

CAUNCE O'HARA

THE BUSINESS
INSURANCE BROKERS

www.caunceohara.co.uk

Tel: 0333 321 1403



**FREELANCE
INSURE**

**PROFESSIONAL
INDEMNITY**

Certificate of Insurance

• Caunce O'Hara & Co Limited is authorised and regulated by the
Financial Conduct Authority under firms reference no: 306183



Protection. To Help You Stay Safe & Thrive

Caunce O'Hara & Company Limited was established in 1995. From our office in Manchester we deliver innovative lateral solutions to clients' insurance programmes.

Since our incorporation, we have arranged insurance protection for freelance contractors from all sectors. Few insurers understand the risks freelance contractors are exposed to. We fully understand the marketplace and are able to offer you the breadth and flexibility of cover that is required when insuring many different types of occupations and activities.

We are renowned for providing the best in customer service and we offer value for money insurance policies written on the widest available cover and our administration and claims systems are fast, efficient and reliable.

Get In Touch

To get a quote or advice about your specific business insurance requirements, please don't hesitate to get in touch with one of our expert advisors today. Call us on 0333 321 1403 or email schemes@caunceohara.co.uk

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Contents

Welcome	2
The insurance contract.....	2
The cover provided	2
Exclusions	2
The meaning of highlighted words	2
Important information	3
How to make a claim	3
Fraudulent claim	3
Our reliance on the information provided to us	3
How to cancel this policy	4
How to make a complaint.....	4
Details of the Financial Services Compensation Scheme	5
Language	6
Regulatory authorities	6
Data protection.....	6
Information notices	6
Minimisation and notification	6
Rights of third parties.....	6
Sanctions limitation.....	7
Choice of law	7
Professional liability.....	8
Words with special meanings that apply throughout this policy (general definitions)	14
Claims conditions	19
Other conditions that apply to this policy	21

Welcome

Welcome and thank you for choosing to buy your freelance insure professional indemnity policy from Caunce O'Hara & Company Limited underwritten by Markel.

This document, the schedule and any endorsement(s) attached form your policy. This document sets out the conditions of the insurance between **you** and **us**. Please carefully read the following and keep them in a safe place:

- this document,
- the schedule, and
- any endorsements that apply

The insurance contract

In return for payment of the premium shown in the schedule, **we** agree to insure **you** as described in each section of this document, subject to the terms and conditions contained in or endorsed on this policy.

The cover provided

It is important that:

- **you** check that the information **you** have given **us** is accurate – see 'our reliance on the information provided to us' in the 'important information' section
- **you** notify **us** as soon as practicable of any inaccuracies in the information **you** have given **us**
- **you** comply with **your** duties under each section of cover and under this policy as a whole.

Exclusions

Your policy is subject to exclusions and these tell you what is not covered.

Some exclusions apply to this policy as a whole and are found under 'what is not covered (general exclusions)'.

There are also exclusions that apply to specific sections of cover. These are found in each section of cover under the heading 'what is not covered'.

The meaning of highlighted words

Some of the words in this policy have a special meaning, **we** have highlighted these words in bold print.

Some of these words have the same meaning throughout this policy, these will be found under the section 'words with special meaning that apply throughout this policy (general definitions)'.

Other words only have a special meaning that is used in a specific section of cover or the meaning may vary from one section to another. The meaning of these words are found in the list of 'words with special meaning (definitions)' in each section of cover.

Important information

How to make a claim

If **you** want to make a claim under this policy, contact **us** by

- writing to our claims team at Markel (UK) Limited, Verity House, 6 Canal Wharf, Leeds LS11 5AS, or
- emailing our claims team – claimsuk@markel.com

quoting your policy number and the name of the policyholder shown in the policy schedule.

If you wish to discuss a claim you can phone our claims team on 0345 355 2227

Things you must do

You must comply with the claims conditions. These can be found under 'claims conditions that apply to this policy as a whole'.

If **you** fail to comply with these conditions **we** may not pay **your** claim or any payment could be reduced.

Fraudulent claim

If **you** make a fraudulent claim under this policy:

- **we** are not liable to pay the claim, and
- **we** may recover from **you** any sums **we** have paid to **you** in respect of the claim, and
- **we** may write telling **you** that **we** are treating the contract as having been terminated with effect from the fraudulent act.

If **we** do write to **you** telling **you** that **we** are treating this policy as having been terminated:

- **we** will not be liable to **you** in respect of any relevant event occurring after the time of the fraudulent act. A relevant event is whatever gives rise to **our** liability under this policy (such as a loss, the making of a claim, or the notification of a potential claim), and
- **we** need not return any of the premium paid.

