per day or part of day for each person required to attend.

The most **we** will pay for all Court attendance costs cover in any one **period of insurance** is £15,000. This is in addition to the **limit of indemnity**.

No **excess** will apply to Court attendance costs cover.

### Criminal prosecution defence costs cover

**We** will pay for **criminal prosecution defence costs** but only where, in **our** reasonable opinion, defending the criminal proceeding could protect **you** against a **claim** or potential **claim** that would be covered by this **policy**.

For any subsequent or concurrent civil action arising out of that criminal offence, notification of that action will be deemed to be notification of a **claim** or **claim circumstance**.

The most **we** will pay for all **criminal prosecution defence costs** in any one **period of insurance** is £250,000 or the **limit of indemnity**, whichever is the lower. This is part of and not in addition to the **limit of indemnity**.

### Data Protection Act defence costs cover

**We** will pay **criminal prosecution defence costs** in the defence of any criminal proceedings brought under sections 21(1), 21(2), 22(6) or 47(1) of The Data Protection Act 1998, provided always that

- 1 the act, error or omission giving rise to the proceedings was committed by **you** in the conduct of **your professional business**
- 2 **we** will be entitled to appoint solicitors and/or counsel to act on **your** behalf, and
- 3 **we** will not pay **defence costs** after **you** have pleaded guilty or have been found guilty.

The most **we** will pay for Data Protection Act defence costs cover is the **limit of indemnity**.

### Dishonesty and fraud cover

**We** will cover **you** for any **claim** and **defence costs** arising from the conduct of **your professional business**, first made against **you** and notified to **us** during the **period of insurance**, for any civil liability including liability for claimant's costs and expenses arising from dishonest or fraudulent acts or omissions by any of **your employees** who are not a principal, partner, member or director.

In the case of any **claim** arising from any dishonest or fraudulent act or omission

- 1 no person committing or condoning dishonest or fraudulent acts or omissions shall be entitled to cover

- 2 **we** will not cover dishonest or fraudulent acts or omissions committed by any person after **you** discover, or have reasonable cause for suspicion of, dishonesty or fraud on the part of that person

- 3 in the event of the alleged fraudulent and/or dishonest party making an admission of guilt or being found guilty of that fraud and/or dishonesty, **we** will seek a full refund of any amounts paid by **us** under this section from that fraudulent party.

Any dishonesty or fraud committed by two or more **employees** who were acting together will be regarded as one **claim**.

The most **we** will pay for **loss** resulting from each **claim** that arises out of that dishonest or fraudulent act or omission is the **limit of indemnity**.

**We** will pay **defence costs** in addition to **loss** that arises out of that dishonest or fraudulent act or omission. If that **loss** amount exceeds the **limit of indemnity**, the most **we** will pay for **defence costs** will be an amount in the same proportion that the **limit of indemnity** has to the **loss** amount.

### Formal investigation costs cover

**We** will pay costs and expenses that **you** incur with **our** prior written approval at a properly constituted hearing, tribunal or proceeding that is covered under this **policy**, but that are not included under the meaning of **defence costs**, provided that the hearing, tribunal or proceeding

- 1 is first instigated against **you** and notified by **you** to **us** during the **period of insurance**, and
- 2 arises from the conduct of **your professional business**.

The most **we** will pay for Formal investigation costs cover in any one **period of insurance** is £25,000.

### Joint ventures cover

**We** will cover **you** for any **claim** and **defence costs** that arise from the conduct of **your professional business**, where the **claim** is first made against **you** and notified to **us** during the

**period of insurance**, arising from a civil liability that **you** may become legally liable to pay and that arises whilst **you** are a member of a joint venture or consortium.

The most **we** will pay for Joint ventures cover is the **limit of indemnity**.

#### Loss of documents cover

**We** will cover **you** for any **claim** and **defence costs** that arise from the conduct of **your professional business**, where the **claim** is first made against **you** and notified to **us** during the **period of insurance**, arising from the destruction, loss or damage of any **documents**.

**We** will pay reasonable costs and expenses for replacing or restoring **your** own **documents** that have been destroyed, lost or damaged in the conduct of **your professional business** provided that the destruction, loss or damage is discovered by **you** and notified to **us** during the **period of insurance**.

**We** will not pay for **your** own **documents** that are stored on a computer system or in any other magnetic or electronic form unless those **documents** are duplicated on at least a daily basis, with the intention that the duplicate can be used to restore the **documents** in the event of loss or damage.

The most **we** will pay for loss of **documents** is the **limit of indemnity**.

An **excess** of £500 (or the amount shown in **your** schedule if that is lower) will apply to each and every **claim** for loss of **documents**.

#### Misconduct investigation costs cover

**We** will pay on **your** behalf the reasonable and necessary legal fees and related professional charges **you** incur during **your** representation at an investigative inquiry into **your** conduct of **your professional business**, provided that

- 1 the inquiry is first instituted during the **period of insurance**
- 2 the inquiry is conducted entirely outside the United States of America or Canada
- 3 the inquiry is conducted by a regulatory or professional body that have powers to investigate **you**

- 4 **you** have been notified in writing by the regulatory or professional body that it is looking into whether or not **you** are culpable of misconduct
- 5 **your** attendance is required by the regulatory or professional body that instituted the inquiry, and
- 6 **you** have first obtained **our** written permission to incur those fees or charges.

The most **we** will pay for all such legal fees and related professional charges in any one **period of insurance** is £50,000. Any amounts **we** pay for such Misconduct investigation costs are not in addition to and do not increase the **limit of indemnity**.

#### Mitigation costs cover

**We** will cover **you** for reasonable costs and expenses that **you** incur for any reasonable action **you** take to mitigate a **loss** or potential **loss** that would otherwise be the subject of a **claim** under this **policy**, provided always that

- 1 **you** obtain **our** prior written consent before incurring these costs and expenses, and
- 2 **you** prove to **our** satisfaction that the amount of the costs and expenses to be incurred are less than any likely award of damages arising from the same potential **claim**, and
- 3 if a **claim** still arises from the same **loss** or potential **loss** then the amount paid under this section will be deducted from the **limit of indemnity** for that subsequent **claim**.

The most **we** will pay for Mitigation costs cover is the **limit of indemnity**.

#### Pollution cover

For any **claim** or **claim circumstance** that arises directly or indirectly from **pollution**, **we** will only pay the costs of re-designing, re-specifying, remedying or rectifying a structure and will only pay where that **pollution**

- 1 arises from **your** negligent design, negligent specification or failure to report a structural defect and
- 2 does not result directly or indirectly from any **environmental audit** carried out by **you**.

The most **we** will pay for all **claims** and **defence costs** arising directly or indirectly from **pollution** in any one **period of insurance** is the **limit of indemnity**. For the purposes of this Pollution cover, **defence costs** will be inclusive of and not in addition to the **limit of indemnity**.

### Subsidiary creation and acquisition cover

If, during the **period of insurance**, **you**

- 1 acquire securities or voting rights in another organisation or create another organisation which, as a result of that acquisition or creation, becomes a **subsidiary of yours**, or
- 2 acquire any organisation by merger or consolidation

then that acquired or created organisation will automatically be insured under this **policy** with effect from the date of the acquisition or creation, but only with respect to the performance of **your professional business** performed after the acquisition or creation was completed.

However, if the acquired or created organisation

- 1 has annual fee income or turnover, which is greater than 10% of the annual fee income **you** last declared to **us** prior to the **period of insurance**
- 2 has assets in the USA or Canada
- 3 provides advice or services as part of activities which are not activities described in the definition of the **professional business**
- 4 has ever been fined an amount of £10,000 or more or has ever been found guilty of an offence by its regulator, or
- 5 has ever, with regard to any given 12 month period, incurred (through judgment or settlement) total losses equalling or exceeding £100,000 or 10% of the **limit of indemnity** (whichever is less) on account of **claims** made against it in that period,

**you** will give **us** written notice of that acquisition or creation as soon as possible and also provide any additional information **we** may reasonably require. **We** will have the right to amend the terms of this **policy** including but not limited to charging an additional premium. If **you** fail to give **us** written notice of the acquisition or

creation then **we** will have the right to refuse to pay any **claim** or **claim circumstance** that arise directly or indirectly in connection with that acquired or created organisation.

### Defence and settlement of claims

All **claims** that come from the same act, error or omission or series of acts, errors or omissions, as a result of, or arising directly or indirectly from the same source or original cause, will be regarded as one **claim**.

