



# Doulton Underwriting Agents Ltd

## Legal Expenses Policy Wording

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**NB:** The insurance provided by this Policy is on a “claims made” basis, which means that for there to be a valid claim under this Section, the claim must be reported to the **company** within the **Period of Insurance**.

### **INSURING CLAUSE**

The **company** will indemnify the **Insured** or an **Insured Person** against **legal expenses** incurred in respect of any incident stated below arising in connection with the **business** provided that

1. the insured incident is notified to the **company** during the period of insurance and arises within the **territorial limits**;
2. any legal proceedings will be dealt with by a court or other body which the **company** agrees to within the **Territorial** limits; and
3. in civil claims it is always more likely than not that the **Insured** or an **Insured Person** will recover damages (or obtain other legal remedy which the **company** have agreed to) or make a successful defence.



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### DEFINITIONS TO THE LEGAL EXPENSES SECTION

#### Arbitration

means a method of settling a **dispute** by asking an independent lawyer to consider it. They will be chosen by the **company** and the **Insured** or an **Insured Person** jointly or (if agreement cannot be reached) by the president of The Law Society. Whoever loses the argument must usually pay the lawyer's costs. If the **Insured** or an **Insured Person** lose, these costs are not covered by this insurance.

#### Dispute

means any situation involving a disagreement with or action by someone in which the **Insured** or an **Insured person's** legal rights need to be protected, whether by legal proceedings or otherwise.

#### Legal Advice Service

means a professional legal advisory service provided on behalf of the **company**, for advice and guidance in relation to the insurance provided by this section. In certain instances seeking and following their advice prior to taking action is a condition of the insurance. Their contact details are stated at the end of this section.

#### Legal Expenses means

1. Legal costs - all reasonable and necessary costs chargeable by the **nominated representative** on a standard basis and the costs incurred by opponents in civil cases if the **Insured** or an **Insured Person** has been ordered to pay them or the **company** has agreed to pay them.
2. Accountants costs - all costs reasonably incurred by the **nominated representative**.
3. Attendant expenses – for each day that an **Insured person** is required to attend any court or tribunal at the request of a **nominated representative**, the **company** will pay the actual loss of the salary or of an **Insured Person** for the time that they are off work; provided that:-
  - a) such salary or wages are not recoverable from the relevant court, tribunal or other party;
  - b) the **company** will not pay for any loss incurred before an **Insured Person** makes a claim;
  - c) the **company** will not pay for any claim where the **Insured** is unable to support their loss.

#### Nominated Representative

means a lawyer, accountant or other suitably qualified person who has been appointed by the **company** to act for the insured or an **Insured Person** in accordance with the terms of this section.

#### Territorial Limits means

a) For insured incidents 2) (Legal Defence) and 3)b) Injury, The European Union, the Channel Islands, the Isle of Man, Albania, Bosnia Herzegovina, Croatia, Gibraltar, Iceland, Liechtenstein, Macedonia, Monaco, Montenegro, Norway, San Marino, Serbia, Switzerland and Turkey (west of the Bosphorus).

b) For all other insured incidents, the United Kingdom, the Channel Islands and the Isle of Man.



### INSURED INCIDENTS

#### 1) Employment Disputes and Compensation Awards

##### a) Employment Disputes

The **company** will pay **legal expenses** in relation to the defence of legal proceedings in an Employment Tribunal arising from or relating to a breach of an Employee's contract of service or their statutory rights under employment legislation;

Provided that:-

- i) in the event of any issues that could give rise to a legal **dispute** with an Employee, the **Insured** or **Insured Person** has contacted the **legal advice service** and followed the advice provided to them
- ii) the **Insured Person** seeks and continues to follow all advice from the **legal advice service** as to the steps to be taken in the following situations:-
  - A) before taking any disciplinary action or commencing a disciplinary procedure;
  - B) before dismissing an Employee;
  - C) upon receipt of notification of any form of grievance by an Employee or a complaint of discrimination;
  - D) before starting any redundancy process or making an Employee redundant;
  - E) before seeking to make a material change to an Employee's contract, which is likely to have a negative impact on that Employee;
  - F) upon becoming aware of a situation that could give rise to a potential claim for constructive dismissal by any Employee.

