



Public and Products Liability Excess Layer Policy Wording



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PUBLIC AND PRODUCTS LIABILITY EXCESS LAYER POLICY WORDING

INTRODUCTION

In return for payment of the premium shown in the **Schedule**, the **Insurer** agrees to insure the **Insured**, for amounts which the **Insured** are legally liable to pay in respect of claims in excess of the **Underlying Limit** and which arise from an event or occurrence, as insured by the **Underlying Insurance**, happening during the **Period of Insurance** in connection with the **Business**.

The indemnity provided by the **Insurer** will be upon the same terms, conditions, exceptions and endorsements as the **Underlying Insurance**, except where amended by this Policy, or by any Endorsement to this Policy.

Wherever the following words appear in bold in this policy they will have the meanings shown in the Definitions page for the relevant section. Any other word or expression given a specific meaning in any part of this Policy, the **Schedule**, or any Endorsement(s), and beginning with a capital letter, shall have the same meaning throughout the Policy.

This document, the **Schedule** and any endorsement(s) attached form the policy.

This document sets out the conditions of the policy between the **Insured** and the **Insurer**. It should be kept in a safe place.

Please read the whole document carefully. It is arranged in different sections. It is important that:

- the **Insured** checks that the sections requested are included in the **Schedule**;
- the **Insured** checks that the information given to the **Insurer** is accurate – see the “Information given to the **Insurer**” section;
- the **Insured** notify their broker as soon as practicable of any inaccuracies in the information they have given;
- the **Insured** complies with their duties under each section and under the insurance as a whole.

Alterations in the cover required, after issue of the Policy, will be confirmed by separate Endorsement(s), which the **Insured** should file with the Policy. The **Insured** should refer to these Endorsement(s) and the Policy to ascertain precise details of cover currently in force. The **Insured** should contact their Insurance Broker who will be able to provide any help or information that might be required.

In witness whereof this Policy has been signed for and on behalf of the **Insurer**.

Authorised Signatory



Russell Brown
Director of Underwriting
GB Underwriting Limited

(GB Underwriting Ltd are authorised and regulated by The Financial Conduct Authority, FRN 304281, and registered in England under company number 4692971)

For and on behalf of the **Insurer** set forth in the Definitions

IMPORTANT INFORMATION – INFORMATION GIVEN TO THE INSURER

In deciding to accept this policy and in setting the terms and premium, the **Insurer** has relied on the information provided. The **Insured** must take care when answering any questions asked by ensuring that all information provided is accurate and complete.

If the **Insurer** establishes that the **Insured** deliberately or recklessly provided the **Insurer** with false or misleading information, the **Insurer** will treat this policy as if it never existed and decline all claims.

If the **Insurer** establishes that the **Insured** carelessly provided the **Insurer** with false or misleading information it could adversely affect the policy and any claim. For example, the **Insurer** may:

- treat this policy as if it had never existed and refuse to pay all claims and return the premium paid. The **Insurer** will only do this if it provided insurance cover which it would not otherwise have offered;
- amend the terms of the insurance. The **Insurer** may apply these amended terms as if they were already in place if a claim has been adversely impacted by the **Insureds** carelessness;
- reduce the amount paid on a claim in the proportion the premium paid bears to the premium the **Insurer** would have charged; or
- cancel the policy in accordance with the Cancellation details within the Policyholder Notices section.

The **Insurer** or insurance broker will write to the **Insured** if the **Insurer**:

- intend to treat the policy as if it never existed; or
- need to amend the terms of the policy.

If the **Insured** becomes aware that information given to the **Insurer** is inaccurate, the **Insured** must inform the broker as soon as practicable.



IMPORTANT INFORMATION - POLICYHOLDER NOTICES

CANCELLATION

The **Insured** can also cancel this policy at any time by writing to the broker.

The **Insurer** can cancel this policy by giving the **Insured** thirty (30) days' notice in writing.