If this policy provides cover for any person who is not a party to the contract of insurance ('a covered person', for example an **insured person**), and a fraudulent claim is made under this policy by or on behalf of a covered person, **we** may exercise the same rights as above as if there was an individual contract of insurance between the covered person and **us**. However, the exercise of any of these rights shall not effect the cover provided under this policy for any other person.

Our reliance on the information provided to us

In deciding to accept this policy and in setting the terms and premium **we** have relied on the information **you** have given **us**. **You** must take care when answering any questions **we** ask by ensuring that all information provided is accurate and complete.

If **you** become aware that information **you** have given **us** is inaccurate **you** must inform **us** as soon as practicable.

The information **you** have provided us constitutes **your** fair presentation of risk.

A 'fair presentation of the risk' is one

- which discloses to **us** every material circumstance which **you** know of or ought to know of, or
 - gives **us** sufficient information to put **us** on notice that we will need to make further enquiries for the purpose of revealing those material circumstances, and
- which makes that disclosure in a manner which is reasonably clear and accessible to us

and

- in which every material representation as to a matter of fact is substantially correct and every material representation as to a matter of expectation or belief is made in good faith.

A 'material circumstance' is one that would influence **our** decision as to whether or not to agree to insure **you** and, if so, the terms of that insurance. If **you** are in any doubt as to whether a circumstance is material **you** should disclose it to **us**.

If **you** fail to make a fair presentation of risk there are a number of remedies available to **us** which are set out in condition 7 (breach of the duty of fair presentation) in the section 'conditions that apply to this policy'.

We will write to **you** if **we** intend to take one of these remedies.

How to cancel this policy

You can cancel this insurance at any time by writing to **us**.

We can cancel this insurance by giving **you** 30 days written notice. **We** will only do this for a valid reason, examples of valid reasons are:

- a change in risk occurring which means **we** can no longer provide **you** with insurance cover
- non-cooperation or failure to supply any information or documentation **we** request.

Cooling-off period

This policy has a cooling-off period of 14 days from either:

- the date **you** receive this insurance policy, or
- the start of the period of insurance shown in the policy schedule

whichever is the later.

Refund of premium

If **we** pay (or have agreed to pay) any claim, in whole or in part, then no refund of premium will be allowed.

If **we** haven't paid (or agreed to pay) any claim, in whole or in part, then:

- if **we** cancel this policy **you** will be entitled to a refund of any premium paid, subject to a deduction for any time for which **you** have been covered. This will be calculated on a proportional basis. For example, if **you** have been covered for 6 months and the period of insurance shown in the policy schedule is for 12 months, the deduction for the time **you** have been covered will be half the annual premium.
- if **you** cancel this policy within the cooling-off period **we** will return to **you** all of the premium paid without any deduction.
- if **you** cancel this policy outside the cooling-off period **you** will be entitled to a refund of any premium paid, subject to a deduction for any time for which **you** have been covered. This will be calculated on a proportional basis.

If the premium is paid by instalments the way **we** calculate the return premium may differ, please refer to condition 2 (premium payment).

How to make a complaint

Our aim is to ensure that all aspects of **your** insurance are dealt with promptly, efficiently and fairly. At all times **we** are 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 **your** insurance broker.

In the event that **you** remain dissatisfied or have any complaints about your policy or the handling of a claim and wish to make a complaint **you** can do so at any time by either writing to:

Legal and Regulatory

Markel International Insurance Company Ltd

20 Fenchurch Street

London

EC3M 3AZ

or emailing complaints@markel.com

Complaints that cannot be resolved in this way may be referred to the financial Ombudsman Service.

If **you** were sold this product online or by other electronic means and within the European Union (EU) **you** may refer **your** complaint to the EU Online dispute Resolution (ODR) platform. Upon receipt of **your** complaint the ODR will escalate **your** complaint to **your** local dispute resolution service – this process is free and conducted entirely online.

You can access the ODR platform on <http://ec.europa.eu/odr>

The Financial Ombudsman Service (FOS)

The FOS is an independent service in the UK for settling disputes between consumers, micro-enterprises, small businesses, small charities, trustees and businesses providing financial services. You can find out more information on the FOS at www.financial-ombudsman.org.uk

The contact details for the FOS are:

The Financial Ombudsman Service

Exchange Tower

London E14 9SR

Telephone: 0800 023 4567 (calls to this number are free from 'fixed lines' in the UK, or
0300 123 9123 (calls to this number are charged at the same rate as 01 and 02 numbers on
mobile tariffs in the UK)

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

Website: www.financial-ombudsman.org.uk

In certain situations **you** will not be able to refer **your** complaint to the Financial Ombudsman Service.

If **you** are a large business with an annual turnover of over two million euros (or the equivalent in pounds sterling) and **you** employ more than 10 employees, **you** are not eligible to refer **your** complaint to the Financial Ombudsman Service. If **you** are unsure whether **you** are able to refer **your** complaint, please contact the Financial Ombudsman Service.

