

Professional Indemnity Insurance – Architects

Essential Business Insurance Your policy wording



Lloyds TSB | for the journey...

Introduction

Thank you for choosing Lloyds TSB and their commercial insurer of choice, Allianz Insurance plc.

Introducing Allianz Insurance plc

Allianz Insurance plc is proud to be the chosen provider of commercial insurance for Lloyds TSB customers.

They are one of the largest general insurers in the UK and part of the Allianz Group, one of the world's foremost service providers.

Allianz have provided leading insurance solutions in the UK for more than 100 years in an ever changing financial market.

If you need to make a claim you can be confident that you will be working with industry experts and professionally trained staff. They will understand the requirements of your business and apply the most appropriate action towards continued trading and claim settlement.

Should you require any further information please do not hesitate to contact the Business Insurance Centre who will be delighted to help you.

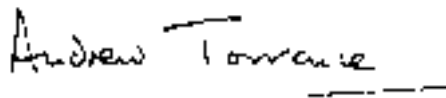
For Customer Service information please ring 0844 893 9560.

Insuring Clause

The Statement of Fact or Proposal Form where applicable together with any information supplied by or on behalf of the Insured forms the basis of this contract of insurance between the Insured and the Insurer.

All cover under the Professional Liability, Fraud/Dishonesty, Joint Venture and Specialist Consultants clauses is afforded solely with respect to Claims first made against an Insured during the Policy Period and notified to the Insurer as required by this policy.

For Allianz Insurance plc

A handwritten signature in black ink that reads "Andrew Torrance". The signature is written in a cursive style with a horizontal line underneath the name.

Andrew Torrance
Chief Executive

Architects Professional Indemnity Insurance

Definitions

Adjudication Contract means a contract to which Part II of the Housing Grants, Construction and Regeneration Act 1996 applies or any contract containing an adjudication clause.

Asbestos Inspections means Type 1, 2 or 3 inspections as set out in MDHS 100 published by the Health and Safety Executive in connection with regulation 4 of the Control of Asbestos at Work Regulations 2002, or any other comparable inspection.

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

Claim means any:

- (i) written demand for compensation in respect of a Wrongful Act of an Insured;
- (ii) civil, regulatory or administrative proceedings whereby a Wrongful Act of an Insured is alleged.

Company means the Policyholder or any Subsidiary (including any predecessor business);

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

Documents means all 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 means any natural person who is, has been or during the policy period becomes expressly engaged under a contract of employment with the Company.

Employee shall not include any principal, partner, director or Member of any Insured in their capacity as such.

Fraud/Dishonesty means fraudulent or dishonest conduct:

- (i) not condoned, expressly or implicitly by any principal, partner, director or Member of the Company; and
- (ii) that results in liability of the Company to any Third Party.

Health & Safety Legislation means:

- (i) Property Misdescriptions Act 1991;
- (ii) Estate Agents Act 1979;
- (iii) The Health & Safety at Work Act 1974;
- (iv) The Health & Safety at Work (Northern Ireland Order) 1978; and
- (v) The Construction (Design and Management) Regulations 2007;

or any re-enactment thereof.

Insured means the Company or any Insured Person.

Insured Person means:

- (i) any natural person, who is or has been a principal, partner, director or Member of the Company in their capacity as such;
- (ii) any Employee;
- (iii) any natural person employed by the Company to whom the Financial Services Authority has given its approval to perform Controlled Function 30 for the Company pursuant to Section 59 of the Financial Services and Markets Act 2000 or any re-enactment thereof.
- (iv) any spouse, civil partner, estate or legal representative of any Insured Person for Loss arising from a Claim for a Wrongful Act of such an Insured Person listed in (i), (ii), (iii) above.
- (v) the administrator, heirs, legal representatives or executor of a deceased, incompetent, insolvent or bankrupt Insured Person's estate for Loss arising from a Claim for a Wrongful Act of such Insured Person listed in (i), (ii), (iii) above.

Insurer means Allianz Insurance plc.

Legal Panel means the firms of solicitors appointed from time to time by the Insurer to provide representation on behalf of an Insured under this policy.

Limit of Liability means the amount specified as such in the Schedule.

Limited Liability Partnership means a partnership as determined by the Limited Liability Partnerships Act 2000 and any subsequent amendments thereto.

Loss means Damages or Defence Costs, however Loss shall not include and this policy shall not cover any:

- (i) taxes;
- (ii) non-compensatory damages, including punitive, multiple, exemplary or liquidated damages;
- (iii) fines or penalties unless insurable by law;
- (iv) the costs and expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief;

- (v) benefits or overheads of, or charges or expenses incurred by any Insured including but not limited to the cost of any Insured's time;
- (vi) fees or commissions, for any Professional Services rendered or required to be rendered by an Insured or that portion of any settlement or award in an amount equal to such fees, commissions, or other compensation; or
- (vii) any matters which may be deemed uninsurable under the law governing this policy or the jurisdiction in which a Claim is brought.

