



freelanceinsure.co.uk

Professional Indemnity Policy

Specially Provided By



Underwritten By



This policy (and the schedule which forms an integral part of the policy) is a legal contract. Please examine it thoroughly to ensure it meets your requirements. If it does not meet your requirements then please advise Counce O'Hara & Co Ltd immediately.

We would remind you that you are required to inform us immediately of any facts or changes that we would take into account in our assessment or acceptance of this insurance. Failure to do so may invalidate your Policy or result in certain covers not operating fully. If you are in any doubt as to whether a fact is material or not then please contact Counce O'Hara & Co Ltd.

Counce O'Hara & Company Limited was established in 1995 and now ranks as one of the top 100 Independent Brokers in the United Kingdom

From their offices in Manchester they deliver innovative lateral solutions to clients' insurance programs.

Counce O'Hara has been arranging insurance cover for freelance contractors since they came into existence. They understand the marketplace and have been able to offer the breadth and flexibility of cover that is required when insuring many different types of occupations and activities.

Few Insurers understand this risk and we believe we offer value for money insurance policies written on the widest available cover.

We are keen on providing the best in customer service and believe our administration and claim paying systems are fast, efficient and reliable.

For more information please access Counce O'Hara's website www.counceohara.co.uk or email info@caunceohara.co.uk

Who is Covered?

The "Assured" shall include the following persons, but only in respect of work undertaken for an on behalf of the Assured.

1. Any Person who at any time is has been or may become during the period of this certificate a partner or director
2. Any Person who is or has been employed under a contract of service including Self Employed persons.
3. The estates and/or the legal representatives in the event of the death or incapacity of the Assured or any of the persons defined in 1 or 2 above.

How can a Claim arise?

There are three possible situations under which a claim can be made under this certificate:

1. Claims made by third parties against individual contractors directly.
2. Claims made against the entity(ies) named in the Schedule by third parties arising from work conducted by individual contractors.
3. Claims made against the entity(ies) named in the Schedule by individual contractors arising from Professional Services provided.

Whereas the Assured stated in the Schedule having submitted an Application containing particulars and statements which are hereby considered to be the basis of this insurance contract and incorporated herein and having paid the premium specified in the Schedule, it is hereby agreed:

Insuring Clauses

The Underwriters will indemnify the Assured to the extent and in the manner detailed herein against any claim for which the Assured may become legally liable, first made against the Assured and notified to the Underwriters during the period of this Certificate arising out of the professional conduct of the Assured's business alleging:

1. **Neglect, Error or Omission**

any neglect, error or omission including breach of contract occasioned by same.

2. **Dishonesty of Employees**

any dishonest, fraudulent, criminal or malicious act(s) or omission(s) of any person employed at any time by the Assured.

The Assured will not be indemnified against any claim or loss, resulting from the dishonest, fraudulent, criminal or malicious act(s) or omission(s) perpetrated after the Assured could reasonably have discovered or suspected the improper conduct of the employee(s).

No indemnity shall be provided to any person committing or condoning any dishonest, fraudulent, criminal or malicious act(s) or omission(s).

3. Intellectual Property Rights

any claim arising from unintentional breach or infringement of or unauthorised use of confidential information, trade secrets, patents, copyrights, of the systems or programs of others.

4. Libel and Slander

any claim arising from the publication or utterance of a libel or slander.

5. Loss of Documents

Underwriters will indemnify the Assured up to the Limit of Indemnity as specified in the Schedule against:

- (i) legal liability which the Assured may incur by reason of any claim first made against the Assured and notified to the Underwriters during the period of the Certificate in consequence of documents having been lost, damaged, destroyed, mislaid, distorted or erased;
- (ii) all costs, charges and expenses incurred by the Assured in replacing or restoring such documents;
- (iii) all costs, charges and expenses incurred by the Underwriters or by the Assured with the written consent of the Underwriters in the defence settlement or investigation of any claim to establish liability as described in (i) above;

For the purposes of this Section the Excess shall be as defined under the Schedule and the amount of any costs, charges and expenses incurred by the Assured as described in (ii) and (iii) above shall be supported by bills and accounts. Indemnity is conditional upon the documents having been entrusted to or deposited with or by the Assured in the ordinary course of their business and where lost or mislaid have been the subject of diligent search by the Assured.

