

## **PROFESSIONAL INDEMNITY INSURANCE POLICY**

In return for the payment of the premium specified in the Schedule attached to this Certificate and based on the information contained in the proposal form and any other information which the Insured, or anyone acting on their behalf, has provided, Underwriters will indemnify the Insured on the terms contained in this Certificate of insurance.

### **Interpretation clause**

Any dispute in respect of the interpretation or application of this insurance, or any of its terms, conditions and exclusions, will be subject to the laws of England and Wales and shall be referred to a court of competent jurisdiction within the United Kingdom.

## **DEFINITIONS**

The following terms are used in this certificate. Their meanings are set out below.

### **Insured**

The term Insured means the Company(ies) or Individual(s) named in the Schedule (including predecessors in business) and will include the Insured's liability for any partner or previous partner or any person or party employed or engaged by the Insured including sub-contractors, agents or consultants acting on the Insured's behalf for whom the Insured is responsible. The term insured shall also extend to include the Estates and Legal Representatives of any of the above in the event of death, incapacity, insolvency or bankruptcy.

### **Claim**

Claim means any demand for compensation or Claim for damages against the Insured, or the receipt by or on behalf of the Insured of either written or oral notice of the intention of any person or body to make a Claim against the Insured or of any allegation of negligent act, error or omission which might give rise to such a Claim or the discovery of any such negligent act, error or omission.

### **Incident**

Incident means any series of Claims (whether by one or more than one claimant) arising from or in connection with or attributable to any one act, error, omission or originating cause or source (including the discovery of the dishonesty of any person or persons).

### **Retroactive Date**

If the Schedule shows a retroactive date the certificate will not cover any Claim or loss where the cause of the Claim or loss occurred or was alleged to have occurred prior to the date shown.

### **The Excess**

The term Excess means the amount shown as the Excess in the Schedule which is payable by the Insured in respect of any Claim under this Certificate. The Excess will not apply to costs and expenses incurred by Underwriters in investigating and defending the Claim provided these are incurred with Underwriters prior written consent.

### **Certificate Period/Period of Insurance**

Is the period of insurance cover shown in the Schedule.

### **Documents**

Documents shall mean deeds, wills, agreements, maps, plans, computer systems records, models, records, written or printed books, letters, certificates or written or printed documents and/or forms of any nature whatsoever and including microfilm and microfiche (excluding however, any bearer bonds or coupons, bank or currency notes or other negotiable paper) used in connection with the Insured's business as stated in the Schedule.

## **THE COVER PROVIDED UNDER THIS CERTIFICATE**

### **Civil Liability**

This Certificate will cover the Insured for any Claim first made against the Insured and notified to the Underwriters during the Certificate Period as a direct result of any civil liability incurred in the professional conduct of the Insured's business as shown in the Schedule. If during the Certificate Period the Insured first becomes aware of any occurrence or circumstance which may give rise to a Claim against the Insured at a later date this Certificate will also cover the Insured provided written notice is given to Underwriters during the Certificate Period. **However, the Insured WARRANTS that the appropriate version of the Standard Booking Form (copies of which are attached to this policy wording and the Proposal Form) will be used by the Insured on acceptance of any photographic commission.**

### **First Party Extension**

This Certificate will also indemnify the Insured in respect of Claims arising out of the professional conduct of the business as shown in the Schedule and notified to the Underwriters during the Period of Insurance arising out of a negligent act error or omission where either the third party client has not been notified or the Insured is the principal under a contract for the following: -

Costs incurred by the Insured with Underwriters prior written consent to rectify work provided that those costs would have constituted a valid Claim against the Insured. These costs will include the cost of any necessary work to be carried out by third parties, replacement of materials at cost price with no allowance for profit and the Insured's time at 50% of the normal charge out rate;

Or

Any reduction in the Insured's fees and expenses which would have been charged but for the negligent act error or omission of the Insured. This must be agreed by Underwriters and will always be deemed to be full and final settlement of any Claim by or against the Insured.