If **we** cover more than one person, firm, company or organisation, **our** liability to all, as a result of one **claim**, will not be more than the **limit of indemnity**.

**We** may at any time pay the **limit of indemnity** or relevant sub-limit. **We** will then have no further liability for that **claim** or **defence costs** except those already incurred at the date of payment of the **limit of indemnity** or sub-limit.

If a **claim** has some elements that are covered by this **policy** as well as some elements that are not covered by this **policy**, any **defence costs** or settlements due will be allocated between **you** and **us** on a fair and reasonable basis taking into account the relative legal and financial exposures of the **claim**.

**We** have the right, but not the obligation, to take control of the **claim** and conduct the investigation, settlement or defence in **your** name. After taking into account the commercial considerations of the costs of defence, **we** may choose to settle a **claim** instead of defending it.

If **we** feel it is necessary, **we** will appoint **our** adjuster, solicitor or other appropriate person to deal with the **claim**. If **you** ask **us**, **we** may agree to appoint **your** solicitor, but only if **we** are satisfied that **your** solicitor has the necessary expertise to undertake this work, only on a similar fee basis as **our** solicitor and only for work done with **our** prior written approval.

If **you** disagree with **our** proposed course of action for any legal proceedings (whether defence or prosecution), then **you** may refer the matter to a Queen's Counsel of the English Bar to be mutually agreed between **you** and **us**. If **you** and **we** cannot agree on the Queen's Counsel to be appointed, then the Queen's Counsel will



be appointed by the current Chairman of the English Bar or their representative. The Queen's Counsel's decision on how the legal proceedings should be handled shall be binding on **you** and **us**. In resolving this dispute, the Queen's Counsel will have consideration for the interests of **you** and **us**. The costs of this exercise will be allocated by the agreed or appointed party on a fair and equitable basis.

## **X What is not covered**

### **Adjudication exclusion**

**We** will not cover

- 1 any decision made against **you** by an adjudicator who was not independent of the parties to the dispute
- 2 any **claim** arising out of or related to any adjudication arising from an adjudication clause in a contract that contains timetable provisions for adjudication that 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.

### **Asbestos exclusion**

**We** will not cover any **claim** directly or indirectly involving **asbestos** or allegations or concerns relating to **asbestos** other than as stated in the Asbestos cover on page 13.

### **Associated persons or entities exclusion**

**We** will not cover any **claim** brought by

- 1 a firm, company or organisation with a financial interest in **you**
- 2 a firm, company or organisation in which any of **your** partners, directors or principles have a controlling interest
- 3 any firm, company, organisation or individual who fails within the definition of **you** above

unless the **claim** originates from a source independent of that firm, organisation or individual.

### **Contractual liability exclusion**

**We** will not cover **extended liability** other than as stated in the Collateral warranties cover on page 13.

However, in respect of any liability **you** incur under a **collateral warranty**, **we** will not cover any **claim** that arises from

- 1 any guarantee or warrant of fitness for purpose, satisfaction of performance specification or period of project works
- 2 any financial penalty or liquidated damages.

**We** will not cover any **claim** arising from the acceptance or guarantee by **you** of any fitness for purpose obligation whether this appears as an express term or is an implied term of any contract.

### **Defective workmanship or materials exclusion**

**We** will not cover any **claim** arising directly or indirectly from defective workmanship or defective materials or the failure by **you** to supervise or inspect any work. This exclusion will not apply if the failure to supervise or inspect was the responsibility of a **qualified professional**.

### **Deliberate acts and omissions exclusion**

**We** will not cover any **claim** arising directly or indirectly from any act, error or omission that **you** deliberately, spitefully or recklessly commit, condone or ignore.

### **Directors' and officers' liabilities exclusion**

**We** will not cover any **claim** made against **you** or **your** directors, officers or trustees for breach of their duties as director, officer or trustee.

### **Dishonesty and fraud exclusion**

**We** will not cover any **claim** directly or indirectly involving dishonesty or fraud committed by **you** other than as stated in the Dishonesty and fraud cover on page 14.

### Distorted computer records exclusion

We will not cover any costs and expenses you incur as a result of the loss or distortion of computer records caused by

- 1 defects in computer equipment or electronic storage devices
- 2 wear, tear, **vermin** or gradual deterioration
- 3 climatic or atmospheric conditions or extremes of temperature
- 4 use or processing whilst mounted in or on any machine unless as a result of loss of or damage to the machine itself.

The exclusion will not apply to the Loss of documents cover.

### Employment exclusion

We will not cover any **claim** arising out of any kind of employment related dispute or any kind of defamation, discrimination, harassment or unfair treatment relating to any current, former or prospective **employees**.

### Excess exclusion

We will not pay the **excess** shown in **your** schedule. The **excess** does not apply to **defence costs**, Formal investigations cover or Court attendance costs cover.

The **excess** applicable to Loss of documents cover is as stated under the Loss of documents cover on page 15.

### Failure to duplicate data exclusion

We will not cover **your** own **documents** that are stored on a computer system or in any other magnetic or electronic form unless those **documents** are duplicated on at least a daily basis, with the intention that the duplicate can be used to restore the **documents** in the event of loss or damage.

### Financial services exclusion

We will not cover any **claim** arising out of any Regulated Activities as defined in the Financial Services and Markets Act 2000 as amended from time to time.

### Fines and penalties exclusion

We will not cover any fines, penalties, punitive, multiple, aggravated or exemplary damages awarded against **you**.

### Fitness for purpose exclusion

We will not cover any **claim** arising from any fitness for purpose obligation that **you** are subject to in respect of **your professional business**.

### Injury exclusion

We will not cover any **claim** for **injury**

- 1 to any **employee**
- 2 to any person who is not an **employee** unless directly arising from a breach of duty through a negligent act, error or omission by **you** in the course of **your professional business**.

### Insolvency exclusion

We will not cover any **claim** arising out of or in connection with **your** insolvency, bankruptcy or any **claim** made by **your** liquidator, provisional liquidator or administrator.

### Insurance or finance arrangement exclusion

We will not cover any **claim** arising from **your** failure to arrange and/or maintain insurance and/or finance.

### Insured vs insured exclusion

We will not cover any **claim** brought by or on behalf of any person who may be insured by this **policy**.

### Internet activity exclusion

We will not cover any **claim** arising out of

- 1 the management of financial transactions
  - 2 obscene, blasphemous or pornographic materials
- on the internet.

### Market fluctuation exclusion

We will not cover any **claim** relating to the financial return of any investment or the depreciation or loss of investments when that financial return, depreciation or loss is caused by normal or abnormal fluctuations in any financial, stock, commodity or other markets that are outside **your** influence or control.

### North American jurisdiction exclusion

We will not cover any **claim** instituted or pursued

- 1 within the USA or Canada or any territories which come within the jurisdiction of the USA or Canada or in which it is contended that the laws of the USA or Canada should apply
- 2 to enforce a judgment obtained in any Court of the USA or Canada or any territories which come within the jurisdiction of the USA or Canada.

### North American territorial exclusion

We will not cover any **claim** arising from the conduct of **professional business** carried out from offices or premises located within the USA or Canada or any territories which come within the jurisdiction of the USA or Canada.

### Patent exclusion

We will not cover any **claim** arising directly or indirectly from the infringement of any patent.

### Pollution exclusion

We will not cover any **claim** directly or indirectly involving **pollution** other than as stated in the Pollution cover on page 15.

### Previous claims exclusion

We will not cover any **claim**

- 1 that has been notified under any other policy before the start of this **policy**
- 2 that **you** were aware of or should have been aware of before the start of this **policy**.

### Products exclusion

We will not cover any **claim** arising from products or goods manufactured, constructed, altered, repaired, treated, sold, supplied or distributed by **you**. This exclusion will not apply to project models.

### Property damage exclusion

We will not cover any **claim** for loss of or damage to property unless arising directly from a breach of duty through a negligent act, error or omission by **you** in the course of **your professional business**.

### Property ownership or use exclusion

We will not cover any **claim** arising from the ownership, possession, leasing or use of any land or building structure or any other property or goods whether mobile or immobile.

### Radioactive contamination exclusion

We will not cover any **claim** arising directly or indirectly from

- 1 ionising radiation or contamination by radioactivity from any irradiated nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel
- 2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or its nuclear component.

### Retroactive date exclusion

We will not cover any **claim** arising from the performance of **your professional business** carried out before the **retroactive date** as shown in **your** schedule.