6. Specialist Consultants/Sub-Contractors

Underwriters will indemnify the Assured in respect of any liability for claims falling within the operative clause arising out of the activities of Specialist Consultants, Sub-Contractors or any other person(s) or entity acting on the Assured's behalf and for whom the Assured are responsible. Provided always that underwriters shall become subrogated to all rights of recourse of the Assured, such rights to be fully maintained by the Assured.

7. Retroactive Cover

The Policy is hereby extended to include retroactive cover for all work since commencement of the Policyholders business.

Policy Definitions

1. **"Documents"** shall include agreements, plans, records, deeds, books, letters, certificates, documents or forms of any nature whatsoever, whether written, printed or reproduced by any other method and computer programs or information stored on data carrying media, and shall exclude any bearer bonds or coupons, stamps, bank or currency notes or other negotiable instruments.
2. **"Limit of Indemnity"** Underwriters' liability shall be limited to the sum specified in the Schedule and the Limit of Indemnity will include all costs and expenses incurred with Underwriters' written consent in the investigation, defence or settlement of any claim which falls to be dealt with hereunder.
3. **"Uninsured Excess"** shall mean the amount specified in the Schedule which shall be borne by the Assured at their own risk and the Underwriters' liability shall only be in excess of this amount except where stated otherwise and will not apply to costs and expenses incurred without the Underwriters' prior consent.
4. **"Claim"** shall mean any one claim or series of claims arising out of one occurrence or circumstance or series of occurrences or circumstances consequent upon or attributable to one source or original cause and the Excess shall only apply once in respect of such claim or series of claims.

Exclusions

Underwriters will not provide indemnity against:

1. Any claim or loss involving death or bodily injury to any person or physical loss or damage to property (except in so far as indemnified by the Loss of Documents Extension), unless such claim or loss arises out of advice, design, specification or formula.
2. Any claim or circumstance known to the Assured prior to the inception of this Certificate and which the Assured at such time knew or should have reasonably assumed might result in a claim against the Assured.
3. Any claim or loss arising out of any circumstances or matter which has or should have been notified under any Policy or Certificate of Insurance in force prior to the inception of this Certificate.
4. Any claim or loss in respect of which the Assured is entitled to indemnity under any other Policy or Certificate of Insurance.
5. Any fines, penalties, punitive or exemplary damages or other non-compensatory damages of any kind, except that this exclusion shall not apply to damages for defamation which are not specifically identified by the Court to be punitive or exemplary damages.
6. Any fees claimed back by a customer of the Assured due to or allegedly due to total non-performance of the Assured's contractual obligations to that customer unless such fees form part of a compromise settlement involving a claim for damages.

7. Any claim or loss arising out of:
 - i) the sale and/or supply of hardware, other than advice given in connection therewith;
 - ii) the recommendation of any goods or products where their use is not in accordance with the manufacturer's intended specification.
8. Any claim directly or indirectly caused in whole or in part by or arising from ionising radiations or contaminations by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or, the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
9. Any claim or claims made or actions instituted within the United States of America or Canada or any territories which come within the jurisdiction of the United States of America or Canada. It also being understood that Underwriters have no liability to investigate or defend the Assured against such claim or claims or be liable to enforce a judgement obtained in any court of the United States of America or Canada or any territories which come within the jurisdiction of the United States of America or Canada.
10. Any claim or claims made arising from work undertaken in the United States of America or Canada or any territories which come within the jurisdiction of the United States of America or Canada.
11. Any claim arising directly or indirectly out of or in any way connected with :
 - (i) the actual, alleged or anticipated failure or inability of any computer or electronic device or component or system or embedded programming or software, whether or not owned by or in the possession of the Assured :
 - ... correctly to assign any date to the correct day, week, month, year or century; or
 - ... correctly to recognise or compute any date which is or is intended to be beyond 31 December,1999 ; or
 - ... to continue to operate as it would have done had its date, the true date or any other date relevant to any function being carried out by it been prior to 1 January 1999:
 - (ii) the use of any arbitrary, ambiguous or incompletely defined date in any data, software or embedded programming, whether or not owned by or in the possession of the Assured.
 - (iii) any measures taken with the intention of averting or mitigating any of the above.