The limits under the first party extension form part of and are identical to those limits shown on the certificate Schedule, subject always to the amount paid out being less than what the subsequent claim would have been.

### **Indemnity to Employees**

If a Claim is made against an employee or former employee of the Insured in respect of acts within the scope of his employment with the Insured which would have been covered under this certificate if such Claim had been made against the Insured, Underwriters agree to indemnify such employee under the terms and conditions of this certificate unless the Claim has been brought about or contributed to by any dishonest fraudulent criminal or malicious act of the employee.

### **Loss of Documents**

This Certificate will cover the Insured for any reasonable costs and expenses incurred with Underwriters' consent in replacing or restoring any Document either the property of or entrusted to the Insured which is lost, damaged destroyed lost or mislaid during the Certificate Period and which after diligent search can not be found. Underwriters will not pay for any loss brought about or contributed to by the dishonesty of the Insured's Partners, Directors or other Employees.

## **WHAT UNDERWRITERS WILL PAY**

### **The Insureds Legal Liability**

Underwriters will indemnify the Insured for an amount not exceeding the limit of indemnity shown in the Schedule for any sum or sums which the Insured may become legally liable to pay arising from any Claim or Claims made during the Certificate Period. However Underwriters will only be liable for that part of the Claim which exceeds the amount shown as the Excess.

### **Costs and Expenses**

In addition to the amount shown as the limit of indemnity in the Schedule Underwriters will also pay costs and expenses incurred with their prior written consent in the defence and/or settlement of a claim. If a payment in excess of that limit has to be made to dispose of any claim, the Underwriters will only pay the proportion of the total costs and expenses incurred that the limit of indemnity bears to the total amount required to dispose of the claim.

## **WHAT IS NOT COVERED UNDER THIS CERTIFICATE**

This Certificate does not cover any liability whatsoever arising out of: -

1. Bodily injury, sickness (including mental stress), disease or death sustained by any person arising out of or in the course of their employment by the Insured under a contract of service or apprenticeship with the Insured.
2. The ownership, use, occupation or leasing of any property whether fixed or mobile.
3. Any Claim or loss in respect of which the Insured is or would be entitled to indemnity under any other policy or certificate of insurance. In that case this Certificate will only pay in excess of any amount that would be available under such other insurance had this Certificate not been in place.
4. Any Claim or loss arising out of any Claim or circumstance which is known (or should be known) to the Insured at renewal and/or prior to the inception of this policy, whether or not it has been notified under any other Policy or Certificate.
5. **Fire flood or theft covered under property insurance**  
Loss or damage to any property including but not limited to photographic materials and Documents caused by fire, flood or theft when that loss would be covered by property insurance whether or not such a policy is in force. However Underwriters will meet the cost of Claims from a third party for compensation should the Insured fail to complete any work due to and following such a loss.
6. **Other loss or damage to Property**  
Loss of or damage to any property including but not limited to photographic materials and Documents after the Insured has given custody of such property to either the owner of the property or a recognised delivery service or where the property has been left unattended in a motor vehicle. However if a Claim arising from theft from a motor vehicle is accepted by the Material Damage insurers, Underwriters will meet the cost of Claims from a third party for compensation should the the Insured fail to complete any work due to and following such a loss.
7. **Nuclear risks**  
Loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss or any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from: -
  - (i) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
  - (ii) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

**8. War and Terrorism**

- (A) Any consequence whatsoever resulting directly or indirectly from or in connection with any of the following regardless of any other contributory cause or event.
- (a) war invasion act of foreign enemy hostilities or a warlike operation or 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 nationalisation or requisition or destruction of or damage to property by or under the order of any Government or Public or Local Authority.
  - (b) any action taken in controlling preventing suppressing or in any way relating to (a) above.

The following Exception is also incorporated into and forms part of this policy.

**(B) Terrorism**

This Policy does not cover any consequence whatsoever resulting directly or indirectly from or in connection with any of the following regardless of any other contributory cause or event

- (a) Terrorism
- (b) any action taken in controlling preventing suppressing or in any way relating to (a) above.

