



**Professional
indemnity
RICS-compliant
cover for
property
professionals**

Contents

Welcome to AXA	3
Important information about this cover	3
Your policy	4
Meanings of defined terms	4
Policy conditions	7
What is covered	11
Defence and settlement of claims	13
What is not covered	14
Making a complaint	18

Welcome to AXA

Thank you for choosing AXA

Please read carefully all **your** documents together as they form **your policy** and contain the full details of **your** cover. Please keep any documents **we** have provided in a safe place.

If **you** have any questions, need anything explaining or believe this contract does not meet **your** needs, please contact **us** or **your** insurance adviser.

Important information about this cover

This cover operates on a claims-made basis. This means that **we** will only provide cover for **claims** or **claim circumstances** made against **you** and notified to **us** during the **period of insurance**. **We** will not cover any **claim** or **claim circumstance** arising from an act, error or omission that occurred before the **retroactive date**.

Conditions apply regarding when **you** must tell **us** about **claims** or **claim circumstances** and these can be found below. **You** should read these carefully.

Your policy

Your policy is a contract of insurance between **you** and **us** and **you** have a duty to make a fair presentation of the risk to **us** in accordance with the law.

In return for **you** having paid or agreed to pay the premium **we** will cover **you** subject to the terms contained in **your policy**.

Your policy is renewable provided that **we** agree to accept **your** premium for any subsequent **period of insurance**. **We** do not have to offer renewal of **your policy** and cover will cease on the end date. If renewal is offered and accepted by **you** a new schedule will be issued for the new **period of insurance** showing any changes to **your** cover.

Throughout this **policy**, **we** use definitions and headings. Definitions are used to explain what a word means and are highlighted in bold blue print. Details of the definitions that apply throughout **your policy** can be found on page 4.

Headings have been used for **your** guidance and do not form part of the contract. Wherever a word is used in the singular, this will also include the plural and vice versa.

To help **you** understand the cover within **your policy** **we** have included sections entitled 'What is covered' and 'What is not covered'.

Under the heading 'What is covered' **we** give information on the insurance that **your policy** provides. This must be read with 'What is not covered' and the Policy conditions at all times.

Under the heading 'What is not covered' **we** draw **your** attention to what is excluded from **your policy**.

Telling us about a claim

If **you** need to tell **us** about a **claim** please first check **your policy** to make sure **you** are covered. **You** must then follow the Claim circumstance condition and Claim notification condition on page 8.

Please contact **your** insurance adviser who will help **us** deal with the **claim**.

Making a complaint

If **you** are not happy with the way a **claim** or any other matter has been dealt with, please read 'Making a complaint' at the end of this document.

Meanings of defined terms

These definitions apply to **your policy**. If a word or phrase has a defined meaning it will be highlighted in bold blue print and will have the same meaning wherever it is used in this **policy**.

Asbestos

Asbestos in any form, asbestos fibres, particles or derivatives of asbestos or any material containing asbestos.

Asbestos survey

A management survey or a refurbishment or demolition survey, as described in HSG264 published by the Health and Safety Executive in connection with Regulation 4 of the control of Asbestos Regulations 2006, or any comparable survey or inspection, whether of commercial or residential land or property.

Claim(s)

Any verbal or written demand, notice or communication from a third party

- 1 making an assertion for legal remedy or any other form of compensation or remedy
- 2 containing reference to, or serving notice of, intent to start legal proceedings
- 3 invoking any pre-action protocol as set under the Civil Procedure Rules and/or
- 4 referring to arbitration, adjudication or complaint proceedings.

Claim circumstance(s)

Any incident, occurrence, fact, matter or act that **you** become aware of that might reasonably give rise to a **claim**.

Collateral warranty

Any written agreement that creates a duty of care between **you** and any party that is not **your** direct client or customer.

Defence costs

All costs and expenses incurred by **us** or by **you** with **our** prior written permission relating to the defence or settlement of any **claim** or **claim circumstance**, which **your policy** covers.

Our permission will not be unreasonably withheld, delayed or withdrawn.

This does not include profit costs or remuneration expenses paid or due to **you**.

Documents

Any documents, information or data, including computer records and data or information stored magnetically or electronically, that are **your** property or are looked after by or deposited with **you** in the ordinary course of **your professional business** and for which **you** are responsible. This does not include bearer bonds, coupons, stamps, bank or currency notes or negotiable instruments.

Employee(s)

- 1 Any person working for **you** under a contract of service with **you** or
 - 2 Any person working for **you** in connection with the **professional business**
 - a who is hired or lent to **you**
 - b who is self-employed
 - c on a voluntary basis
- and who is under **your** control or supervision.

Environmental audit

An investigation specifically intended to assess if there is **pollution** present.

Estate agents and safety legislation costs

Costs and expenses **you** incur arising from

- 1 The Consumer Protection from Unfair Trading Regulations 2008.
- 2 The Business Protection from Misleading Marketing Regulations 2008.
- 3 The Estate Agents' Act 1979.
- 4 The Health and Safety at Work etc Act 1974.
- 5 The Health and Safety at Work (Northern Ireland) Order 1978.