### Surveys exclusion

We will not cover any **claim** arising out of a survey, unless it was undertaken by

- 1 anyone who is
  - a a Fellow or Associate of the Royal Institute of British Architects (RIBA) or
  - b a Fellow or Associate of the Royal Incorporation of Architects in Scotland (RIAS) or

- c** a Fellow, Professional member, Technical Member or Associate Member of the Royal Institution of Chartered Surveyors (RICS) or
  - d** a Fellow or Associate of the Architects and Surveyors Institute (ASI) or
  - e** a Fellow or Associate of the Faculty of Architects and Surveyors (FFAS) or
- 2** anyone who has not less than five years' experience of survey work or
- 3** any other person delegated by the person, firm, company or organisation shown in **your** schedule as the insured to undertake survey work, but only if
- a** supervision of that work is provided by a person qualified in line with **a** or **b** above or
  - b** **we** have first provided written agreement.

#### Taxation, competition or restraint of trade exclusion

**We** will not cover any **claim** arising directly or indirectly from the breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation.

#### Tender at less than economic terms exclusion

**We** will not cover any **claim** arising from a deliberate decision by **you** to tender for a contract at less than economic terms.

#### Terrorist act exclusion

**We** will not cover any **claim** directly or indirectly involving any **terrorist act**.

#### Trading losses exclusion

**We** will not cover any **claim** arising out of trading losses or trading liabilities incurred by **you** or any of **your** businesses.

#### Unqualified professionals exclusion

**We** will not cover any **claim** arising directly or indirectly from the performance of **your professional business** by any person who is not a **qualified professional**.

#### Valuation exclusion

**We** will not cover any **claim** arising from any valuation report prepared by **you** or on **your** behalf except where the purpose of the report is for certification of payments to contractors or for measuring quantities.

#### Virus exclusion

**We** will not cover any **claim** arising out of the transmission or receipt of a **virus or similar mechanism**.

#### War risk exclusion

**We** will not cover any **claim** arising from or happening through war, invasion, act of foreign enemy, hostilities whether war is declared or not, civil war, rebellion, revolution, insurrection or military or usurped power.

#### Section conditions

**You** must comply with the following conditions to have the full protection of **your policy**. If **you** do not comply then **we** may at **our** option take one or more of the following actions

- 1** Cancel **your policy**
- 2** Declare **your policy** void (treating **your policy** as if it had never existed)
- 3** Change the terms of **your policy**
- 4** Refuse to deal with all or part of any **claim** or reduce the amount of any **claim** payments.

#### Adjudication condition

If **you** receive any notice of intention to adjudicate, notice of adjudication, referral notice or any adjudication notice relating to a contract, **you** must tell **us** within two working days of receipt of that notice.

**We** reserve the right to treat any notification received under this clause as a notification of a **claim circumstance**.

**You** must not serve any notice of intention to adjudicate, notice of adjudication, referral notice or any adjudication notice relating to a contract without first obtaining **our** written approval unless, in **your** reasonable opinion, service of those notices will not lead to a **claim**.

**You** must not

- 1 make any admission in respect of the dispute that is the subject of adjudication
- 2 agree to accept the decision of the adjudicator as finally determining the dispute with no further reference to legal proceedings, arbitration or alternative dispute resolution

without first obtaining **our** written approval to do so.

If **you** do not comply with this condition, **we** have the right to refuse to pay any costs, damages, penalties or other amounts that arise from the adjudication.

### Admission of liability condition

In the event of a **claim** or discovery of a **claim circumstance**, **you** must not

- 1 admit liability
- 2 incur any **defence costs**
- 3 make any offers of settlement
- 4 otherwise prejudice the conduct of defence or settlement of that **claim** or **claim circumstance**

without first obtaining **our** written approval. This applies regardless of any complaints handling procedure or if the amount in dispute is less than **your excess**.

### Breach of Claim notification condition or Claim circumstance condition

If **you** do not comply with the Claim notification condition or the Claim circumstance condition and where the **claim** or **claim circumstance** would otherwise be covered by this **policy**, **we** will not refuse to pay the **claim** provided:

- 1 **you** tell **us** in writing about the **claim** or **claim circumstance** during the **period of insurance** and;
- 2 **you** can satisfy **us** that **you** had no intention to deceive or mislead.

If, however, this affects **our** ability to handle or settle a **claim** or **claim circumstance**, **we** will reduce the amount **we** pay to the figure **we** reasonably believe would have been payable had **our** ability to handle or settle it not been affected. This does not affect any other condition in this **policy**.

If **you** do not comply with the Claim notification condition or the Claim circumstance condition and **you** disagree with **us** about what is covered or what **we** will pay, **you** may refer the matter for consideration to the professional or regulatory body to which **you** belong. If that professional or regulatory body agrees to nominate a person to intercede on **your** behalf and, after consideration of the facts, that person considers intercession by them is warranted, **we** agree **we** will give due and proper consideration to that person's intercession.

### Change in risk condition

**You** must tell **us** as soon as possible during the **period of insurance** of any change

- 1 to the **professional business**
- 2 in the person, firm, company or organisation shown in **your** schedule as the insured
- 3 to the information **you** provided to **us** previously or any new information that increases the risk of loss as insured under any section of **your policy**.

**Your policy** will come to an end from the date of the change unless **we** agree in writing to accept an alteration.

**We** do not have to accept any request to vary **your policy**. If **you** wish to make any alteration to **your policy** **you** must disclose any change to the information **you** previously provided or any new information that could affect this insurance. If **we** accept any variation to **your policy**, an increase in the premium or different terms or conditions of cover may be required by **us**.

### Claim circumstance condition

**You** must tell **us** in writing as soon as possible within the **period of insurance** about **claim circumstances**.

When telling **us** about **claim circumstances**, **you** must give to **us** full details including but not limited to

- 1 a description of the **claim circumstance**
- 2 the nature of the alleged act, error or omission leading to the **claim circumstance** and the date it was committed

- 3 the nature of the alleged damage
- 4 the names of the actual or potential claimants and defendants, and
- 5 the manner in which **you** first became aware of the **claim circumstance**.

If **claim circumstances** that relate to work **you** performed after the **retroactive date** and within the **period of insurance** lead to a **claim** after the **period of insurance** has ended, that **claim** will be deemed to have been made against **you** during the **period of insurance**, provided that **you** told **us** in accordance with the requirements of this condition.

### Claim control and co-operation condition

**You** must give **us** all information and assistance that **we** reasonably require and that is in **your** power to provide.

**You** must co-operate with **us** and anyone appointed on **our** behalf by

- 1 providing any information, assistance, signed statements or depositions as **we** may require to comply with any Civil Procedure Rules, Practice directions and Pre-Action Protocols as may be issued
- 2 assisting to present the best possible defence to a **claim**
- 3 ensuring access to any information that **we** or **our** representatives may require in the defence of a **claim** or the investigation of any **claim circumstance**, whether or not that information may be privileged
- 4 provide **us** with any and all information that will allow **us** to determine **our** liability under this **policy**
- 5 making payment on demand of **your excess** in order to comply with the terms of any settlement **we** have agreed
- 6 providing any information, assistance, signed statements or depositions as **we** may require to exercise **our** rights of subrogation
- 7 ensuring that all documents of any description relevant to any **claim** or **claim circumstance** are preserved and complete.

### Claim notification condition

**You** must tell **us** in writing as soon as possible within the **period of insurance** about any **claim** against **you** irrespective of **your** views as to the validity of such **claim**.

**We** will not pay **your claim** where **you** have not complied with this condition.

### Dishonesty and fraud condition

**You** must tell **us** as soon as possible within the **period of insurance** of the discovery of any dishonest or fraudulent act or omission or of any reasonable suspicion that an **employee** has acted dishonestly or fraudulently.

### Expiry of period of insurance condition

If **you** become aware of a **claim** or **claim circumstance** in the seven days immediately before the end of the **period of insurance** but, in **our** reasonable opinion, **you** are unable to tell **us** before the end of the **period of insurance**, **we** will allow **you** an additional seven days immediately after the **period of insurance** to tell **us**.

### Fraud condition

**You** and anyone acting for **you** must not act in a fraudulent way.

If **you** or anyone acting for **you**

- 1 knowingly makes a fraudulent or exaggerated **claim** under **your policy**,
- 2 knowingly makes a false statement in support of a **claim** (whether or not the **claim** itself is genuine) or
- 3 knowingly submit a false or forged document in support of a **claim** (whether or not the **claim** itself is genuine),

**we** will

- a refuse to pay the **claim**
- b declare the **policy** void from the date of the fraudulent act without any refund of premiums.