Terrorism is defined as any act or acts including but not limited to

- (i) the use or threat of force and/or violence  
and/or
- (ii) harm or damage to life or to property (or the threat of such harm or damage) including but not limited to harm or damage by nuclear and/or chemical and/or biological and/or radiological means

cause or occasioned by any person(s) or group(s) of persons or so claimed in whole or in part for political religious or similar purposes.

In any action suit or other proceedings where the Corporation alleges that by reason of this definition any consequence whatsoever resulting directly or indirectly from or in connection with (a) and (b) above regardless of any other contributory cause or event is not covered by this Policy the burden of proving that any consequence whatsoever resulting directly or indirectly from or in connection with (a) and (b) above regardless of any other contributory cause or event is covered shall be upon the Insured.

**9. United States of America and Canada**

Work carried out in the United States of America or Canada or actions instituted within the United States of America or Canada or any other territory coming within the jurisdiction of the Courts of the United States of America or Canada.

**10. Pollution**

No indemnity is provided by this Policy in respect of any claim directly or indirectly arising out of or caused by pollution contamination or seepage.

**11. Liability assumed by the Insured**

Any liability assumed by the Insured directly or indirectly under any express warranty, agreement or guarantee unless such liability would have attached to the Insured in the absence of such express warranty, agreement or guarantee.

**12. Non-compensatory payments**

Fines, prosecution costs or penalties of any kind and punitive or exemplary damages.

**13. Claims from Associated companies**

Claims brought by a firm company or organisation in whom any Partner(s)/Director(s) have a controlling interest unless such Claim or Claims are brought against the Insured by an independent third party.

**14. Millennium Exposure**

Any claim of whatsoever nature which arises directly or indirectly from or consists of the failure or inability or any alleged failure or inability of any

- (a) electronic circuit, microchip, integrated circuit, microprocessor, embedded system, hardware, software, firmware, program, computer, data processing equipment, telecommunication equipment or systems, or any similar device
- (b) media or systems used in connection with any of the foregoing whether the property of the Insured or not, at any time to achieve any or all of the purposes and consequential effects intended by the use of any number, symbol or word to denote a date including without limitation, the failure or inability to recognise capture save retain or restore and/or correctly to manipulate, interpret, transmit, return, calculate or process any date, data, information, command, logic or instruction as a result of
  - (i) recognising using or adopting any date, day of the week or period of time, otherwise than as, or other than, the true or correct date, day of the week or period of time
  - (ii) the operation of any command or logic which has been programmed or incorporated into anything referred to in (a) and (b) above.

**15. Known equipment faults**

Work that is carried out using equipment which the Insured is aware is faulty.

**OBLIGATIONS OF THE INSURED UNDER THIS CERTIFICATE**

**WARRANTY:**

The Insured **UNDERTAKES AND WARRANTS** that he/she/they will use the appropriate version of the Standard Booking Form when accepting any photographic commission. **FAILURE TO DO SO (I.E. BREACHING THE WARRANTY) JEOPARDISES THE COVER UNDER THE ENTIRE INSURANCE POLICY AND THE INSURANCE POLICY TERMINATES AUTOMATICALLY.**

**CONDITION PRECEDENT:**

It is a **CONDITION PRECEDENT** to Underwriters' liability that: -

Upon receipt by or on behalf of the Insured of notice whether written or oral of

- (a) any intention by any person or body to make a Claim against the Insured or of
  - (b) any allegation of negligent act, error or omission which might give rise to such a Claim or,
  - (c) on the discovery of any such negligent act, error or omission or other possible cause of a claim
- the Insured shall notify that Claim or circumstance in accordance with the procedure set out for Claims notification on page 6 of this policy and in the Proposal Form **AS SOON AS IS REASONABLY PRACTICABLE**. The Insured shall provide full information in respect of any such Claim or circumstance in so far as such information is in the Insured's possession.

(As this is a **CONDITION PRECEDENT** to Underwriters' liability under the Certificate non-compliance with it entitles Underwriters to refuse to provide indemnity in respect of the relevant claim.)