- 6 The Construction (Design and Management) Regulations 2007.
- 7 The Corporate Manslaughter and Corporate Homicide Act 2007.
- 8 The Bribery Act 2010.
- 9 The Data Protection Act 1998.
- 10 Any similar, prior or successor legislation to the legislation described in 1 to 9 above.

Excess

The amount stated in **your** schedule, being the first amount of **loss** for which **you** are responsible.

Extended liability

Legal liability assumed by **you** under the express or implied terms of any contract or agreement that restrict **your** right of recovery, or increase **your** liability at law beyond that applicable in the absence of those terms.

Injury

Any death, illness, disease or sickness or any bodily, mental, psychological or emotional injury, distress or shock.

Legal representation costs

Costs and expenses **you** incur at a properly constituted hearing, tribunal or proceeding and that may be covered under this **policy** but that are not included under the meaning of **defence costs**.

Limit of indemnity

The amount shown in **your** schedule as the limit of indemnity.

Loss

The amount that **you** are legally liable to pay due to a **claim**, including awards of damages, awards of claimant costs and amounts that are pursuant to settlements, but not including **defence costs**.

Ombudsman award

An award made by an ombudsman for any case accepted for review by that ombudsman in their position as ombudsman under any recognised scheme.

Period of insurance

Period shown in **your** schedule, inclusive of both the stated start date and end date.

Policy

This document, any schedule and any endorsements attached or issued.

Pollutant

Any solid, liquid or gaseous pollutant contaminant or irritant substance or any biological agent that is a danger to human health.

Pollution

Actual, alleged or threatened discharge, seepage, treatment, removal, disposal, dispersal, emission, release or escape of any **pollutant** or any regulatory order, direction or request to test for, monitor, remove, contain, treat, detoxify, or neutralise any **pollutant**.

Professional business

- 1 Services or advice undertaken
 - a by members of the Royal Institution of Chartered Surveyors or
 - b that have otherwise been declared to **us**and that are performed within the **territorial limits** by **you** or on behalf of the person, firm, company or organisation shown in **your** schedule as the insured.
- 2 Services or advice performed within the **territorial limits** by **you** whilst holding an individual appointment for work connected with the business of the person, firm, company or organisation shown in **your** schedule as the insured, provided that
 - a those services are undertaken by members of the Royal Institution of Chartered Surveyors or have otherwise been declared to **us** and
 - b the fee that **you** charged for those services or advice (if a fee was charged) is included in the income that has been disclosed to **us** when applying for this insurance.

Retroactive date

The date from when work **you** performed is covered. This date is shown on **your** schedule.

Territorial limits

The United Kingdom (including the Channel Islands and the Isle of Man) and/or the Republic of Ireland or such other territories as stated in **your** schedule.

Terrorist act

Any act of a person or group directed towards the overthrowing or influencing of any government, or putting any section of the public in fear by threat, force or violence or other means.

We/us/our

AXA Insurance UK plc.

You/your

- 1 The person, firm, company or organisation shown in your schedule as the insured.
- 2 Any person, firm, company or organisation shown in your schedule as an additional insured.
- 3 Any predecessor in business to any firm, company or organisation that has been disclosed to **us**.
- 4 Any person who is or has been or who becomes a director, partner, member, principal or **employee**, but only for work undertaken for or on behalf of any person or body referred to in **1, 2 or 3** above.
- 5 Any retired partner, retired director or retired member of the firm, company or organisation shown in your schedule as the insured and who remains as a consultant to any person, firm, company or organisation shown in your schedule as the insured.
- 6 The estate, heirs, executors, legal or personal representatives of any person referred to in **1, 2, 3, 4 or 5** above in the event of their death or incapacity.

Policy conditions

You must comply with the following conditions to have the full protection of **your policy**.

If **you** do not comply then **we** may at **our** option take one or more of the following actions:

- 1 Cancel **your policy**
- 2 Declare **your policy** void (treating **your policy** as if it had never existed)
- 3 Change the terms of **your policy**
- 4 Refuse to deal with all or part of any **claim** or reduce the amount of any **claim** payments.

Adjudication condition

If **you** receive any notice of intention to adjudicate, notice of adjudication, referral notice or any adjudication notice relating to a contract, **you** must tell **us** within two working days of receipt of that notice.

We reserve the right to treat any notification received under this clause as notification of a **claim circumstance**.

You must not serve any notice of intention to adjudicate, notice of adjudication, referral notice or any adjudication notice relating to a contract without first obtaining **our** written approval unless, in **your** reasonable opinion, service of those notices will not lead to a **claim**.

You must not

- 1 make any admission in respect of the dispute that is the subject of adjudication
- 2 agree to accept the decision of the adjudicator as finally determining the dispute with no further reference to legal proceedings, arbitration or Alternative dispute resolution

without first obtaining **our** written approval to do so.

If **you** do not comply with this condition, **we** have the right to refuse to pay any costs, damages, penalties or other amounts that arise from the adjudication.

Admission of liability condition

In the event of a **claim** or discovery of a **claim circumstance**, **you** must not

- 1 admit liability
- 2 incur any **defence costs**
- 3 make any offers of settlement
- 4 otherwise prejudice the conduct of defence or settlement of that **claim** or **claim circumstance**

without first obtaining **our** written approval. This applies regardless of any complaints handling procedure or if the amount in dispute is less than **your excess**.