Making a complaint does not affect **your** right to take legal action.

Details of the Financial Services Compensation Scheme

Under the Financial Services & Markets Act 2000 **you** may be able to claim from the Financial Services Compensation Scheme. The level of compensation is different depending on the type of cover **you** hold:

- compulsory insurance, such as employer's liability, is covered for 100% of the claim
- for other insurances 90% of the claim is covered with no upper limit
- further information can be obtained by visiting the Financial Services Compensation Scheme
- website on www.fscs.org.uk or by telephoning 0800 678 1100 or 020 7741 4100

Language

This policy and all correspondence between **you** and **us** in relation to this policy (including any correspondence in relation to a claim) shall be in English.

Regulatory authorities

Counce O'Hara & Company Limited is wholly owned by Markel Capital Holdings Limited. **We** are authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority (Financial Services number 202570) and registered in England with company number 966670 with a registered office at 20 Fenchurch Street, London EC3M 3BY.

Data protection

Your insurance cover includes cover for individuals who are either insureds or beneficiaries under the policy (individual insureds). **We** collect and use relevant information about individual insureds to provide **you** with **your** insurance cover and to meet **our** legal obligations.

This information includes individual insureds' details such as their name and address [and may include more sensitive details such as information about their health and criminal convictions].

We will process individual insureds' details, as well as any other personal information **you** provide to **us** in respect of **your** insurance cover, in accordance with **our** full Markel privacy notice, a copy of which is available online at <http://www.markelinternational.com/footer/privacy-policy/> or on request.

Information notices

To enable **us** to use individual insureds' details in accordance with current data protection laws, **we** need **you** to provide those individuals with certain information about how **we** will use their details in connection with **your** insurance cover.

You agree to provide to each individual insured **our** short form information notice set out in **our** proposal forms or risk profiles on or before the date that the individual becomes an individual insured under **your** insurance cover or, if earlier, the date that you first provide information about the individual to **us**.

Minimisation and notification

We are committed to using only the personal information **we** need to provide **you** with **your** insurance cover. To help **us** achieve this, **you** should only provide to **us** information about individual insureds that **we** ask for from time to time.

You must promptly notify **us** if an individual insured contacts **you** about how **we** use their personal details in relation to **your** insurance cover so that **we** can deal with their queries.

Rights of third parties

A person who is not a party to this policy has no right under the Contracts (Rights of Third Parties) Act 1999 (or any amendment or re-enactment of the Act) 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 the Act.

Sanctions limitation

We will not provide any benefit under this contract of insurance to the extent of providing cover, payment of any claim or the provision of any benefit where doing so would expose **us** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanction, laws or regulations of the European Union, United Kingdom or United States of America.

Brexit

We will not provide any benefit under this contract of insurance to the extent of providing cover, payment of any claim or the provision of any benefit where the regulatory risk location is within the European Economic Area (EEA) excluding the **United Kingdom**

Choice of law

The law of England and Wales will apply to this contract unless at the commencement of the period of insurance shown in the policy schedule **you** are a resident of (or, in the case of a business, the registered office or principal place of business is situated in) Scotland, in which case (in the absence of agreement to the contrary) the law of Scotland will apply.

Any legal proceedings between **you** and **us** in connection with this policy will take place in the courts of the part of the **United Kingdom** in which **you** live or have **your** registered office

Professional liability

What is covered

a Civil liability

We will pay **you** for **your** legal liability for damages and costs awarded against **you** and/or any monetary awards made against **you** by the ombudsman of any scheme recognized by a competent authority, arising from any claim first made against **you** and reported to **us** during the period of insurance shown in the policy schedule which arises from any actual or alleged

- negligence
- unintentional breach of confidentiality
- unintentional breach of copyright
- libel, slander or defamation
- any other actual or alleged act, error or omission that results in a civil liability

committed during the carrying out of **your professional services**.

What we will pay

The most **we** will pay in the period of insurance shown in the policy schedule for all claims in total plus all **costs and expenses** is the **limit**.

We will not pay the **excess**. This must be paid by **you**. The **excess** applies to **your** legal liability for damages, adjudicator's awards and **costs and expenses** in respect of each claim or series of claims arising from the same original cause.

b Loss of documents

We will pay **you** the amount of money spent by **you** in replacing or restoring any **document** which, during the period of insurance shown in the policy schedule, has been either

- physically destroyed or damaged, or
- lost or mislaid and which cannot be found after careful search

and which is reported to **us** during that same period of insurance.