**We** may also inform the police of the circumstances.

### Instalments condition

If **you** fail to pay a premium instalment to **us** on the date due, this will result in **your policy** being cancelled from the date the missed instalment was due. **You** will not be entitled to any return of premium where this happens.

If a **claim** or **claim circumstance** has been notified to **us** during the current **period of insurance** the annual premium remains due in full.

### Law applicable to this policy condition

**You** and **we** can choose the law which applies to this **policy**. **We** propose that the Law of England and Wales apply. Unless **we** and **you** agree otherwise, the Law of England and Wales will apply to this **policy**.

### Misconduct investigation notification condition

If **you** discover that an investigative inquiry into **your** conduct of **your professional business** is to be undertaken within the **period of insurance**, **you** must inform **us** within 14 days.

If **you** do not comply with this condition, **we** have the right to refuse to pay any costs, damages, penalties or other amounts arising from the investigation.

### Non-disclosure and misrepresentation condition

**You** have a duty to make a fair presentation of the risk which **you** wish to insure. This applies prior to the start of **your policy**, if any variation is required during the **period of insurance** and prior to each renewal.

If **you** fail to comply with this duty then

- 1 if **we** can demonstrate that the failure to make a fair presentation of the risk was deliberate **we** can elect to make **your policy** void and keep the premium. This means treating the **policy** as if it had not existed and that **we** will not return **your** premiums, or
- 2 if the failure to make a fair presentation of the risk was not deliberate and **we** would not have provided cover or **we** would have issued cover on different terms had **you**

made a fair presentation, then **we** will not use **our** right to void **your policy** or to reduce the amount **we** will pay for a **claim**, but **we** can charge a reasonable additional premium in light of any prejudice caused to **us** by **your** failure to comply with that duty. Any such additional premium will not be more than the reduction in the amount of the claim payment that the law would have entitled **us** to apply.

- 3 Where **we** elect to apply one of the above then
  - a if **we** elect to make **your policy** void, this will be from the start of the **policy**, or the date of variation or from the date of renewal
  - b **we** will apply additional premium calculated by reference to the premium that would have been charged and this will apply from the start of the **policy**, or the date of variation or from the date of renewal.Depending on when the failure to make a fair presentation occurs.
- 4 In the case of a **claim** first made against **you** during the **period of insurance** where:
  - a **you** had previous knowledge of the circumstances relating to that **claim**, and
  - b **you** should have notified that **claim** under any preceding policy but did not do so, if the indemnity or cover under **your policy** is greater or wider in scope than the preceding policy (whether insured by **us** or not), **we** will only cover **you** to the amount and extent as would have been provided by the preceding policy.

### Other insurance condition

If a **claim** is made under this **policy** and there is other insurance cover under which **you** are, or would be but for this **policy**, entitled to have a **claim** paid, **we** will not pay the **claim** or **defence costs** except for any amount over and above the amount payable by the other insurance policy or policies.

### Sanctions condition

This contract of insurance is subject to sanction, prohibition or restriction under United Nations resolutions. It is a condition of **your policy** that **we** will not provide cover, or pay any **claim** or provide any benefit under **your policy** to the extent that the provision of such cover, payment of such **claim** or provision of such benefit would expose **us**, or **our** parent, subsidiary or any AXA group member company, to any trade or economic sanctions, or violate any laws or regulations of the United Kingdom, the European Union, the United States of America or any other territory.

### Subrogation (our rights) condition

**We** will be entitled to undertake in **your** name or on **your** behalf steps to enforce rights against any other party before or after any payment is made by **us**.

**We** will not exercise any right of subrogation against any present or former **employee** unless **we** have made payment brought about or contributed to by any dishonest, fraudulent or malicious act or omission of that present or former **employee** or if the present or former **employee** conspired to commit or condone any such dishonest, fraudulent or malicious act or omission.

**You** must not enter into any contract or other agreement that restricts **your** rights of recovery in respect of any **claim** that may be covered by this **policy**.

### Third party rights condition

The Contract (Rights of Third Parties) Act 1999 does not apply to this **policy**.



# Employers liability section

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Your schedule will show if this section is covered.

## Meanings of defined terms

These meanings apply within **your** Employers liability section. If a word or phrase has a defined meaning it will be highlighted in bold blue print and will have the same meaning wherever it is used in this section. The meanings of defined terms that apply throughout **your policy**, and not just this section, can be found on page 5.

## Bodily injury

Death, bodily injury, illness or disease.

## Claim costs

Costs and expenses

- 1 of any claimant which **you** become legally liable to pay
- 2 incurred with **our** prior written consent, to investigate or defend a claim against **you** including solicitors fees at
  - a any coroner's inquest or fatal accident inquiry
  - b summary court proceedings.

## Contractual liability

Legal liability assumed by **you** under the express or intended terms of any contract or agreement that restrict **your** right of recovery, or increase **your** liability at law beyond that applicable in the absence of those terms.

## Employed person

- 1 Anyone under a contract of service or apprenticeship with **you**.
- 2 Anyone who is
  - a employed by **you** or on **your** behalf on a labour only basis
  - b self employed
  - c hired to **you** or borrowed by **you** from another employer
  - d a voluntary helper or taking part in a work experience or training scheme and under **your** control or supervision.

### Manslaughter costs

Costs and expenses of legal representation in connection with any criminal inquiry into or court proceedings brought for manslaughter, corporate manslaughter, corporate homicide or culpable homicide.

### Offshore

On or working from, or travelling by sea or air, to, from or between an offshore rig, platform or similar offshore installation.

### Principal

Employer who has engaged **you** to act on their behalf, under a contract for the performance of work by **you**, in connection with the **business**.

### Safety legislation costs

Costs and expenses of legal representation in connection with an alleged breach of statutory duty under Health and Safety, Consumer Protection or Food Safety legislation, enacted within the **policy territories**.

### Terrorist act

Any act of a person or group directed towards the overthrowing or influencing of any government or putting any section of the public in fear by threat, force or violence or other means.

### ✓ What is covered

**We** will cover the amount of damages which **you** are legally liable to pay in respect of **bodily injury** to any **employed person** resident in the **policy territories**, caused during the **period of insurance** and arising out of and in the course of their employment by **you** in connection with the **business**.

### Additional business activities cover

The cover under this section includes the following activities of the **business**

- 1 providing and managing amenities for the benefit and welfare of **employed persons**
- 2 owning, repairing, maintaining and decorating **your** own property or premises **you** use

- 3 providing and managing facilities primarily used for fire prevention, safety or security at **your** premises
- 4 maintaining and repairing vehicles and machinery owned or used by **you**
- 5 private work **you** allow **employed persons** to do for **your** directors, partners or officers, as long as this work is done with **your** prior permission
- 6 the sale or disposal of **business** assets.

### Claim costs cover

**We** will cover **claim costs** in connection with a claim for which an award of damages is paid or may be payable under this section, but **we** will not pay **claim costs** for any part of a claim not covered by this section.

### Compensation for court attendance cover

**We** will compensate **you** at the rate of £500 per day, for each day that **we** request any director, partner or **employed person** to attend court as a witness in connection with a claim, for which an award of damages is paid or may be payable under this section.

### Manslaughter costs cover

**We** will cover **manslaughter costs** in respect of any death occurring during the **period of insurance**, in circumstances where there is also a claim or potential claim against **you** for damages covered by this section.

**You** must obtain **our** prior written consent to legal representation and **we** will only agree to payment on a fee basis agreed by **us**.

If a claim for damages is settled or is withdrawn **we** will have no further liability other than in respect of costs and expenses of legal representation incurred before the date of the claim payment or withdrawal of the claim.

If at any time a claim for damages remains unsettled and **you** wish to appeal against conviction, **we** will agree to costs and expenses of legal representation if, in the opinion of Counsel (appointed by mutual consent), such an appeal is more likely to succeed than not and the total amount of damages and claimants costs are likely to exceed the total cost of legal representation.

## Employers liability section *continued*

If **we** have consented to legal representation at court proceedings, **we** will also pay the legal costs of prosecution awarded against **you**, or any person entitled to cover under this section, in connection with the proceedings.

The maximum **we** will pay for **manslaughter costs** and costs awarded against **you**, or any person entitled to cover under this section, in total, as a result of all occurrences during any one **period of insurance**, is £1,000,000.