Authorisation condition

All persons insured by this **policy** agree that the practice or practices named as the insured on **your** schedule is their agent for all purposes in connection with this **policy**. This **policy** may be varied or rescinded by agreement between **us** and the practice or practices named as the insured on **your** schedule without the consent of any other person insured by this **policy**.

Breach of Claim notification condition or Claim circumstance condition

If **you** do not comply with the Claim notification condition or the Claim circumstance condition and where the **claim** or **claim circumstance** would otherwise be covered by this **policy**, **we** will pay the **claim** provided:

- 1 **you** tell **us** in writing about the **claim** or **claim circumstance** during the **period of insurance** and;
- 2 **we** can demonstrate that **your** failure to tell **us** was not deliberate.

If, however, **your** failure to tell **us** affects **our** ability to handle or settle a **claim** or **claim circumstance**, **we** will reduce the amount **we** pay to the figure **we** reasonably believe would have been payable had **our** ability to handle or settle it not been affected. This does not affect any other condition in this **policy**.

Claim circumstance condition

You must tell **us** in writing as soon as possible and within the **period of insurance** about any **claim circumstance**.

When telling **us** about a **claim circumstance**, **you** must give to **us** full details including but not limited to

- 1 a description of the **claim circumstance**
- 2 the nature of the alleged act, error or omission leading to the **claim circumstance** and the date it was committed
- 3 the nature of the alleged damage
- 4 the names of the actual or potential claimants and defendants, and
- 5 the manner in which **you** first became aware of the **claim circumstance**.

If a **claim circumstance** that relates to work **you** performed after the **retroactive date** and within the **period of insurance** leads to a **claim** after the **period of insurance** has ended, that **claim** will be deemed to have been made against **you** during the **period of insurance**, provided that **you** told **us** in accordance with the requirements of this condition.

Claim control and co-operation condition

You must give **us** all information and assistance that **we** reasonably require and that is in **your** power to provide.

You must co-operate with **us** and anyone appointed on **our** behalf by

- 1 providing any information, assistance, signed statements or depositions as **we** may require to comply with any Civil Procedure Rules, Practice directions and Pre-Action Protocols as may be issued
- 2 assisting to present the best possible defence to a **claim**
- 3 ensuring access to any information that **we** or **our** representatives may require in the defence of a **claim** or the investigation of any **claim circumstance**, whether or not that information may be privileged
- 4 provide **us** with any and all information that will allow **us** to determine **our** liability under this **policy**

5 making payment on demand of **your excess** in order to comply with the terms of any settlement **we** have agreed

6 providing any information, assistance, signed statements or depositions as **we** may require to exercise **our** rights of subrogation

7 ensuring that all documents of any description relevant to any **claim** or **claim circumstance** are preserved and complete.

Claim notification condition

You must tell **us** in writing as soon as possible, and in any event within 10 days of the end of the **period of insurance** about any **claim** against **you** irrespective of **your** views as to the validity of that **claim**.

We will not pay **your claim** where **you** have not complied with this condition.

Disagreement of definition of professional business

If **you** disagree with **us** about how **we** interpret the meaning of **professional business**, **you** may refer the matter to arbitration in accordance with the law and procedures of England and Wales to any person nominated by the President (at the time) of the Royal Institution of Chartered Surveyors, and that nominated person's decision will be binding on **you** and **us**.

Dishonesty and fraud condition

You must tell **us** as soon as possible and in any event within the **period of insurance** of the discovery of

- 1 any dishonest or fraudulent act or omission
- 2 any reasonable suspicion that a past or present partner, director, member, **employee** or consultant to **you** has acted dishonestly or fraudulently.

If that dishonest or fraudulent act or omission or that suspicion of a dishonest or fraudulent act or omission leads to a **claim** after the **period of insurance** has ended, that **claim** will be deemed to have been made against **you** during the **period of insurance**, provided that **you** first became aware of it and told **us** about it within the **period of insurance**.

Fraud condition

You and anyone acting for **you** must not act in a fraudulent way.

If **you** or anyone acting for **you**

- 1 knowingly makes a fraudulent or exaggerated **claim** under **your policy**;
- 2 knowingly makes a false statement in support of a **claim**; (whether or not the **claim** itself is genuine) or
- 3 knowingly submit a false or forged document in support of a **claim**; or (whether or not the **claim** itself is genuine),

we will

- a refuse to pay the **claim**
- b declare the **policy** void from the date of the fraudulent act without any refund of premiums.

We may also inform the police of the circumstances.

Non-disclosure and misrepresentation condition

The Insurance Act 2015 has introduced a duty on **you** that **you** must make a fair presentation of the risk before **you** enter into a contract of insurance. This clause varies the terms of that Act in relation to what **we** can do if **you** fail to comply with **your** duty of fair presentation.

