



QBE European Operations Surveyors, Estate Agents and Property Managers Professional Indemnity Insurance Policy Wording

In consideration of the payment of premium specified in the **Schedule** the **Insurer** hereby agrees to insure against loss in accordance with the **Policy** terms and conditions.

This **Policy**, the **Proposal**, the **Schedule** including any **Schedule** issued in addition or substitution and any Endorsements or Memoranda shall be considered one document and any word or expression to which a specific meaning has been attached shall bear such meaning wherever it appears.

Basis of Insurance

On payment of the premium stated in the **Schedule** by the **Insured** to the **Insurer** the **Insurer** will subject to the provisions of this **Policy** indemnify the **Insured** as provided for within Section 1 The Policy Cover of this **Policy**.

The **Proposal** shall form the basis of this insurance contract and is incorporated herein.

Choice of Law

You and the **Insurer** are free to choose the law applicable to this contract but in the absence of agreement to the contrary, the law which will apply is the law of England and Wales.

Definitions and Interpretations

Various words and phrases have a standard meaning within this **Policy** and such meanings are defined in this section.

Any word or phrase which has a definition set out below is printed throughout this **Policy** in bold type. Where a more general meaning applies this will be apparent from the way it is used in this **Policy**.

Circumstance

Any **Circumstance** of which the **Insured** first becomes aware during the **Policy Period** which is likely to give rise to a claim against them and is subject to the indemnity provided under this **Policy**.

Defence Costs

All legal costs and expenses incurred with the prior written consent of the **Insurer** in the investigation, defence or negotiation of the settlement of any claim or **Circumstance**.

Defence Costs do not include the overheads of the **Insured**, including but not limited to the salaries, wages or benefits of any of its directors, officers, Employees, in-house lawyers or other in-house professional advisers.

The **Excess** does not apply to **Defence Costs**.

Documents

All forms of **Documents** of whatsoever nature including computer system records (provided the **Insured** maintains duplicates of computer system records).

Employee

Any person currently or previously employed under a contract of service with the **Insured** including partners, executive and non executive directors, consultants and temporary employees employed by the **Insured**.

Excess

The first amount of each claim which is payable by the **Insured** and for which no insurance is provided by this **Policy**.

The amount of the **Excess** is stated in the **Schedule**.

Firm

- (a) The **Firm(s)** identified as the **Insured** in the **Schedule** and named in the **Proposal** being either a partnership comprised solely of the partners and former partners, sole trader or corporate body.
- (b) Any firm(s) or business(es) or any subsidiary firm(s) or subsidiary business(es) for which the **Insured** is legally liable in consequence of their acquisition (whether partial or otherwise) either prior to the inception of this **Policy** or during the **Policy Period** provided the **Insurer** has been notified in writing of their existence and has agreed to insure such firm(s) or business(es).

Geographical Limits

Worldwide excluding USA and Canada, unless stated otherwise in the **Schedule**.

Insured

- (a) the **Firm**
- (b) any partner, director or principal of the **Firm** including any person appointed to such position during the **Policy Period**
- (c) any former partner, director or principal of the **Firm**
- (d) the estate, personal representatives or trustee or assignee in bankruptcy of (a), (b) and/or (c).

Insurer

QBE Insurance (Europe) Limited.

Limit of Indemnity

The sum stated in the **Schedule** which applies in respect of each and every claim, for which indemnity is provided under this **Policy**.

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 the **Insured** and for all purposes this **Policy** shall be considered as a joint policy with one **Limit of Indemnity**.

For the purposes of determining the **Limit of Indemnity** and the **Excess**, and the application of the **Excess**, all claims resulting from one and the same act, error or omission or a series of acts, errors or omissions arising out of the same cause or the acts, errors or omissions of one person or persons acting together or in which such person or persons is/are concerned or implicated shall be deemed to be one claim.

Policy Period

The period specified in the **Schedule**.

Policy

The contents of this document together with the **Schedule** incorporating all Endorsements issued from time to time by the **Insurer** to attach to this insurance together with the **Proposal** which shall all be read together as evidencing the contract of insurance.

