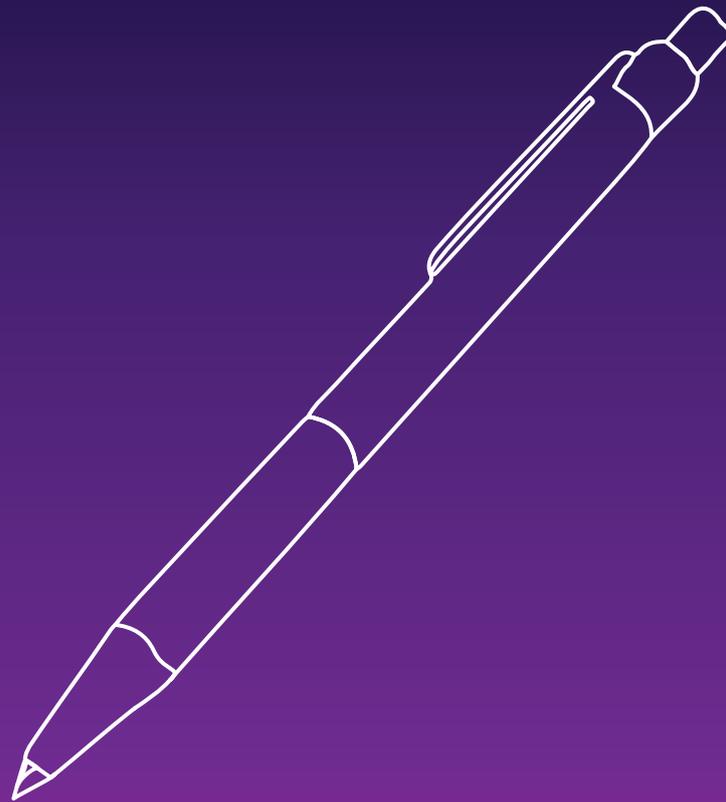


PROFESSIONAL INDEMNITY  
(MEDIA CONSULTANTS)  
POLICY BOOKLET



PROFESSIONAL  
INDEMNITY COVER FOR  
THE MEDIA CONSULTANT

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# Definitions

**Titles and Headings in this Policy are descriptive only and are used solely for convenience of reference and will not be deemed in any way to limit or affect the provisions to which they relate.**

**Any words or expressions in the Policy which have a specific meaning appear in bold print and have the same meaning whenever they appear in the Policy (whether expressed in the singular or in the plural, male, female or neutral) unless expressly stated otherwise.**

## Advertising

means advertising, publicity, or promotion of Your Media business activities and of the products and services of others.

## Circumstance

means any circumstance, incident, occurrence, fact, matter, act, omission, state of affairs or event which is likely to give rise to a claim against You or a claim by You under the Policy.

## Computer system

means any computer, data processing equipment, media or part thereof, or system of data storage and retrieval, or communications system, network, protocol or part thereof, or any computer software (including but not limited to application software, operating systems, runtime environments or compilers), firmware or microcode, or any electronic documents utilised in the ownership, security and management of Your electronic communications system, world-wide web site, internet site, intranet site, extranet site or web address(es).

## Damages

will mean monetary relief.

## Defence costs and expenses

will mean all reasonable costs and expenses incurred, with Our prior written consent, in the investigation, defence and settlement of any claim first made against You or of any Circumstance first notified during the Period of insurance. It does not include Your own overhead costs and expenses.

## Documents

means digitised data, information recorded or stored in a format for use with a computer, microcode, deeds, wills, agreements, maps, plans, records, written or printed books, letters, certificates, written or printed documents or forms of any nature whatsoever (excluding any bearer bonds or coupons, bank or currency notes, share certificates, stamps or other negotiable paper).

## Employee

means:

- a** any person employed by You under a contract of service, training or apprenticeship, and
- b** any voluntary worker; and

- c** any locum, seasonal or temporary personnel; and
- d** any self-employed person or entity acting as freelance consultant;

but only if such person or entity is working under Your direction, control and supervision.

## Excess

means the first amount paid in respect of each claim as stated in Endorsement 1 and is not payable in respect of Defence costs and expenses. The Indemnity limit is additional to the Excess.

## Financially associated person or entity

means:

- a** any business controlled or managed by You or in which You have an executive interest;
- b** any company in which You directly or indirectly own or control more than 15% of the issued share capital;
- c** any person having an executive or managerial role in Your firm or who would be considered to be a shadow director (as defined in s.251 of the Insolvency Act 1986);
- d** any company that directly or indirectly owns or controls any of the issued share capital of Your firm or any of whose issued share capital is directly or indirectly owned or controlled by any other company or person who directly or indirectly owns or controls any of the issued share capital.

## Hacker

means anyone who specifically and maliciously targets You and gains unauthorised access to Your Computer system solely by circumventing electronically the security system in place to protect against such unauthorised access to Your Computer system. Hacker does not include any principal, director or partner of You.

## Indemnity limit

means Our total liability to pay damages, claimant's costs for which You are legally liable to pay, and will not exceed:

- a** in the case of any claim arising directly or indirectly from any Virus the sum stated in Endorsement 1 or £500,000 (whichever is less) in respect of any one claim or series of claims arising out of one originating cause and in total for all claims first made during the Period of insurance;
- b** in all other cases (except where specific sums are stated in the Insuring Clauses) the sum(s) stated in Endorsement 1 in respect of any one claim or series of claims arising out of one originating cause regardless of the number of persons claiming an indemnity from Us under the terms of this Policy.

