



Professional Liability Excess



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Important Note

It is important to state at the outset that, on entering into this policy, *You* will be deemed to understand and accept all of the terms and conditions contained within it. It is therefore vitally important that *You* read the terms and conditions of this policy in detail and that *You* contact *Your* insurance broker immediately if *You* have any doubts about any of the obligations arising or terminology used.

It is also important to note that this policy is a contract between *You* and the *Insurer*. Victor Insurance are not themselves a party to this insurance contract. Victor Insurance will, however, continue to be involved in dealing with any matters that may arise against this policy (particularly as regards any *Claims* that may arise), and further information on this is provided in Section 3.

Thank you for obtaining *Your* Professional Indemnity insurance cover via Victor Insurance.

Preamble

As part of the process of obtaining this insurance contract, *You* have made a *Proposal* to the *Insurer* and this *Proposal* has been relied upon by the *Insurer* in deciding whether or not to enter into this policy and on what terms, including premium amount.

This policy and any schedule and endorsements should all be read as if they were one document. In the event of any conflict between the various documents, the words used in any endorsements and schedule will override the words used in this policy. Any term that is defined outside of Section 5 will override any contradictory definition that may be contained within Section 5.

Any reference in this policy to the singular will also include the plural and vice versa. Also, any reference to a statute or statutory instrument will include any modifications to (or re-enactment of) them.

This policy will be subject to the law of England and Wales and, on entering into it, *You* agree to submit to the exclusive jurisdiction of the English courts.

Various words and phrases have a standardised meaning within this policy and such words and phrases are italicised throughout this policy and are defined in Section 5. Headings and notes are for information purposes only and are not intended to affect the meaning of this policy.

Section 1

Scope of Cover

Insuring clause

In consideration of the premium that *You* have agreed to pay (as shown in the *Schedule*), the *Insurer* agrees, subject to the terms, conditions and exclusions of this policy, to indemnify *You* for any *Claim* first made against *You* and/or any of *Your* present or former *Partners, Directors, Members* or *Employees* or any other person or party acting or having acted for *You* or on *Your* behalf in connection with *Your Professional Business* during the *Policy Period* in respect of which *You* are entitled to indemnity under the *Underlying Policy*.

Defence costs

The *Insurer* will also indemnify *You* for *Defence Costs* where such costs have been incurred with the *Insurer's* consent. The *Insurer's* liability in respect of *Defence Costs* shall be to the proportion that the *Limit of Indemnity* bears to the amount at which the settlement is made and will only be payable once the *Insurer's* liability under this policy has been activated.

Defence Costs are payable in addition to the *Limit of Indemnity* unless the *Underlying Policy* states that they are to be paid within the *Limit of Indemnity* in which case the same will apply.

Limit of liability

Liability under this policy shall not attach unless and until the insurers of the *Underlying Policy* shall have paid or have admitted liability or have been held liable to pay, the full amount of their indemnity. The *Insurer's* total liability under this policy in respect of any one *Claim* (excluding *Defence Costs*) shall not exceed the *Limit of Indemnity*.

Any series or aggregation wording that applies to the *Underlying Limit of Indemnity* in accordance with the terms of the *Underlying Policy* shall apply in the same terms, all things being equal, to the *Limit of Indemnity*.

If by reason of payment of any claim by the insurers of the *Underlying Policy*, during the *Policy Period*, the *Underlying Limit of Indemnity* is:

- a) partially reduced, then this insurance will apply in excess of the reduced amount of the *Underlying Limit of Indemnity* for the remainder of the *Policy Period*; or
- b) totally exhausted, then this insurance will continue in force as the *Underlying Policy* until the expiry of the *Policy Period*.

For the avoidance of doubt it should be noted that the indemnity afforded under the terms of this policy is provided jointly to all parties constituting *You* and for all purposes this policy shall be considered as a joint policy with one *Limit of Indemnity*.

Concurrent terms & conditions

This policy is subject to the same terms, conditions, exclusions, and definitions as the *Primary Policy*. No amendment to the *Primary Policy* during the *Policy Period* shall be effective in extending the scope of this policy unless agreed in writing by the *Insurer*.