##### Exclusions to Employment Disputes

- i) any claim in respect of damages for injury or damage to property;
- ii) any claim arising from or relating to any transfer of business which falls within the scope of the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any subsequent amendment to them;
- iii) any claim relating to disciplinary hearings or internal grievance procedures
- iv) the costs of any **disputes** relating to a settlement agreement;
- v) any **dispute** relating to a shareholding, partnership or directors contract;
- vi) any claim relating to future contracts of employment;
- vii) any claim relating to unpaid wages or commission or deductions from wages or commission;
- viii) any claim relating to benefits due under a contract of employment;
- ix) any claim relating to payment in relation to redundancy

##### b) Compensation Awards

The **company** will pay any basic and / or compensatory award which is awarded to an Employee by either a tribunal or through the Advisory, Conciliation and Arbitration Service (ACAS) Arbitration Scheme, or an amount agreed by the **company** in settlement of a **dispute**

Provided that the basic and /or compensatory award follows a claim which the **company** have accepted under Insured Incident 1) a) (Employment Disputes) above.



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### Exclusions to Compensation Awards

Any basic or compensation award relating to the following:-

- i) any award arising out of the **Insured Person's** failure to provide any Employee with written reasons for their dismissal;
- ii) any award made as a result of the **Insured Person's** failure to provide a contract of employment or statement of terms and conditions of employment;
- iii) any award relating to any contractual rights to which the Employee is entitled;
- iv) any claim in relation to equal pay or the minimum wage employment legislation.

### c) Service Occupancy

The **company** will negotiate for the **Insured's** legal rights against an employee or ex-employee to recover possession of premises owned by the **Insured** or for which the **Insured** is responsible.

### Exclusion to Service Occupancy

Any claim relating to defending the **Insured's** legal rights, other than defending a counter-claim.

## 2) Legal Defence

The **company** will pay **legal expenses** in relation to:-

- a) defending the **Insured's** or an **Insured Person's** legal rights following:-
  - i) an event which leads to the **Insured** or an insured person being prosecuted in a court of criminal jurisdiction arising out of health and safety at work, occupational hygiene, food safety hygiene, food legality or the supply of safe goods;
  - ii) civil action taken against the **Insured** or an **Insured Person** for compensation under section 22 or 23 of the Data Protection Act 1998 and the **company** will also pay any compensation award made against the **Insured** or an **Insured Person** under section 22 or 23 of the Data Protection Act 1998 and any subsequent amendment to it.
- b) defending the **Insured** or an **Insured Person's** legal rights following civil action taken against the **Insured** or an **Insured Person** for wrongful arrest in respect of an accusation of theft alleged to have been carried out during the period of insurance.
- c) defending an **Insured Person's** legal rights if
  - i) an event arising from their work as an employee leads to civil action being taken against them under legislation for unlawful discrimination on the grounds of age, race, sex, sexual orientation, disability, religious belief or political opinion; or
  - ii) civil action is taken against them as a trustee of a pension fund set up for the benefit of the **Insured's** employees.
- d) representing the **Insured** or an **Insured Person** in appealing against the imposition or terms of an Improvement or Prohibition Notice or a Suspension Notice or an Order of Enforcement or an Enforcement Deregistration or Transfer Prohibition Notice under any of the following legislation.
  - i) Health and Safety at Work etc Act 1974;
  - ii) Food Safety Act 1990;
  - iii) Fair Employment (Northern Ireland) Act 1989;
  - iv) Data Protection Act 1998;
  - v) Consumer Protection Act 1987; orany subsequent amendment to them.