The Insured shall at all times give to Underwriters all information, co-operation and assistance as is reasonably required.

Insofar as the Claim is subject to the Civil Procedure Rules such assistance will extend to (but is not limited to) the provision of signed statements or depositions as may be required to facilitate compliance with all, and any, civil procedure rules, practice directions and pre-action protocols as may be issued and approved from time to time by the Head of Civil Justice. By way of example, and without limitation, the Insured's obligations will include, inter-alia:

- (a) The provision of full and prompt information, instructions, and or assistance to Underwriters or their duly appointed representatives;
- (b) The undertaking, by an appropriate representative of the Insured, of a reasonable search for documents required to be disclosed in any litigation, together with the provision of a signed disclosure statement in terms advised by legal representatives appointed by Underwriters;
- (c) The provision, by an appropriate representative of the Insured, of a signed statement verifying that he or she believes the facts stated in the defence, statement of case, responses to other parties requests for information or witness statements to be true.

It is also a **CONDITION PRECEDENT** to Underwriters' liability that the Insured will properly maintain all equipment and that following maintenance or repair to the equipment the Insured will fully test it before it is used in any assignment which may give rise to a Claim under this Certificate.

The Insured shall not admit liability or settle or make or promise any payment in respect of any Claim which may be the subject of indemnity under this certificate or incur any costs or expenses in connection therewith without the written consent of the Underwriters. Underwriters shall be entitled (either themselves or through their appointed representatives) to take over and conduct in the name of the Insured the defence and/or settlement of any such claim, for which purpose the Insured shall give all such information and assistance as the Underwriters may reasonably require

The Insured will not be required to defend any legal proceedings relating to a Claim under this Certificate unless a Queen's Counsel or local equivalent (to be mutually agreed upon by Underwriters and the Insured) advises that there is a reasonable prospect of success in defending the proceedings.

## **RIGHTS OF THE UNDERWRITERS UNDER THIS CERTIFICATE**

### **Subrogation**

If any payment is made by Underwriters in respect of a Claim under this Certificate Underwriters are immediately entitled to all of the Insured's rights of recovery. Underwriters shall not however exercise any such rights against any employee or former employee of the Insured unless the Claim has been brought about or contributed to by any dishonest fraudulent criminal or malicious act of the employee.

### **Fraudulent Claims**

If the Insured shall make or refer any Claim knowing the Claim to be false or fraudulent in any way then this insurance shall become void and all payments hereunder shall be repaid to Underwriters.

### **Non-Disclosure or Misrepresentation**

If Underwriters are at any time entitled to avoid this insurance in its entirety by reason of any misrepresentation made in the Proposal Form or at any time during the negotiations leading to the inception of this Certificate or as a result of failure to disclose material facts or for any other reason at law, Underwriters may instead of avoiding this Certificate give notice to the Insured that they regard this Certificate as remaining in full force and effect except that there shall be no cover for any Claim which has arisen or which may arise and is related to circumstances which should have been disclosed to Underwriters or which arises out of materially inaccurate or misleading information given to Underwriters.

## **CLAIM PROCEDURE**

In the event of any incident which could give rise to a Claim under your Professional Indemnity Insurance, you **must** telephone Towergate Camerasure on tel: (0870 4115511) , Fax (0870 4115515) .

Notification of any incident or possible Claim to Towergate Camerasure must be as soon as is reasonably practicable following receipt/discovery of any such incident, Claim or circumstance (whether or not a formal Claim has been made) otherwise your insurance may be invalidated.

Towergate Camerasure will instruct you how to proceed and will send you a notification/claims form for you to complete and return to them WITHIN 5 DAYS, together with any relevant documentation.

No payment or promise of payment should be made or any corrective works offered or undertaken, and liability should not be admitted without the Underwriters' approval. You are advised to **DO NOTHING** without Underwriters' express approval and consent.

Please note that this insurance only covers incidents notified to Towergate Camerasure during the period of Insurance and that any incidents notified after the expiry date will not be insured by the policy.