Professional Business

The business as stated in the **Schedule** and any other business as may be specifically stated in any Endorsement to this **Policy**.

Proposal

The proposal for the insurance cover provided by this **Policy** including the Proposal Form identified in the **Schedule** together with any other documentation or information submitted to the **Insurer** for this purpose.

Schedule

The **Schedule** attaching to this **Policy** incorporating all Endorsements.

Section 1 | The Policy Cover

The **Insurer** will indemnify the **Insured** in respect of:

1. Legal Liability

claims made against the **Insured** and notified to the **Insurer** during the **Policy Period** incurred in the conduct of the **Insured's Professional Business** which give rise to a legal liability as a result of:

- (a) breach of professional duty arising out of negligence on the part of:
 - (i) the **Insured**
 - (ii) any **Employee**.
- (b) libel and slander committed without intentional malice by
 - (i) the **Insured**
 - (ii) any **Employee**.
- (c) any dishonest or fraudulent act or omission on the part of any **Employee**
- (d) any unintentional breach of confidentiality on the part of:
 - (i) the **Insured**
 - (ii) any **Employee**.

In the case of any claim arising out of any dishonest or fraudulent act or omission the part of any **Employee**

- (A) no person committing or condoning such dishonest or fraudulent act or omission shall be entitled to indemnity
- (B) no indemnity shall be provided for dishonest or fraudulent acts committed by any person after discovery by the **Insured** thereof or reasonable cause for suspicion of fraud or dishonesty on the part of that person
- (C) no indemnity shall be provided for dishonest or fraudulent acts committed by any partner or director of the **Insured**

- (D) the following shall be deducted from any amount payable by the **Insurer**:
- (i) any monies which, but for such dishonest or fraudulent act or omission would be due from the **Insured** to the person committing or condoning such act or omission
 - (ii) any monies held by the **Insured** and belonging to such person
 - (iii) any monies recovered following action as described in Claims Condition 2 (b) (iii).

2. Loss of **Documents**

any reasonable cost or expense incurred by the **Insured** (and to which the **Insurer** has consented) in replacing and restoring **Documents** either owned by or the responsibility of the **Insured** in the conduct of the **Insured's Professional Business** which are discovered lost or damaged and notified to the **Insurer** during the **Policy Period**.

For the purpose of this Clause only, the **Excess** payable by the **Insured** is GBP1,000, or equivalent currency, and the **Limit of Indemnity** shall be limited to GBP25,000, or equivalent currency, in all during the **Policy Period**. The equivalent currency exchange rate will be fixed at the time of any first payment applicable under this Clause.

PROVIDED THAT:

- (A) the liability of the **Insurer** in respect of all Policy Cover Clauses, including any Extensions, shall not exceed the **Limit of Indemnity** except that **Defence Costs** shall be paid in addition
- (B) if a payment beyond the amount of indemnity available under this **Policy** has to be made to dispose of a claim, the **Insurer's** liability for **Defence Costs** shall be such proportion as the amount of indemnity available under this **Policy** bears to the amount payable to dispose of the claim
- (C) in respect of any claim, arising under Policy Cover Clause 1 and any Extensions, the **Excess** is payable by the **Insured** and the **Insurer** shall thereafter be liable to indemnify the **Insured** only in excess of such amount.

Section 2 | Conditions

1. Duties of the **Insured**

It is a condition of this **Policy** that:

- (a) the **Insured** must pay to the **Insurer** all premiums due to the **Insurer** together with all taxes due on the premiums
- (b) the **Insured** must not notify any claim knowing it to be false or fraudulent as regards amount or otherwise
- (c) beginning with the **Insured's Proposal** and continuing to the end of the **Policy Period** the **Insured** is under a continuing duty to disclose to the **Insurer** as soon as is reasonably practicable all material changes.

Any breach of Condition 1(a), (b) or (c) above by the **Insured** will entitle the **Insurer** at their discretion to terminate the **Policy** from the date of inception and all claims shall be forfeited.