Member means a member of a Limited Liability Partnership.

Notice of Intention to Adjudicate means a notice of intention to refer a dispute to adjudicate pursuant to an Adjudication Contract.

Policy Period means the period of time specified in the Schedule.

Policyholder means the entity specified as such in the Schedule.

Pollutants means any solid, liquid, gaseous, biological, radiological or thermal irritant, toxic or hazardous substance, or contaminant, including but not limited to, lead, smoke, vapour, dust, fibres, mould, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. Such waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.

Professional Services means the performance by an Insured of a contract for any professional architectural services, design or specification, supervision of construction, feasibility study, technical information, calculation or survey subject to any surveys being performed by a Properly Qualified Person.

Properly Qualified Person means any Insured with a minimum of five years relevant experience or a person recognised as a Fellow or Associate of the following bodies:

- (i) the Royal Institution of Chartered Surveyors;
- (ii) the Incorporated Society of Valuers and Auctioneers;
- (iii) the Architects and Surveyors Institute;
- (iv) the Faculty of Architects and Surveyors;
- (v) the Royal Institute of British Architects; or
- (vi) the Royal Incorporation of Architects in Scotland.

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

Related Claim means any Claims alleging, arising out of, based upon or attributable to the same facts or alleged facts, or circumstances or the same Wrongful Act, or a continuous repeated or related Wrongful Act.

Retention means the amount specified as such in the Schedule.

Retroactive Date means the date specified as such in the Schedule.

Schedule means part of this policy that details information forming the basis of this contract and that shows the operative parts of this policy.

Settlement Value means in respect of any Claim covered under this policy:

- (i) the full amount claimed; or
- (ii) any settlement offer from the claimant(s) which is capable of acceptance.

Where the claimant(s)' costs, if applicable, are not quantified by the claimant, the Insurer will also pay a reasonable sum to an Insured to represent these costs.

Submission means:

- (i) each and every statement of fact, signed proposal form, the statements, warranties, and representations therein, its attachments;
 - (ii) the financial statements of any Company; and
 - (iii) other documents of any Company filed with a regulator and all other material information;
- submitted to the Insurer in connection with this policy.

Subsidiary means any entity in which the Company, either directly or indirectly through one or more 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;
- on or before the inception date of this policy.

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 Company.

Terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public or any section of the public in fear.

Third Party means 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 Company.

Transaction means any one of the following events:

- (i) the Company consolidates with or merges into or sells all or a majority of its assets to any other person or entity or group of persons and/or entities acting in concert;
- (ii) an administrator, liquidator or receiver is appointed to the Company.

Wrongful Act means any actual or alleged act, error or omission committed solely in the performance of or failure to perform Professional Services.

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Cover

All cover under the Fraud/Dishonesty, Joint Venture, Professional Liability and Specialist Consultants clauses is afforded solely with respect to Claims first made against an Insured during the Policy Period and notified to the Insurer as required by this policy.

Professional Liability

The Insurer will pay on behalf of an Insured all Loss resulting from any Claim against an Insured for a civil liability arising from an Insured's Professional Services.

Asbestos

The Insurer will pay on behalf of any Insured all Loss resulting from any Claim (other than as detailed in the exclusion section) for any Wrongful Act of an Insured, in connection with, based upon or attributable to the presence or release of asbestos containing materials in whatever form or quantity.

This Cover will be subject to a sub-limit of liability of £250,000 any one Claim and in the annual aggregate.

Automatic Acquisition

If during the policy period the Policyholder obtains, either directly or indirectly:

- (i) control of the composition of the board of directors;
- (ii) control of more than half of the voting power; or
- (iii) a holding of more than half of the issued share capital;

of another entity then the definition of Subsidiary shall be extended to include such entity provided that:

- (a) the entity has annual revenue for the last complete accounting period prior to the acquisition, of less than 10% of the total annual revenue of the Company declared in the latest Annual Report and Accounts as at inception;
- (b) the entity is not incorporated, domiciled or providing Professional Services in the United States of America or Canada or any of their territories;
- (c) the entity is not regulated by the US Securities and Exchange Commission;
- (d) the entity is not aware of any claims (either paid or notified) or circumstances within the preceding five years of a type which may have been covered had they been notified under a professional liability policy similar in scope and breadth of coverage to the cover afforded hereunder;

- (e) the business activities of the entity fall within the definition of Professional Services.; and
- (f) no fee income is derived from engineering, managing contractor and property valuation.

In all other circumstances, the Company may request an extension of this policy for such entity. The Insurer shall have the right but not the duty to offer cover for such entity and the Company shall give the Insurer sufficient details to permit the Insurer to assess and evaluate the potential increase in exposure. In the event that coverage is provided, the Insurer shall be entitled to amend the policy terms and conditions, during the Policy Period, including but not limited to, the charging of a reasonable additional premium.