**We** will not pay

- 1 fines, penalties or awards of compensation imposed by a criminal court
- 2 costs and expenses of implementing any remedial order or publicity order
- 3 costs and expenses of an appeal against any fine, penalty, compensation award, remedial order or publicity order
- 4 costs and expenses incurred as a result of the failure to comply with any remedial order or publicity order
- 5 costs and expenses covered by any Legal expenses insurance
- 6 costs and expenses of any investigation or prosecution brought other than under the laws of the **policy territories**.

### Overseas employees cover

If **bodily injury** is caused during the **period of insurance** to any person under a contract of service or apprenticeship, arising out of and in the course of their employment by **you** in connection with the **business** and who is resident outside the **policy territories**, **we** will cover the amount of damages which **you** are legally liable to pay by a court of law having jurisdiction within the **policy territories**.

**We** will not pay

- 1 for any action or recovery brought or commenced
  - a in a court of law outside the **policy territories**
  - b in connection with any workmen's compensation or other social insurance, or arising from **your** failure to meet legal obligations or to pay adequate contributions for that insurance

- 2 where an insurance policy covering legal liability for **bodily injury** caused to **employed persons** is arranged outside the **policy territories**.

### Personal liability cover

If no other insurance is in force, the cover provided by this section will apply to the legal liability of

- 1 any director or **employed person** of **yours** whilst
  - a performing their normal duties in connection with the **business**
  - b work is being carried out on behalf of a director or officer by an **employed person** with **your** consent
  - c acting in a personal capacity, during the course of a trip or journey arranged for the purpose of the **business**
- 2 the spouse, civil partner, domestic partner or any children accompanying a director or **employed person** in the course of a business trip or journey.

The cover provided by this section will also apply to **your** personal representative, or the personal representative of any other deceased person entitled to cover.

### Principals liability cover

**We** will cover the legal liability of any **principal** arising from the performance of **your** work for the **principal**.

**We** will not provide cover beyond the requirements of **your** contract with the **principal**.

### Safety legislation costs cover

**We** will cover **safety legislation costs** in respect of any **bodily injury** occurring during the **period of insurance**, in circumstances where there is also a claim or potential claim against **you** for damages covered by this section.

**You** must obtain **our** prior consent to legal representation and **we** will only agree to payment on a fee basis agreed by **us**.

If a claim for damages is settled or is withdrawn **we** will have no further liability other than in respect of costs and expenses of legal representation incurred before the date of the claim payment or withdrawal of the claim.

If at any time a claim for damages remains unsettled and **you** wish to appeal against conviction, **we** will agree to costs and expenses of legal representation if, in the opinion of Counsel (appointed by mutual consent), such an appeal is more likely to succeed than not and the total amount of damages and claimants costs are likely to exceed the total cost of legal representation.

If **we** have consented to legal representation at court proceedings, **we** will also pay the legal costs of prosecution awarded against **you**, or any person entitled to cover under this section, in connection with the proceedings.

The maximum **we** will pay for **safety legislation costs** and costs awarded against **you**, or any person entitled to cover under this section, in total, as a result of all occurrences during any one **period of insurance**, is £1,000,000.

**We** will not pay

- 1 fines, penalties or awards of compensation imposed by a criminal court
- 2 costs and expenses of an appeal against improvement or prohibition notices
- 3 costs and expenses on indictment for manslaughter, corporate manslaughter, corporate homicide or culpable homicide, other than **safety legislation costs** already incurred
- 4 costs and expenses covered by any Legal expenses insurance
- 5 costs and expenses of any investigation or prosecution brought other than under the laws of the **policy territories**.

**Unsatisfied court judgements cover**

**We** will at **your** request, pay an **employed person** the amount awarded to that person by a court of law for **bodily injury** against any company, partnership or individual conducting a business within the **policy territories**, if such award remains unpaid six months after the date of the judgement.

**We** will only provide cover if

- 1 there is no outstanding appeal
- 2 the **bodily injury** was sustained during the **period of insurance** by the **employed person** while working in connection with the **business**

- 3 the judgement was obtained in a court within the **policy territories**
- 4 the **employed person** or their personal representative assigns the amount awarded under the judgement to **us**.

**Limit of indemnity**

- 1 The employers liability limit of indemnity shown in **your** schedule is the maximum **we** will pay for the total of all damages and **claims costs** and will apply to any one claim or series of claims by one or more of the **employed persons** arising from one occurrence.
- 2 A **terrorist act** limit of indemnity of £5,000,000 will apply exclusively to any one claim or series of claims by one or more of the **employed persons** arising directly or indirectly in connection with a **terrorist act**.
- 3 In respect of any claim or claims, **we** may at any time pay the limit of indemnity applicable, after deducting any amounts already paid, or any lesser amount for which a settlement can be made. **We** will not then be liable to make any further payment in respect of the claim or claims.

## **X** **What is not covered**

**Offshore exclusion**

**We** will not cover claims for **bodily injury** to any **employed person** while **offshore**.

**Radioactive contamination exclusion**

**We** will not cover claims for

- 1 **contractual liability**
- 2 which **your principal** has a legal liability caused by or arising from any type of nuclear radiation, nuclear material, nuclear waste, nuclear reaction or radioactive contamination.

**Road Traffic Act exclusion**

**We** will not cover claims for **bodily injury** to an **employed person** in circumstances where it is necessary to arrange compulsory motor insurance or security, under any Road Traffic Legislation.

### Section conditions

These conditions of cover apply only to this section. **You** must comply with the following conditions (including any specific conditions where applicable) to have the full protection of **your policy**. Conditions may specify circumstances whereby non-compliance will mean that **you** will not receive payment for a claim. However **you** will be covered and **we** will pay **your** claim if **you** are able to prove that the non-compliance with these conditions could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

If **you** are unsure about any of these conditions or whether **you** need to notify **us** about any matter, please contact **us**.

### Premium adjustment condition

If any part of the premium has been calculated on estimates **you** must, at **our** request, tell **us** the actual figures on the expiry of the **period of insurance** so that the final premium can be calculated using the agreed rates. If the adjusted premium is less than the estimated premium **we** will not return more than 10% of the original premium.

If the estimates shown in **your** schedule are marked as index linked, the renewal premium for each **period of insurance** will be calculated on an adjusted amount in line with suitable indices of costs.

### Right of recovery condition

The cover provided under this section is in line with any law relating to the compulsory insurance of liability to persons employed within the **policy territories**. **You** must repay to **us** all amounts **we** pay which **we** would not have been liable to pay but for the law.

# Public and products liability section

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Your schedule will show if this section is covered.

## Meanings of defined terms

These meanings apply within **your** Public and products liability section. If a word or phrase has a defined meaning it will be highlighted in bold blue print and will have the same meanings wherever it is used in this section. The meaning of defined terms that apply throughout **your policy**, and not just this section, can be found on page 5.

### Asbestos

Asbestos in any form, asbestos fibres or particles or derivatives of asbestos or any material containing asbestos.

### Bodily injury

Death, bodily injury, illness or disease.

### Claim costs

Costs and expenses

- 1 of any claimant which **you** become legally liable to pay
- 2 incurred with **our** prior written consent, to investigate or defend a claim against **you** including solicitors fees at
  - a any coroner's inquest or fatal accident inquiry
  - b summary court proceedings.

### Clean up costs

Costs and expenses of remediation of environmental damage or environmental harm.

### Contractual liability

Legal liability assumed by **you** under the express or intended terms of any contract or agreement that restrict **your** right of recovery, or increase **your** liability at law beyond that applicable in the absence of those terms.

### Electronic data

Facts, concepts or information in a form usable for communications, interpretation or processing by electronic or electro-mechanical data processing or electronically controlled

equipment which includes programmes, software, firmware, operating systems or other coded instructions for the processing or manipulation of data.

### Employed person

- 1 Anyone under a contract of service or apprenticeship with **you**.
- 2 Anyone who is
  - a employed by **you** or on **your** behalf on a labour only basis
  - b self employed
  - c hired to **you** or borrowed by **you** from another employer
  - d a voluntary helper or taking part in a work experience or training scheme and under **your** control or supervision.

### Enforcing authority

Any government or statutory authority, implementing or enforcing environmental protection legislation in the **policy territories**.

### Event

Claim or series of claims against **you** as a result of or attributable to a single source or the same original, repeated or continuing cause.

### Hot work

Any work that requires, uses or produces open flames or any other sources of heat or sparks that could ignite flammable or combustible materials.

### Manslaughter costs

Costs and expenses of legal representation in connection with any criminal inquiry into or court proceedings brought for manslaughter, corporate manslaughter, corporate homicide or culpable homicide.