If more than one person is entitled to an indemnity under the terms of this Policy then Our total liability to all such persons will not exceed the Indemnity limit. For the avoidance of doubt, Indemnity limit a is not additional to and will not increase the sum(s) stated in Endorsement 1.

### **Jurisdiction**

will be Worldwide but excluding the United States of America (including its territories and/or possessions) and Canada.

### **Media business services**

means advertising, advertising services, public relations, direct marketing, sales promotions, marketing, communications and related activities which include the creating, publishing, broadcasting, dissemination, releasing, gathering, transmission, production, webcasting or other distribution of articles, data, text, sounds, images or similar content and as stated in the Professionals Policy Schedule under the heading "Business".

### **Period of insurance**

means that as stated in the Professionals Policy Schedule.

### **Virus**

will mean any unauthorised executable code uploaded to, or replicated through, a Computer system or network whether termed a virus or known by any other name and whether it is self-replicating or non-replicating which causes damage or loss to data or the Computer system.

### **We/Us/Our**

U K Insurance Limited and/or such other authorised Insurer as U K Insurance Limited may contract to underwrite any part of this Policy.

### **You/Your/Yours**

means any person or firm stated in the Professionals policy Schedule and includes:

- 1** any of their subsidiary companies that are in existence at the inception of this Section and have been declared to Us;
- 2** the current or previous partners, directors, principals, members or Employee of any firm or company stated in the Schedule; and
- 3** any other person who becomes a partner, director, principal, member or Employee of any firm or company stated in the Schedule.

# Insuring Clauses

**In consideration of the premium having been paid to Us, You are indemnified as follows:**

## 1 Indemnity

Up to the Indemnity limit for Damages and claimant's costs for which You are legally liable to pay resulting from claims first made against You during the Period of insurance and arising out of the ordinary course of the Media Business Services or associated Advertising activities in consequence of:

- a** defamation or other tort related to disparagement of character, harm to reputation or feelings of any person or organisation including libel, slander or defamation, product disparagement and malicious falsehood, trade libel or any claim relating to outrage or emotional distress;
- b** unintentional breach of confidentiality or other invasion, infringement or interference with rights of privacy or publicity including false light, intrusion upon a person's seclusion and the public disclosure of private facts;
- c** unintentional infringement of intellectual property rights including copyright, title, slogan, trademark, domain name or metatag, moral rights, misappropriation of, formats, characters, trade names, character names, titles, plots, musical compositions, voices, slogans, graphic material or artwork, passing off and plagiarism and commercial appropriation of name or likeness;
- d** unintentional breach of a license to use a third party's trademarked or copyrighted material but only to the extent that use exceeds the express limitations in the license regarding territory, duration or media in which the material may be used and only when made as a part of a claim under c) above;
- e** breach of comparative advertising regulations;
- f** the loss of or damage to Documents;
- g** unintentional transmission of a Virus;
- h** the failure to protect against unauthorised access to, unauthorised use of, a denial of service attack against Your Computer system;
- i** misuse of any information which is either confidential or subject to statutory restrictions;
- j** breach of professional duty, negligent act, negligent error, negligent omission, negligent misstatement or negligent misrepresentation;
- k** dishonest, fraudulent or malicious act or omission of any former or present Employee (which term, for the purpose of this clause alone, will not include any principal, partner, member or director of Yours) provided that no indemnity will be given in the event that any principal, partner, member or director of Yours conspired to commit or condoned any such dishonest, fraudulent or malicious act or omission;

- l** any other civil liability not otherwise excluded.

## 2 Legal defence costs and expenses

We will pay in addition to any indemnity under Insuring Clause 1, all Defence costs and expenses provided that:

- a** if the amount paid or agreed to be paid by or on behalf of You to dispose of a claim exceeds the Indemnity limit We will only be liable for that proportion of the Defence costs and expenses which the Indemnity limit bears to the amount paid or agreed to be paid;
- b** in the event that We elect to make a payment to You pursuant to Notification and Claims Condition 2.2 then We will have no liability to pay Defence costs and expenses incurred after the date upon which such payment is made.

## 3 Rectification

For additional expenses, other than those covered under Insuring Clause 9 (Withdrawal of content) directly incurred, with Our prior written consent, in successfully rectifying a problem which otherwise would lead to a claim in excess of such expenses under Insuring Clause 1 of this Policy.

If You are unable to get approval from Us due to time constraints or lack of detailed information, We will pay such expenses provided that You can demonstrate that:

- a** such expenses were less than the amount of a potential claim; and
- b** the amount is reasonable; and
- c** Your client has received the same level and quality of service or deliverables that they were originally entitled to receive.

Any payment made under this Clause will exclude Your lost profit, mark-up, or VAT or its equivalent and compensation for management time or any lost files or commissions from any other client or potential client. If a claim is later made the amount of expenses paid under this section will be deducted from the Indemnity limit for that claim.