The **Insurer** will only do this for a valid reason (examples of valid reasons are as follows):

- Non-payment of premium;
- A change in risk occurring which means that we can no longer provide insurance cover;
- Non-cooperation or failure to supply any information or documentation we request;
- Threatening or abusive behavior or the use of threatening or abusive language.

REFUND OF PREMIUM

The **Insured** has a statutory right to cancel this policy by writing to the broker within fourteen (14) days of either:

- the date the **Insured** receive this policy; or
- the start of the period of insurance

whichever is the later.

If this insurance is cancelled then, provided the **Insured** has not made a claim, the **Insured** will be entitled to a refund of any premium paid, subject to a deduction for any time for which the **Insured** has been covered. This will be calculated on a proportional basis. For example, if the **Insured** has been covered for six (6) months, the deduction for the time covered will be half the annual premium.

If the **Insured** cancels this insurance outside of the statutory right period, there will be a minimum charge of GBP 50 plus Insurance Premium Tax per GBP million of cover provided by the **Insurer** as stated in the **schedule**.

If the **Insurer** pays any claim, in whole or in part, then no refund of premium will be allowed.

If the **Insured** does not exercise the right to cancel the policy, it will continue in force and will be required to pay the premium.

CLAIMS PROCEDURE AND CONDITIONS

The **Insured** must notify GB Underwriting Ltd via their Insurance Broker as soon as reasonably possible of any event or occurrence which is likely to produce a claim which exceeds 50% of the **Underlying Limit** and provide all such particulars as the **Insurer** may request subsequent to such notice.

The **Insured** shall also give all information and assistance as the **Insurer** may require in connection with any resulting claim against the **Insured** for which an indemnity or **Defence Costs** may possibly be sought under this Policy and permit the **Insurer** to consult with the **Underlying Insurer(s)**.

The **Insurer** shall be under no obligation to make any payment under this Policy unless and until:

- a) all **Underlying Insurers** have agreed their liability to pay the limit of liability or indemnity provided by their respective **Underlying Policies**; or
- b) the **Insured** has, by final court adjudication, been held liable to pay an amount in excess of the **Underlying Limit**

and then only after all **Underlying Insurers** have paid, or been held legally liable to pay, the full amount due from the **Underlying Policies**.

The **Insurer** may at any time, at its sole discretion, pay to the **Insured** the **Limit of Indemnity** (less any sum or sums already paid in respect of a claim under this Policy) or any lesser sum for which the claim, or claims against the **Insured** can be settled and the **Insurer** shall not be under any further liability in respect of such claim or claims, except for other costs and expenses for which the **Insurer** may be responsible and which are incurred prior to such payment.

COMPLAINTS PROCEDURE

It is the **Insurers** intention to provide an excellent service to all of our policyholders. However, there may be occasions when you feel that this has not been achieved. If you are unhappy with any aspect of the service, please contact the Insurers using the below details:

complaints@cna Hardy.com

Please state the nature of your complaint, and, if applicable, the policy and/or claim number, the name of any claim handling organisation with which you have been dealing and its reference number.

If the **Insured** remains dissatisfied after **Insurers** have considered any complaint, and you are an "eligible complainant" as defined by the rules of the Financial Services Authority, you may seek assistance from the Financial Ombudsman Service. The contact details are:

Financial Ombudsman Service
Exchange Tower
London E14 9SR
Tel: 0800 023 4567 or 0300 123 9123
E-mail: complaint.info@financial-ombudsman.org.uk

The Financial Ombudsman Service is an independent service in the UK for settling disputes between consumers and businesses providing financial services. Further information



on the Financial Ombudsman Service is available at www.financial-ombudsman.org.uk.

Making a complaint does not affect The **Insureds** right to take legal action.

COMPENSATION

The **Insurer** is covered by the Financial Services Compensation Scheme (FSCS). The **Insured** may be entitled to compensation from the Scheme if the **Insurer** is unable to meet its obligations to you under this policy. If the **Insured** was entitled to compensation under the Scheme, the level and extent of the compensation would depend on the nature of this policy. Further Information about the Scheme is available from the:

Financial Services Compensation Scheme
10th Floor
Beaufort House,
15 St. Botolph Street
London EC3A 7QU
Website: www.fscs.org.uk.