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- e) representing the **Insured** in appealing against the refusal of the Information Commissioner to register the **Insured's** application for notification under the Data Protection Act 1998 and any subsequent amendment to it.  
Provided that
- i) insofar as proceedings under the Health and Safety at Work etc Act 1974 and any subsequent amendment to it are concerned the **territorial limits** shall be any place where the Act applies; and
  - ii) in respect of paragraph a) ii) above, the **Insured** have registered with the Information Commissioner.

### Exclusion to Legal Defence

Any claim which leads to the **Insured** or an **Insured Person** being prosecuted for infringement of road traffic laws or regulations in connection with the ownership, driving or use of a motor vehicle.

### 3) Property Protection and Injury

#### a) Property Protection

The **company** will negotiate for the **Insured's** legal rights in any civil action relating to material property which is owned by the **Insured** or for which the **Insured** is responsible following

- i) any event which causes or could cause physical damage to such material property; or
- ii) any nuisance or trespass.

#### Exclusions to Property Protection

Any claim relating to the following.

1. A contract entered into by the **Insured**
2. Goods in transit.
3. Goods at premises other than those occupied by the **Insured**, unless the goods are at such premises for the purpose of installation or use in work to be carried out by the **Insured**.
4. Mining subsidence.
5. A motor vehicle owned by, hired or leased to or used by the **Insured** or an **Insured Person**, other than damage to motor vehicles, where the **Insured** are engaged in the business of selling motor vehicles.

#### b) Injury

The **company** will pay **legal expenses** in relation to the pursuit of a claim arising from an incident causing bodily injury or death to an **Insured Person**

#### Exclusions to Injury

Any claim relating to the following.

1. Any injury which develops gradually or is not caused by a specific or sudden accident;
2. Defending any insured person's legal rights, other than defending a counter-claim;
3. A motor vehicle owned by, hired or leased to or used by the **Insured** or an **Insured Person**;
4. any actual or alleged clinical, medical or dental negligence.



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### 4) Tax Protection

The **company** will pay **legal expenses** in relation to defending the **Insured** during an investigation by HM Revenue and Customs:

- a) following the commencement of a Tax Enquiry or Cross-Tax Enquiry
- b) an investigation of the **Insured's** compliance with Pay As You Earn regulations
- c) an appeal to a VAT tribunal following an assessment by HM Revenue and Customs.

Provided that:

- i. The **Insured** has taken reasonable care to ensure that accounts and tax affairs and records have been properly maintained
- ii. All returns to HM Revenue and Customs have been completed, are correct and submitted on time.

### Exclusions to Tax Protection

Any claim relating to the **Insured's** prosecution or to the extent of anything done or to be done

1. after any matter first becomes referred to or dealt with by any Special Office, Investigation Division or Collection Investigation Unit of HM Revenue and Customs;
2. in an official investigation before the government department has first expressed its dissatisfaction with the books and records the **Insured** are required to produce for in-depth examination;
3. before the commencement of VAT enforcement proceedings against the **Insured**;
4. only because of some earlier official investigation into the **Insured's** tax affairs or some earlier VAT enforcement proceedings against the **Insured**, or their failure to register for VAT;
5. in preparing, challenging, appealing or otherwise processing any tax computation, assessment, demand or payment which the **Insured** would necessarily deal with, notwithstanding that official investigation or **dispute**;
6. in connection with or arising from a tax avoidance scheme.

### Limit of Liability

The **company's** liability shall not exceed

1. for all claims which result from one or more events arising at the same time and from the same original cause £100,000; nor
2. for all claims which are notified to the **company** during the period of insurance, £500,000



### EXCLUSIONS TO THE LEGAL EXPENSES SECTION

This Section does not cover the following;