Collateral Warranty

The Insurer will pay on behalf of any Insured all Loss resulting from any Claim for any Wrongful Act of an Insured arising from any collateral warranties, duty of care or similar agreements provided by an Insured, but only to the extent that the benefits of such warranties or agreements are not greater or longer lasting than those given to the party with whom an Insured originally contracted to provide Professional Services, and only to the extent that such liability would have attached to an Insured in the absence of such contractual duty, term or agreement.

Court Attendance

For any person described in (i) and (ii) below who actually attends a court or an arbitration or an adjudication hearing as a witness in connection with a Claim notified under and covered by this policy, Insurers will pay 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 an Insured: £300
- (ii) for any Employee: £150

No Retention shall apply to this clause.

Fraud and Dishonesty

The Insurer will pay on behalf of any Insured, who is not the actual perpetrator, all Loss resulting from any Claim for Fraud/Dishonesty of any Employee(s) of the Company provided that the relevant fraudulent or dishonest conduct occurred before the date of discovery by any principal, partner, director or Member of a Company of reasonable cause of suspicion of Fraud/ Dishonesty on the part of the

Employee(s), whether or not it is possible at that date to identify the Employee(s) involved in the Fraud/Dishonesty.

Health & Safety Legislation

The Insurer will pay on behalf of any Insured all reasonable costs and expenses incurred with the prior written consent of the Insurer for defence of any proceedings first brought against an Insured under the Health & Safety Legislation by any regulatory body or similar body where in the Insurer's opinion defending such proceedings could prevent a concurrent or subsequent Claim.

The Insurer shall not be liable to pay such reasonable costs and expenses:

- (a) unless the proceedings shall have arisen from a Wrongful Act committed by an Insured in the performance of Professional Services;
- (b) where there is a subsequent plea of finding of guilt on the part of an Insured; or
- (c) where in the Insurer's opinion on the balance of probabilities the proceedings are unlikely to be defended successfully.

This Extension will be subject to a Sub-limit of Liability of 80% of the Defence Costs incurred up to a maximum amount of £250,000 any one Claim and in the annual aggregate.

Joint Ventures

The Insurer will pay on behalf of any Insured all Loss resulting from any Claim where liability results directly from a Wrongful Act of an Insured arising out of the Professional Services carried out by an Insured for and in the name of any joint venture of which an Insured forms part, provided that an Insured has declared in the submission all fees/turnover received from any joint venture.

The liability of the Insurer shall be proportionate to the lowest of:

- (i) the percentage of the share capital of the joint venture owned by an Insured; or
- (ii) the percentage of the voting control of the joint venture exercised by an Insured;

unless the Insurer's written agreement has been first obtained to an alternative proportion and an endorsement made upon this policy.

This clause shall provide cover to an Insured only. No other participant in such joint venture, and no other Third Party, shall have any rights under this policy, and neither shall the Insurer be liable to pay a contribution to any insurer of any other participant in such joint venture.

Lost Documents

The Insurer shall indemnify an Insured for costs and expenses reasonably incurred with the Insurer's prior written consent in replacing or restoring any Documents which are the property of an Insured and which during the Policy Period have been destroyed, damaged, lost, distorted, erased or mislaid provided that:

- (i) such loss or damage is sustained while the Documents are either: (1) in transit; or (2) in the custody of an Insured or of any person to whom an Insured has entrusted them in the ordinary course of their Professional Services;
- (ii) the Documents have been the subject of a diligent search by or on behalf of an Insured;
- (iii) 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 Policyholder; and
- (iv) the Insurer shall not be liable for any costs and expenses arising out of wear, tear and/or gradual deterioration, moth and vermin.

This cover will be subject to a Sub-limit of Liability of £100,000 in the aggregate during the Policy Period. A retention of £250 each and every claim shall apply to this cover.

Mitigation

Where the Insured first makes a determination during the Policy Period that it has committed a Wrongful Act requiring remediation or mitigation, the Insurer will pay the reasonable and direct cost of any remediation or mitigation, provided that:

- (i) the Insurer shall during the Policy Period have been informed in writing of the Wrongful Act and the work that is required to rectify it or mitigate its consequences;
- (ii) the Insurer shall be reasonably satisfied that an Insured has committed a Wrongful Act requiring remediation or mitigation and that such costs are necessary to prevent or reduce the amount of a Claim covered under the Professional Liability Cover, and that the amount of Damages prevented or reduced would be greater than the cost of the work;
- (iii) such costs are supported by evidence of expenditure which shall be subject to approval by a competent person to be nominated by the Policyholder with the consent of the Insurer;
- (iv) such costs shall not include any element of profit or loss of profit, nor any element of overheads, staff remuneration, standing idle time or management time of an Insured; and

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- (i) the Insurer has consented in writing to the payment of such costs before work is carried out, such consent not to be unreasonably withheld, however whilst awaiting the Insurers consent, the Insurers will indemnify an Insured for such expense incurred over a period not exceeding 14 days beginning from the time mitigation was undertaken by an Insured subject to condition (ii) above, being satisfied otherwise all pre approval costs will be borne by an Insured.