- 1 Where **you** have failed to comply with **your** duty to make a fair presentation of the risk to **us** and where that failure would entitle **us** to treat **your policy** as void, **we** will only void **your policy** if
 - a **you** have admitted that **you** intended to mislead or deceive **us**, or
 - b **we** have established by way of a final adjudication in arbitration proceedings between **us** and **you** (including any appeal from that adjudication) that **you** intended to mislead or deceive **us**, those arbitration proceedings having been undertaken according to the Defence and settlement of claims section of **your policy**

Until any such final adjudication (including any appeal from that adjudication) has been concluded, **we** will continue to honour **our** obligations, including making payment, under **your policy**.

- 2 Where **you** fail to comply with **your** duty to make a fair presentation of the risk to **us** and where clause 1 above does not apply:
 - a in the case of a **claim** first made against **you** during the **period of insurance** where:
 - 1 **you** had previous knowledge of the circumstances relating to that **claim**, and
 - 2 **you** should have notified that **claim** under any preceding policy but did not do so, if the indemnity or cover under **your policy** is greater or wider in scope than the preceding policy (whether insured by **us** or not), **we** will only cover **you** to the amount and extent as would have been provided by the preceding policy
 - b regardless of whether or not clause 2a applies, where **we** can demonstrate that if **you** had complied with **your** duty to make a fair presentation of the risk to **us**
 - 1 **we** would not have written **your policy**, or
 - 2 **we** would have written **your policy** but on different terms and conditions

we will be entitled to charge a just and equitable additional premium in light of the prejudice caused to **us** by **your** failure to comply with that duty

- c except as set out in 2a and 2b above, **we** will only be entitled to any remedy where **your** failure to comply with **your** duty to make a fair presentation of the risk to **us** was deliberate or reckless.
- 3 If **you** breach or fail to comply with
 - a the Admission of liability condition
 - b the Claim control and co-operation condition
 - c the Claim notification condition

of **your policy** and that breach or failure adversely affects **our** ability to handle or settle any **claim**, **we** will be entitled to reduce the amount **we** will pay for that **claim** (including defence costs) to an amount that is just and equitable relative to the extent to which **our** ability to handle or settle the **claim** has been affected by **your** breach or failure.

Instalments condition

If **you** fail to pay a premium instalment to **us** on the date due, this will result in **your policy** being cancelled from the date the missed instalment was due. **You** will not be entitled to any return of premium where this happens.

If a **claim** or **claim circumstance** has been notified to **us** during the current **period of insurance**, the annual premium remains due in full.

Law applicable to this policy condition

You and **we** can choose the law which applies to this **policy**. **We** propose that the Law of England and Wales apply. Unless **we** and **you** agree otherwise, the Law of England and Wales will apply to this **policy**.

Loss of documents notification condition

You must tell **us** as soon as possible within the **period of insurance** when **you** discover any loss or damage to **your** own **documents**.

Ombudsman referral condition

You must tell **us** in writing as soon as possible and within the **period of insurance** when **you** become aware that a case directly affecting **you** has been referred to any ombudsman for review or other inquiry.

Other insurance condition

If a **claim** is made under this **policy** and there is other insurance cover under which **you** are, or would be but for this **policy**, entitled to have a **claim** paid, **we** will not pay the **claim** or **defence costs** except for any amount over and above the amount payable by the other insurance policy or policies.

RICS Difference in conditions

This **policy** is designed to provide the minimum insurance requirements of the Royal Institution of Chartered Surveyors as per the Approved Minimum Wording. However, for the avoidance of doubt, it is specifically understood and agreed that the cover provided by this **policy** will be no less favourable and provide no less protection to **you** than the Approved Minimum Wording.

Any dispute between **us** and **you** as to whether the cover under this **policy** is in any respect less favourable or gives less protection to **you** than the Approved Minimum Wording would, shall be referred by either **you** or **us** for arbitration in accordance with English law and procedure to any person nominated by the current President of the Royal Institution of Chartered Surveyors, whose decision shall be binding on both **you** and **us**.

Sanctions condition

This contract of insurance is subject to sanction, prohibition or restriction under United Nations resolutions. It is a condition of **your policy** that **we** will not provide cover, or pay any **claim** or provide any benefit under **your policy** to the extent that the provision of such cover, payment of such **claim** or provision of such benefit would expose **us**, or **our** parent, subsidiary or any AXA group member company, to any trade or economic sanctions, or violate any laws or regulations of the United Kingdom, the European Union, the United States of America or any other territory.

Subrogation (our rights) condition

We will be entitled to undertake in **your** name or on **your** behalf steps to enforce rights against any other party before or after any payment is made by **us**.

We will not exercise any right of subrogation against **you** unless **we** have made payment brought about or contributed to by any dishonest, fraudulent or malicious act or omission made by **you**, or if **you** conspired to commit or condone any such dishonest, fraudulent or malicious act or omission.

You must take all reasonable steps not to enter into any contract or other agreement that restricts **your** rights of recovery in respect of any **claim** that may be covered by this **policy**.

Third party rights condition

The Contract (Rights of Third Parties) Act 1999 does not apply to this **policy**.