What we will pay

The total amount **we** will pay during the period of insurance shown in the policy schedule is £250,000

We will not pay **you** if the destruction, damage, loss or mislaying of the **document** arises in any way from the

- failure, or
- the failure to produce the desired or intended result

of any programme, instruction or data for use in any computer or other electronic data processing device, equipment or system occasioned other than through its physical destruction or damage

c Compensation for court attendance

If at **our** request

- any director or partner of **yours**, or
- any **employee**

attends a court as a witness in connection with a claim **we** will pay you the following amounts:

- for any director or partner £500 per day
- for any **employee** £250 per day

for each day on which attendance is required.

d Discovery period

If **we** refuse to renew this section of cover (1 – professional liability) for reasons other than

- non-payment of premium, or
- failure to comply with or observe the terms, provisions and conditions of this policy,

or if **you** decline to accept **our** renewal terms, then **you** shall automatically be entitled to a 30 day **discovery period**.

The **discovery period** shall only apply to **wrongful acts** first committed or allegedly committed during the period of insurance shown in the policy schedule.

You will not be entitled to any **discovery period** if other insurance has been bought with the intention of providing equivalent cover for any part of the **discovery period**.

e Data Protection Legislation Prosecution Defence Costs

We will pay 80% of **your costs and expenses** arising from any proceedings brought under the

- Data Protection Act 1998
- any legislation amending or re-enacting the act such as General Data Protection Regulations (GDPR)

which is first ordered or commissioned and reported to **us** during the period of insurance shown in the policy schedule.

However, **we** will only pay **you** if the investigation arises from an event which would otherwise be covered under a 1 (civil liability) above.

What we will pay

The total amount **we** will pay during the period of insurance shown in the policy schedule is £100,000

What is not covered (exclusions)

1 Fines and penalties

We will not pay **you** for any

- fine or penalty
- non-compensatory damages.

2 Radioactive contaminations and sonic bangs etc

We will not pay **you** for a loss that is otherwise covered under this policy if the loss is caused by or arises in any way from

- ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel

- the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component
- pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds and in Northern Ireland and the Republic of Ireland only
- riot, civil commotion, strikers, labour or political disturbances, vandals or malicious persons.

3 War risks and terrorism

We will not pay **you** for a loss that is otherwise covered under this policy if the loss is caused by or arises in any way from

- **war** and/or **terrorism**
- any action taken in controlling, preventing or suppressing **war** and/or **terrorism**
- any unlawful or malicious act committed maliciously by a person or persons acting on behalf of or in connection with any **unlawful association**

regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

- **contamination** due to Terrorism

If **we** allege that, because of this exclusion, any loss is not covered by this policy the burden of proving otherwise will be upon **you**.

If any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

4 Mould

We will not pay **you** for a loss that is otherwise covered under this policy if the loss is caused by or arises in any way from **mould** or a **mould event**.

5 Other insurance

We will not pay **you** where **you** have a right to payment under any other insurance.

However, if **you** have a right to payment under any other insurance we will contribute in excess of the payment provided by that insurance. If the other insurance is also provided by **us** then the amount that **we** will pay under this insurance will be reduced by the amount that **we** pay under the other insurance.

6 Legal action

We will not pay **you**

- where the claim is brought in a court of law within the United States of America or Canada, and/or
- where action for damages is brought in a court within the United States of America or Canada to enforce a foreign judgement.

7 Employers liability

We will not pay **you** where **your** legal liability arises in any way from

- **injury** to any **employee** that results from their employment by **you**, or
- a breach of your responsibility as an employer to any **employee** or prospective **employee**.

8 Property

We will not pay **you** where **your** legal liability arises in any way from the ownership, possession or use by **you** or on **your** behalf of any

- land
- buildings
- aircraft
- watercraft, or
- mechanically propelled vehicle.

9 Dishonest and malicious acts

We will not pay **you** where **your** legal liability results from any

- dishonest
- fraudulent
- criminal, or
- malicious

act or omission committed by any person after the discovery of reasonable cause for suspicion of that person.

In addition:

- no one will be entitled to payment in respect of any legal liability and/or **costs and expenses** resulting from their dishonest, fraudulent, criminal or malicious act or omission or from condoning such an act or omission.
- **we** will deduct from any amount payable by **us**:
 - any amounts due from **you** to the person committing or condoning the dishonest, fraudulent, criminal or malicious act or omission
 - any amounts held by **you** and owed to the person committing or condoning the dishonest, fraudulent, criminal or malicious act or omission
 - any amount recovered following action in accordance with general condition 1 (subrogation) of this policy.

10 Penalties or liquidated damages

We will not pay **you** where **your** legal liability arises from any agreement **you** have entered into to pay penalties or liquidated damages if **your** liability is increased beyond that applicable in the absence of the agreement.

11 Joint ventures

If **you** are part of a joint venture or consortium **we** will only cover **you** for **your** legal liability arising from **your** own acts or omissions; **we** will not pay **you** where **your** legal liability arises from the acts or omissions of other members of the joint venture or consortium.

