

Professional Indemnity Insurance Terms & Conditions

Protocol National

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A. Definition of terms

Bodily injury physical injury, sickness, disease or death; and if arising out of the foregoing, nervous shock, emotional distress, mental anguish or mental injury.

Breach of Duty actual or alleged negligent Breach of Duty, act, error, omission, misstatement, misleading statement or breach of confidentiality in the performance of Professional Services.

Claim any: (i) written demand that seeks a remedy for a Breach of Duty; or (ii) civil or administrative proceeding arising from Professional Services, that seeks Damages for a Wrongful Act.

Damages any amount that an Insured shall be legally liable to pay to a Third Party in respect of judgments or arbitral awards rendered against an Insured, or for settlements negotiated by the insurer with the consent of the Policyholder.

Defence Costs reasonable fees, costs and expenses incurred by or on behalf of the Insured in the investigation, defence, adjustment, settlement or appeal of any Claim. Defence Costs shall not include any internal or overhead expenses of any Insured or the cost of any Insured's time.

Documents documents of any nature whatsoever including computer records and electronic or digitised data; but does not include any currency, negotiable instruments or records thereof.

Employee any natural person who is or has been expressly engaged as an employee under a contract of employment with the Policyholder or any Subsidiary. Employee shall not mean any: (i) principal, partner, director or Member, or (ii) temporary contract labour, self-employed person or labour-only sub-contractor.

Fraud/Dishonesty fraudulent or dishonest conduct of an Employee:

- (i) not condoned, expressly or implicitly by; and
- (ii) that results in liability of;
The Policyholder or any Subsidiary.

Infringement an unintentional infringement of any intellectual property right of any Third Party, other than patents and Trade Secrets.

Insured:

- (i) the Policyholder or any Subsidiary;
- (ii) any natural person, who is or has been a principal, partner, director or Member of the Policyholder or any Subsidiary;
- (iii) any Employee; and
- (iv) any temporary contract labour, self-employed persons, labour-only sub-contractors, solely under contract with, and under the direction and direct supervision of the Policyholder or any Subsidiary;

But only when providing **Professional Services** (i.e. Provision and delivery of training solutions, facility management services, Employment Agent Services, training services, HR services/support and conference organisation services)

Also includes any estate or legal representative of any Insured described in (2) and (3) of this definition for Loss arising from a Claim against that Insured for a Wrongful Act committed when providing Professional Services.

Limit of Liability £5,000,000 but limited to £100,000 in the aggregate in respect of Loss of Documents excess of a Retention of £10,000 per claim to be borne by the Insured.

Loss Damages and Defence Costs. Loss shall not mean and this policy shall not cover any (1) taxes; (2) non-compensatory damages, including punitive, multiple, exemplary or liquidated damages; (3) fines or penalties; (4) the costs and expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief; (5) compensation, benefits or overheads of, or charges or expenses incurred by any Insured; or (6) any matters which may be deemed uninsurable under the law governing this policy or the jurisdiction in which a Claim is brought.

The Insurer is under no obligation to pay Loss, unless the Wrongful Act (i) first takes place on or after the Retroactive date; and (ii) is committed solely in the performance of, or failure to perform Professional Services.

Pollutants means, but is not limited to, any solid, liquid, biological, radiological, gaseous or thermal irritant or contaminant whether occurring naturally or otherwise, including asbestos, smoke, vapour, soot, fibres, mould, spores, fungus, gems, fumes, acids, alkalis, nuclear or radioactive material of any sort, chemicals or waste. "Waste" includes, but is not limited to, material to be recycled, reconditioned or reclaimed.

Property Damage damage to or loss of or destruction of tangible property or loss of use thereof.

Subsidiary entities in which the Policyholder, either directly or indirectly through one or more of its entities;

- (i) controls the composition of the board of directors;
- (ii) controls more than half of the voting power; or
- (iii) holds more than half of the issued share capital.

For any Subsidiary or any Insured thereof, cover under this policy shall only apply to Wrongful Acts committed while such entity is a Subsidiary of the Policyholder.

Third Party any entity or natural person except (i) any Insured; or (ii) any other entity or natural person having a financial interest or executive role in the operation of the Policyholder or any Subsidiary.

Trade Secret information that derives independent economic value, actual or potential, from not being generally known and not being readily ascertainable through proper means by other persons who can obtain economic advantage from its disclosure or use.

Wrongful Act any Breach of Duty, infringement, libel, slander, or Fraud/Dishonesty.

B. Cover

All cover under this policy is afforded solely with respect to Claims first made against an Insured during the Policy Period and reported to the Insurer as required by this Policy.

Professional Liability

The Insurer will pay on behalf of any Insured all Damages resulting from any Claim for any Breach of Duty of the Insured.

Intellectual Property

The Insurer will pay on behalf of any Insured all Damages resulting from any Claim for any Infringement by an Insured.

