

Professional Risks Insurance

PI Auctioneers and Estate Agents Civil
AGG IRL TMI 1123

Policy Wording

Auctioneers and Estate Agents Professional Indemnity Insurance

Definitions applicable to this Professional Indemnity Section

For the purposes of this Professional Indemnity Section the words or terms that appear in bold will be interpreted as follows

Circumstance

shall mean any **Circumstance** or state of affairs or event which might reasonably be expected to give rise to a claim against the **Insured** or a claim by the **Insured** under this Professional Indemnity Section.

Computer system

shall mean any computer, data processing equipment, media or part thereof, or system of data storage and retrieval, or communications system, network, protocol or part thereof, or any computer software (including but not limited to application software, operating systems, runtime environments or compilers), firmware or microcode, or any electronic **Documents** utilised in the ownership, security and management of the **Insured's** electronic communications system, world-wide web site, internet site, intranet site, extranet site or web address(es).

Defence costs and expenses

shall mean all costs and expenses incurred, with the prior consent of the **Insurer**, in the investigation, defence and settlement of any claim first made against the **Insured** or of any **Circumstance** first notified during the **Period of insurance**.

Documents

shall mean digitised data, information recorded or stored in a format for use with a computer, microcode, deeds, wills, agreements, maps, plans, records, written or printed books, letters, certificates, written or printed **Documents** or forms of any nature whatsoever (excluding any bearer bonds or coupons, bank or currency notes, share certificates, stamps or other negotiable paper).

Employee

is:

- a. any person employed by the **Insured** under a contract of service, training or apprenticeship; and

- b. any voluntary worker; and
- c. any locum, seasonal or temporary personnel; and
- d. any self-employed person, who is not an independent contractor; and
- e. any person supplied or remunerated through a contract hire company or agency, who is not an independent contractor but is employed by the contract hire company on a supply only basis, working as a member of the **Insured's** staff;

but only if such person is working under the **Insured's** direction, control and supervision.

Excess

is, unless otherwise stated, the first amount paid in respect of each claim as stated in the schedule under the Professional Indemnity Section. The **Excess** is not payable in respect of **Defence costs and expenses**.

Financially associated person or entity

shall mean:

- a. any business controlled or managed by the **Insured** or in which the **Insured** has an executive interest;
- b. any company in which the **Insured** directly or indirectly owns or controls more than 15% of the issued share capital;
- c. any person having an executive or managerial role in the **Insured**
- d. any company that directly or indirectly owns or controls any of the issued share capital of the **Insured** or any of whose issued share capital is directly or indirectly owned or controlled by any other company or person who directly or indirectly owns or controls any of the issued share capital of the **Insured**.

Indemnity limit

shall mean the **Insurer's** total liability to pay damages, claimant's costs, fees and expenses, and shall not exceed the sum(s) stated in the schedule against this Professional Indemnity Section in respect of any one claim or series of claims arising out of one originating cause regardless of the number of persons claiming an indemnity from the **Insurer** under the terms of this Professional Indemnity Section.

Insured

is any person or firm stated in the Schedule and includes any current or previous partner, director, principal, member or **Employee** of any firm or company stated in the Schedule and any other person who becomes a partner, director, principal, member or **Employee** of the firm.

Insurer

means Tokio Marine Europe S.A. Irish Branch.

Jurisdiction

means the **Jurisdiction** stated in the Schedule. Where no **Jurisdiction** is stated in the schedule then the **Jurisdiction** shall be Worldwide but excluding the United States of America (including its territories and /or possessions) and Canada.

Period of insurance

is that as stated in the Schedule.

Personal appointment

is any individual appointment of a professional nature arising out of the ordinary professional activities of the **Insured** other than any appointment as a director or officer of a company or as a trustee.

Professional business

is the business of the **Insured** as stated in the Schedule including the holding of any **Personal appointment**.

Virus

shall mean any unauthorised executable code that replicates itself through a **Computer system** or network whether termed a **Virus**, logic bomb, worm, Trojan Horse or known by any other name.