Pollution

The Insurer will pay on behalf of any Insured all Loss resulting from any Claim for a Wrongful Act of an Insured arising out of the actual, alleged or threatened, sudden or accidental presence, discharge, dispersal, release, migration or escape of Pollutants other than asbestos, nuclear or radioactive material of any sort.

This cover will be subject to the Limit of Liability being in the aggregate during the Policy Period.

Specialist Consultants

The Insurer will pay on behalf of an Insured all Loss resulting from any Claim for any Wrongful Act of specialist consultants, designers or sub-contractors of an Insured who are engaged in the performance of an Insured's Professional Services.

The Insurer will only pay Loss to the extent that an Insured has not waived or otherwise impaired any rights of recourse against such specialist designers, consultants or sub-contractors.

Limit and Retention

Limit of Liability

- (i) The total amount payable by the Insurer under this policy (excluding Defence Costs) for any one Claim during the Policy Period shall not exceed the Limit of Liability.
- (ii) Sub-limits of liability are part of and not payable in addition to the Limit of Liability.
- (iii) Defence Costs are payable in addition to the Limit of Liability. In the event that the amount paid by or on behalf of any Insured to dispose of a Claim exceeds this policy's Limit of Liability for any one Claim, then this policy shall only cover the same proportion of Defence Costs as this policy's Limit of Liability for any one Claim bears to the total amount paid to dispose of the Claim (exclusive of Defence Costs).
- (iv) Where a Claim is made against more than one Insured under this policy, this shall not operate to increase the total amount payable by the Insurer for any one Claim under this policy.
- (v) The Limit of Liability is the total sum payable by the Insurer for any one Claim. Any Damages paid by the Insurer under this policy in respect of a Claim shall erode the Limit of Liability for that Claim. In no circumstances shall the liability of the Insurer for any one Claim exceed the Limit of Liability.

Other Insurance / Indemnification

Unless otherwise required by law, cover under this policy is provided only as excess over any self-insurance or other valid and applicable insurance, unless such other insurance is written only as specific excess insurance over the Limit of Liability. This policy shall not cover Defence Costs of any Claim where another insurance policy imposes upon another insurer a duty to defend such Claim.

Retention

The Insurer shall be liable only for Loss, which exceeds the Retention. For the avoidance of doubt, the Retention does not apply to Defence Costs. It is to be borne by an Insured and shall remain uninsured. The Retention is not part of the Limit of Liability. A single Retention shall apply per Claim.

Exclusions

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

Asbestos

arising out of, based upon or attributable to:

- (i) Bodily Injury resulting from the presence or release or possible release of asbestos or asbestos containing materials in whatever form or quantity; or
- (ii) Asbestos Inspections carried out by an Insured.

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.

Conduct

arising out of, based upon or attributable to any actual or alleged dishonest, fraudulent or criminal conduct of an Insured.

This exclusion shall not apply to Fraud and Dishonesty cover.

Contractual Liability

arising out of, based upon or attributable to any:

- (i) liability assumed or accepted by an Insured under any contract or agreement; or
- (ii) guarantee or warranty;

except to the extent such liability would have attached to an Insured in the absence of such contractual duty, term or agreement.

Costs Assessment

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

Directors' and Officers' Liability

arising out of, based upon or attributable to any Claim made against an Insured in their capacity as a director, officer, trustee, Member or partner of the Company in respect of the performance or non-performance of their duties as a director, officer, trustee, Member or partner of the Company.

Employers Liability

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

Employment Practice Violation

arising out of, based upon or attributable to any act, error or omission with respect to any employment or prospective employment of any past, present, future or prospective employee or Insured Person of any Company.

Fitness for Purpose

arising from any fitness for purpose or other "no fault" obligation.

Infrastructure

arising out of, based upon or attributable to:

- (i) software or mechanical failure;
 - (ii) electrical failure, including any electrical power interruption, surge, brown out or black out; or
 - (iii) telecommunications or satellite systems failure;
- outside the direct control of an Insured.

Insolvency

arising out of, based upon or attributable to the insolvency, liquidation, administration or receivership of the Company.

Manufacturing Liability

arising out of, based upon or attributable to any manufacturing defect in any product.

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Pollution

arising out of, based upon or attributable to 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.

Prior Claims/circumstances

made prior to the inception of this policy including any Related Claims thereto, or arising out of, based upon or attributable to a circumstance which has been properly notified under any other policy or certificate of insurance attaching prior to the inception of this policy including any Related Claims thereto.