✓ What is covered

We will cover **you** for any **claim** and **defence costs** that arise from the conduct of **your professional business**, where the **claim** is first made against **you** and notified to **us** during the **period of insurance**, arising from

- 1 a breach of **your** professional duty
- 2 negligent misstatement or misrepresentation
- 3 unintentional libel, slander or defamation
- 4 unintentional breach of or misuse of confidentiality or any right to privacy
- 5 any liability **you** incur as a result of a decision by an adjudicator appointed to resolve a dispute in line with the Scheme for Construction Contracts as contained in the Housing Grants Construction and Regeneration Act 1996, or an adjudication clause contained in a contract
- 6 any award by an arbitrator or tribunal of arbitrators, including the Royal Institution of Chartered Surveyors Dispute Resolution Service
- 7 any other civil liability that **you** incur.

The most **we** will pay for **loss** resulting from each **claim** is the **limit of indemnity**.

We will pay **defence costs** in addition to the **loss**. If the amount of **loss** exceeds the **limit of indemnity**, the most **we** will pay for **defence costs** will be an amount in the same proportion that the **limit of indemnity** has to the **loss**.

Asbestos cover

For any **claim** or **claim circumstance** arising directly or indirectly from the actual or possible dispersal or presence of **asbestos**, **we** will pay the costs of

- 1 rectification
- 2 redemption
- 3 decrease in value

caused by that actual or possible dispersal or presence of **asbestos** but only where that **claim** or **claim circumstance** arises from **your** negligent act, negligent error or negligent omission. Where that **claim** relates to a decrease in value, **we** will only cover the decrease that arises from a survey that **you** performed and where that survey was not an **asbestos survey**.

The most **we** will pay for all **claims** and **defence costs** arising directly or indirectly from **asbestos** in any one **period of insurance** is £250,000.

Any amounts **we** pay for such **asbestos claims** or **asbestos claim circumstances** are not additional to and do not increase the **limit of indemnity**.

Collateral warranties cover

We will cover **you** for any **claim** first made against **you** and notified to **us** within the **period of insurance** arising from **your** performance of obligations agreed by **you** under a **collateral warranty**.

The most **we** will pay for Collateral warranties cover resulting from each **claim** is the **limit of indemnity**.

Court attendance costs cover

In the event that any of **your** directors, partners, members, principals, **employees** or any other relevant parties (but not expert witnesses) are required to attend court, mediation or arbitration in connection with a **claim** that is covered by this **policy**, provided that **we** have first given **our** written consent, **we** will pay compensation to **you** at £300 per day or part of day for each person required to attend.

The most **we** will pay for all Court attendance costs cover in any one **period of insurance** is £15,000. This is in addition to the **limit of indemnity**.

Dishonesty and fraud cover

We will cover any **claim** arising out of a dishonest or fraudulent act or omission that arises by reason of, and was solely and directly caused by, the actual or allegedly dishonest or fraudulent act or omission of any past or present partner, director, member, consultant or **employee of yours** (whether committed alone or in collusion with others) that cause any client of **yours** to suffer loss.

Any dishonesty or fraud committed by people acting together will be treated as one **claim**.

The most **we** will pay for **loss** resulting from each **claim** that arises out of any dishonest or fraudulent act or omission is the **limit of indemnity**.

We will pay **defence costs** in addition to the **loss** that arises out of any dishonest or fraudulent act or omission. If that **loss** amount exceeds the **limit of indemnity**, the most **we** will pay for **defence costs** will be the same proportion that the amount the **limit of indemnity** has to the **loss** amount.

Estate agents and safety legislation costs cover

We will pay on **your** behalf 80% of **estate agents and safety legislation costs** that **you** incur with **our** prior written consent to defend any proceeding first made against **you** and notified to **us** during the **period of insurance**. We will only pay these costs where, in **our** reasonable opinion, defending that proceeding could protect **you** against a **claim** or potential **claim** arising from **your professional business**.

The most **we** will pay for all **estate agents and safety legislation costs** in any one **period of insurance** is £100,000.

Legal representation costs cover

We will pay on **your** behalf 80% of **your legal representation costs** arising from a **claim** or **claim circumstance** first made during the **period of insurance** and from **your professional business**.

The most **we** will pay for all **legal representation costs** in any one **period of insurance** is £25,000.

Loss of documents cover

We will cover **you** for any **claim** and **defence costs** that arise from the conduct of **your professional business**, where the **claim** is first made against **you** and notified to **us** during the **period of insurance**, arising from the destruction, loss or damage of any **documents**.

We will pay reasonable costs and expenses for replacing or restoring **your** own **documents** that have been destroyed, lost or damaged in the conduct of **your professional business** provided that the destruction, loss or damage is discovered by **you** and notified to **us** during the **period of insurance**.

An **excess** of £500 (or the amount shown in **your** schedule if that is lower) will apply to each and every **claim** for loss of **documents**.

Ombudsman awards cover

We will cover **you** for any **ombudsman award** that arises from a **claim** or **claim circumstances** arising from the conduct of **your professional business** and first made against **you** and notified to **us** during the **period of insurance**.

The most **we** will pay for all **ombudsman awards** in any one **period of insurance** is £250,000.

Pollution cover

For any **claim** or **claim circumstance** that arises directly or indirectly from **pollution**, **we** will only pay the costs of re-designing, re-specifying, remedying or rectifying a structure and will only pay where that **pollution**

- 1 arises from **your** negligent design, negligent specification or failure to report a structural defect
and
- 2 does not result directly or indirectly from any **environmental audit** carried out by **you**.