12 Circumstances known at inception

If **you** knew or ought to have known of any circumstances that existed prior to the date that this section of cover started then **we** will not pay **you** for any legal liability that arises from such circumstances.

13 Retroactive date

We will not pay **you** where **your** legal liability arises from the carrying out of **your professional services** prior to the **retroactive date**.

14 Pollution

We will not pay **you** where **your** legal liability arises from or in any way involves **pollution**.

15 Design and construct / supply

We will not pay **you** where **your** legal liability arises from or in any way involves

- the supply of any hardware other than when **you** provide advice in connection with its supply
- the recommendation of any **product** not in accordance with the **product's** manufacturer's recommendations

16 Insolvency or bankruptcy

We will not pay **you** where **your** legal liability arises in any way from **your** insolvency or bankruptcy.

17 Financial interest

We will not pay **you** for any claim made against **you** by

- any parent company, ultimate holding company or subsidiary company, or
- any person or entity having a financial, executive or controlling interest in **your** operation, or
- any company or entity in which **you** or any director, member or partner of **yours** has a financial, executive or controlling interest.

However, **we** will pay **you** if the claim is one for payment or contribution in respect of a claim made by an independent third party against the company, person or entity making the claim against **you**.

18 Trading losses

We will not pay **you** where **your** legal liability arises in any way from any

- trading losses, or
- trading liabilities, or
- any debts incurred

by any business managed by or carried on by **you**.

19 Directors and officers

We will not pay **you** where **your** legal liability arises in any way from or involves the performance or non-performance by

- **you**, or
- any director or member of **yours**, or
- any **employee**

of any duties as a director or officer of any company.

20 Asbestos

We will not pay **you** where **your** legal liability arises in any way from or involves the

- manufacture,

- mining,
- processing,
- distribution,
- testing,
- remediation,
- removal,
- storage,
- disposal,
- use,

or exposure to asbestos or materials or products containing asbestos.

21 Patent

We will not pay **you** for any claim alleging any infringement of patent

22 Coronavirus (Covid-19)

We will not pay **you** or a **director or officer** for any loss that is caused by or arises in any way from

- Coronavirus (COVID-19)
- severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)
- a mutation or variation of SARS-CoV-2
- a threat, fear or likelihood of infection with any of the above

23 Cyber liability

We will not pay **you** for any actual or alleged loss or legal liability arising in any way from any actual or alleged

- **cyber incident**
- the transmission of a **computer virus**
- recovering or reconstituting data.

Words with special meanings that apply throughout this policy (general definitions)

The following words or phrases have the same meaning wherever they are highlighted in bold in this policy. Plural forms of the words defined in this policy have the same meaning when used in the singular form.

Insured, you, your, yours means

- the person or persons, and/or
- the firm and all partners and former partners in the firm, and/or
- the limited liability partnership, and/or
- the trust, and/or
- the company

named as the policyholder in the policy schedule.

In the event of the death, incompetency, incapacity, bankruptcy or insolvency of any natural person named as the policyholder or partner or former partner of the policyholder then it also means

- the estate, and/or
- the heirs, and/or
- the legal representatives (including anyone to whom their rights or liabilities have been legally transferred or anyone appointed to act for them)

of the person or partner concerned.

In addition, if **you** request us to, **we** will pay the following persons in the same way that **we** would pay **you** provided that they observe, fulfil and are subject to the terms, conditions and exclusions of this policy as **you** are:

- any director or member of **yours**, or
- any **employee**
- any **substitute person**

Business means **your** activities, profession or occupation that **you** have told **us** about and which **we** have confirmed are acceptable to **us** for the purpose of this insurance.

Computer equipment means any

- computer
- electronic data processing device, equipment or system

and includes any

- hardware
- software programme instruction
- data
- component

utilised or intended to be utilised in or by the computer or electronic data processing device, equipment or system.

Computer virus means any corrupting, harmful or unauthorised instructions or code that spreads itself through a computer system or network including malware, 'Trojan horses', 'worms' or 'time or logic bombs'.

Contamination means the

- contamination
- poisoning
- prevention or limitation of use

of objects due to the effects of chemical or biological substances.

Costs and expenses means legal costs and expenses incurred

- by us, or
- by **you** (provided **we** have agreed with **you** in writing that **you** may incur these costs and expenses)

but does not include

- damages and costs awarded against **you**
- any kind of payment for work or service due to **you**.

Cyber incident means any

- incident, or
- series of incidents, or
- threat, or
- hoax

involving

- the use or operation of any **computer equipment**, or
- the access to, processing, transmission, storage or use of any electronic data

Discovery period means the period immediately following the expiry of the period of insurance shown in the policy schedule during which

- a claim, or
 - circumstance for which cover is provided under the appropriate section of cover
- can be reported to **us**.