Insuring Clauses applicable to this Professional Indemnity Section

In consideration of the premium having been paid to the **Insurer**, the **Insured** is indemnified as follows:

1. Indemnity

Up to the **Indemnity limit** for claims first made against the **Insured** during the **Period of insurance** for which the **Insured** is legally liable to pay damages (including claimant's costs and expenses) and arising out of the ordinary course of the **Professional business**, in consequence of:

- a. Breach of professional duty;
- b. Dishonest, fraudulent or malicious act or omission of any former or present **Employee** (which term, for the purpose of this clause alone, shall not include any principal, partner, member or director of the **Insured**) provided that no indemnity shall be given under this Professional Indemnity Section, in the event that any principal, partner, member or director of the **Insured** conspired to commit or condoned any such dishonest, fraudulent or malicious act or omission;
- c. Libel or slander;
- d. Unintentional breach of confidentiality;
- e. Unintentional infringement of intellectual property rights;

- f. The loss of or damage to **Documents**;
- g. Any other civil liability;

2. Costs for prosecuting infringement of the Insured's intellectual property rights

Up to a maximum of EUR 25,000 in the aggregate in the **Period of insurance**, for claims first made by the **Insured** during the **Period of insurance** for reasonable and necessary costs and expenses incurred with the **Insurer's** prior consent in prosecuting any claim for infringement of intellectual property rights first discovered during the **Period of insurance** where the ownership of such rights is vested in the **Insured**.

For the purposes of this Insuring Clause **Insurers** will only give prior consent where the **Insured** has provided, at their own expense, an opinion from a solicitor, barrister or suitably qualified intellectual property agent evidencing the existence of the **Insured's** intellectual property rights, the infringement of those rights, a measurable loss and a reasonable prospect of success.

3. Property Services (Regulation) Act 2011 Defence Costs

In respect of reasonable costs and expenses incurred with **Insurers'** prior written consent in the defence of any proceedings brought against the **Insured** under the Property Services (Regulation) Act 2011 but only where the **Insurers** believe that defending such proceedings may protect the **Insured** against any subsequent or concurrent civil claim arising from the subject matter of those proceedings and where indemnity would be given under this Professional Indemnity Section in respect of any such civil claim.

As a condition precedent to their right to be indemnified under this Insuring Clause the **Insured** shall inform the **Insurers** as soon as possible, and in any event within 5 working days (provided always that such notification is received by **Insurers** before the expiry of the **Period of insurance**) of the receipt of any notice indicating an intention to investigate a possible offence from, or any requirement to deliver up any document to, the Property Services Regulatory Authority.

Such notice having been given, any subsequent claim made (including any civil claim arising from the same subject matter of any proceedings under the Property Services (Regulation) Act 2011 shall be deemed to have been made during the **Period of insurance**.

4. Defence costs and expenses

In respect of Insuring Clause 1, the **Insurer** will pay in addition to the **Indemnity limit** all **Defence costs and expenses** provided that,

- a. if a paid claim exceeds the **Indemnity limit** the **Insurer** will only be liable for that proportion of the **Defence costs and expenses** which the

Indemnity limit bears to the amount of the paid claim;

- b. in the event that the **Insurer** elects to make a payment to the **Insured** pursuant to Notification and Claims Condition 2.2 then the **Insurer** shall have no liability to pay **Defence costs and expenses** incurred after the date upon which such payment is made;

5. Data protection Defence costs

Up to a maximum of EUR 250,000 in the aggregate in the **Period of insurance**, in respect of legal costs and expenses incurred with the **Insurer's** prior consent in the defence of any criminal proceedings brought under The Data Protection Act or similar legislation provided always that:

- a. the act, error or omission giving rise to the proceedings shall have been committed by the **Insured** in the ordinary course of the **Professional business**;
- b. the **Insurer** shall be entitled to appoint solicitors and counsel to act on behalf of the **Insured**;
- c. the **Insurer** shall have no liability to pay costs incurred subsequent to a plea or finding of guilt on the part of the **Insured**, or in the event that Counsel should advise that there are no reasonable prospects of successfully defending the proceedings, except for costs incurred solely for the purpose of making a plea in mitigation before sentencing or costs incurred in making an appeal if Counsel shall advise that the prospects of a successful appeal following a finding of guilt are reasonable;

6. Bodily Injury & Property Damage

Up to a maximum of EUR 250,000 (or the sum stated as the **Indemnity Limit** in the schedule whichever is lower) in the aggregate in the **Period of insurance**, (inclusive of claimants' costs, fees and expenses, and **Defence costs and expenses**), in relation to any claim or loss arising directly or indirectly out of or in connection with bodily injury, sickness, disease, psychological injury, emotional distress, nervous shock or death sustained by any person or any loss, damage or destruction of property, of any kind and arising from a breach of professional duty in the ordinary course of the **Professional business**.