The most **we** will pay for all **claims** and **defence costs** arising directly or indirectly from **pollution** in any one **period of insurance** is the **limit of indemnity**.

Any amounts **we** pay for such **pollution claims** or **pollution claim circumstances** are not additional to and do not increase the **limit of indemnity**.

Defence and settlement of claims

All **claims** that come from the same act, error or omission or series of acts, errors or omissions, as a result of, or arising directly or indirectly from the same source or original cause, will be regarded as one **claim**.

Where any **ombudsman award** is rejected by the claimant who then pursues the matter through the courts, both the complaint to the ombudsman and all subsequent court proceedings shall be treated as a single **claim** made at the date of the first **claim** against **you**.

If **we** cover more than one person, firm, company or organisation, **our** liability to all, as a result of one **claim**, will not be more than the **limit of indemnity**.

We may at any time pay the **limit of indemnity** or relevant sub-limit in relation to any **claim**. **We** will then have no further liability for that **claim** or associated **defence costs** except those already incurred at the date of payment of the **limit of indemnity** or sub-limit.

We have the right, but not the obligation, to take control of the **claim** and conduct the investigation, settlement or defence in **your** name. After taking into account the commercial considerations of the costs of defence, **we** may choose to settle a **claim** instead of defending it.

If **we** feel it is necessary, **we** will appoint **our** adjuster, solicitor or other appropriate person to deal with the **claim**. If **you** ask **us**, **we** may agree to appoint **your** solicitor, but only if **we** are satisfied that **your** solicitor has the necessary expertise to undertake this work, only on a similar fee basis as **our** solicitor and only for work done with **our** prior written approval.

After taking into account the commercial considerations of the costs of defence, **we** may choose to settle a **claim** instead of defending it if **we** do not think there is a reasonable prospect of success.

If **you** disagree with **our** proposed course of action for any legal proceedings (whether defence or prosecution), then **you** may refer the matter to a Queen's Counsel of the English Bar to be mutually agreed between **you** and **us**. If **you** and **we** cannot agree on the Queen's Counsel to be appointed, then the Queen's Counsel will be appointed by the current Chairman of the English Bar or their representative. The Queen's Counsel's decision on how the legal proceedings should be handled shall be binding on **you** and **us**. In resolving this dispute, the Queen's Counsel will have consideration for the interests of **you** and **us**. The costs of this exercise will be allocated by the agreed or appointed party on a fair and equitable basis.

If **you**

- 1 do not comply with the Claim notification condition or the Claim circumstance condition
- 2 do not disclose information relevant to this insurance and/or
- 3 make a statement that is incorrect

and that affects **our** ability to handle or settle **your claim** or **claim circumstance**, or increases the **defence costs**, **we** may reduce the amount **we** will pay to an amount that **we** would have been required to pay if **you** had met that condition, disclosed the information or made the correct statement.

This does not affect any other condition in this **policy** and this will not apply to **ombudsman awards**.

Where **we** wish to reduce the amount **we** will pay to an amount that **we** believe **we** would have been required to pay and where **you** disagree with **us** about the amount, **you** may refer the matter to arbitration in accordance with the law and procedures of England and Wales to any person nominated by the current President of the Royal Institution of Chartered Surveyors. That nominated person's decision will be binding on **you** and **us**.

X What is not covered

Adjudication exclusion

We will not cover

- 1 any decision made against **you** by an adjudicator who was not independent of the parties to the dispute
- 2 any **claim** or **claim circumstance** arising out of or related to any adjudication arising from an adjudication clause in a contract that contains timetable provisions for adjudication that are more onerous to **you** than those contained in the Scheme for Construction Contracts referred to in the Housing Grants Construction and Regeneration Act 1996.

Arbitration exclusion

We will not pay any arbitration award (whether made under the Royal Institution of Chartered Surveyors Dispute Resolution Service or otherwise) made for any **claim** or counterclaim where the seat of the arbitration was located outside England, Wales, Scotland or Northern Ireland, unless that seat was agreed by **us**.

Asbestos exclusion

We will not cover any **claim** arising directly or indirectly from or in any way connected with **asbestos** other than as stated in the Asbestos cover on page 11.

We will not cover any **injury** or fear of suffering **injury** arising directly or indirectly from **asbestos**.

Associated persons or entities exclusion

We will not cover any **claim** brought by

- 1 a firm, company or organisation with a financial interest in **you**
- 2 a firm, company or organisation in which any of **your** partners, directors or principals have a controlling interest
- 3 any firm, company, organisation or individual who fails within the definition of **you** above

unless the **claim** originates from a source independent of that firm, organisation or individual.

Directors' and officers' liabilities exclusion

We will not cover any **claim** made against **you** or **your** directors, officers or trustees for breach of their duties as director, officer or trustee.

Dishonesty and fraud exclusion

We will not cover any **claim** directly or indirectly involving dishonesty or fraud committed by **you** other than as stated in the Dishonesty and fraud cover on page 12.

Notwithstanding the above, **we** will not cover any **claim** arising out of dishonesty or fraud on the part of any person after **you** discover, in relation to that person, reasonable cause for suspicion of fraud or dishonesty.