## 4 Irrecoverable fees

Up to the Indemnity Limit for amounts owed to You, including amounts legally owed by You to sub-contractors or suppliers, due to the refusal of Your client to pay for work done by You for them where such client has reasonable grounds for being dissatisfied with the work and threatens to bring a claim for more than the amount owed, and which would otherwise be covered under Insuring Clause 1, provided that such threat is first made against You and notified to Us during the Period Of Insurance. In such circumstances, if it is possible to settle the dispute by agreeing not to pursue the outstanding amount, We will agree to pay the amount owed if they consider that it will avoid a legitimate claim under Insuring Clause 1 for a

greater amount. If, following this, a claim under Insuring Clause 1 still arises then the amount paid under this section will be deducted from the Indemnity limit. If You eventually recover part or all of the debt then such recovered amount will be repaid to Us less Your reasonable expenses of recovering the debt due.

## 5 Commitment to media space or print time

Up to the Indemnity limit for claims first notified by You, during the Period of insurance relating to amounts that You are committed to pay for media space or print time, but where Your client refuses to pay due to allegations that You have acted outside Your authority, We will pay such an amount if it can be shown, by You, that it cannot legally be recovered from the client and that all reasonable steps have been taken to reduce or avoid the loss.

## 6 Data protection defence costs

Up to a maximum of £250,000 in the aggregate in the Period of insurance, in respect of legal costs and expenses incurred with Our prior written consent in the defence of any criminal proceedings brought against You during the Period Of Insurance under The Data Protection Act 2018 or amending or superseding legislation provided always that:

- a** the act, error or omission giving rise to the proceedings will have been committed by You in the ordinary course of Your Media Business Services;
- b** We will be entitled to appoint solicitors and counsel to act on Your behalf;
- c** We will have no liability to pay costs incurred subsequent to a plea or finding of guilt on Your part, or in the event that counsel should advise that there are no reasonable prospects of successfully defending the proceedings, except for costs incurred solely for the purpose of making a plea in mitigation before sentencing or costs incurred in making an appeal if counsel will advise that the prospects of a successful appeal following a finding of guilt are reasonable;

## 7 Hacker Protection

Up to a maximum of £250,000 in the aggregate in the Period of insurance, for claims first made against You during the Period of insurance for which You are legally liable to pay damages (including claimant's costs and expenses) arising from a malicious attack made by a Hacker whereby unauthorised access is gained which modifies Your Computer system. However, We will have no liability for claims arising as a result of the intentional transmission of any Virus by an Employee.

## 8 Reputation Management

Following a claim under Insuring Clause 1 or 6, up to a maximum of £250,000, for all reasonable costs incurred with Our prior written consent for a public relations and/or crisis management consultant to avert or mitigate any material damage to Your business reputation.

## 9 Withdrawal of Content

Up to a maximum of £250,000 for expenses necessarily incurred, with Our prior written consent, in the withdrawal or alteration of any data, text, sounds, images or similar content as a result of or in mitigation of a claim or potential claim which would otherwise be covered under Insuring Clause 1, including as a result of a complaint made to the Advertising Standards Authority (ASA), the Office of Communications (Ofcom), Trading Standards Officers or any other regulatory or self-regulatory body.

We will only pay such expenses if You can demonstrate that:

- a** such content would, if not withdrawn or altered, lead to a claim under Insuring Clause 1 equal to or in excess of the expenses necessarily incurred in the withdrawal or alteration of the content; and
- b** the expenses incurred are necessary to successfully avoid such claim.

Any payment made under this Clause will exclude Your lost profit, mark-up, or VAT or its equivalent and compensation for management time or any lost files or commissions from any other client or potential client. If a claim is later made the amount of expenses paid under this section will be deducted from the Indemnity limit for that claim.

For the avoidance of doubt, Our total liability to indemnify You under these Insuring Clauses will not exceed the sum stated in Endorsement 1 under the heading "Indemnity limit" in respect of any one claim or series of claims arising out of one originating cause regardless of the number of Insuring Clauses that it or they might relate to.

For the avoidance of doubt the indemnity provided under Insuring Clauses 6), 7), 8) and 9) is not additional to and will not increase the Indemnity limit.

# Extension

**In respect of indemnity provided under Insuring Clause 1 and subject otherwise to Policy terms and conditions the following extensions of cover apply:**

## 1 Joint ventures

You are indemnified up to the Indemnity limit for any claim or Circumstance arising from Media business services carried out by or in the name of a consortium of professional people or firms or other association formed of which all or any of You form part for the purpose of undertaking any joint venture or any other profit-sharing arrangement but only in respect of the direct acts or omissions of You;

## 2 Indemnity to Principals

If You so request, We will indemnify any Principal with whom You have entered into an agreement as far as is necessary to meet the requirements of such agreement but only in respect of liability incurred to independent third parties arising directly from the Media business services performed by You;

## 3 Mergers and acquisitions

If, during the Period of insurance You

- a** create or acquire a company or companies subsequent to inception and the turnover relating to all such created or acquired companies does not exceed 10% of the estimated turnover of the companies covered under this Policy at inception (less the turnover for companies sold during the Period of insurance), then this policy will include any such company created or acquired automatically from the date of creation or acquisition without additional premium provided that:
  - i** Media business services carried out by such company is similar to that of You; and
  - ii** prior to the acquisition the acquired company's directors or officers will not have notified or be aware of any professional indemnity claims or circumstances; and
  - iii** the retroactive date applicable to the Media business services of the new entity is deemed to be the date of acquisition;
- b** Where You create or acquire a company or companies subsequent to inception and the turnover relating to all such created or acquired companies exceeds 10% of the estimated turnover of the companies covered under this Policy at inception (less the turnover for companies sold during the Period of insurance), then this Policy will include as any such company created or acquired automatically from the date of creation or acquisition provided that:

- i** the terms stated in 3a i to iii above also apply to such created or acquired companies;
- ii** You notify Us as soon as is reasonably practicable of the creation or acquisition;
- iii** You accept the revised premium and/or terms applying to each and every such creation and/or acquisition;
- iv** all cover in respect of such created or acquired entities will terminate 30 days following creation or acquisition if terms cannot be agreed between You and Us.