2. Claims Conditions Precedent to Liability

The following Conditions are Conditions precedent to the **Insurer's** liability. No claim will be paid unless full and complete adherence to these Conditions is maintained by the **Insured**.

(a) Notification

The **Insured** shall give notice to the **Insurer**, as soon as practicable, of:

- (i) any claim made against the **Insured**, or
- (ii) any **Circumstance**, or
- (iii) the discovery of or any reasonable cause for suspicion of any dishonest or fraudulent act or omission on the part of any **Employee**.

Notification of any claim or **Circumstance** is to be made via the QBE Claims Notification Line by:

- Telephone on 0845 266 5252
- E-mail to pcmclaims@uk.qbe.com
- Fax on 0845 601 7522
- Post to QBE Claims Team, PO Box 321, Cardiff, CF11 1SN

(Notwithstanding anything contained to the contrary, receipt of notice by the **Insured's** Intermediary will not be treated as notice to the **Insurer**).

Provided that such notice as required in 2 (a) (ii) of this Condition has been given during the **Policy Period**, any resultant claim arising from such matters notified, shall be deemed to have been given during the **Policy Period**, provided however that this deeming provision shall only have effect if the **Insured** complies within a reasonable time and at their own expense with:

- (1) the **Insurer's** standard requirement that the notification should state precisely why a claim is likely and if so, from whom, and
- (2) any reasonable request by the **Insurer** for further information in relation to the matters notified and
- (3) any request by the **Insurer** for steps to be taken to reduce or avert the said risk.

For the avoidance of doubt, no other Condition of this **Policy** shall have the effect of limiting the **Insurer's** right to refuse to give effect to this deeming provision in the event of a failure by the **Insured** to comply with a request under 2 (a) (1), (2) and (3) above.

(b) Co-operation

The **Insured** must not, at any time, make any admission of liability, arrangement, compromise, offer, promise or payment without the consent of the **Insurer**.

Following notification of a claim or **Circumstance** the **Insured** shall, at their own expense, give all information and assistance within timescales reasonably required by the **Insurer**.

If the **Insurer** so requests the **Insured** shall, at their own expense, take all reasonable steps to effect recovery from any person committing or condoning any dishonest or fraudulent act or omission or from the estate and/or legal representatives of such person.

3. **Insurer's Rights**

Notification

Following notification of a claim or a **Circumstance** the **Insurer** will be entitled:

- (i) at its discretion, to take over and conduct in the name of the **Insured** the investigation, defence or settlement of any such matter
- (ii) at any time, to pay to the **Insured** the amount of the **Limit of Indemnity** (less the **Excess** and any sum already paid or expended during the **Policy Period**) or any

lesser amount for which, in the **Insurer's** opinion, any claim or claims can be settled and shall then cease to have conduct and control of the claim or proceedings and be under no further liability in respect of such costs, claim or claims. The **Insurer** shall not be responsible for any loss which the **Insured** may claim to have sustained by reason of the **Insurer** having so acted

- (iii) to be subrogated to all rights of recovery the **Insured** may have against any party and the **Insured** shall do nothing to prejudice such rights. It is agreed however that the **Insurer** shall not exercise such rights against any **Employee**.

4. Administrative Conditions

(a) Policy Disputes

Any dispute or difference between the **Insured** and the **Insurer** arising from this **Policy** shall be referred to a Queen's Counsel of the English Bar whose identity shall be mutually agreed upon between the **Insurer** and the **Insured** or to any other party as may be mutually agreed.

The findings of the appointed Queen's Counsel (or the party as may be mutually agreed) shall be binding upon the **Insurer** and the **Insured** and the costs of such an exercise shall be allocated by the Queen's Counsel (or the party as may be mutually agreed) on the basis he/she considers fair and equitable.

(b) Cancellation

The **Insurer** may terminate this **Policy** by giving thirty days notice to the **Insured** with any appropriate refund of premium.

Section 3 | Exclusions

This **Policy** shall not indemnify the **Insured** in respect of any claim, loss, liability or expense arising directly or indirectly out of:

1. Asbestos and Toxic Mould

or in any manner related to, asbestos and Fungi.