For the avoidance of doubt the indemnity provided under Insuring Clauses 2), 5) and 6) is not additional to and shall not increase the **Indemnity limit**.

Exclusions applicable to this Professional Indemnity Section

In accordance with the provisions of S.15(6) of Consumer Insurance Contracts Act 2019, the **Insurer** shall not be liable to indemnify the **Insured** against any claim:

1. Employers liability

arising directly or indirectly from bodily injury, sickness, disease, psychological injury, emotional distress, nervous shock or death sustained by any **Employee** arising out of or in the course of their employment by the **Insured**, or for any breach of any obligation owed by the **Insured** as an employer to any partner, principal, director, member or **Employee** or applicant for employment;

2. Bodily injury/property damage

for bodily injury, sickness, disease, psychological injury, emotional distress, nervous shock or death sustained by any person or any loss, damage or destruction of property unless such claim emanates from negligent advice, design, specification, formula or other breach of professional duty by the **Insured** in accordance with Insuring Clause 6;

3. Land buildings etc.

arising directly or indirectly from the ownership, possession or use by or on behalf of the **Insured** of any land, buildings, aircraft, watercraft, vessel or mechanically propelled vehicle;

4. Dishonesty

arising directly or indirectly from any dishonest, fraudulent, malicious or illegal act or omission of the **Insured** or any **Employee**, except as covered by Insuring Clause 1b);

5. Contractual liability

arising directly or indirectly from any breach or alleged breach of any contractual duty or duty of care owed or alleged to have been owed by the **Insured** to any third party and which is more onerous than any duty that would otherwise be implied by common law or statute;

6. Products

arising out of or relating to:

- a. goods or products sold, supplied, repaired, altered, manufactured, installed or maintained; or
- b. buildings, building works or physical structures constructed, repaired, installed, erected, removed or demolished;
- c. by the **Insured** or any related company or sub-contractor of the **Insured**;

7. Insolvency/bankruptcy of Insured

arising out of or relating directly or indirectly to the insolvency or bankruptcy of the **Insured**;

8. Seepage and pollution

based upon, arising out of or relating directly or indirectly to, in consequence of or in any way involving seepage, pollution or contamination of any kind;

9. Claims or Circumstances known at inception

arising directly or indirectly from any claim or **Circumstance** of which the **Insured** was, or ought reasonably to have been, aware prior to inception of this Policy, whether notified under any other insurance or not;

10. Other insurance

in respect of which the **Insured** is, or but for the existence of this Policy would be, entitled to indemnity under any other insurance except in respect of any **Excess** beyond the amount which is payable under such other insurance;

11. Geographical limits

in respect of work carried out outside the Geographical Limits stated in the Schedule;

12. Legal action

in respect of an action for **Damages**:

- a. brought outside the **Jurisdiction** (including the enforcement within the **Jurisdiction** of a judgment or finding of another court or tribunal that is not within the **Jurisdiction**);
- b. in which it is contended that the governing law is outside the **Jurisdiction**;
- c. brought outside the **Jurisdiction** to enforce a judgment or finding of a court or other tribunal in any other **Jurisdiction**;

13. Fines and penalties

for penalties, fines, multiple, exemplary, liquidated or other non-compensatory damages awarded other than in actions brought for defamation as far as they are covered by this Professional Indemnity Section;

14. Claims by Financially associated persons or entities

made upon the **Insured** by any **Financially associated person or entity** whether alone or jointly with any other person or entity. However, this exclusion shall not apply to any claim brought against such **Financially associated person or entity** by an independent third party and which would, but for this exclusion, be covered by this Professional Indemnity Section;

15. Retroactive date

made by or against the **Insured** arising from any act or omission that occurred prior to the Retroactive Date stated in the schedule;

16. Radioactive contamination or explosive nuclear assemblies

directly or indirectly caused by or contributed to by or arising from:

- a. ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

17. Excess

for an amount less than the **Excess**. The **Excess** shall be deducted from each and every claim paid under this Professional Indemnity Section;

18. War

arising directly or indirectly out of, happening through or in consequence of, war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority;

19. Terrorism

arising directly or indirectly out of, happening through or in consequence of any act or acts of force or violence for political, religious or other ends directed towards the overthrowing or influencing of any government, or for the purpose of putting the public in fear by any person or persons acting alone or on behalf of or in connection with any organisation.