# Exclusion

These Exclusions set out what is not covered under this Policy.

We will not be liable to indemnify You against any claim:

## 1 Adherence to legal advice

arising out of or relating directly or indirectly from any failure of Yours to adhere to Your own legal advice with regard to clearances of any data, text, sounds, images or similar content that is intended to be, or has been, disseminated;

## 2 Asbestos

arising directly or indirectly out of or resulting from or in consequence of or in any way involving asbestos or any materials containing asbestos in whatever form or quantity;

## 3 Bodily injury/property damage

for bodily injury, sickness, disease, psychological injury, emotional distress, nervous shock or death sustained by any person or any loss, damage or destruction of property unless such claim arises directly from negligent publication, negligent misstatement or negligent misrepresentation contained within any data, text, sounds, images or similar content that has been created by You as part of Your Media business services;

## 4 Claims by financially associated persons or entities

made against You by any Financially associated person or entity whether alone or jointly with any other person or entity. However, this exclusion will not apply to any claim brought against such Financially associated person or entity by an independent third party and which would, but for this exclusion, be covered by this Policy;

## 5 Claims or Circumstances known at inception

arising directly or indirectly from any claim or Circumstance of which You were, or ought reasonably to have been, aware prior to inception of this Policy, whether notified under any other insurance or not;

## 6 Contractual liability

arising directly or indirectly from any breach or alleged breach of any contractual duty or duty of care owed or alleged to have been owed by You to any third party and which is more onerous than any duty that would otherwise be implied by common law or statute;

## 7 Credit Card

arising directly or indirectly from any unauthorised or fraudulent use of any credit, debit, charge or store card;

## 8 Costs and Expenses incurred without prior consent

for costs and expenses incurred without Our prior consent;

## 9 Collusion and conspiracy

arising from any alleged collusion, conspiracy, extortion or threatened violence;

## 10 Deliberate acts

arising directly or indirectly from any deliberate or reckless breach, act, omission or infringement committed, condoned or ignored by You, except as covered under Insuring Clause 1k, or 6;

## 11 Dishonesty

arising directly or indirectly from any dishonest, fraudulent, malicious or illegal act or omission of You or any Employee, except as covered by Insuring Clauses 1k, or 6;

## 12 Employee benefit schemes / stocks and shares

arising directly or indirectly from the operation or administration of any pension or other employee benefit scheme or trust fund, or the sale or purchase or dealing in any stocks, shares or securities or the misuse of any information relating to them or the breach of any related legislation or regulation;

## 13 Employers Liability

arising directly or indirectly from bodily injury, sickness, disease, psychological injury, emotional distress, nervous shock or death sustained by any Employee arising out of or in the course of their employment by You, or for any breach of any obligation owed by You as an employer to any partner, principal, director, member or Employee or applicant for employment;

## 14 Excess

for penalties, fines, multiple, exemplary, liquidated or other non-compensatory Damages awarded other than in actions brought for libel, slander or defamation in so far as they are covered by this Policy. The Indemnity limit is additional to the Excess;

## 15 Fines and Penalties

for penalties, fines, multiple, exemplary, liquidated or other non-compensatory Damages awarded other than in actions brought for libel, slander or defamation in so far as they are covered by this Policy.

This exclusion will not apply to punitive, multiple or exemplary Damages where the law permits Us to pay them;

## 16 False Advertising

arising directly or indirectly from false Advertising or misrepresentation in Advertising; this exclusion shall not apply in respect of any claim or portion of any claim relating to the alleged unauthorised use of a third party's trademark;

## 17 Financial advice

arising directly or indirectly from any investment, the provision of any finance or other financial advice;

**18 Territorial limits**

in respect of work carried out outside the Territorial Limits;

**19 Insolvency/bankruptcy of You**

arising out of or relating directly or indirectly to the insolvency, liquidation, receivership or bankruptcy of You;

**20 Known defamatory statements**

arising from statements that You knew, or ought to have known, were defamatory at the time of publication unless You can demonstrate that You believed there to be a good defence to any action arising from it;

**21 Land, buildings etc.**

arising directly or indirectly from the ownership, possession or use by You or on Your behalf of any land, buildings, aircraft, watercraft, vessel or mechanically propelled vehicle;

**22 Legal action**

in respect of an action for Damages:

- a** brought outside the Jurisdiction (including the enforcement within the Jurisdiction of a judgment or finding of another court or tribunal that is not within the Jurisdiction);
- b** in which it is contended that the governing law is outside the Jurisdiction;
- c** brought outside the Jurisdiction to enforce a judgment or finding of a court or other tribunal in any other jurisdiction;

**23 Legislation and regulation**

arising directly or indirectly from the breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation including but not limited to:

- a** the Employment Retirement Income Security Act 1974, Public Law 93-496, commonly referred to as the Pension Reform act of 1974, and amendments thereto, or similar provisions of any Federal State or Local Statutory Law or Common Law;
- b** the Racketeer Influenced and Corrupt Organisations Act, 18 USC Sections 1961 et seq., and any amendments thereto, or any rules or regulations promulgated thereunder;
- c** the Securities Act of 1933, the Securities Exchange Act 1934 or any similar Federal or State Law or any Common Law relating thereto;
- d** the CAN-SPAM Act of 2003 or any subsequent amendments to that Act;
- e** the Telephone Consumer Protection Act (TCPA) of 1991 or any subsequent amendments to that Act;

- f** any other law, regulation or statute relating to unsolicited communications, distributions, sending or transmitting of any communication via telephone or any other electronic or telecommunications device;

**24 License payments**

arising directly or indirectly from any payment owed to a licensor under a license; however, this exclusion will not apply to any covered portion(s) of any copyright and/or trademark claim that results in a damage award that is measured by the amount a claimant would have received had You paid for a license to use the claimant's infringed work and/or mark;

**25 Loss, damage or destruction of bearer bonds or coupons**

arising from the loss, damage or destruction of any bearer bonds, coupons, bank or currency notes, share certificates, stamps or other negotiable paper;

**26 Negatives, film, prints and electrical media**

arising from damage to or loss or destruction of negatives, exposed or unexposed film, prints, library stock or magnetic or electrical media unless they have been duplicated where such duplicate can be used to restore them to their original state;

**27 Obscenity**

arising directly or indirectly from any obscenity, blasphemy or pornographic material;

**28 Official action or investigation**

arising from any official action or investigation by or decision or order of any public, local or government body or authority except as covered by Insuring Clause 6;

**29 Other appointments**

made against You in Your capacity as:

- a** director or officer of You or of any other company or arising out of the management of You or of any other company; or
- b** trustee of any trust or as officer or employee of any pension fund or any other employee benefit scheme, whether for the benefit of members or Employees of Yours or otherwise;

**30 Other insurance**

in respect of which You are entitled to indemnity under any other insurance except in respect of any excess beyond the amount which is payable under such other insurance;

### 31 Ownership and rights

arising out of any claim made by any former or prospective Employee, partner, joint venture, co-venture, officer or director of Yours or any of Your sub-contractors or suppliers, but only in respect of claims involving disputes over the ownership or exercise of rights in the material or services supplied by or to You;

### 32 Patents

notwithstanding Insuring Clause 1c, arising directly or indirectly from the infringement of any patent;

### 33 Products

arising out of or relating to:

- a** goods or products sold, supplied, repaired, altered, manufactured, installed or maintained unless such claim arises as a direct consequence of negligent advice, design or specification by You in the performance of Your Media business services; or
- b** buildings, building works or physical structures constructed, repaired, installed, erected, removed or demolished.

Exclusion 33a will not apply where there has been a breach of duty in the sale or supply of any product but only if:

- c** it is sold or supplied by You in conduct of Your Media business services; and
- d** You have undertaken all reasonable steps which are contemporaneously and fully documented, to ensure that the product:
  - i** complies with all relevant health and safety regulations and standards in the United Kingdom or wherever You supply to;
  - ii** is sold or supplied with any instructions which are necessary for its safe use;
  - iii** is fit and proper for its purpose; and
- e** the product was supplied by a manufacturer or sourcing agent that You know to be reputable, reliable and solvent and with whom You have a written contract; and
- f** You have written indemnity from the manufacturer or sourcing agent against loss which arises from the product; and
- g** You have effected public and products liability insurance being generally available in the London insurance market for indemnity against products liability;

### 34 Products harmful to health

arising directly or indirectly from any product that contains tobacco, nicotine, alcohol or any pharmaceutical product or any other product which is or becomes harmful, dangerous or hazardous in any way to the health of any person, animal or plant;

### 35 Radioactive contamination or explosive nuclear assemblies

directly or indirectly caused by or contributed to by or arising from:

- a** ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- b** the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

### 36 Results of competitions

arising from the outcome or operation of any competition, game, contest, promotion or lottery;

### 37 Restricted recovery rights

where Your right of recovery from any third party in respect of that claim has been restricted by the terms of any contract entered into by You;

### 38 Retroactive date

made by or against or incurred by You arising from any act or omission or originating cause that occurred prior to the Retroactive date stated in Endorsement 1;

### 39 Seepage and pollution

based upon, arising out of or relating directly or indirectly to, in consequence of or in any way involving seepage, pollution or contamination of any kind;

### 40 Stunts

arising directly or indirectly from any stunt or other similar activity during the making or production of any Advertising, educational or promotional materials;

### 41 Takeover or merger

arising directly or indirectly by reason of acts, errors or omissions committed by You after the date of its merger with or acquisition by another entity unless otherwise agreed by Us;

### 42 Terrorism

arising directly or indirectly out of, happening through or in consequence of any act or acts of force or violence for political, religious or other ends directed towards the overthrowing or influencing of any government, or for the purpose of putting the public in fear by any person or persons acting alone or on behalf of or in connection with any organisation.