Prior Acts

arising out of based upon, attributable to or in any way involving any Wrongful Act which first takes place before the Retroactive Date.

Surveys and Valuations (Properly Qualified Persons)

arising out of, based upon or attributable to any survey or valuation unless it was undertaken by, or under the direct supervision of, a Properly Qualified Person.

Trade Debts

arising out of, based upon or attributable to any: (i) trading debt incurred by an Insured or (ii) guarantee given by an Insured for a debt.

U.S.A./Canada

made or pending within or to enforce a judgment obtained in the United States of America, Canada, or any of their territories or possessions.

War/Terrorism

arising out of, based upon or attributable to any war (declared or otherwise), Terrorism, warlike, military, terrorist or guerrilla activity, sabotage, force of arms, hostilities (declared or undeclared), rebellion, revolution, civil disorder, insurrection, usurped power, confiscation, nationalisation or destruction of or damage to property by or under the order of, any governmental, public or local authority or any other political or terrorist organisation.

Claims

Adjudication Provisions

The Insurer shall have no liability under this policy to make any payment in respect of any Loss incurred in connection with any dispute or matter being referred to adjudication except liabilities of an Insured incurred in connection with their Professional Services for Loss arising from the adjudication of an Adjudication Contract. Provided always that it is a condition precedent to the Insurer's liability hereunder that every element of this Adjudication Provision (i) and (ii) are complied with:

- (i) The Adjudication Contract must:
 - (a) provide that the adjudicator must be independent of the parties to the dispute;
 - (b) not allow for the adjudicator's decision to finally determine the dispute;
 - (c) not allow the adjudicator to disregard the legal entitlements of the parties in order to reach a decision based on commercial consideration; and
 - (d) not place any conditions upon the timing of commencement of legal or arbitration proceedings (for the avoidance of doubt, this does not apply to the adjudication proceedings).
- (ii) An Insured must:
 - (a) ensure the Insurer receives notification in writing to:

Essential Business Insurance Claims
Allianz Insurance plc
500 Avebury Boulevard
Milton Keynes MK9 2XX
or by telephone to 0844 893 9580.

 - 1) within 48 hours or two working days of receipt by an Insured of any Notice of Intention to Adjudicate; or
 - 2) at least 30 days before service by an Insured of any Notice of Intention to Adjudicate in circumstances which will or may lead to a Claim being dealt with as part of the adjudication;
 - (b) as soon as reasonably practical, supply to the Insurer all details relating to any reference to adjudication, including copies of all documentation made available to an Insured, or subsequently by an Insured to the adjudicator;
 - (c) allow the Insurer to appoint advisers from the Legal Panel and to have conduct of the adjudication as they deem appropriate and to co-operate with the Insurer in the conduct of the adjudication; any appointments made by the Insurer shall be at an Insured's expense, save always that they shall also constitute Defence Costs under this policy;

- (d) meet any request, direction or timetable of the adjudicator;
- (e) satisfy the Insurer that any liability or costs incurred or awarded pursuant to the adjudication proceedings for which indemnity is being sought, is as a direct result of a Wrongful Act of an Insured solely in the performance of an Insured's Professional Services;
- (f) institute legal proceedings or arbitration in accordance with the terms of the Adjudication Contract to challenge or reopen or stay of the enforcement of the adjudicator's decision if reasonably requested to do by the Insurer and allow the Insurer to appoint appropriate advisers as they may deem necessary to have conduct of such proceedings if appropriate. However, any such steps taken by an Insured shall be at the Insurer's expense, but subject always to the application of the Retention; and
- (g) not agree to accept the decision of the adjudicator as finally determining the dispute without the prior consent of the Insurer.

Allocation

In the event that any Claim involves both covered matters and matters or persons not covered under this policy, a fair and proper allocation of any cost of defence, damages, judgments and/or settlements shall be made between each Insured and the Insurer taking into account the relative legal and financial exposures attributable to covered matters and matters not covered under this policy.

Circumstances

The Policyholder shall as soon as reasonably practicable during the Policy Period notify the Insurer at the address listed in the Claims Notifications clause below of any circumstance of which any Insured becomes aware during the Policy Period which is reasonably expected to give rise to a Claim. The notice must include at least the following:

- (i) a statement that it is intended to serve as a notice of a circumstance of which an Insured has become aware which is reasonably expected to give rise to a Claim;
- ii) the reasons for anticipating that Claim (including full particulars as to the nature and date(s) of the potential Wrongful Act(s));
- (iii) the identity of any potential claimant(s);
- (iv) the identity of any Insured involved in such circumstance; and
- (v) the date on and manner in which an Insured first became aware of such circumstance.

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Provided that notice has been given in accordance with the requirements of this clause, any later Claim arising out of such notified circumstance (and any Related Claims) shall be deemed to be made at the date when the circumstance was first notified to the Insurer.