Defamation

The Insurer will pay on behalf of any Insured all Damages resulting from any Claim for libel or slander committed unintentionally by an insured.

Fraud/Dishonesty

The Insurer will pay on behalf of any Insured, who is not the actual perpetrator, all Damages resulting from any Claim for Fraud/Dishonesty of any Employee up to the date of discovery by the Insured of reasonable cause of suspicion of Fraud/Dishonesty.

Defence

The Insurer has the right to defend any Claim which this policy may respond to under its Covers or Extensions. The insurer shall pay Defence Costs incurred in defending such Claim.

C. Extensions

Court Attendance

For any person described in (i) and (ii) below who actually attends court as a witness in connection with a Claim notified under and covered by this policy, Defence Costs will include the following rates per day for each day on which attendance in court has been required:

- (i) for any principal, partner, director or Member of the Insured: £300
- (ii) for any Employee: £150

No Retention shall apply to this extension.

Lost Documents

With respect to a Third Party's Documents:

- (i) for which an Insured is legally responsible, and
- (ii) which, during the Policy Period, have been destroyed, damaged, lost, distorted, erased or mislaid solely in the performance of or failure to perform Professional Services.

Damages shall also include costs and expenses reasonably incurred by the Insured in replacing or restoring such Documents provided that:

- (a) such loss or damage is sustained while the Documents are either (1) in transit; or (2) in the custody of the Insured or of any person to whom the Insured has entrusted them in the ordinary course of their Professional Services;

(b) where the lost or mislaid Documents have been the subject of a diligent search by or on behalf of the Insured;

(c) the amount of any Claim for such costs and expenses shall be supported by evidence of expenditure that shall be subject to approval by a competent person to be nominated by the Insurer with the consent of the Insured; and

(d) the Insurer shall not be liable for any Claim arising out of wear, tear and/or gradual deterioration, moth and vermin, or other matters beyond the Insured's control.

D. Exclusions

This policy shall not cover Loss in connection with any Claim:

Antitrust

Arising out of, based upon or attributable to any actual or alleged antitrust violation, restraint of trade or unfair competition.

Bodily Injury/Property Damage

Arising out of, based upon or attributable to Bodily Injury or Property Damage unless arising from an actual or alleged failure to achieve the legally required standard of care, diligence and expertise in performing Professional Services.

Contractual Liability

Arising out of, based upon or attributable to any:

- (i) contractual liability or other obligation assumed, that goes beyond the duty to use such skill and care as is ordinarily applied to the Insured's Professional Services provided;
- (ii) performance warranty, guarantee, penalty clause or liquidated damages clause unless liability would have existed in the absence of such warranty, guarantee or clause; or
- (iii) delay in performing, failing to perform or failing to complete any Professional Services, unless such delay or failure arises from a Breach of Duty by an Insured.

Costs Assessment

Arising out of, based upon or attributable to any failure by any Insured or other party acting for the Insured to make an accurate pre-assessment of the cost of performing Professional Services.

Discrimination

Arising out of, based upon or attributable to any (i) actual or alleged employment related practices, harassment or discrimination, or (ii) intentional or systemic harassment or discrimination.

Employers Liability

By any person for bodily injury, sickness, disease or death incurred, contracted or death incurred, contracted or occurring whilst under a contract of service or apprenticeship with the Insured or for any breach of any obligation owed by the Insured as an employer.

Government/Regulatory Action

Arising out of, based upon or attributable to any government, regulatory, licensing or commission action or investigation; unless relating solely to the performance of or failure to perform Technology Services for such entities.

Infrastructure

Arising out of, based upon or attributable to:

- (i) mechanical failure;
- (ii) electrical failure, including any electrical power interruption, surge, brown out or black out; or
- (iii) telecommunications or satellite systems failure.

Insolvency

Arising out of, based upon or attributable to the insolvency, administration or receivership of the Insured.

Internet Content

Arising out of, based upon or attributable to material which is published or posted on the internet where, prior to publishing or posting, the Insured has no knowledge of either the content or source of the material.

Joint Ventures

Arising out of, based upon or attributable to work carried out by the Insured for and in the name of any association or joint venture of which an Insured forms part.

Misdeeds

Arising out of, based upon or attributable to any act which a judge, jury or other official tribunal or panel finds, or which an Insured admits, to be a criminal, dishonest or fraudulent act; and in such event, the Insurer shall be reimbursed for all Loss paid in connection with such Claim, provided, however, that this exclusion shall not apply to the Fraud/Dishonesty Cover.

Patent/Trade Secret

Arising out of, based upon or attributable to the breach of licences concerning, infringement of or misappropriation of patents or Trade Secrets.

Pollution

Arising out of, based upon or attributable to (i) the actual, alleged or threatened presence, discharge, dispersal, release, migration or escape of Pollutants, or (ii) any direction, request or effort to: (a) test for, monitor, clean up, remove, contain, treat, detoxify or neutralise Pollutants, or (b) respond to or assess the effects of Pollutants.