Document means

- all documents other than
 - stamps
 - currency
 - coins
 - bank notes and bullion
 - travellers cheques
 - cheques
 - postal orders
 - money orders
 - securities
 - negotiable instruments

and documents of the same kind.

- separable program, instruction or data for physical incorporation into any computer system

that belong to **you** or for which **you** are legally responsible and which are in **your** custody or control (or the custody or control of any person they have been entrusted, lodged or deposited by **you**) in the ordinary course of **your professional services**.

Employee means any person (other than a director of **yours**) who is (or was or who may be in the future):

- under a contract of service or apprenticeship with **you**, or
- under any work experience or similar scheme, or
- supplied to or hired in or borrowed by **you**, or
- self-employed persons

and who are working for **you** under **your** direct control in connection with the **professional services**.

- under a contract of service with the **predecessor** at the time of the **wrongful act**.

Excess means the first amount of any claim for which **you** are responsible. The amount in respect of this section of cover is shown in the policy schedule.

Injury means

- bodily injury,
- mental injury,
- emotional distress,
- shock,
- sickness,
- disease, or
- death.

Limit means the maximum amount **we** will pay. The amount in respect of this section of cover is shown in the policy schedule.

Mould means any permanent or impermanent fungus (including mould or mildew but not including dry rot) or any of the spores, scents or by-products produced by a fungus regardless of whether or not they are proved to have caused any disease, injury or damage.

Mould event means any actual, alleged or threat of:

- contact with,
- exposure to,
- inhalation of,
- absorption of,
- discharge of,
- dispersal of,
- seepage of,
- migration of,
- release of,
- escape of,

- presence of,
- growth of

mould.

Our, us, we means Markel International Insurance Company Limited.

Pollution means the

- discharge,
- dispersal,
- release, or
- escape

of any irritant or contaminant.

Predecessors means any person whom **you** have succeeded. However, this does not include any body corporate unless **we** have agreed in writing to its inclusion.

Product means any goods or products, including

- their containers,
- labelling and instructions provided for the goods or services,

which are

- sold,
- supplied,
- processed,
- installed,
- serviced,
- repaired,
- altered,
- treated, or
- renovated

by **you** or on **your** behalf.

Professional services mean those services performed by

- **you** or on **your** behalf
- the **predecessors**

in connection with **your business** that **you** have told **us** about and which **we** have confirmed are acceptable to **us** for the purpose of this insurance.

Proposal means all the information supplied to **us** (whether by written, electronic or any other means) for the purpose of effecting this policy.

Retroactive date means the date **you** commenced **your professional services**

Substitute person means any natural person providing **your professional services** on **your** behalf but only when **you** are unable to do so.

However, If **you** engage any person, to provide **your professional services**, **you** must at the time of engagement

- make sure that they have their own professional indemnity insurance which provides cover to them for any negligent act, error or omission during the conduct of
- seek and retain evidence that to **your** satisfaction the person has the experience and expertise to conduct

the **professional services** when acting on **your** behalf

Terrorism means any act of terrorism (including the use or threat of violence) of any person or group of persons whether acting alone or on behalf of or in connection with any organisation or government committed for:

- political,
- religious,
- ideological,
- or similar purposes including the intention to influence or overthrow any government (whether by right or not) and/or
- putting the public or any section of the public in fear.

United Kingdom means England, Scotland, Wales, Northern Ireland, the Isle of Man and the Channel Islands.

Unlawful association means any unlawful organisation which is engaged in **terrorism** including any organisation which at any relevant time is a proscribed organisation within the meaning of the Terrorism Act 2000 or any amendment or re-enactment of that act.

War means

- war
- invasion
- act of foreign enemies
- hostilities or warlike operations (whether or not war is declared)
- civil war
- rebellion
- revolution
- insurrection
- civil commotion assuming the proportions of or amounting to an uprising mutiny or usurped power.

Wrongful act means any actual or alleged

- negligence
- unintentional breach of confidentiality
- unintentional breach of copyright

- libel, slander or defamation
- any other actual or alleged act, error or omission that results in a civil liability

Claims conditions

1 Notification of claims

You must notify **us** in writing

- within ten working days of
 - the receipt of a notice of an intention to refer a case against **you** to an ombudsman, or
 - any circumstances of which **you** become aware which might reasonably be expected to give rise to a case against **you** being referred to an ombudsman.
- as soon as possible in respect of all other claims or requests for payment of
 - any claim made against **you**
 - the receipt of any communication of an intention to make a claim against **you**
 - the discovery of any act of fraud or dishonesty by any **employee** or any reasonable cause for suspicion of fraud or dishonesty by an **employee**
 - any circumstance of which **you** shall become aware which is likely to give rise to a claim against **you**. **You** must give **us your** reasons for **your** anticipation of a claim, or **request for payment** and full details of dates and persons involved

Your notification to **us** must be within the period of insurance shown in the policy schedule.