Claim Notifications

The Policyholder shall give written notice to the Insurer of any Claim first made against an Insured as soon as practicable and during the Policy Period. All notifications must be in writing to:

Essential Business Insurance Claims
Allianz Insurance plc
500 Avebury Boulevard
Milton Keynes
MK9 2XX
or by telephone to 0844 893 9580.

Lines are open Monday to Friday.

If posted, the date of posting shall constitute the date that notice was given, and proof of posting shall be sufficient proof of notice.

Cooperation

An Insured will at their own cost:

- (i) render all reasonable assistance to the Insurer and cooperate in the defence of any Claim and the assertion of indemnification and contribution rights;
- (ii) use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any Loss under this policy; and
- (iii) give such information and assistance to the Insurer as the Insurer may reasonably require to enable it to investigate any Loss or determine the Insurer's liability under this policy.

Defence

The Insurer does not assume any duty to defend, and an Insured shall defend and contest any Claim made against them unless the Insurer, in its sole and absolute discretion, elects in writing to take over and conduct the defence and settlement of any Claim. If the Insurer does not so elect, it shall be entitled, but not required, to participate fully in such defence and the negotiation of any settlement that involves or appears reasonably likely to involve the Insurer. In the event that the Insurer decides that representation by a solicitor is necessary (such decision to be at the sole discretion of the Insurer) then an Insured shall select one of the Legal Panel to provide such legal representation.

Insured's Consent

The Insurer may make any settlement it deems expedient of any Claim against any Insured, subject to such Insured's written consent. Where an Insured does not consent the Insurer may elect to pay to an Insured the Settlement Value less the applicable Retention that the Insurer wishes to accept. Upon such payment being made there is no further cover available under the policy for that Claim.

Insurer's Consent

No Insured shall admit or assume any liability, enter into any settlement agreement, or consent to any judgment without the prior written consent of the Insurer, other than where provided for under the terms of the Mitigation cover.

Fraudulent Claims

If any Insured shall give any notice or claim cover for any Loss under this policy knowing such notice or claim to be false or fraudulent as regards amounts or otherwise, such Loss shall be excluded from cover under the policy, and the Insurer shall have the right, in its sole and absolute discretion, to avoid its obligations under or void this policy in its entirety, and in such case, all cover for Loss under the policy shall be forfeited, all premium shall be deemed fully earned and non-refundable and the Policyholder shall reimburse the Insurer for any payments made under this policy.

Payment of Defence Costs

The Insurer shall pay Defence Costs covered by this policy promptly after sufficiently detailed invoices for those costs are received by the Insurer. The Policyholder shall reimburse the Insurer for any payments which are ultimately determined not to be covered by this policy.

Related Claims

If during the Policy Period a Claim is made or a circumstance is notified in accordance with the requirements of this policy any Related Claim made after expiry of the Policy Period will be accepted by the Insurer as having been:

- (i) made at the same time as the notified Claim was made or the relevant circumstance was notified, and
- (ii) notified at the same time as the notified Claim or circumstance.

All Related Claims shall be deemed to be one single Claim and deemed to be made at the date of the first Claim of the series or at the first circumstance notified, whichever is first.

Settlement

The Insurer shall be under no obligation (save where requested by the Policyholder) to make any payment to an Insured other than the Policyholder and shall unless otherwise requested by the Policyholder make payment of all losses insured hereunder to the Policyholder and such payment shall constitute a full and complete release and discharge of the Insurer's liabilities in respect of all and any such loss whether suffered directly by the Policyholder or not.

General Provisions

Assignment

This policy and any rights under or in respect of it cannot be assigned by an Insured without the prior written consent of the Insurer.

Cancellation

This policy may be cancelled:

- (i) by the Insurer pursuant to the Premium Payment clause for non-payment of premium; or
- (ii) if no notice of a Claim or circumstance which is reasonably expected to give rise to a Claim has been provided to the Insurer under this policy, by the Policyholder with effect immediately upon the Insurer's receipt of written notice of such cancellation; the Insurer shall retain the customary short rate proportion (unexpired portion of Premium less handling charges) of the Premium. If notice of a Claim or circumstance which is reasonably expected to give rise to a Claim has been provided to the Insurer under this policy, the Premium shall not be returnable and shall be deemed fully earned at cancellation;
- (iii) by mutual agreement between the Insurer and the Policyholder.

Change of Control

The Insurer shall not be liable to make any payment or to provide any services in connection with any Claim arising out of, based upon or attributable to a Wrongful Act committed after the occurrence of a Transaction.

If during the policy period an administrator, liquidator or receiver is appointed to a Subsidiary, then the cover provided under this policy with respect to such Subsidiary is amended to apply only to Wrongful Acts committed prior to the date of such appointment.

Complaints

Our aim is to get it right, first time every time. If we make a mistake we will try to put it right promptly.