### Nuisance or trespass

Nuisance, trespass to land or trespass to goods, or interference with any easement.

### Offshore

On or working from, or travelling by sea or air, to, from or between an offshore rig, platform or similar offshore installation.

### Personal injury

Personal injury or infringement of a person's legal right other than

- 1 **bodily injury**
- 2 a right arising from title to, or an interest in property.

### Pollutants

Any solid, liquid or gaseous pollutant, contaminant or irritant substance or any biological agent that is a danger to human health.

### Principal

Employer who has engaged **you** to act on their behalf, under a contract for the performance of work by **you**, in connection with the **business**.

### Products

Products that **you** have sold, supplied, provided or delivered including

- 1 containers, packaging, labelling, instructions or advice in connection with products
- 2 **services** that have been completed as part of a contract for the sale or supply of products

in the course of the **business**.

### Property damage

Loss of or damage to property that **you** do not own or possess and is not in **your** custody or under **your** control.

### Safety legislation costs

Costs and expenses of legal representation in connection with an alleged breach of statutory duty under Health and Safety, Consumer Protection or Food Safety legislation, enacted within the **policy territories**.

### Services

Work process or other operation that **you** undertake or is undertaken on **your** behalf including any goods or materials used in connection with the work process or other operation in the course of the **business**.

### Sudden incident

Sudden identifiable unintended and unexpected incident that does not originate from a gradual, continuous or repetitive cause.

### Terrorist act

Any act of a person or group directed towards the overthrowing or influencing of any government or putting any section of the public in fear by threat, force or violence or other means.

## ✓ What is covered

**We** will cover the amount of damages which **you** are legally liable to pay in respect of

- 1 **bodily injury**
- 2 **personal injury**
- 3 **property damage**
- 4 **nuisance or trespass**

occurring during the **period of insurance** in connection with the **business**.

If legal liability to pay damages in respect of **property damage** or **nuisance or trespass** arises from a release or escape of **pollutants** into the atmosphere or onto land, water, building(s) or any structure, the cover will only apply to a **sudden incident** which happens at a specific time and place during the **period of insurance** within the **policy territories** and all **property damage** or **nuisance or trespass** will be considered as having occurred at the time of the **sudden incident**.

### Additional business activities cover

The cover under this section includes the following activities of the **business**

- 1 providing and managing amenities for the benefit and welfare of **employed persons**
- 2 owning, repairing, maintaining and decorating **your** own property or premises **you** use

- 3 providing and managing facilities primarily used for fire prevention, safety or security at **your** premises
- 4 maintaining and repairing vehicles and machinery owned or used by **you**
- 5 private work **you** allow **employed persons** to do for **your** directors, partners or officers, as long as this work is done with **your** prior permission
- 6 the sale or disposal of **business** assets.

### Claims costs cover

**We** will cover **claim costs** in connection with a claim for which an award of damages or **clean up costs** is paid or may be payable under this section, but **we** will not pay **claim costs** for any part of a claim not covered by this section.

### Compensation for court attendance cover

**We** will compensate **you** at the rate of £500 per day, for each day that **we** request any director, partner or **employed person** to attend court as a witness in connection with a claim, for which an award of damages is paid or may be payable under this section.

### Contingent motor liabilities cover

**We** will cover the amount of damages which **you** are legally liable to pay and **claim costs** in respect of accidental

- 1 **bodily injury**
- 2 **property damage**

occurring during the **period of insurance** and arising out of

- a the use by an **employed person** of their own motor vehicle within the European Union in connection with the **business**
- b the movement of any motor vehicle, not owned by, or provided by **you**, or an **employed person** that is preventing access to, or causing an obstruction within **your** premises or any site at which **you** are working

and the Road Traffic Act exclusion in this section will not apply to that liability.



**We** will not pay

- 1 for loss of or damage to any motor vehicle referred to in **a** or **b** above
- 2 unless the motor vehicle is being driven with **your** permission and **you** have taken reasonable steps to ensure that the person driving holds a valid licence to drive the motor vehicle
- 3 where cover is provided by another insurance policy.

### Cross liabilities cover

Any person, firm, company or organisation covered by this section, is entitled to the cover as if a separate policy had been issued to each and where **you** are a membership organisation, the cover will apply to each member as if a separate policy had been issued to each member.

However the amount payable by **us** in total, on behalf of all entitled to cover, shall not in any circumstances exceed the limit of indemnity shown in **your** schedule.

### Data Protection cover

**We** will cover the amount of compensation which **you** are legally liable to pay in respect of **personal injury** occurring during the **period of insurance**, arising from holding personal data, or, as a result of any loss, misuse or unauthorised disclosure of personal data held by **you** in the course of the **business**.

**We** will only pay

- 1 amounts of compensation which **you** are ordered to pay, or which **you** might reasonably be expected to pay by a court having jurisdiction
- 2 if **you** are registered or are in the process of registration (and the application has not been refused or withdrawn) under Data Protection legislation

within the **policy territories**.

**We** will not cover

- 1 fines or penalties imposed by a court
- 2 the costs of any appeal against the refusal of an application for registration or alteration, in connection with the Data Protection legislation or any enforcement, de-registration or prohibition notice

- 3 the cost of replacing, reinstating, rectifying or erasing any personal data
- 4 refund of monies paid to **you** by any claimant
- 5 liability for which cover is provided under any more specific insurance.

The maximum **we** will pay for compensation, costs and expenses in total, as a result of all occurrences during any one **period of insurance**, is the data protection limit of indemnity of £500,000.

### Defective Premises Act cover

**We** will cover the amount of damages which **you** are legally liable to pay in respect of accidental **bodily injury** or **property damage**, occurring during any one **period of insurance**, arising out of premises **you** have disposed of, but had previously owned in connection with the **business**.

**We** will not cover

- 1 loss of or damage to the land or premises disposed of or in connection with the cost of rectifying any defect or alleged defect in them
- 2 any liability for which **you** are covered under any other insurance policy.

### Employees' and visitors' personal belongings cover

**We** will cover **you** in respect of legal liability for accidental **damage** to **employed persons'** and visitors' vehicles and personal belongings which are in **your** custody or control.

**We** will not provide indemnity where this property is.

- 1 loaned, leased, hired or rented to **you**
- 2 stored for a fee or other consideration by **you**
- 3 in the custody or control of **you** for the purposes of being worked upon.

### Environmental clean up cover

**We** will cover the amount of **clean up costs** which **you** are legally liable to pay, under a notice or order imposed upon **you** by an **enforcing authority**, arising from a release or escape of **pollutants**, onto or into land, surface water or ground water.

The cover will only apply to a **sudden incident** which happens at a specific time and place during the **period of insurance** in connection with the **business**, within the **policy territories**.

The maximum **we** will pay for all **clean up costs**, as a result of one **sudden incident** or all such incidents happening during any one **period of insurance**, is £1,000,000.

Where a claim for damages arises in addition to **clean up costs** as a result of the same **sudden incident**, the maximum **we** will pay for the total amount of damages and **clean up costs** added together, will not exceed the Public liability limit of indemnity shown in **your** schedule.

**We** will not cover any part of a claim for **clean up costs**

- 1 at, in or upon property that is or was, owned by **you**, or in **your** possession, or in **your** custody or under **your** control
- 2 to achieve an improvement or alteration in the condition of the land, or any surface or ground water beyond that
  - a necessary to meet the standards required by law at the start of remediation
  - b existing at the time of a **sudden incident** for which a claim is made under this section
- 3 below £2,500 for any one **sudden incident**.

### Hired or rented premises cover

**We** will cover **your** legal liability for accidental damage to premises (including fixtures and fittings) within the **policy territories** which are hired, rented or loaned to **you** in connection with the **business**.

**We** will not cover

- 1 the first £250 of compensation, costs and expenses in respect of such damage caused other than by fire or explosion.
- 2 liability imposed on **you** solely by reason of the terms of any hiring or renting agreement
- 3 damage caused by fire or any other peril against which any hiring or renting agreement specifies that insurance is taken out by **you**.

### Manslaughter costs cover

**We** will cover **manslaughter costs** in respect of any death occurring during the **period of insurance**, in circumstances where there is also a claim or potential claim against **you** for damages covered by this section.

**You** must obtain **our** prior consent to legal representation and **we** will only agree to payment on a fee basis agreed by **us**.

If a claim for damages is settled or is withdrawn **we** will have no further liability other than in respect of costs and expenses of legal representation incurred before the date of the claim payment or withdrawal of the claim.