Notwithstanding this exclusion, Underwriters shall indemnify the Assured for costs and expenses incurred (with Underwriter's written consent) in the investigation, defence or settlement of any claim relating to such matters. However, in respect of such costs and expenses Underwriters' total aggregate liability shall not exceed £25,000 in all for the Period of Insurance which amount is part of and not in addition to the Limit of Indemnity stated in Item 5 of the Schedule. Furthermore, any such payments will be subject to a minimum uninsured excess of £1,000 each and every claim and in addition to this the Assured will bear 15% of the total payment made by Underwriters.

12. Any claim arising from work undertaken prior to the Date of Establishment of your company.
13. Any claim arising directly or indirectly out of the transmission or receipt of a virus, unless such virus is innocently transmitted and originates from a third party, that causes loss of or damage to any documents and/or computer system and/or prevents or impairs any computer system from performing and/or functioning accurately or properly.
14. Any liability for loss, damage, injury, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;
 - (i) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
 - (ii) any act of terrorism.

For the purpose of this endorsement an act of 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.

This endorsement also excludes any liability for loss, damage, injury cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to (i) and/or (ii) above.

If the Underwriters allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Assured.

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

15. Any claim arising from the provision of Independent Financial Advice as regulated by the Financial Services Authority.
16. Any claim arising from work undertaken directly within the avionics and/or aviation industry where the claim relates to bodily injury or property damage or loss of revenue as a result of flights being grounded.
17. Any claim or loss directly or indirectly arising out of or in any way involving any claim made against any surgeon, physician, doctor, dentist, nurse or midwife alleging any negligent act, error or omission in the course of their duties as qualified medical practitioners.
18. Any claim against social workers in respect of Bodily Injury, Sexual and/or Mental Abuse.

General Conditions

1. Unless the parties have agreed otherwise in writing any dispute concerning the interpretation of the Policy shall be governed and construed in accordance with English law and shall be resolved within the non-exclusive jurisdiction of the courts of England and Wales.
2. In the event that the Assured and Underwriters fail to agree on any settlement of a claim recommended by the Underwriters and the Assured shall elect to contest or continue any legal proceedings in connection therewith then the Underwriters' liability for such claim, in addition to the costs and expenses incurred with Underwriters' consent up to the date of such failure to agree, shall not exceed the amount for which the claim could have been so settled, less the Excess and subject always to the Limit of Indemnity available under this Certificate.
3. If the Assured shall refer any claim knowing the same to be false or fraudulent as regards amount or otherwise, this Certificate shall become void and all claims hereunder shall be forfeited.
4. If any payment is made under this Certificate in respect of a claim and the Underwriters are thereupon subrogated to the Assured's rights of recovery in relation thereto, the Underwriters shall not exercise any such rights against any employee of the Assured unless the claim has been brought about or contributed to by the dishonest, fraudulent, criminal or malicious act(s) of such employee.
5. The statements in the written declaration and/or application form are the basis of this Certificate and this Certificate shall not be avoided for a non-disclosure or misrepresentation of such statements unless the non-disclosure or mis-representation was made deliberately and knowingly by the Assured so as to induce the Underwriters to accept the insurance or to decide upon the terms thereof and the Underwriters were so induced.

In any case where the Assured should have notified under any preceding insurance circumstances which could give rise to a claim and the indemnity or cover available under this Certificate is greater or wider in scope than the indemnity to which the Assured would have been entitled under any preceding insurance (whether with other Underwriters or not) then Underwriters shall only be liable to indemnify the Assured in respect of that claim to the extent of the indemnity which would have been afforded by such preceding insurance.

Where the Assured's breach of or non-compliance with any condition of this Certificate has resulted in prejudice to the handling or settlement of any claim the indemnity afforded by this Certificate in respect of such claim shall be reduced to such sum as in Underwriters opinion would have been payable by them in the absence of such prejudice.