For the purposes of this clause, Fungi shall mean any fungus or mycota or any by-product or type of infestation produced by such fungus or mycota, but not limited to mould, mildew, mycotoxins, spores or any biogenic aerosols.

In any claim and in any action, suit or other proceedings to enforce a claim under this **Policy**, the burden of proving that such claim does not fall within this Exclusion shall be upon the **Insured**.

2. Bodily Injury and Property Damage

- (a) any bodily, mental or emotional injury, sickness, disease or death, or
- (b) any loss of or damage to property, other than covered under Policy Cover Clause 2

of any third party unless such claim, loss, liability or expense arises from negligent advice, design or specification.

3. Breach of Contract of Employment

any contract of service or obligation owed by the **Insured** as employer including any claim for wrongful or unfair dismissal.

4. Building Contractor

any contract where the **Insured** acts as a building contractor whether or not in conjunction with their **Professional Business**.

5. Claims and Circumstances Known at Inception

any claim or **Circumstance**

- (a) known to the **Insured** prior to the inception of this **Policy** or which in the reasonable opinion of the **Insurer** ought to have been known, or
- (b) notified to the **Insurer**, or any other insurer, by the **Insured** under any other insurance prior to the inception of this **Policy**.

6. Computer Network and Data Corruption

- (a) the corruption, erasure, theft, alteration of, or
- (b) the access or lack of access to, or
- (c) the interference with

electronically held data of or by the **Insured** wholly or partly caused by any computer virus or by any person not a partner, director or employee currently employed by the **Insured**.

7. Computer Records

loss, distortion or erasure of computer records

- (a) whilst mounted in or on any machine for use or processing unless caused by any negligent act or omission on the part of the **Insured**, or
- (b) resulting from wear, tear, vermin or gradual deterioration, or

- (c) caused by climatic or atmospheric conditions or extremes of temperature, or
- (d) due to the presence of magnetic flux or due to loss of magnetism.

8. Controlling Interest/Associated Companies

any claim by

- (a) any parent or subsidiary company of the **Insured** or any company having the same parent company as the **Insured**, or
- (b) any other company in which the **Insured** has a majority shareholding in excess of 50%, or
- (c) any other company in common ownership with the **Insured**

unless such claim emanates from an independent third party.

9. Employers' Liability

bodily injury, sickness, disease or death sustained by any person arising out of and in the course of their employment by the **Insured** in any capacity.

10. Geographical and Jurisdiction Limits

- (a) work in connection with any contract performed outside the **Geographical Limits**, or
- (b) any judgement, award, payment or settlement made within countries which operate under the laws of the United States of America or Canada, or
- (c) any order made anywhere in the World to enforce any judgement, award payment or settlement either in whole or in part, made in the courts of or under the laws of the United States of America or Canada.

11. Insolvency

any claim, loss, liability or expense, directly or indirectly, arising from the insolvency, receivership, bankruptcy, liquidation or financial inability to pay, of the **Insured** or any insurance company, reinsurance company, underwriter, syndicate, agent, broker or intermediary, benefit plan, self insurance plan, insurance pool or risk retention group, financial institution or other risk bearing entity with whom, or through whom, coverage has been placed or obtained.

12. Market Fluctuation

the depreciation or loss of investments when such depreciation or loss is a result of normal or abnormal fluctuations in any financial stock or commodity or other markets which are outside the influence or control of the **Insured**.

13. Nuclear Risks and War/Terrorist Risks

or caused by or contributed to by

- (a) ionising radiations or contamination by radioactivity from any nuclear fuel, waste or substance
- (b) the radioactive, toxic, explosive or other hazardous properties of any explosive, nuclear assembly or nuclear component thereof
- (c) war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, riot, civil commotion assuming the proportion of or amounting to a popular uprising, 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, or
- (d) any act or acts, or threat thereof, of terrorism, force or violence for political, religious or other ends directed towards the overthrowing or influencing of the 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 any claim and in any action, suit or other proceedings to enforce a claim under this **Policy**, the burden of proving that such claim does not fall within this Exclusion shall be upon the **Insured**.