In the event of any dispute as to whether or not this exclusion applies You will have the burden of proving that this exclusion does not apply;

#### 43 Trading losses

arising out of:

- a** any trading loss or trading liability incurred by any business managed or carried on by You (including the loss of any client account or business);
- b** loss caused by You in consequence of a share or asset sale to any prospective purchaser, associated business, merger partner, JV partner or similar because of any misstatement or misrepresentation made by You;
- c** the actual or alleged over-charging or improper receipt of fees by You;

#### 44 Utility provider

arising out of the failure of the service provided by an internet service provider, any telecommunications provider or other utility provider;

#### 45 Virus

arising directly or indirectly from any Virus provided that this exclusion will not apply in respect of any Claim made for loss suffered by an independent third party as a result of the unintentional transmission of a Virus that was specifically targeted at Your Computer system unless such Virus was created by You;

#### 46 War

arising directly or indirectly out of, happening through or in consequence of, war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority;

#### 47 Claims by Employees

made against You by any present or former Employee;

#### 48 Collection of private data without consent

arising directly or indirectly from Your actual or alleged failure to obtain explicit consent from any private individual before collecting storing or sharing any of their personal information, including but not limited to internet search history and internet browsing habits. This exclusion shall not apply where private data has been collected by a third party without Your knowledge;

#### 49 Commercial disputes

arising from any commercial dispute between You and your business partners or business associates, including but not limited to any joint venture partner or any other third party service providers, distributors, contributors or collaborators, but only to the extent such a claim is based upon:

- a** commission or royalty, or any other term upon which such partner or associate is to be compensated in connection with doing business with you, or any compensation or remuneration promised or owed by You pursuant to those terms; or
- b** Your decision to cease doing business with such a partner or associate.

# Notification and Claims Conditions

## 1 Claim/circumstance notification

As conditions precedent to Your right to be indemnified You:

- 1.1** will inform Us as soon as possible, and in any event within 28 days (provided always that such notification is received by Us before the expiry of the Period of insurance) of the receipt, awareness or discovery of:
- a** any claim made against You;
  - b** any notice of intention to make a claim against You;
  - c** any Circumstance;
  - d** the discovery of reasonable cause for suspicion of dishonesty or fraud;

Such notice having been given as required in b, c or d above, any subsequent claim made will be deemed to have been made during the Period of insurance;

- 1.2** will not, in respect of any the matters specified in 1.1 a) to 1.1 d) above, admit liability, make any offer for or settle any claim, or incur any costs or expenses in connection with any such claim or Circumstance, without Our prior written consent; and
- 1.3** will, as soon as practicable given the circumstances, give all such information and assistance as We may require and provide Your full co-operation in the defence or settlement of any such claim;
- 1.4** will not destroy evidence, supporting information or documentation without Our prior consent; nor destroy any plant or other property relating to a claim under this Policy;

Every letter of claim, writ, summons or process and all documents relating thereto and any other written notification of claim will be forwarded, unanswered, to Us immediately they are received.

You will at all times, in addition to Your obligations set out above, afford such information to and co-operate with Us to allow Us to be able to comply with such relevant Practice Directions and Pre-Action Protocols as may be issued and approved from time to time by the Head of Civil Justice.

## 2 Conduct of claims

- 2.1** Following notification under condition 1 above We will be entitled at Our own expense to take over and within Our sole discretion to conduct in Your name the defence and settlement of any such claim.

Nevertheless neither You nor We will be required to contest any legal proceedings unless a Queens Counsel (to be mutually agreed upon by You and Us) will advise that such proceedings should be contested.

- 2.2** We may at any time in connection with any claim made, pay to You the Indemnity limit (after deduction of any sums already paid) or any lesser sum for which, in Our sole opinion, the claim can be settled and upon such payment being made We will relinquish the conduct and control of and have no further liability in connection with the claim. For the avoidance of doubt We will have no liability to pay Defence costs and expenses incurred after the date upon which any such payment is made.
- 2.3** You will pay the relevant Excess and We will only make a payment under this Policy after the applicable Excess has been fully paid other than in relation to a payment being made under 2.2 above.
- 2.4** We shall be subrogated to Your rights of recovery against any third party(ies) and the You shall co-operate and do whatever is necessary to secure such rights. If You do not comply with this condition We may deduct any associated additional costs from any payments made under the policy.

## 3 Duty to Defend

We have the right and duty to defend You against any claim which is covered in its entirety. If We think it necessary We will appoint an adjuster, solicitor or any other appropriate person to deal with the claim. We may appoint Your own solicitor but only on a similar fee basis to that offered by Our solicitor and only for work done with Our prior written approval.

If a claim which is only partially covered is made against You, We have the right and duty to defend You with payments for defence costs incurred in relation to any uninsured claim being deducted from Our contribution to any final damages settlement. Irrespective of whether or not We make any final damages settlement, You are liable to reimburse Us for defence costs incurred in relation to any uninsured portion of any claim. The defence costs incurred will be reviewed in their entirety and an appropriate allocation should be made between the covered and non-covered defence costs incurred. It is agreed that both You and We will use best efforts to determine a fair allocation of covered and non-covered defence costs proportions of a claim. If a fair allocation cannot be agreed You and We agree to follow the dispute resolution process in General Condition 1.

We have no duty to defend You against claims where:

- a** no portion of the claim is covered; or
- b** We pay the indemnity limit under claims condition 2.2 above; or
- c** the claim is for less than the Excess.

# General Conditions

## 1 Policy construction and disputes

Any word or expression to which a specific meaning has been attached in any part of this Policy, the Professionals Schedule or Endorsement 1 will bear such specific meaning wherever it may appear.