6. In the event of any dispute or disagreement between the Assured and Underwriters regarding the application of this Certificate such dispute or disagreement shall be referred by either party for arbitration to a Queen's Counsel (or by mutual agreement between the Assured and Underwriters a similar authority).
7. In the event that Underwriters are advised by their Solicitors that they should make payment of the Limit of Indemnity, together with costs and expenses incurred by the Assured with Underwriters' written consent in respect of any claim or circumstance notified hereunder, this shall be in exoneration and total discharge of any further liability of any kind whatsoever in connection with such claim or occurrences for which Underwriters may be liable to the Assured under this Certificate.

Claims Procedures

1. Upon receipt by or on behalf of the Assured of notice whether written or oral of any intention to make a claim against the Assured which may be the subject of indemnity hereunder or of any allegation which might give rise to such a claim, or upon the discovery of a circumstance which may become the subject of indemnity hereunder the Assured shall notify Counce O'Hara Co. in writing of such receipt, allegation or discovery as soon as practicable and shall provide full information in respect thereof so far as such information is in their possession or control.

If during the period hereof the Assured shall become aware of any circumstance which may subsequently be the subject of a claim under this Certificate and shall, as soon as practicable during the period hereof, give written notice to Counce O'Hara Co. of such circumstances then such subsequent claim hereunder shall be deemed for the purposes of this Certificate to have been made during the period hereof.

2. The Assured shall not admit liability for or settle or make or promise any payment in respect of any claim which may be the subject of indemnity hereunder or incur any costs or expenses in connection therewith without the written consent of the Underwriters who, if they so wish, shall be entitled to take over and conduct in the name of the Assured the defence and/or settlement of any such claim for which purpose the Assured shall give all information and assistance as the Underwriters may reasonably require.

Data Protection Act

All personal information supplied by you will be treated in confidence by the Royal & Sun Alliance Insurance Group of companies and will not be disclosed to any third parties except where your consent has been received or where permitted by law. In order to provide you with products and services this information will be held in data systems of the Royal & Sun Alliance Insurance Group of companies or our agents or subcontractors.

The Royal & Sun Alliance Insurance Group of companies may pass your personal data to other companies for processing on its behalf. Some of these companies may be based outside Europe in countries which may not have laws to protect your personal data, but in all cases the Group will ensure that it is kept securely and only used for the purposes for which you provided it. Details of the companies and countries involved can be provided to you on request

Complaints Procedure

We aim to provide you with a first class service. If we have not delivered the service that you expect or you are concerned with the service provided, we would like the opportunity to put things right.

Initially please raise your concerns with Caunce O'Hara & Company Ltd (Insurance Brokers) who define a complaint as any expression of dissatisfaction, whether oral or written and whether justified or not, about a service or activity provided in connection with this insurance policy. If you have a complaint, please contact Caunce O'Hara & Company Ltd in the first instance.

Mr Christopher Caunce
Caunce O'Hara & Company Ltd
City Wharf
New Bailey Street
Manchester
M3 5ER
Tel No: 0161 833 2100

If your complaint is not resolved or you are not happy with our response and the course of action proposed, you can progress your complaint to our Customer Relations Office. A separate investigation will then be carried out in an attempt to resolve your complaint and a final response issued. However if resolution is not possible they will issue a response within 8 weeks of your original complaint.

Customer Relations Contact Details:
Customer Relations Office
Royal & Sun Alliance Insurance plc
Bowling Mill
Dean Clough Industrial Park
Halifax
HX3 5WA

Tel: 0800 1076160
Fax: 01422 325146
e-mail: halifax.customerrelationsoffice@uk.royalsun.com

What to do if you are still not satisfied

If you are still not satisfied, Royal & Sun Alliance is regulated by the Financial Services Authority whose arbitration service is the Financial Ombudsman Service and you may be able to refer your complaint to them.

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

Tel: 0845 0801800
web: www.financial-ombudsman.org.uk

Your rights

Your rights as a customer to take legal action remain unaffected by the existence or use of any complaints procedures referred to above. However the Financial Ombudsman Service will not adjudicate on any cases where litigation has commenced"



freelanceinsure.co.uk



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