- a) Any **legal expenses** incurred before the written acceptance of a claim by the **company**.
- b) Any claim (or any circumstances which might lead to a claim) of which the **Insured** were or should have been first aware outside the period of insurance.
- c) Fines, penalties, compensation or damages which the **Insured** or an **Insured Person** are ordered to pay by a court or other authority order, other than compensation awards as covered under insured incidents 1. b) Compensation awards.
- d) Any claim relating to patents, copyright, trademarks, merchandise marks, registered designs, intellectual property, secrecy and confidentiality agreements.
- e) Any claim relating to franchise rights or agency rights where the **Insured** have the legal capacity to alter legal relations of another.
- f) Any insured incident deliberately or intentionally solicited by the **Insured** or an **Insured Person**.
- g) A **dispute** with us not otherwise dealt with under Special condition 10 of this section.
- h) Any claim relating to a shareholding or partnership share in the **Insured**, unless such shareholding was acquired under a scheme open to all the **Insured's** employees or a substantial number of them of a certain minimum grade, other than the **Insured's** directors or partners.
- i) An application for judicial review.
- j) Any legal action the **Insured** or an **Insured Person** take which the **company** has not agreed to or where the **Insured** or an **Insured Person** do anything that hinders the **company** or the **nominated representative**.
- k) Any claim if, either at the commencement or during the course of a claim notified under this sub section, the **Insured** is bankrupt, have filed a bankruptcy or winding up petition, have made an arrangement with creditors, have entered into a deed arrangement, are in liquidation or part or all of the **Insured's** affairs or property is in the care or control of a receiver or administrator.

### SPECIAL CONDITIONS APPLICABLE TO THIS SECTION

- 1) It is a condition precedent to **our** liability to meet any claim that the **Insured** or an **Insured Person** shall
  - a) give notice to the **company** in writing during the period of insurance immediately upon becoming aware of any insured incident or event which may give rise to a claim under this sub section;
  - b) give the **company**, as soon as possible, all the information, documents and assistance they need to deal with any claim under this section;
  - c) give the **company** the reason for wishing to appeal against any decision given in legal proceedings which must be done immediately and in any event before the deadline for lodging the appeal;
  - d) forward to the **company** immediately upon receipt every form IT1, IT2 and IT3 issued by an industrial tribunal to the **Insured** or an **Insured Person**; and
  - e) notify the **company** immediately upon receipt of
    - i) HM Revenue and Customs form IR72 or HM Revenue and Customs' Code of Practice 2;



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- ii) a written expression of dissatisfaction by HM Revenue and Customs or the Department of Social Security following a visit or compliance inspection; or
    - iii) an assessment or written decision received from HM Revenue and Customs.
  - 2) the **Insured** or an **Insured Person** shall
    - a) take reasonable steps to keep any amount the **company** has to pay to a minimum; and
    - b) send everything the **company** ask for in writing.
  - 3)
    - a) the **company** must have accepted the claim in writing before they can deal with it
    - b) the **company** will accept the claim when they are satisfied that
      - i) the **company** has all the information that they need;
      - ii) the **Insured** or an **Insured Person** can identify any person with whom the **Insured** are in **dispute**; and
      - iii) it is reasonable for the **insured** or an **Insured Person** to pursue or defend their legal rights (taking into account a reasonable estimate of the **Insured** or an insured person's total **legal expenses** ) and the **Insured** or an **Insured Person** will probably achieve a worthwhile result.
  - 4)
    - a) the **company** may appoint a lawyer or other suitably qualified person working for them to represent, pursue or defend the **Insured's** or an **Insured Person's** rights. If in the event of any legal proceedings or if there is a conflict of interest, the **Insured** or an **Insured Person** have the right to choose their own **nominated representative** . The **Insured** must send the **company** the name and address of such person before the commencement of any legal proceedings.
    - b) In other situations or if the **company** thinks that the **Insured** or an **Insured Person** needs one to help to protect the **Insured's** or the **Insured Person's** rights, they will appoint a nominated representative to act on behalf of the **Insured** or an **Insured Person**
    - c) The company can take over and conduct and negotiate in the name of the **Insured** or an **Insured Person** any claim or legal proceedings at anytime
    - d) The **nominated representative** must co-operate fully with the **company** at all times.
    - e) The **company** will have direct contact with the **nominated representative**
    - f) The **Insured** or an **Insured Person** must co-operate fully with the **company** and the **nominated representative** and must keep the **company** up-to-date with the progress of the claim.
    - g) The **Insured** or an **Insured Person** must give the **nominated representative** any instructions that the **company** requires.
  - 5) If, following legal proceedings to which the **company** has consented, the **Insured** or an **Insured Person** wish to appeal or defend an appeal, the grounds for such appeal should be submitted to the **company** immediately or as soon as practicable. Before any **legal expenses** towards the appeal are paid, the **company** must agree that it is always more likely than not that the appeal will be successful.
  - 6)
    - a) the **Insured** or an **Insured Person** must tell the **company** if anyone offers to settle a claim.
    - b) If the **Insured** or an **Insured Person** do not accept a reasonable offer to settle a claim, the **company** may refuse to pay any further **legal expenses**
    - c) The **company** may decide to pay the **Insured** or an **Insured Person** the amount of damages that the insured person is claiming or is being claimed against them, instead of starting or continuing legal proceedings.
  - 7)
    - a) If the **company** asks, the **Insured** or an **Insured Person** must tell the nominated representative to have **legal expenses** taxed, assessed or audited.