We will always confirm to you the receipt of your complaint within five working days and do our best to resolve the problem within four weeks. If we cannot we will let you know when an answer may be expected.

If we have not resolved the situation within eight weeks we will provide you with information about the Financial Ombudsman Service.

Should you wish to make a complaint then it should be directed to the Customer Satisfaction Manager:

Essential Business Insurance Centre

PO Box 2934

Bristol BS1 9ES

Tel: 0844 893 9590

Email: esm@essentialbusinessinsurance.co.uk

Using our complaints procedure or referral to the Financial Ombudsman Service does not affect your legal rights.

Contract Rights

Nothing in this policy is intended to confer an enforceable benefit on any Third Party, whether pursuant to the Contract (Rights of Third Parties) Act 1999 or otherwise.

Dispute Resolution

Where, following receipt by the Insurer of all information reasonably required to provide such decision;

- (i) a final decision has been given by the Insurer regarding any aspect of this policy or any matter relating to cover thereunder;
- (ii) that decision is disputed between the Insurer and an Insured; and
- (iii) such dispute can not be resolved within 14 days of the date on which such decision is communicated to the Policyholder

the dispute shall be referred to arbitration under The Insurance & Reinsurance Arbitration Society ("A.R.I.A.S (UK)") Arbitration Rules.

The Arbitration Tribunal (the "Tribunal") shall consist of three arbitrators, one to be appointed by an Insured party involved in the arbitration, one to be appointed by the Insurer and the third to be appointed by the two appointed arbitrators. The third member of the Tribunal shall be appointed as soon as practicable (and no later than 28 days) after the appointment of the two party-appointed arbitrators. The Tribunal shall be constituted upon the appointment of the third arbitrator.

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The arbitrators shall be persons (including those who have retired) with not less than ten years' experience of insurance or reinsurance within the industry or as lawyers or other professional advisers serving the industry.

Where a party fails to appoint an arbitrator within 14 days of being called upon to do so or where the two party-appointed arbitrators fail to appoint a third within 28 days of their appointment, then upon application, A.R.I.A.S (UK) will appoint an arbitrator to fill the vacancy. At any time prior to the appointment by A.R.I.A.S (UK) the party or arbitrators in default may make such appointment.

The Tribunal may at its sole discretion make such orders and directions as it considers necessary for the final determination of the matters in dispute. The Tribunal shall have the widest discretion permitted under the law governing the arbitral procedure when making such orders or directions. The seat of arbitration shall be London, England and the law governing the arbitration shall be under the law of England & Wales.

Plurals, Headings and Titles

The descriptions in the headings and titles of this policy are solely for reference and convenience and do not lend any meaning to this contract. Words and expressions in the singular shall include the plural and vice versa. In this policy, words defined under Definitions have special meaning and are denoted by a capital first letter throughout this policy. Words that are not specifically defined in this policy have the meaning normally attributed to them.

Premium Payment

The Policyholder undertakes that the premium shall be paid to the Insurer by inception of this policy (or, in respect of instalment premiums, when they are due). Where such premium has resulted from a mid-term amendment to the policy, the premium payment date shall be deemed to be 60 days from the point of the Insurer's acceptance of the amendment. The Policyholder shall have the burden of establishing that such payment has been made.

If the premium due under this policy has not been paid to the Insurer by inception of this policy (and, in respect of instalment premiums and mid-term amendment premiums, by the date they are due) the Insurer shall have the right to cancel this policy by notifying the Policyholder in writing direct. In the event of cancellation by the Insurer pursuant to this clause, premium is due to the Insurer on a pro-rata basis for the period that the Insurer was on risk but the full premium is due to the Insurer in the event that

prior to the date of termination a Claim is made, or a circumstance is notified in accordance with the requirements of this policy.

It is agreed that the Insurer shall give not more than 14 days prior notice of cancellation under this clause to the Policyholder in writing direct. If the premium due is paid in full to the Insurer before the notice period expires, notice of cancellation shall automatically be revoked. If not, the policy shall automatically terminate and be of no effect at the end of the notice period.

Scope and Governing Law

Where legally permissible and subject to all terms and conditions of this policy, this policy shall apply to any Claim made against any Insured anywhere in the world. Any interpretation of this policy relating to its construction, validity or operation shall be made exclusively in accordance with the laws of England and Wales and in accordance with the English text as it appears in this policy.

Subrogation

An Insured shall take all steps necessary or such steps as are required by the Insurer before or after any payment by the Insurer under this policy to preserve the rights and remedies which an Insured may have to recover the Loss. If any payment is to be made under this policy in respect of a Claim, the Insurer shall be subrogated to all rights of recovery of an Insured whether or not payment has in fact been made and whether or not an Insured has been fully compensated for its actual Loss. The Insurer shall be entitled to pursue and enforce such rights in the name of an Insured, who, both before and after payment under this policy, shall provide the Insurer with all reasonable assistance and co-operation in doing so, including the execution of any necessary instruments and papers. An Insured shall do nothing to prejudice the Insurer's rights under this subrogation clause.