Employment exclusion

We will not cover any **claim** arising out of any kind of employment related dispute or any kind of defamation, discrimination, harassment or unfair treatment relating to any current, former or prospective **employees**.

Excess exclusion

We will not pay the **excess** shown in **your** schedule.

The **excess** does not apply to **defence costs**, Court attendance costs cover, Legal representation costs cover or Estate agents and safety legislation costs cover.

The **excess** applicable to Loss of documents cover is as stated under the Loss of documents cover on page 12.

You will only pay one **excess** for **claims** from the same act, error or omission (or series of acts, errors or omissions) that arise directly or indirectly from the same source or original cause.

Extended liability exclusion

We will not cover **extended liability** other than as stated in the Collateral warranties cover on page 11.

In respect of any liability **you** incur under a **collateral warranty**, **we** will not cover any **claim** that arises from

- 1 **your** acceptance of an obligation, or a guarantee **you** provide, of fitness for purpose where this appears as an express term
- 2 any express guarantee **you** give including any relating to the period of a project
- 3 any express penalty contained in a contract between **you** and another party
- 4 any express acceptance **you** give of liability for liquidated damages.

We will not cover any liability that arises as a result of any assignment of a **collateral warranty** or duty of care agreement to more than one party, except in the case of a **collateral warranty** or duty of care agreement given to a financier or funding party, but not a purchaser or tenant, where a total of two assignments is permissible. This is only applicable to contracts entered into on or after 1 October 2001.

This exclusion will not apply if

- 1 **you** would have been liable even in the absence of any express agreement
- 2 **we** have approved in writing the contractual terms giving rise to the liability, or
- 3 in the case of a **collateral warranty** or duty of care agreement, the British Property Federation or Construction Industry Council's current or former standard **collateral warranty** wording is used.

Failure to duplicate data exclusion

We will not pay for **your** own **documents** that are stored on a computer system or in any other magnetic or electronic form unless those **documents** are duplicated on at least a daily basis, with the intention that the duplicate can be used to restore the **documents** in the event of loss or damage.

The most **we** will pay for loss of **documents** is the **limit of indemnity**.

Financial services exclusion

We will not cover any **claim** arising out of any Regulated Activities as defined in the Financial Services and Markets Act 2000 as amended from time to time.

This exclusion will not apply to mortgage mediation activity and insurance mediation activity relating to general insurance contracts,

but only where **you** have permission pursuant to Part IV of the Financial Services and Markets Act 2000 to undertake such activities.

Fines and penalties exclusion

We will not cover any fines, penalties, punitive, multiple, aggravated or exemplary damages awarded against **you**.

Goods supplied exclusion

We will not cover any **claim** arising out of the supply of any goods by **you**, or products manufactured, constructed, altered, repaired, treated, sold, supplied or distributed by **you**.

This exclusion does not apply to project models or displays.

Injury exclusion

We will not cover any **claim** for **injury** to any **employee** suffered in the course of their employment by **you** or on **your** behalf.

Insolvency exclusion

We will not cover any **claim** arising out of or relating solely to **your** insolvency or bankruptcy or any **claim** made by **your** liquidator, provisional liquidator or administrator.

This exclusion will not apply to

- 1 any **claim** for monies held on behalf of third parties
- 2 any **claim** that otherwise would be covered by this **policy** if it were not for **your** insolvency or bankruptcy.

Market fluctuation exclusion

We will not cover any **claim** relating to the financial return of any investment or the depreciation or loss of investments when that financial return, depreciation or loss is caused by normal or abnormal fluctuations in any financial, stock, commodity or other markets that are outside **your** influence or control.

This exclusion will not apply to **professional business** performed in connection with the survey or valuation of any tangible property.

North American jurisdiction exclusion

We will not cover any **claim** instituted or pursued

- 1 within the United States of America or Canada or any territories which come within the jurisdiction of the United States of America or Canada or in which it is contended that the laws of the United States of America or Canada should apply and/or
- 2 to enforce a judgment 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.

Ombudsman awards exclusion

We will not pay any **ombudsman awards** except for those covered by the Ombudsman awards cover explained in page 12.

Pollution exclusion

We will not cover any **claim** directly or indirectly involving **pollution** other than as stated in the Pollution cover on page 12.

Previous claims exclusion

We will not cover any **claim** or **claim circumstance**

- 1 that has been notified under any other policy before the start of this **policy**
- 2 that **you** were aware of or should have been aware of before the start of this **policy**

other than as stated in the Non-disclosure and misrepresentation condition.

Property ownership or use exclusion

We will not cover any **claim** arising from the ownership, possession, leasing or use of any land or building structure or any other property or goods whether mobile or immobile.

Radioactive contamination exclusion

We will not cover any **claim** arising directly or indirectly from

- 1 ionising radiation or contamination by radioactivity from any irradiated nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel

- 2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or its nuclear component.

Retroactive date exclusion

We will not cover any **claim** arising from the performance of **your professional business** carried out before the **retroactive date** as shown in **your** schedule.