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- b) The **Insured** or an **Insured Person** must take every step to recover **legal expenses** that the **company** has to pay and must pay the **company** any **legal expenses** that are recovered.
- 8) If any **nominated representative** refuses to continue acting for the **Insured** or an **Insured Person** or if the **Insured** or an insured person dismisses a **nominated representative**, the cover the **company** provides will end at once unless the **company** agrees to appoint another **nominated representative**.
- 9) If the **Insured** or an **Insured Person** settle a claim or withdraw their claim without the **company's** agreement or do not give suitable instructions to a **nominated representative**, the cover the **company** provides will end at once and the **company** will be entitled to re-claim any **legal expenses** paid.
- 10) If the **company** and the **Insured** or an **Insured Person** agree, **arbitration** can be used to settle any unresolved **dispute** about anything said in this policy or anything to do with the claim. If **arbitration** is used, the **Insured** or an **Insured Person** may still take that **dispute** to court or try to settle it in another way.
- 11) The **company** may, at their discretion, require the **Insured** or an **Insured Person** to obtain an opinion from counsel at the **Insured's** or an **Insured Person's** expense as to the merits of a claim or proceedings. If counsel's opinion indicates that there are reasonable grounds for the pursuit or defence of a claim or proceedings, the cost of obtaining the opinion will be paid for by the **company**.
- 12) The **company** will not pay any claim covered under any other policy or any claim that would have been covered by any other policy if this section did not exist.
- 13) All Acts of Parliament within the wording of this sub section shall include equivalent legislation in Scotland, Northern Ireland, the Channel Islands or the Isle of Man as the case may be.



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### LEGAL ADVICE SERVICE

The **company** provides this service 24 hours per day seven days a week during the period of insurance.

To help the **company** check and improve service standards all calls are recorded.

The **company** will give the **Insured** confidential legal advice over the phone on any commercial legal problem affecting the **business** under the laws of the member countries of the European Union, the Channel Islands, the Isle of Man, Switzerland and Norway.

The **company** will not accept responsibility if the helpline services fail for reasons outside of **our** control.

Legal advice service MSL Legal Expenses Ltd Telephone: 0161 495 4493

Quoting reference: China Taiping

### HOW TO MAKE A CLAIM

For the purposes of this section, claims are handled on **company's** behalf by MSL Legal Expenses Limited and in the event of an incident that may arise in a claim they should be contacted in writing at the address shown below. Reference to the **company's** in this section in relation to the control and handling of any claim the **Insured** make may refer to either the **company** or MSL Legal Expenses Limited acting on **company's** behalf.

MSL Legal Expenses Ltd 1 Lakeside Cheadle Royal Business Park, Cheadle, Cheshire SK8 3GW

In all communications with the **company**, please quote **Your** policy number.