In the event of any dispute as to whether or not this exclusion applies the **Insured** shall have the burden of proving that this exclusion does not apply;

20. Asbestos

arising directly or indirectly out of or resulting from or in consequence of or in any way involving asbestos or any materials containing asbestos in whatever form or quantity;

21. Other appointments

made against any **Insured** in the capacity of:

- a. director or officer of the **Insured** or of any other company or arising out of the management of the **Insured** or of any other company; or
- b. trustee of any trust or as officer or **Employee** of any pension fund or any other **Employee** benefit scheme, whether for the benefit of members or **Employees** of the **Insured** or otherwise;

22. Trading losses

arising out of :

- a. any trading loss or trading liability incurred by any business managed or carried on by the **Insured** (including the loss of any client account or business);
- b. the actual or alleged over-charging or improper receipt of fees by the **Insured**;
- c. the actual or alleged over-charging or improper receipt of fees by the **Insured**;

23. Virus

arising directly or indirectly from any **Virus**;

24. Patents

notwithstanding Insuring Clause 1e), arising directly or indirectly from the infringement of any patent;

25. Insolvency

the insolvency of any **Insurer**, Building Society, Bank or other lender;

26. Investment and Mortgage Services

arising directly or indirectly from the provision by the **Insured** of any investment or financial advice or arrangements made by or on behalf of the **Insured** in respect of any finance, loan , mortgage, credit or leasing agreement;

27. Financial & Mortgage advice

arising directly or indirectly from the provision by the **Insured** of any investment or financial advice or arrangements made by or on behalf of the **Insured** in respect of any finance, loan , mortgage, credit or leasing agreement;

28. Surveys or valuations

arising from surveys or valuations other than:

- a. any valuation for the purpose of the establishment of a price for the marketing of a property for sale; or
- b. any valuation for probate or matrimonial purposes; or
- c. any valuation for Irish Property tax purposes;

29. Deliberate acts

arising directly or indirectly from any deliberate or reckless breach, act, omission or infringement committed, condoned or ignored by the **Insured** except as covered by Insuring Clause 1b);

30. Employee benefit schemes / stocks and shares

arising directly or indirectly from the operation or administration of any pension or other **Employee** benefit scheme or trust fund, or the sale or purchase or dealing in any stocks, shares or securities or the misuse of any information relating to them or the breach of any related legislation or regulation;

31. Taxation, competition, restraint of trade

arising directly or indirectly from the breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation;

32. Official action or investigation

arising from any official action or investigation by or decision or order of any public, local or government body or authority, except as covered by Insuring Clause 6;

33. Loss, damage or destruction of bearer bonds or coupons

arising from the loss, damage or destruction of any bearer bonds, coupons, bank or currency notes, share certificates, stamps or other negotiable paper;

34. Claims by Employees

made against the **Insured** by any present or former **Employee**;

35. Medical Malpractice

arising directly or indirectly out of or in connection with:

- a. the provision of or omission to provide any medical, clinical or surgical diagnosis, advice, treatment, remedy or prescription; or
- b. any breach of professional duty by any person providing counselling, therapy or similar treatment;

36. Physical, Emotional and Sexual Abuse

alleging physical, emotional or sexual abuse, sexual harassment, sexual molestation, racial discrimination or unlawful detention by any party, including but not limited to the **Insured** or any **Employee** or agent of the **Insured**;

37. Insurance advice

arising directly or indirectly from the provision by the **Insured** of insurance advice or advice on the arranging, underwriting or managing of any insurance product, whether as principal, as an agent or intermediary for another party;

38. Will writing or estate planning

arising directly or indirectly from will writing, estate planning or advice on the operation of or administration of any trust or the misuse of any information relating to them or the breach of any related legislation or regulation;

Notification and Claims Conditions applicable to this Professional Indemnity Section

1. Claim/Circumstance notification

As conditions precedent to their right to be indemnified under this Professional Indemnity Section, the **Insured**.