If **you** comply with the above then any subsequent

- claim made, or
- request for payment

will be regarded as having been made, instigated or requested during the period of insurance shown in the policy schedule.

If **you** fail to do this **your** claim may not be covered or the amount **we** pay **you** may be reduced.

2 General claims handling

- **you** must give **us** the information and co-operation that **we** may reasonably request
- **you** must not do anything which might prejudice **us**
- **you** must take all reasonable steps to prevent any further claim or request for payment under this policy
- **you** must not admit liability or settle any claim or incur any **costs and expenses** without **our** written consent
- **you** must tell the police as soon as possible of any **damage** or loss involving theft or attempted theft, malicious damage or vandalism or any loss of **money**

3 Dishonesty losses

You must, at **your** own expense, give us

- full written details of **your** loss, and
- proof of the correctness of **your** claim

within three months (or whatever other period **we** may agree in writing) of

- the discovery of any act of fraud or dishonesty by an **employee**, or
- any reasonable cause for suspicion of fraud or dishonesty by an **employee**.

If **you** fail to do this **your** claim under section of cover 8 (fidelity) may not be covered or the amount **we** pay **you** may be reduced.

4 Defence of claims

- **we** are entitled to take over the defence or settlement of any claim in **your** name
- **you** will not be required to contest any legal proceedings unless a mutually agreed counsel advises that the proceedings should be contested.
- **you** are entitled at **your** own risk to contest any claim or legal proceedings which in **our** opinion should be compromised or settled but, if **you** choose to do this, **we** will not be liable for any loss incurred as a result of **your** refusal to compromise or settle the claim or legal proceedings.

5 Payment of indemnity limit

we are entitled at any time to pay **you**:

- the **limit** (or as much of it as remains available), or
- any lesser sum for which any claim can be settled.

If **we** do this **we** will not be under any further liability to **you** in respect of the claim.

6 Electronic data processing media valuation

Despite any provision relating to the basis of settlement of any request for payment under this policy, if electronic data processing media insured by this policy suffers physical **damage** that is insured by this policy then the basis of valuation will be the cost of the blank media plus the cost of copying the electronic data from back-up or from originals of a previous generation.

If the media is not repaired, replaced or restored the basis of valuation will be the cost of the blank media.

The costs will not include

- research and engineering or any costs of recreating, gathering or assembling the electronic data.
- any amount relating to the value of the electronic data to **you** or any other party even if the electronic data cannot be recreated, gathered or assembled.

7 Loss of documents

Any payment under section of cover, loss of documents, must be supported by bills or accounts which will be subject to **our** approval.

Other conditions that apply to this policy

1 Subrogation

We will be entitled to take over and undertake in **your** name, all **your** rights of recovery against anyone before or after any payment under this policy.

You will give **us** all the assistance **we** may require to exercise those rights of recovery.

We agree not to exercise those rights against any director or member of **yours** or any **employee** unless the claim is brought about or contributed to by the dishonest, fraudulent, criminal or malicious act or omission of the director, member or **employee**.

2 Premium payment

Despite any other conditions relating to cancellation, if payment of the premium has been arranged on a deferred basis with a premium finance company which has entered into a contractual agreement with Markel (UK) Limited to provide premium credit facilities, then it is agreed that

- if payment of any instalment to the premium finance company is overdue, Markel (UK) Limited may, in accordance with the authority granted to the premium finance company by **you** under the terms of the Credit Agreement, accept cancellation instructions from the premium finance company and will allow a return pro-rata premium to the premium finance company provided there have been no claims or circumstances known or reported to **us** during the period of insurance shown in the policy schedule
- all premiums due or returned will be processed by the premium finance company in accordance with the Credit Agreement.

If payment of the premium has been arranged on a deferred basis with Caunce O'Hara & Company Limited then it is agreed that **we** will accept cancellation instructions from Caunce O'Hara & Company Limited with effect from the date the payment becomes overdue

3 Notice

Any notice under this policy will be regarded as given

- to **us** if sent by first class prepaid post to Markel (UK) Limited, Verity House, 6 Canal Wharf, Leeds, LS11 5AS
- to **you** if sent by post to **your** last known address.

4 Multiple insureds

Our liability is as shown in the section of cover. **Our** liability shall not varied or regarded as varied because of the number or type of **insureds** or claims under the section of cover.

5 Non aggregation

If payment is available under more than one section of cover provided by **us** in respect of any claim or series of claims arising from the same original cause the total amount payable under any one section of cover will be reduced by any amount payable under any other section of cover.