In the event any portion of this Exclusion is found to be invalid or unenforceable, the remainder shall continue to be in full force and effect.

14. Other Insurance

a situation where the **Insured** is entitled to indemnity under any other insurance except in respect of any sum beyond the amount which would have been payable under such other insurance had this **Policy** not been effected.

15. Pollution

pollution, seepage or contamination, howsoever caused.

16. Punitive or Exemplary Damages

any fines, penalties, punitive or exemplary damages.

17. Retroactive Date

any act, error or omission committed or alleged to have been committed prior to the Retroactive Date (if any) specified in the **Schedule**.

18. Surveys or Valuations

survey, inspection or valuation reports of any land or property unless such surveys, inspections or valuations have been carried out by

- (a) a qualified surveyor or valuer, or
- (b) anyone who has at least five years experience of such work.

19. Warranty or Guarantee

the giving by the **Insured** of any warranty or guarantee under a contract or agreement where liability arises out of any of the following terms contained in a warranty or any agreement:

- (a) an express acceptance of, or guarantee of fitness for purpose, or similar provision
- (b) any express guarantee including any relating to the performance and/or the period of a project
- (c) any acceptance of liability for liquidated damages
- (d) any financial obligation assumed by the **Insured** under contract

unless such liability would have attached to the **Insured** notwithstanding such express agreement.

Overriding Exclusion

A person who is not party to this **Policy** has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this **Policy** but this does not affect any right or remedy of a third party, which exists or is available apart from that Act.

Further Information

Data Protection Act 1998

We may store your information on a computer and use it for administration, risk assessment, research and statistical purposes, marketing purposes and for crime prevention (see further details below). We will only disclose your personal details to third parties, if it is necessary for the performance of your contract with us.

In order to assess the terms of the insurance contract or administer claims that arise, we may need to collect data that the Data Protection Act defines as sensitive, such as medical history or criminal convictions. By proceeding with this contract you will signify your consent to such information being processed by us or our agents.

We will keep your information secure at all times. In certain circumstances, for example for systems administration purposes, we may have to transfer your information to another country, which may be a country outside the European Economic Area (EEA). By proceeding with your insurance application, we will assume you are agreeable for us to transfer your information to a country outside the EEA.

Should you wish to receive a copy of the information we hold on you, please contact:

The Compliance Officer
QBE Insurance (Europe) Limited
Plantation Place
30 Fenchurch Street
London
EC3M 3BD

Financial Services Compensation Scheme

We are covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of the claim. Further information about compensation scheme arrangements is available from the FSCS.

Financial Services Compensation Scheme
7th Floor Lloyds Chambers
Portoken Street
London E1 8BN

Tel: 020 7892 7300
Fax: 020 7892 7301
Email: enquiries@fscs.org.uk

Complaints Procedure

We are dedicated to providing you with a high quality service and we want to ensure that we maintain this at all times. If you feel we have not offered you a first class service please write and tell us and we will do our best to resolve the problem.

[In the first instance please contact your broker or agent from whom you bought your policy of insurance.](#)

In the unlikely event you remain dissatisfied, please contact:

The Customer Relations Manager
QBE Insurance (Europe) Limited
Plantation Place
30 Fenchurch Street
London
EC3M 3BD

Tel: 020 7105 4000
Fax: 020 7105 4032
E-mail: CustomerRelations@uk.qbe.com

In the event you wish to pursue matters further you may be able to refer the matter to The Financial Ombudsman Service. The Financial Ombudsman Service can normally deal with complaints from private individuals and from small businesses with an annual turnover of less than £1 million (for a group of companies, this means a group annual turnover of less than £1 million). The Financial Ombudsman Service can also help with complaints from charities with an annual income of less than £1 million; and from trusts with a net asset value of less than £1 million.

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

Helpline: 0845 080 1800
Switchboard: 020 7964 1000
Website: www.financial-ombudsman.org.uk

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