- 1.1 shall inform the **Insurer** as soon as possible, and in any event within 28 days (provided always that such notification is received by the **Insurer** before the expiry of the **Period of insurance**) of the receipt, awareness or discovery of:-
 - a. any claim made against them;
 - b. any notice of intention to make a claim against them;
 - c. any **Circumstance**;
 - d. the discovery of reasonable cause for suspicion of dishonesty or fraud;

Such notice having been given as required in b), c) or d) above, any subsequent claim made shall be deemed to have been made during the **Period of insurance**.

- 1.2 shall not, in the event of a claim, or the discovery of information which may give rise to a claim, admit liability for or settle any claim, or incur any costs or expenses in connection therewith, without the written consent of the **Insurer**; and
- 1.3 shall, as soon as practicable given the **Circumstances**, give all such information and assistance as the **Insurer** may require and provide their full co-operation in the defence or settlement of any such claim.

Every letter of claim, writ, summons or process and all **Documents** relating thereto and any other written notification of claim shall be forwarded, unanswered, to the **Insurer** immediately they are received. The **Insured** shall at all times, in addition to their obligations set out above, afford such information to

and co-operate with the **Insurer** to allow the **Insurer** to be able to comply with relevant Practice Directions and Pre-Action Protocols.

2. Notifications

Any and all notifications of **Circumstances** and claims for an indemnity pursuant to the policy of insurance shall be notified to Tokio Marine Europe S.A. Irish Branch by either (a) email (b) telephone or (c) first class post.

If by email then such must be addressed to PI Claims and sent to piclaims@tmhcc.com

If by telephone, please dial the following number and ask for a PI claims underwriter:

Telephone- +44 (0)20 7702 4700

If by post:

PI Claims Tokio Marine Europe S.A. Irish Branch, The St Botolph Building, 138-139 Houndsditch, London, EC3A 7BT

3. Conduct of claims

- 3.1 Following notification under condition 1. above the **Insurer** shall be entitled at its own expense to take over and within its sole discretion to conduct in the name of the **Insured** the defence and settlement of any such claim.

Nevertheless neither the **Insured** nor the **Insurer** shall be required to contest any legal proceedings unless a senior counsel (to be mutually agreed upon by the **Insured** and the **Insurer**) shall advise that such proceedings should be contested.

- 3.2 The **Insurer** may at any time in connection with any claim made, pay to the **Insured** the **Indemnity limit** (after deduction of any sums already paid) or any lesser sum for which, in the sole opinion of the **Insurer**, the claim can be settled and upon such payment being made the **Insurer** shall relinquish the conduct and control of and have no further liability in connection with the claim. For the avoidance of doubt the **Insurer** shall have no liability to pay **Defence costs and expenses** incurred after the date upon which any such payment is made.

General Conditions applicable to this Professional Indemnity Section

1. Policy construction and disputes

Irish Law governs this Policy. The Policy and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or the Schedule shall bear such specific meaning wherever it may appear.

Any dispute concerning the interpretation of the terms, Conditions or Exclusions contained herein is understood and agreed by both the **Insured** and the **Insurer** to be subject to Irish Law. Each party agrees to refer any such dispute to a mediator to be agreed between the **Insured** and the **Insurer** within 14 working days of any dispute arising under the Policy.

The **Insured** and the **Insurer** agree to perform their respective continuing obligations under this Policy while the dispute is resolved unless the nature of the dispute prevents such continued performance of those obligations.

If any such dispute is not resolved by mediation or the **Insured** and the **Insurer** cannot agree upon the appointment of a mediator or the form that the mediation will take the dispute will be submitted to the exclusive **Jurisdiction** of any court of competent **Jurisdiction** within Ireland and each party agrees to comply with all requirements necessary to give such court **Jurisdiction**. All matters arising hereunder shall be determined in accordance with the law and practice of such court.

2. Waiver of subrogation against Employees

The **Insurer** shall not exercise any right of subrogation against any former or present **Employee**, unless the **Insurer** shall have made a payment caused or contributed to by any act or omission of the **Employee** or former **Employee** which was caused by such a person intentionally or recklessly and with knowledge that the loss would probably result.