6 Breach of terms not relevant to the actual loss

If **you** fail to comply with a term (express or implied) of this policy (other than a term that defines the risk as a whole) and compliance with the term would tend to reduce the risk of a loss, either

- of a particular kind, and/or
- at a particular location, and/or
- at a particular time

we cannot rely on the breach of the term to exclude, limit or discharge **our** liability under this policy if **you** show that the failure to comply with the term could not have increased the risk of loss which actually occurred in the circumstances in which it occurred.

7 Breach of the duty of fair presentation

(a) breach of duty prior to entering into the contract of insurance

If **you** breach the duty of fair presentation prior to entering into this insurance contract, the remedies available to **us** are:

- if the breach of the duty of fair presentation is deliberate or reckless:
 - **we** may avoid this policy and refuse all requests for payment, and
 - **we** need not return any of the premium paid
- if the breach of the duty of fair presentation is not deliberate or reckless, **our** remedy will depend upon what **we** would have done if **you** had complied with the duty of fair presentation
 - if **we** would not have entered into the contract of insurance at all **we** may avoid this policy and refuse all requests for payment and will return the premium paid
 - if **we** would have entered into the contract of insurance but on different terms (other than terms relating to the premium), this policy will be treated as if it had been entered into on those different terms from the outset
 - in addition, if **we** would have entered into the contract but would have charged a higher premium **we** may proportionately reduce the amount to be paid under this policy and, if applicable, any amount already paid in the same proportion as the premium we would have charged bears to the premium actually charged

(b) breach of duty prior to entering into a variation of this contract of insurance

If **you** breach the duty of fair presentation prior to entering into a variation of this insurance contract, the remedies available to **us** are:

- if the breach of the duty of fair presentation is deliberate or reckless:
 - **we** may treat this policy as having been terminated from the time when the variation was concluded, and
 - **we** need not return any of the premium paid
- if the breach of the duty of fair presentation is not deliberate or reckless, **our** remedy will depend upon what **we** would have done if **you** had complied with the duty of fair presentation
 - if **we** would not have agreed to the variation at all **we** may treat the contract as if the variation was never made and will return any extra premium paid
 - if **we** would have agreed to the variation but on different terms (other than terms relating to the premium), the variation will be treated as if it had been entered into on those different terms from the outset

in addition, if either

- **we** would have increased the premium by more than **we** did or at all, or
- **we** would not have reduced the premium as much as **we** did or at all, then

we may proportionally reduce the amount to be paid under this policy arising out of events after the variation.

8 Disclosure clause

You must have provided the **proposal** with reasonable skill and care and after having made all reasonable and appropriate enquiries.

Despite general condition 7 (breach of the duty of fair presentation):

- If **you** have made any misrepresentation or non-disclosure of any material facts or circumstances then **we** will not avoid this section of cover
 - unless either:
 - **we** reasonably believe the misrepresentation or non-disclosure was deliberate or reckless; or
 - **we** would not have underwritten this section of cover on any terms if the facts or circumstances had been disclosed or not misrepresented
 - and provided that
 - where **you** should have notified **us** during a preceding period of insurance to that shown in the policy schedule of a claim and the cover to which **you** would have been entitled was in any way more restrictive than that provided at the date of notification **we** will only be liable to the extent available during that preceding period of insurance.
 - where **you** have prejudiced the handling or settlement of any claim the amount **we** will pay **you** will be reduced to the amount which, in **our** opinion, would have been payable in the absence of the prejudice.
- Subject to the above, if **you** make any misrepresentation or non-disclosure of any material facts and **we** would still have underwritten this section of cover but on different terms had the facts been disclosed or not misrepresented, then **we** may instead:
 - reduce proportionately the amount paid or payable on any claim by reference to the ratio which the premium actually charged bears to the premium which **we** would have charged had **you** told **us** about a material fact or circumstance. The same reduction will be applied to any claims which have already been paid and any overpayment of claims by **us** will be repaid by **you**; and/or
 - treat this section of cover as if it had included such additional terms (other than terms relating to premium) as **we** would have imposed had **you** told **us** about a material fact or circumstance. These additional terms will apply equally to existing, past and future claims.
- **We** will not deny payment on the grounds of the breach of claims conditions 1 or 2 of this policy subject to the above.
- In the event of any dispute or disagreement arising between **you** and **us** regarding the application of this condition, **you** and **we** agree to refer the dispute or disagreement for arbitration to any person nominated by the President of the Royal Institute of Chartered Surveyors.

9 Calibration procedures and maintenance

You must ensure that all equipment utilised for the purpose of **your business** and/or **professional services** is calibrated and/or maintained in accordance with the manufacturer's recommendations.

If **you** fail to do this **your** claim may not be covered or the amount **we** pay **you** may be reduced.

10 Maintenance of rights and remedies

You must maintain all **your** rights and remedies against all service providers, designers, consultants or contractors that **you** engage.

If **you** fail to do this **your** claim may not be covered or the amount **we** pay **you** may be reduced.