If at any time a claim for damages remains unsettled and **you** wish to appeal against conviction, **we** will agree to costs and expenses of legal representation if, in the opinion of Counsel (appointed by mutual consent), such an appeal is more likely to succeed than not and the total amount of damages and claimants costs are likely to exceed the total cost of legal representation.

If **we** have consented to legal representation at court proceedings, **we** will also pay the legal costs of prosecution awarded against **you**, or any person entitled to cover under this section, in connection with the proceedings.

The maximum **we** will pay for **manslaughter costs** and costs awarded against **you**, or any person entitled to cover under this section, in total, as a result of all occurrences during any one **period of insurance**, is £1,000,000.

**We** will not pay

- 1 fines, penalties or awards of compensation imposed by a criminal court
- 2 costs and expenses of implementing any remedial order or publicity order
- 3 costs and expenses of an appeal against any fine, penalty, compensation award, remedial order or publicity order
- 4 costs and expenses incurred as a result of the failure to comply with any remedial order or publicity order
- 5 costs and expenses covered by any Legal expenses insurance
- 6 costs and expenses of any investigation or prosecution brought other than under the laws of the **policy territories**.

### Personal liability cover

If no other insurance is in force, the cover provided by this section will apply to the legal liability of

- 1 any director or **employed person** of **yours** whilst
  - a performing their normal duties in connection with the **business**
  - b work is being carried out on behalf of a director or officer by an **employed person** with **your** consent
  - c acting in a personal capacity, during the course of a trip or journey arranged for the purpose of the **business**
- 2 the spouse, civil partner, domestic partner or any children accompanying a director or **employed person** in the course of a business trip or journey.

The cover provided by this section will also apply to **your** personal representative, or the personal representative of any other deceased person entitled to cover.

### Principals liability cover

**We** will cover the legal liability of any **principal** arising from the performance of **your** work for the **principal**.

**We** will not provide cover beyond the requirements of **your** contract with the **principal**.

### Property in your care cover

The cover provided by this section will apply to the following property whether or not it is in **your** possession or custody or under **your** control at the time of the occurrence of loss or damage

- 1 premises which are leased, let, rented, hired or lent to **you**
- 2 premises, including contents, which are not owned or rented by **you**, where **you** are temporarily carrying out work in connection with the **business**
- 3 the vehicles or personal effects of **employed persons** or visitors while on **your** premises.

**We** will not provide cover for

- 1 any **contractual liability**
- 2 loss of or damage to property for which **you** have an agreement to arrange insurance on behalf of the owner, or as if **you** were the owner, under a tenancy, rental or hire agreement
- 3 **clean up costs**.

### Safety legislation costs cover

**We** will cover **safety legislation costs** in respect of any **bodily injury** or **property damage** occurring during the **period of insurance**, in circumstances where there is also a claim or potential claim against **you** for damages covered by this section.

**You** must obtain **our** prior consent to legal representation and **we** will only agree to payment on a fee basis agreed by **us**.

If a claim for damages is settled or is withdrawn **we** will have no further liability other than in respect of costs and expenses of legal representation incurred before the date of the claim payment or withdrawal of the claim.

If at any time a claim for damages remains unsettled and **you** wish to appeal against conviction, **we** will agree to costs and expenses of legal representation, if in the opinion of Counsel (appointed by mutual consent), that such appeal is more likely to succeed than not and the total amount of damages and claimants costs are likely to exceed the total cost of legal representation.

If **we** have consented to legal representation at court proceedings, **we** will also pay the legal costs of prosecution awarded against **you**, or any person entitled to cover under this section, in connection with the proceedings.

The maximum **we** will pay for **safety legislation costs** and costs awarded against **you**, or any person entitled to cover under this section, in total, as a result of all occurrences during any one **period of insurance**, is £1,000,000.

**We** will not pay

- 1 fines, penalties or awards of compensation imposed by a criminal court
- 2 costs and expenses of an appeal against improvement or prohibition notices

- 3 costs and expenses on indictment for manslaughter, corporate manslaughter, corporate homicide or culpable homicide, other than **safety legislation costs** already incurred
- 4 costs and expenses covered any Legal expenses insurance
- 5 costs and expenses of any investigation or prosecution brought other than under the laws of the **policy territories**.

### Limit of indemnity

- 1 The Public liability limit of indemnity shown in **your** schedule is the maximum amount **we** will pay for all damages arising from one **event**.
- 2 The Public liability limit of indemnity is also the maximum amount **we** will pay for all damages as a result of all occurrences during any one **period of insurance** caused by or originating from release or escape of **pollutants**.
- 3 The Products liability limit of indemnity shown in **your** schedule is the maximum amount **we** will pay for all damages as a result of all occurrences during any one **period of insurance** caused by or originating from **products**.
- 4 A **terrorist act** limit of indemnity of £2,000,000 applies and is the maximum amount **we** will pay for all damages as a result of all occurrences during any one **period of insurance**, arising directly or indirectly in connection with a **terrorist act**.
- 5 If **we** cover more than one person, firm, company or organisation, the amount payable by **us** in total, on behalf of all entitled to cover, shall not in any circumstances exceed the limit of indemnity shown in **your** schedule.
- 6 **We** will pay **claim costs** in addition to the limit of indemnity applicable to the claim or claims, except if an action for damages is started or brought in the United States of America or Canada.

- 7 If an action for damages is started or brought in the United States of America or Canada, **we** will not pay more than the limit of indemnity shown in **your** schedule, for the total of all damages and **claim costs** arising from the action.
- 8 In respect of any claim or claims, **we** may at any time pay the limit of indemnity applicable, after deducting any amounts already paid, or any lesser amount for which a settlement can be made. **We** will not then be liable to make any further payment in respect of the claim or claims. If **we** have agreed to pay **claim costs** in addition to the limit of indemnity, **we** will pay the costs incurred before the date of the claim payment.

### X What is not covered

#### Aircraft and watercraft exclusion

**We** will not cover claims caused by or arising from **you** owning, possessing or using any

- 1 type of aircraft or spacecraft
- 2 watercraft or hovercraft exceeding 8 metres in length that is ordinarily capable of movement by mechanical power and which is under **your** control.

#### Airside exclusion

**We** will not cover claims caused by or arising from any **services** in, or on

- 1 aircraft
- 2 airport or airfield runways, manoeuvring areas or aprons, or any other parts of airports or airfields to which aircraft ordinarily have access.

#### Asbestos exclusion

**We** will not cover claims caused by or arising from

- 1 inhalation or ingestion of **asbestos**
- 2 exposure to or fear of the consequences of exposure to **asbestos**
- 3 the presence of **asbestos** in any property or on land
- 4 investigating, managing, removing, controlling or remediation of **asbestos**.

### Aviation and hovercraft products exclusion

**We** will not cover claims caused by or arising from any **products** which to **your** knowledge, are for use in or on any aircraft, hovercraft or device intended to travel through air or space.

### Contractual liability exclusion

**We** will not cover claims

- 1 for **contractual liability** in connection with **products**
- 2 where the terms of any contract or agreement made by **you**, prevent **us** from taking over the full defence or settlement of the claim
- 3 to pay liquidated damages, or any contractual fines or amounts payable under contractual penalty clauses.

### Damage to products and services exclusion

**We** will not cover claims for loss of or damage to property forming part of a contract for the sale or supply of **products** or **services**, caused by or arising from a defect in or the unsuitability of those **products** or **services**.

### Defamation and discrimination exclusion

**We** will not cover claims caused by or arising from

- 1 libel or slander
- 2 false statement
- 3 discrimination of any kind.

### Deliberate act exclusion

**We** will not cover claims

- 1 caused by or arising from any deliberate act, error or omission
  - a where the results are intended or expected, or are reasonably foreseeable by **you**
  - b by anyone other than **you**, so far as cover is requested for their own liability
- 2 for **clean up costs** in circumstances where **you** have knowingly
  - a deviated from any regulatory notice, order or protection ruling

- b omitted to inspect, maintain or perform necessary repairs to plant or machinery for which **you** are responsible.

### Electronic data exclusion

**We** will not cover claims caused by or arising from

- 1 authorised or unauthorised transmission of **electronic data**
- 2 the content of any website, **your** email, intranet or extranet
- 3 loss, distortion, erasure, corruption or alteration of **electronic data** or any loss of use resulting in reduction of functionality
- 4 failure of electronic, electromechanical data processing or electronically controlled equipment or **electronic data** to correctly recognise any given date or to process data or to operate properly due to failure to recognise any given date.