Section 2

Dealing with Claims

Part 1 - Notification

Claims

You must give written notice to the *Insurer* of any *Claim* that is made against You or any of Your present or former *Partners, Directors, Members or Employees* as soon as practicable but in any event within the *Policy Period*. All notifications must be in writing to:

Victor Insurance Claims Department
20 Fenchurch Street
London
EC3M 3AG

or by email to victorclaims@victorinsurance.uk.com or fax to 020 7280 8899

Notice to the *Insurer* under this policy will be deemed to have been properly made if received in writing by Victor Insurance and the date of posting/fax/email will constitute the date that notice was given under this policy.

Circumstances

You must give written notice to the *Insurer* of any *Circumstance* as soon as practicable but in any event within the *Policy Period*. All notifications must be in writing to the address/fax number provided in the "Claims notifications" section above.

All notifications must include at least the following:

- a) A statement that it is intended to serve as a notice of a *Circumstance* of which You have become aware which may give rise to a *Claim* against You;
- b) The reasons for anticipating that a *Claim* may be made against You (including full particulars as to the nature and date(s) of the alleged *Wrongful Act(s)*);
- c) The identity of any potential claimant(s);
- d) The identity of the present or former *Partner, Director, Member or Employee* (or such other person or party acting or having acted for You or on Your behalf) involved in the *Circumstance*; and
- e) The date on which (and manner in which) You first became aware of the *Circumstance*.

Provided that notice has been given in accordance with the requirements of this Section, any later *Claim* made against You that arises out of the *Circumstance* that has been notified will be deemed to have been made at the date when the *Circumstance* was notified to the *Insurer*.

You must inform the *Insurer* of any material developments in respect of any *Claim* or *Circumstance*. The rights set out in any claims conditions within the *Primary Policy* that are incorporated into this policy shall not be enforceable under this policy until the amount of the loss arising from the *Claim* or *Circumstance* has the potential to erode the total limit of liability of the policy(ies) underlying this policy by 50% or more.

Section 3

General Conditions

This policy is subject to the following general conditions:

Disputes

All disputes which may arise out of or in relation to this policy can, at either *You* or the *Insurer's* election, be referred to Queen's Counsel practising at the English Bar for determination. The appointment of Queen's Counsel is to be mutually agreed between *You* and the *Insurer*, their decision on the issue(s) in dispute will be final and binding on both the *Insurer* and *You*, and the cost of their involvement will be borne by the *Insurer*.

Fraudulent claims

If *You* make any request for payment in respect of any *Claim* or *Circumstance* knowing the same to be false or fraudulent, as regards amount or otherwise, this policy will become void and all entitlements to payment in respect of any *Claim* or *Circumstance* will be forfeited.

Maintain underlying policy

The *Underlying Policy* shall be maintained in full effect during the *Policy Period*.

Recoveries

All recoveries or payments recovered or received subsequent to a loss settlement under this policy shall be applied as if recovered or received prior to such settlement and all necessary adjustments shall then be made between *You* and the *Insurer* provided always that nothing in this policy shall be construed to mean that loss settlements under this policy are not payable until *Your* ultimate net loss has been finally ascertained.

Step down

It is not the intention of this policy to provide cover in excess of any underlying sub-limits within any *Underlying Policy*.

Termination

This insurance may only be terminated by or on behalf of the *Insurer*:

- a) by immediate notice given in writing to *You* at *Your* last known address or registered office (if a company) 14 days after the due date for the premium payment if such payment is not made; or
- b) by 30 days' notice given in writing to *You* at *Your* last known address or registered office (if a company), in which case the premium shall be adjusted on a pro-rata basis. However, if a *Loss* or *Claim* has been made or a *Circumstance* notified prior to the termination the *Insurer* will reserve their rights to offer a return premium.

Third party rights

No-one other than *You* is entitled to enforce any term of this policy for its own benefit, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

In the event of proceedings being brought by a *Third Party* against the *Insurer* for the enforcement of a term of this policy, the *Insurer* will have available to it all rights of defence and set-off as would have been available if the proceedings had been brought by *You*.