The Insurer agrees not to exercise any such rights of recovery against any Employee unless the Claim is brought about or contributed to by the dishonest, fraudulent, intentional criminal or malicious act or omission of the Employee. In its sole discretion, the Insurer may, in writing, waive any of its rights set forth in this Subrogation Clause.

Any amounts recovered in accordance with this clause shall be applied in the following order:

- (i) to compensate the Insurer and an Insured for the costs incurred in making the recovery (such payment to be allocated between the Insurer and an Insured in

(continued)

the same proportions as they have borne the costs thereof); and

- (ii) to the Insurer up to the amount of the Loss paid by the Insurer; and
- (iii) to an Insured in respect of any uninsured element of the Claim (including the Retention under this policy).

Innocent Non-Disclosure

In granting cover to an Insured, the Insurer has relied upon the material statements and particulars in the Submission together with its attachments and other information supplied. These statements, attachments and information are the basis of cover and shall be considered incorporated into and constitute part of this policy.

The Insurer will not exercise its right to avoid this policy on the grounds of any alleged non-disclosure or misrepresentation of facts or alleged untrue statements in any information supplied to it, provided that an Insured shall establish to the Insurer's reasonable satisfaction that such alleged non-disclosure, misrepresentation or untrue statement was free of any fraudulent conduct or intent to deceive. Where such non-disclosure, misrepresentation or untrue statement has prejudiced the Insurer's consideration of terms under this policy, the Insurer shall be entitled to charge a reasonable additional premium and/or amend policy terms and conditions in light of such prejudice.

Should an Insured have failed to inform the Insurer before inception of this policy or increase in cover or other variation of its terms of any circumstance of which an Insured was aware which might give rise to a Claim or payment of Loss hereunder, and such failure is accepted by the Insurer as having been free of any fraudulent conduct or intent to deceive, the Insurer's liability under this policy shall not extend beyond that which would have been owed pursuant to the earliest such previous insurance under which the circumstance could have been notified or that which was available prior to any increase in cover or variation of terms. Furthermore, where such failure to notify a circumstance, as described above, results in prejudice to the handling or settlement of any Claim under this policy, the Insurer shall be entitled to reduce the indemnity afforded under this policy in respect of such Claim (including Defence Costs) to such sum as in the Insurer's reasonable opinion would have been payable by them in the absence of such prejudice.

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Policy Administration

The Policyholder shall act on behalf of each and every Insured with respect to:

- (i) negotiating the terms and conditions of and binding cover; and
- (ii) the exercise of all rights of Insured's under this policy; and
- (iii) all notices; and
- (iv) premiums; and
- (v) endorsements to this policy; and
- (vi) the appointment of a member of the Legal Panel to defend a Claim; and
- (vii) dispute resolution; and
- (viii) the receipt of all amounts payable to an Insured by the Insurer under this policy.

Financial Services Compensation Scheme

Allianz contributes to the Financial Services Compensation Scheme (FSCS).

You may be entitled to compensation from the FSCS if we are unable to meet our liabilities.

Further information about compensation scheme arrangements is available from:

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

Tel: 020 7892 7300

Fax: 020 7892 7301

Email: enquiries@fscs.org.uk

www.fscs.org.uk

Data Protection Act

We may use the personal and business details you have given us or which are supplied by third parties including any details of directors, officers, partners and employees to provide you with a quotation; deal with your policy; to search credit reference and fraud agencies who may keep a record of the search; to share with other insurance organisations to help offset risks, to help administer your policy and to handle claims and prevent fraud; to support the development of our business by including your details in customer surveys, and for market research and compliance business reviews which may be carried out by third parties acting on our behalf. You agreed when you applied for the policy that your directors, officers, partners and employees consent to our using their details in this way.

We may need to collect data relating to Insured Persons, which under the Data Protection Act is defined as sensitive (such as medical history of Insured Persons) for the purpose of evaluating the risk or administering claims which may occur. You must ensure that you have explicit verbal or written consent from the Insured Persons to such information being processed by us and that this fact is made known to the Insured Persons.

We may share your details with other companies within the Lloyds TSB Insurance Services Ltd and Allianz group of companies or pass them to third parties so that we may tell you by telephone, email or post of products and services which we think may be of interest to you. If you do not want to know about these products please write to: Customer Satisfaction Manager, Essential Business Insurance Centre, PO Box 2934, Bristol, BS1 9ES to let us know. Your details will not be kept for longer than is necessary.

Under the Data Protection Act 1998 individuals are entitled to a copy of all the personal information Allianz Insurance plc holds about them. Please contact the Customer Satisfaction Manager at the address above.

Personal details may be transferred to countries outside the EEA. They will at all times be held securely and handled with the utmost care in accordance with all principles of English law.

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