Surveys and valuations exclusion

We will not cover any **claim** arising out of

- 1 a survey, unless it was undertaken by
 - a anyone who is
 - i a Fellow, Professional member, Technical Member or Associate Member of the Royal Institution of Chartered Surveyors (RICS)
 - ii a Fellow or Associate of the Incorporated Society of Valuers and Auctioneers (ISVA)
 - iii a Fellow or Associate of the Architects and Surveyors Institute (ASI)
 - iv a Fellow or Associate of the Faculty of Architects and Surveyors (FFAS)
 - v a Fellow or Associate of the Royal Institute of British Architects
 - vi a Fellow or Associate of the Royal Incorporation of Architects in Scotland
 - b anyone who has not less than five years' experience of survey work or
 - c any other person delegated by the person, firm, company or organisation shown in **your** schedule as the insured to undertake survey work, but only if
 - i supervision of that work is provided by a person qualified in line with **a** or **b** above or
 - ii **we** have first provided written agreement

- 2 a survey undertaken in connection with the production of an Energy Performance Certificate, unless it was undertaken by an energy assessor accredited by any organisation approved by the Department for Communities and Local Government to provide that accreditation
- 3 a survey undertaken in connection with the production of a Home Condition report, unless it was undertaken by anyone who has a diploma in Home Inspection from the Award Body of the Built Environment
- 4 a valuation produced before 30 April 2011, unless it was undertaken by a person qualified in line with **1a**, **1b** or **1c** above
- 5 a valuation produced after 30 April 2011
 - a unless it was undertaken or supervised by a RICS Registered Valuer and in accordance with RICS Valuation Standards PS 1
 - b where the RICS Valuation Standards do not apply, unless it was undertaken by a person qualified in accordance with **1a**, **1b** or **1c** above

Territorial limits exclusion

We will not cover any **claim** arising from the performance of **your professional business** outside the **territorial limits**.

Terrorist act exclusion

We will not cover any **claim** directly or indirectly involving any **terrorist act**.

Trading losses exclusion

We will not cover any **claim** arising out of trading losses or trading liabilities incurred by **you** or any of **your** businesses.

War risk exclusion

We will not cover any **claim** arising from or happening through war, invasion, act of foreign enemy, hostilities, whether war is declared or not, civil war, rebellion, revolution, insurrection or military or usurped power.

Making a complaint

AXA Insurance aims to provide the highest standard of service to every customer.

If **our** service does not meet **your** expectations **we** want to hear about it so **we** can try to put things right.

All complaints **we** receive are taken seriously. Following the steps below will help **us** understand **your** concerns and give **you** a fair response.

Making your complaint

The majority of complaints can be resolved quickly and satisfactorily by the department **you** are dealing with. If **your** complaint relates to a **claim** on **your policy**, please contact the department dealing with **your claim**. If **your** complaint relates to anything else, please contact the agent or AXA office where **your policy** was purchased. Telephone contact is often the most effective way to resolve complaints quickly.

Alternatively **you** can write to **us** at

AXA Insurance complaints:



AXA Insurance
Commercial complaints
AXA House
4 Parklands
Lostock
Bolton
BL6 4SD

All claims complaints:



Telephone: **01204 815359**



Email: **commercial.complaints@axa-insurance.co.uk**

When **you** make contact please tell **us** the following information:

- Name address and postcode, telephone number and e-mail address (if **you** have one).
- **Your policy** and/or **claim** number, and the type of policy **you** hold.
- The name of **your** insurance agent/firm (if applicable).
- The reason for **your** complaint.

Any written correspondence should be headed 'COMPLAINT' and **you** may include copies of supporting material.

Beyond AXA

Should **you** remain dissatisfied following **our** final written response, **you** may be eligible to refer **your** case to the Financial Ombudsman Service (FOS).

The FOS is an independent body that arbitrates on complaints about general insurance products. The FOS can only consider **your** complaint if **we** have given **you our** final decision.

You have six months from the date of **our** final response to refer **your** complaint to the FOS. This does not affect **your** right to take legal action.

The Financial Ombudsman Service



Financial Ombudsman Service
Exchange Tower
Harbour Exchange Square
London
E14 9SR



Telephone: **0800 023 4567***
or **0300 123 9123****
Fax: **0207 964 1001**



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

Website: **www.financial-ombudsman.org.uk**

* free for people phoning from a 'fixed line' (for example, a landline at home)

** free for mobile phone users who pay a monthly charge for calls to numbers starting 01 or 02

Our promise to you

We will

- Acknowledge written complaints promptly.
- Investigate **your** complaint quickly and thoroughly.
- Keep **you** informed of progress of **your** complaint.
- Do everything possible to resolve **your** complaint.
- Acknowledge when **we** have made a mistake and learn from them.
- Use the information from complaints to continuously improve **our** service.

Financial Services Compensation Scheme (FSCS)

AXA Insurance UK plc are covered by the Financial Services Compensation Scheme (FSCS). **You** may be entitled to compensation in the unlikely event **we** cannot meet **our** obligations to **you**. This depends on the type of insurance, size of the business and the circumstances of the **claim**. Further information about the compensation scheme arrangements is available from the FSCS (www.fscs.org.uk).

**This document is available in
other formats.**

If you would like a Braille, large print
or audio version, please contact your
insurance adviser.

www.axa.co.uk