Any dispute concerning the interpretation of the terms, Conditions or Exclusions contained herein is understood and agreed by both You and Us to be subject to the laws of England and Wales. Each party agrees to submit to the jurisdiction of any court of competent jurisdiction within England and Wales and to comply with all requirements necessary to give such court jurisdiction. All matters arising hereunder will be determined in accordance with the law and practice of such court.

## 2 Waiver of subrogation against employees

We will not exercise any right of subrogation against any former or present Employee, unless We will have made a payment caused or contributed to by any act or omission of the Employee or former Employee which was dishonest, fraudulent or malicious or the Employee or former Employee conspired to commit or condoned any such dishonest, fraudulent or malicious act or omission.

## 3 Dishonest or fraudulent act or omission

In the event of a loss or claim which involves the dishonest, fraudulent or malicious act or omission of any former or present Employee, You will take all reasonable action (including legal proceedings) to obtain reimbursement from the Employee concerned (and from any Employee who may have conspired to commit or have condoned such act or omission) or from the estate or legal representatives of such Employee. Any monies which but for such dishonest, fraudulent or malicious act or omission would be due to such Employee from You or any monies held by You for such Employee will be deducted from any amount payable under this Policy.

## 4 Fraudulent claims

If You will submit any claim knowing the same to be false or fraudulent as regards amount or otherwise this Policy will become void and all claims hereunder will be forfeited.

## 5 Other parties

We and You are the only parties to this contract and no other person has any rights to enforce any term of this Policy.

## 6 Cancellation

**6.1** We may cancel the Policy by sending 14 days' written notice to Your last known address. We will refund any premium paid for the remaining Period of Insurance as long as You have not notified any Circumstance or made any claim under the Policy up to the date of cancellation.

**6.2** If, after buying Your policy, You decide that the cover does not meet Your needs please return all your documents within 14 days of receiving them or of the start date of the policy (whichever is later) to Your broker, intermediary or agent who arranged the Policy and We will refund any premium You have paid, providing that You have not notified any Circumstance or made any claim under the Policy up to the date of cancellation. If you cancel Your policy after that time we will refund any premium paid for the remaining Period of insurance on a pro rata basis, providing that You have not made any Claim or are aware of any Circumstance during the current Period of insurance.

## 7 Invalidity

If any provision of this Policy is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable this will not affect the other provisions of this Policy which will remain in full force and effect.

## 8 Notices

Notice will be deemed to be duly received in the course of post if sent by pre-paid letter post properly addressed to:

- a** in the case of You, to Your last known address
- b** in the case of Us, to U K Insurance Limited and/or such other authorised insurer as U K Insurance Limited may contract to underwrite any part of this Policy.

## 9 Reasonable steps to avoid loss

Without prejudice to the Notification and Claims Conditions in this Policy, You will take all reasonable steps to avoid or mitigate any loss, damage or liability that may result in any claim or Circumstance notifiable under this Policy.

In addition, in relation to cover under Insuring Clause 6, You will protect Your Computer system by:

- a** having virus protection software operating in place which is running, correctly configured and regularly or automatically updated;
- b** having a fire wall or similar configured device to control access to its Computer system;
- c** encrypting and controlling the access to its Computer system and external devices including plug-in devices networked to its Computer system;
- d** controlling unauthorised access to its Computer system by correctly configuring its wireless network;
- e** changing all passwords on information and communication assets at least every 60 days and cancel any username, password or other security protection after it knew or had reasonable grounds to suspect that it had been available to any unauthorised person;

- f** taking regular back-up copies of any data, file or program on its Computer system;
- g** having an operational system for logging and monitoring user activity on its Computer system.

## 10 International sanctions

We will not provide cover, be liable to pay any claim or provide any benefit if to do so would expose Us (or any parent company, direct or indirect holding company of Us) to any penalty or restriction (including extraterritorial penalties or restrictions so far as such do not contradict laws applicable to Us), arising out of any trade and economic sanctions laws or regulations which are applicable to it.

## 11 Mergers and acquisitions

If during the Period of Insurance You:

- a** purchase assets or acquire liabilities from another entity in an amount no greater than 10% of Your assets as listed in Your most recent financial statement; or
- b** acquires another entity whose annual revenues are no more than 10% of Your annual revenues for your last completed financial year; and
- c** there is no material deviation to Your Professional business; and
- d** prior to the acquisition of the acquired company not being aware of any professional indemnity claims or circumstances that could give rise to a claim

then this Policy will automatically include such entity as You but only in respect of any act or omission occurring on or after the date of merger or acquisition unless otherwise agreed by Us.

## 12 Assignment

This policy of insurance (including any benefits it confers provides) are not assignable to any third party without the express approval of Us confirmed in writing by Us.

## 13 Change of control

In the event that You merge into or consolidate with or sell all or substantially all of Your assets or shares to a third party (whether a company, corporation or any other legal entity or person) or there is any acquisition of more than fifty percent (50%) of Your voting share capital by a third party (whether a company, corporation or any other legal entity or person) You will give written notice of such event prior to its execution. Upon receipt of such notice, We may at Our absolute discretion agree to continuation of the policy of insurance, to be confirmed by way of a written endorsement to the policy. In the absence of such agreement and/or if notice is not forthcoming as required under this General Condition 13 – Change of control, the

cover provided by this policy of insurance will cease with immediate effect at the date of the change of control.

For the avoidance of doubt, You will not be entitled to an indemnity in respect of any claims made under this policy of insurance where notification of the claim occurs after a change in control (as referred to in this General Condition 13 – Change of control) where the change of control was not reported Us and approved in accordance with this General Condition 13.