## **CANCELLATION RIGHTS**

If you are an individual/sole trader (including a partnership in England and Wales) buying a policy which provides cover for you in both a private and business capacity, you have the right to cancel your policy during a period of 14 days either from the day of purchase of the contract or the day on which you receive your policy documentation, whichever is the later. For motor insurance policies, you should also return your certificate of motor insurance as soon as possible after cancellation..

If you wish to do so and the insurance cover has not yet commenced you will be entitled to a full refund of the premium paid

Alternatively if you wish to do so and if the insurance cover has already commenced, you will be entitled to a refund of the premium paid, subject to a deduction for the time for which you have been covered, calculated as a proportion of the time for which the insurance would have provided cover.

To exercise your right to cancel your policy, please contact us at  
Towergate Camerasure,  
Funtley Court  
Funtley Hill  
Fareham,  
Hants,  
PO16 7UY

If you do not exercise your right to cancel your policy it will continue in force for the term of the policy and you will be required to pay the full premium as stated

Alternatively, if you are not an individual/sole trader (including a partnership in England and Wales) there are no cancellation rights under this policy.

## **IF YOU HAVE A PROBLEM**

Our goal is to give excellent service to all our customers but we recognise that things do go wrong occasionally. Towergate Camerasure take all complaints we receive seriously and aim to resolve all our customers problems promptly. To ensure that we provide the kind of service you expect we welcome your feedback. We will record and analyse your comments to make sure we continually improve the service we offer.

What will happen if you complain

- We will acknowledge your complaint within 5 working days of receipt
- We aim to resolve complaints within 5 working days
- Once an assessment and full investigation of your concern has been made, we will respond with a decision

Most of our customers concerns can be resolved quickly but occasionally more detailed enquiries are needed. If this is likely, we will contact you with an update and give you an expected date of response. This will not be beyond 20 working days from when you first made your complaint unless we are awaiting for information from You to assist in the resolution of the complaint

If you remain unhappy with the decision you receive from the local branch you may write to the Chief Executive. If you are dissatisfied with our final decision, you can refer the matter to the Financial Ombudsman Service (FOS)

The FOS will only consider your complaint if you have given us the opportunity to resolve it and you are a private policyholder, a business with a group annual turnover less than £1,000,000, a charity with an annual income of less than £1,000,000 or a trustee of a trust with a net asset value of less than £1,000,000. Please follow the steps below. If, however, we do not resolve your complaint within 40 working days, the FOS will accept a direct referral unless we are awaiting for information from You to assist in the resolution of the complaint

Whilst we are bound by the decision of the FOS, you are not. Following the complaint procedure does not effect your right to take legal action.

What should I do?

### **The steps you should take if dissatisfied**

Step 1 Seek resolution by Towergate Camerasure

If you are disappointed with any aspect of the handling of your insurance we would encourage you, in the first instance, to contact

Managing Director  
Towergate Camerasure  
Funtley Court  
Funtley Hill  
Fareham  
Hants  
PO16 7UY Telephone 0870 4115511 Fax 0870 4115515

quoting the policy reference number.

Step 2 Refer your complaint to our Chief Executive:

If you remain unhappy with the decision you receive, please write will full details including Policy Number and/or claim number, to:

The Chief Executive  
Aviva Insurance Ltd Insurance  
8 Surrey Street  
Norwich  
NR1 3NS

A review of the matter will then be carried out at a senior level and a final decision given.



Step 3 Refer your complaint to the Financial Ombudsman Service

If after making a complaint to us you are still unhappy and you feel the matter has not been resolved to your satisfaction please contact the FOS at:

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

Telephone 0845 080 1800

Financial Services Compensation Scheme

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

For compulsory classes of insurance, you are covered for 100% of the claim. For other classes of insurance, you are covered for 100% of the first £2,000 of a claim and 90% of the remainder of the claim. There is no upper limit in either case.

Towergate Camerasure, Units 14/15 Funtley Court, Funtley Hill, Fareham, Hants, PO16 7UY is part of the Towergate Underwriting Group Ltd which is authorised and regulated by the Financial Services Authority.  
Our FSA registered number is 313250