Section 4

Complaints

How to make a complaint

Victor Insurance's aim is to ensure that all aspects of *Your* insurance are dealt with promptly, efficiently and fairly. At all times Victor Insurance is committed to providing *You* with the highest standard of service.

If *You* have any questions or concerns about *Your* policy or the handling of a *Claim* *You* should, in the first instance, contact Victor Insurance or the broker where applicable. In the event that *You* remain dissatisfied and wish to make a complaint, *You* can do so at any time. Making a complaint does not affect any of *Your* legal rights. Please contact:

Chief Underwriting Officer, Victor Insurance, 1 Tower Place West, Tower Place, London, EC3R 5BU.

If *You* remain dissatisfied after Victor Insurance has considered *Your* complaint or if *You* have not received a written final response within eight weeks from the date Victor Insurance received *Your* complaint, *You* may be entitled to refer *Your* complaint to the Financial Ombudsman Service who will independently consider *Your* complaint free of charge. Their contact details are:

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

Telephone: (Fixed): 0800 0234567 (Mobile): 0300 1239123 (Outside UK): +44 (0) 20 7964 0500

Fax: +44 (0)20 7964 1001

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

Website: www.financial-ombudsman.org.uk

Please note:

You must refer *Your* complaint to the Financial Ombudsman Service within six months of the date of the final response

The Financial Ombudsman Service will normally only consider a complaint from private individuals, from a business that has an annual turnover of less than 2 million Euros and fewer than 10 employees or from trustees of a trust with net asset value of less than £1m.

The Financial Services Compensation Scheme (FSCS)

Under the Financial Services and Markets Act 2000, should we be unable to meet our 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 at www.fscs.org.uk.

Section 5

Definitions

Circumstance

means any matter which *You* become aware of during the *Policy Period* which may give rise to a *Claim*.

Claim

shall be as defined in the *Underlying Policy*.

Damages

means any amount that *You* shall be legally liable to pay to a *Third Party* in respect of judgments or arbitral awards rendered against *You*, or for settlements negotiated by the *Insurer* with *Your* consent.

Defence Costs

means reasonable fees, costs and expenses incurred by *You* or on *Your* behalf, with the prior consent of the *Insurer*, in the investigation, defence, adjustment, settlement or appeal of any *Claim*. It shall not include any element of *Your* own time costs or lost profits incurred in dealing with a *Claim*.

Director

shall have the meaning given by section 741(1) of the Companies Act 1985 and shall include *Your* present and former *Directors*, their estates, heirs and executors.

Employee

means any natural person (including their estates, heirs and executors) who is, has been or during the *Policy Period* becomes expressly engaged under a contract of employment with *You*.

Fair Presentation

means *Your* duty to provide a fair presentation of the risk as described in Part 2 of the Insurance Act 2015.

Insurer

means the party specified as such in the *Schedule*.

Limit of Indemnity

means the amount specified as such in the *Schedule*.

Member

means, if *You* are a Limited Liability Partnership, any member of that Limited Liability Partnership (including their estates, heirs and executors).

Underlying Limit of Indemnity

means all those Underlying Limit(s) of Liability specified in the *Schedule* and shall not include any self insurance by *You*.

Underlying Policy

means those policies in the *Schedule* including the *Primary Policy*.

Partner

shall have the meaning given by the Partnership Act 1890 and shall include, in the case of any of *Your Partners*, their estates, heirs and executors.

Policy Period

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means the period of time during which this policy will operate, as specified in the *Schedule*.

Primary Policy

means the *Primary Policy* specified in the *Schedule*.

Professional Business

means the business stated as such on the *Schedule*, when carried out by *You* or on *Your* behalf.

Proposal

means any proposal or application form, statement of fact, declaration or other information provided by *You* or on *Your* behalf in connection with this policy.

Schedule

means the *Schedule* attached to this *Policy*.

You/Your

means:

- a) Any person or firm for whom indemnity has been requested in the *Proposal*;
- b) The person or firm named as the "Insured" on the *Schedule*.



www.victorinsurance.co.uk

Victor Insurance is a trading name of Marsh Ltd.
Registered in England and Wales Number: 1507274,
Registered Office: 1 Tower Place West, Tower Place, London EC3R 5BU.
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