## 14 Fair Presentation of the Risk

- a** You have a duty to make to Us a fair presentation of the risk before:
  - i** the inception of this Policy;
  - ii** an alteration made to this Policy, concerning changes in the risk which are relevant to the proposed alteration; and
  - iii** the renewal of this Policy; and
- b** In the event of a breach of such duty, if the breach is:
  - i** deliberate or reckless, We may:
    - a** in relation to an alteration made to this Policy, (despite the references to notice period and the refunding of premiums in General Condition 8) by notice to You at Your last known address treat this Policy as cancelled with effect from the time when the alteration was made and retain any premiums paid;
    - b** in relation to inception or renewal of this Policy, avoid this Policy and refuse all claims and retain any premiums paid;
  - ii** neither deliberate nor reckless and We would not have:
    - a** in relation to an alteration made to this Policy, agreed to the alteration on any terms, We may treat this Policy as if the alteration was never made, but in that event We:
      - i** will return any extra premium paid; or
      - ii** may (where the total premium was reduced as a result of the alteration), reduce proportionately the amount to be paid on a claim arising out of events after the alteration. We will pay on such claim a percentage of what it would otherwise have been liable to pay (whether on the original terms, or as varied) based on the total premium actually charged compared to the original premium charged; or
    - b** entered into this Policy on any terms, We may avoid this Policy and refuse all claims but will return any premiums paid; or

**iii** neither deliberate nor reckless and We:

**a** would have entered into this Policy or agreed to the alteration made to this Policy, but on different terms (other than terms relating to the premium), this Policy or the alteration (as applicable) will be treated as if it had been entered into on those different terms if We require; and

**b** in respect of an alteration made to this Policy:

**i** would have agreed to the alteration, but would have charged an increased premium by more than We did or (in the case of an unchanged premium) would have increased the premium, We may reduce proportionately the amount to be paid on a claim arising out of events after the alteration.

We will pay on such claim a percentage of what We would otherwise have been liable to pay (whether on the original terms, or as varied, or under the different terms provided for by virtue of item b iii a above), based on the total premium actually charged compared to the premium that We would have charged;

**ii** (where the total premium was reduced as a result of the alteration), would have agreed to the alteration and We would have increased the premium, would not have reduced the premium, or would have reduced it by less than We did, We may reduce proportionately the amount to be paid on a claim arising out of events after the alteration.

We will pay on such claim a percentage of what it would otherwise have been liable to pay (whether on the original terms, or as varied, or under the different terms provided for by virtue of item biii a above), based on the total premium actually charged compared to the original premium if We would not have changed it, and otherwise the increased or (as the case may be) reduced total premium We would have charged.

**c** would have entered into this Policy (whether the terms relating to matters other than the premium would have been the same or different), but would have charged a higher premium, We may reduce proportionately the amount to be paid on a claim.

We will pay on such claim a percentage of what We would otherwise have been liable to pay (making provision for any different terms referred to in item b iii a above), based on the premium actually charged compared to the higher premium.

**c** We will be entitled to vary the premium and any terms in respect of any ongoing acceptance of cover (where agreed by Us), in relation to a breach of the duty to make to Us a fair presentation of the risk.

## 15 Choice of Law

You and We may choose which law will apply to this contract. English Law will apply unless both parties agree otherwise. We have supplied this Agreement and other information to You in English and We will continue to communicate with You in English.

# Important Information

## How to make a claim

Please contact, in the first instance, the broker, intermediary or agent who arranged the Policy. Please quote Your Policy number.

Professional Indemnity Claims are managed in partnership with HCC International.

To make a claim, email [nigclaims@tmhcc.com](mailto:nigclaims@tmhcc.com)

## How to complain

If you have an enquiry or complaint arising from your Policy, please contact the broker, intermediary or agent who arranged the Policy for you. If the broker is unable to resolve your complaint or it is regarding the terms and conditions of the Policy they will refer it to NIG.

If your complaint is still outstanding you can write to NIG direct at the following address, quoting your policy number.

The Chief Executive,  
NIG  
Churchill Court  
Westmoreland Road  
Bromley BR1 1DP

Once you receive a written response and if you remain dissatisfied, you may refer your complaint to the Financial Ombudsman Service (FOS). Their address is:

The Financial Ombudsman Service  
Exchange Tower, London E14 9SR

Telephone: **0800 023 4567** or **0300 123 9123**

## Details about our Regulator

U K Insurance Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority under registration number 202810. The Financial Conduct Authority website, which includes a register of all regulated firms, can be visited at [www.fca.org.uk](http://www.fca.org.uk), or the Financial Conduct Authority can be contacted on **0800 111 6768**.

**Whoever you are contacting, please always quote your Policy Number as it will help your enquiry or complaint be dealt with promptly.**

## Details of Financial Services Compensation Scheme

Under the Financial Services and Markets Act 2000, should the company be unable to meet all its liabilities to policyholders, compensation may be available. Insurance advising and arranging is covered for 90% of the claim without any upper limit. For compulsory classes of insurance, insurance advising and arranging is covered for 100% of the claim, without any upper limit. Information can be obtained on request, or by visiting the Financial Services Compensation Scheme website [www.fscs.org.uk](http://www.fscs.org.uk).

U K Insurance Limited is a member of this scheme.