### Employee injury exclusion

**We** will not cover claims for **bodily injury** sustained by any **employed persons** arising out of and in the course of their employment with **you**.

### Employment dispute exclusion

**We** will not cover claims caused by or arising from a dispute with, or proceedings brought by, any person for

- 1 their existing, past or prospective contract of employment with **you**
- 2 a breach of employment related legislation.

### Excess exclusion

The **excess** will apply to each **event** for loss as stated in **your** schedule. In respect of **products**, the **excess** will apply to each **event** during each **period of insurance** that loss occurs as a result of the **event**.

### Intellectual property exclusion

**We** will not cover claims caused by or arising from passing off or infringement of trade name, registered design, unregistered design, copyright or patent right.

### North America exclusion

**We** will not cover claims caused by or arising from

- 1 any **products**, which to **your** knowledge, are for export, either directly or indirectly to the United States of America or Canada
- 2 pollution or contamination of the atmosphere, land or water or any building(s) or structure, or any environmental damage or impairment in the United States of America or Canada.

### Offshore exclusion

**We** will not cover claims caused by or arising from any **services**, **offshore**.

### Overseas establishment exclusion

**We** will not cover claims caused by or arising from any associated or subsidiary company of **yours**, or any of **your** branch offices, or any representative of **yours** with power of attorney, registered, having premises or resident outside the **policy territories**.

### Professional duty exclusion

**We** will not cover claims caused by or arising from any breach of professional duty in relation to advice, instruction, consultancy, design, formula, specification, inspection, survey, valuation, certification, testing or supervision undertaken or given for a fee.

### Punitive damages exclusion

**We** will not cover claims to pay any award of punitive, exemplary or aggravated damages or additional damages resulting from the multiplication of compensatory damages, by a court of law outside the **policy territories**.

### Radioactive contamination exclusion

**We** will not cover claims caused by or arising from any type of nuclear radiation, nuclear material, nuclear waste, nuclear reaction or radioactive contamination.

### Recall exclusion

**We** will not cover claims to pay any costs or expenses caused by or arising from any decision or requirement to recall or withdraw **products** from sale or use.

### Rectification of defects exclusion

**We** will not cover claims to rectify, remedy, repair, replace, re-apply, modify, investigate, access or remove defective or unsuitable **products** or **services**, or to make any refund.

### Road Traffic Act exclusion

**We** will not cover claims caused by or arising from the ownership, possession or use by **you** or on **your** behalf of any motor vehicle, trailer or mobile plant in circumstances where compulsory insurance or security is required by Road Traffic Legislation or where cover is provided (or would be provided but for breach of the terms of cover) by another insurance.

### War risk exclusion

**We** will not cover claims caused by or arising from war, invasion, act of foreign enemy, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection or military or usurped power or confiscation or nationalisation or requisition, or loss of or damage to property by or under the order of any government or public or local authority.

### Section conditions

These conditions of cover apply only to this section. **You** must comply with the following conditions (including any specific conditions where applicable) to have the full protection of **your policy**. Conditions may specify circumstances whereby non-compliance will mean that **you** will not receive payment for a claim. However **you** will be covered and **we** will pay **your** claim if **you** are able to prove that the non-compliance with these conditions could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

If **you** are unsure about any of these conditions or whether **you** need to notify **us** about any matter, please contact **us**.

### Hot work precautions condition

The following precautions must be complied with each time that **hot work** is undertaken away from **your** premises

- 1 the area where the work is to be completed must be cleared of all combustibles
- 2 combustible floors and other combustible property which cannot be moved, must be protected by non combustible material and where welding, cutting or grinding equipment is being used, this must extend to at least 6 metres from or beneath the work area
- 3 where there is a danger of ignition either directly, or by conduction of heat, through any partitions or walls, the area on the other side must be inspected and combustible material removed
- 4 at least one fire extinguisher, of a type suitable for the use required, must be kept adjacent to the work or task and ready for immediate use
- 5 no heat producing equipment must be left out of view of its operator or firewatcher whilst lighted or powered or whilst hot
- 6 a thorough safety check for signs of fire or combustion around, above or below the work area must be made at regular intervals, for at least 30 minutes after each period of work is completed.

If **you** do not comply with this condition **you** will not be covered and **we** will not pay **your** claim.

### Legionella precautions condition

If **you** own or are responsible for water systems, water installations or cooling systems, a written risk assessment must be undertaken and controls put in place to prevent the growth of biological agents that may cause disease or illness.

If **you** do not comply with this condition **you** will not be covered and **we** will not pay **your** claim.

### Premium adjustment condition

If any part of the premium has been calculated on estimates **you** must, at **our** request, tell **us** the actual figures on the expiry of the **period of insurance** so that the final premium can be calculated using the agreed rates. If the adjusted premium is less than the estimated premium **we** will not return more than 10% of the original premium.

If the estimates shown in **your** schedule are marked as index linked, the renewal premium for each **period of insurance** will be calculated on an adjusted amount in line with suitable indices of costs.

### Sub-contractors (services) condition

If **you** appoint any sub-contractor (other than an **employed person**) to carry out **services** at the premises or site of a customer, **you** must take reasonable steps to obtain confirmation from the sub-contractor, prior to starting work, that they have Public liability insurance in force throughout the period of their involvement.

If **you** do not comply with this condition **you** will not be covered and **we** will not pay **your** claim.

# Making a complaint

AXA Insurance aims to provide the highest standard of service to every customer.

If **our** service does not meet **your** expectations **we** want to hear about it so **we** can try to put things right.

All complaints **we** receive are taken seriously. Following the steps below will help **us** understand **your** concerns and give **you** a fair response.

## How to make your complaint

The majority of complaints can be resolved quickly and satisfactorily by the department **you** are dealing with. If **your** complaint relates to a claim on **your policy**, please contact the department dealing with **your** claim. If **your** complaint relates to anything else, please contact the agent or AXA office where **your policy** was purchased. Telephone contact is often the most effective way to resolve complaints quickly.

Alternatively **you** can write to **us** at

### AXA Insurance complaints:



AXA Insurance  
Commercial complaints  
AXA House  
4 Parklands  
Lostock  
Bolton  
BL6 4SD

### All claims complaints:



Telephone: **01204 815359**



Email: **commercial.complaints@axa-insurance.co.uk**

When **you** make contact please tell **us** the following information:

- Name, address and postcode, telephone number and e-mail address (if **you** have one).
- **Your policy** and/or claim number, and the type of policy **you** hold.
- The name of **your** insurance agent/firm (if applicable).
- The reason for **your** complaint.

Any written correspondence should be headed '**COMPLAINT**' and **you** may include copies of supporting material.

## Beyond AXA

Should **you** remain dissatisfied following **our** final written response, **you** may be eligible to refer **your** case to the Financial Ombudsman Service (FOS).

The FOS is an independent body that arbitrates on complaints about general insurance products. The FOS can only consider **your** complaint if **we** have given **you our** final decision.

**You** have six months from the date of **our** final response to refer **your** complaint to the FOS. This does not affect **your** right to take legal action.

### The Financial Ombudsman Service



Financial Ombudsman Service  
Exchange Tower  
Harbour Exchange Square  
London  
E14 9SR



Telephone: **0800 023 4567\***  
or **0300 123 9123\*\***  
Fax: **0207 964 1001**



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

Website: **www.financial-ombudsman.org.uk**

\* free for people phoning from a 'fixed line' (for example, a landline at home)

\*\* free for mobile phone users who pay a monthly charge for calls to numbers starting 01 or 02



## Our promise to you

### We will

- Acknowledge written complaints promptly.
- Investigate **your** complaint quickly and thoroughly.
- Keep **you** informed of progress of **your** complaint.
- Do everything possible to resolve **your** complaint.
- Learn from **our** mistakes.
- Use the information from complaints to continuously improve **our** service.

Telephone calls may be monitored and recorded.

## Financial Services Compensation Scheme (FSCS)

AXA Insurance UK plc are covered by the Financial Services Compensation Scheme (FSCS). **You** may be entitled to compensation in the unlikely event **we** cannot meet **our** obligations to **you**. This depends on the type of insurance, size of the **business** and the circumstances of the claim. Further information about the compensation scheme arrangements is available from the FSCS ([www.fscs.org.uk](http://www.fscs.org.uk)).

**This document is available in other formats.**

If you would like a Braille, large print or audio version, please contact your insurance adviser.

**[www.axa.co.uk](http://www.axa.co.uk)**



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