3. Dishonest or fraudulent act or omission

In the event of a loss or claim which involves the dishonest, fraudulent or malicious act or omission of any former or present **Employee** the **Insured** shall take all reasonable action (including legal proceedings) to obtain reimbursement from the **Employee** concerned (and from any **Employee** who may have conspired to commit or have condoned such act) or from the estate or legal representatives of such **Employee**. Any monies which but for such dishonest, fraudulent or malicious act or omission would be due to such **Employee** from the **Insured** or any monies held by the **Insured** for such **Employee** shall be deducted from any amount payable under this Professional Indemnity Section.

4. Fraudulent claims

If the **Insured** shall submit any claim knowing the same to be false or fraudulent as regards amount or otherwise this Policy shall become void and all claims hereunder shall be forfeited.

5. Other parties

The **Insured** and the **Insurer** are the only parties to this contract and no other person has any rights to enforce any term of this Professional Indemnity

Section, save as is conferred upon them by Law / the operation of S.21 and S.22 of Consumer Insurance Contracts Act 2019.

6. Cancellation

This Professional Indemnity Section may be cancelled by or on behalf of the **Insurer** by 30 days' notice given in writing to the **Insured** or in accordance with the 14 day cooling off period provided in the S.11 (1) of Consumer Insurance Contracts Act 2019.

7. Invalidity

If any provision of this Policy is found by any court or administrative body of competent **Jurisdiction** to be invalid or unenforceable this will not affect the other provisions of this Policy which will remain in full force and effect.

8. Notices

Notice shall be deemed to be duly received in the course of post if sent by pre-paid letter post properly addressed to:

- a. in the case of the **Insured**, either to the **Insured's** last known address or the last known address of the **Insured's** broker;
- b. in the case of the **Insurer**, to Tokio Marine Europe S.A. Irish Branch at The St Botolph Building, 138-139 Houndsditch, London, EC3A 7BT.

9. Reasonable steps to avoid loss

Without prejudice to the Notification and Claims Conditions in this Professional Indemnity Section, the **Insured** shall take all reasonable steps to avoid or mitigate any loss, damage or liability that may result in any claim or **Circumstance** notifiable under this Professional Indemnity Section.

10. International Sanctions

The **Insurer** will not provide cover, be liable to pay any claim or provide any benefit if to do so would expose the **Insurer** (or any parent company, direct or indirect holding company of the **Insurer**) to any penalty or restriction (including extraterritorial penalties or restrictions so far as such do not contradict laws applicable to the **Insurer**), arising out of any trade and economic sanctions laws or regulations which are applicable to it.

11. Assignment

This Professional Indemnity Section of insurance (including any benefits it provides) are not assignable to any third party without the express approval of the **Insurer** confirmed in writing by the **Insurer**.

12. Change of control

In the event that the **Insured** merges into or consolidates with or sells all or substantially all of its assets or shares to a third party (whether a company, corporation or any other legal entity or person) or there is any acquisition of more than fifty percent (50%) of the voting share capital of the **Insured** by a third party (whether a company, corporation or any other legal entity or person) the **Insured** shall give written notice of such event prior to its execution. Upon receipt of such notice, the **Insurers** may at their absolute discretion agree to continuation of the Professional Indemnity Section of insurance, to be confirmed by way of a written endorsement to the Professional Indemnity Section. In the absence of such agreement and/or if notice is not forthcoming as required under this General Condition 12 – Change of control, the cover provided by this Professional Indemnity Section of insurance shall cease with immediate effect at the date of the change of control.

For the avoidance of doubt, the **Insured** shall not be entitled to an indemnity in respect of any claims made under this Professional Indemnity Section of insurance where notification of the claim occurs after a change in control (as referred to in this General Condition 12 – Change of control) where the change of control was not reported to **Insurers** and approved in accordance with this General Condition 12.

13. Alterations in Risk

The **Insured** is required to notify the **Insurers** of all material facts or alterations in the risk in accordance with Section 15 of the Consumer Insurance Contracts Act 2019 which come to the **Insureds** knowledge or arise during the **Period of insurance**.

14. Difference in conditions

- a. The provisions within the Consumer Insurance Contracts Act (2019) are incorporated into the terms of this Professional Indemnity Section;
- b. Paragraph (a) only applies to provisions of the Consumer Insurance Contracts Act 2019 which are in force and have been commenced;

In the event of any inconsistency between the terms and conditions of this Professional Indemnity Section and the Consumer Insurance Contracts Act 2019, the provisions of the Consumer Insurance Contracts Act 2019 shall prevail.

Complaints

We are dedicated to providing you with a high quality service and we want to ensure that we maintain this at all times. If you feel that we have not offered you a first class service please write and tell us and we will do our best to resolve the problem. If you have any questions or concerns about your policy or the handling of a **Claim** you should in the first instance contact:

The Head of Compliance
Tokio Marine Europe S.A
26, Avenue de la Liberté,
L-1930 Luxembourg

Should the **Insurer** be unable to resolve any difficulty directly with you to your satisfaction, you may be entitled to refer the dispute to the Insurance Ombudsman at the ACA or to the Insurance Supervisory Authority In Luxembourg (Commissariat Aux Assurances – CAA) who will review your case and who may be contacted at:

ACA

Service Mediation

12, rue Erasme

L-1468 Luxembourg

Website: www.aca.lu

or

CAA

7, boulevard Joseph II

L-1840 Luxembourg

Email: commassu@commassu.lu

Website: www.caa.lu

The European Commission Online Dispute Resolution Platform (ODR)

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>. This platform will direct insurance complaints to the ACA Service Mediation. However, you may contact the ACA or CAA directly if you prefer, using the details as shown above.

Data protection notice

Tokio Marine HCC respects your right to privacy. In our Privacy Notice (available at <https://www.tmhcc.com/en/legal/privacy-policy>) we explain who we are, how we collect, share and use personal information about you, and how you can exercise your privacy rights. If you have any questions or concerns about our use of your personal information, then please contact DPO@tmhcc.com.

We may collect your personal information such as name, email address, postal address, telephone number, gender

and date of birth. We need the personal information to enter into and perform a contract with you. We retain personal information we collect from you where we have an ongoing legitimate business need to do so.

We may disclose your personal information to:

- our group companies;
- third party services providers and partners who provide data processing services to us or who otherwise process personal information for purposes that are described in our Privacy Notice or notified to you when we collect your personal information;
- any competent law enforcement body, regulatory, government agency, court or other third party where we believe disclosure is necessary (i) as a matter of applicable law or regulation, (ii) to exercise, establish or defend our legal rights, or (iii) to protect your interests or those of any other person;
- a potential buyer (and its agents and advisers) in connection with any proposed purchase, merger or acquisition of any part of our business, provided that we inform the buyer it must use your personal information only for the purposes disclosed in our Privacy Notice; or
- any other person with your consent to the disclosure.

Your personal information may be transferred to, and processed in, countries other than the country in which you are resident. These countries may have data protection laws that are different to the laws of your country. We transfer data within the Tokio Marine group of companies by virtue of our Intra Group Data Transfer Agreement, which includes the EU Standard Contractual Clauses.

We use appropriate technical and organisational measures to protect the personal information that we collect and process about you. The measures we use are designed to provide a level of security appropriate to the risk of processing your personal information.

You are entitled to know what data is held on you and to make what is referred to as a Data Subject Access Request ('DSAR'). You are also entitled to request that your data be corrected in order that we hold accurate records. In certain **Circumstances**, you have other data protection rights such as that of requesting deletion, objecting to processing, restricting processing and in some cases requesting portability. Further information on your rights is included in our Privacy Notice.

You can opt-out of marketing communications we send you at any time. You can exercise this right by clicking on the "unsubscribe" or "opt-out" link in the marketing e-mails we send you. Similarly, if we have collected and processed your personal information with your consent, then you can withdraw your consent at any time. Withdrawing your consent will not affect the lawfulness of any processing we conducted prior to your withdrawal, nor will it affect processing of your personal information conducted in reliance on lawful processing grounds other than consent. You have the right to complain to a data protection authority about our collection and use of your personal information.

Contact Us

Tel: +44 (0)20 7702 4700
mail@tmhcc.com

tmhcc.com

Tokio Marine Europe S.A. Irish Branch Summit House, Embassy Office Park Kill, County Kildare W91 VK0T, Ireland
Tel: +353 (0)45 886993 | tmhcc.com

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