PROTECTION

Your insurance cover may include cover for individuals who are either insureds or beneficiaries under the policy ("individual insureds"). GB Underwriting and the **Insurer** collect and use relevant information about individual insureds to provide the **Insured** with the insurance cover and to meet our legal obligations.

Your Obligations

To enable us to use individual insureds' details in accordance with applicable data protection laws, we need the **Insured** to provide those individuals with certain information about how we will use their details in connection with the insurance cover.

You, the **Insured**, agree to provide to each individual insured our personal information notice, which we have provided to you below, on or before the date that the individual becomes an individual insured under the insurance cover or, if earlier, the date that you first provide information about the individual to us.

You, the **Insured**, must promptly notify us if an individual insured contacts you about how we use their personal details in relation to the insurance cover so that we can deal with their queries.

Personal Information Notice

The basics:

We collect and use relevant information about you, the **Insured**, to provide the insurance cover that benefits you and to meet our legal obligations. This information includes details such as your name, address and contact details

and any other information that we collect about you in connection with the insurance cover from which you benefit.

In certain circumstances, we may need your consent to process certain categories of information about you (including sensitive details such as information about your health and any criminal convictions you may have). Where we need your consent, we will ask you for it separately.

The way insurance works means that your information may be shared with, and used by, a number of third parties in the insurance sector for example, insurers, agents or brokers, reinsurers, loss adjusters, sub-contractors, regulators, law enforcement agencies, fraud and crime prevention and detection agencies and compulsory insurance databases. We will not keep your information for longer than necessary and will only disclose your information in connection with the insurance cover that we provide and to the extent required or permitted by law.

Other people's details you provide to us:

Where you, the **Insured**, are providing us with personal information about a person other than yourself, you must provide this notice to them.

Your rights

You, the **Insured**, have rights in relation to the information we hold about you, including the right to access a copy of your information. If you wish to exercise your rights or would like more details about how we or insurer(s) use your personal information please see GB Underwriting's full Data Privacy Notice (www.gbunderwriting.co.uk/privacy). A paper copy of the full Data Privacy Notice can be obtained by contacting GB Underwriting by email (info@gbunderwriting.co.uk) or at the address below:

Compliance Department
GB Underwriting Limited
Little Braxted Hall
Little Braxted
Essex
CM8 3EU

RIGHTS OF THIRD PARTIES

A person who is not a party to this policy has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this policy but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

LAW AND JURISDICTION

Unless specifically agreed to the contrary this policy shall be governed by the laws of England and Wales and subject to the exclusive jurisdiction of the courts of England.



SANCTIONS

The **Insurer** shall not provide any benefit under this contract of insurance to the extent of providing cover, payment of any claim or the provision of any benefit where doing so would breach any sanction, prohibition or restriction imposed by law or regulation.

INSURING CLAUSE

LIMIT OF INDEMNITY

The liability of the **Insurer** in respect of:

- a) any one claim, or all claims arising out of any one event or occurrence, or out of all events or occurrences of a series consequent upon, or attributable to one source or original cause;
- b) the total sum of all claims to which an aggregate limit applies in the **Underlying Insurance**;

shall not exceed the **Limit of Indemnity provided that the Underlying Policy(ies)** shall be maintained in full effect during the currency of this

Policy except for any reduction(s) of the aggregate limit(s) contained therein solely by payment of claims during the **Period of Insurance**

DEFENCE COSTS

The **Insurer** will pay for **Defence Costs** incurred with their consent provided that:

- a) if the **Underlying Insurance** provides for **Defence Costs** to be payable in addition to the limit of liability or indemnity, then the **Insurer** will only pay **Defence Costs** in the same proportion that the **Insurer's** payment under the Insuring Clause of this Policy bears to the total sum payable under all contributing insurances excluding **Defence Costs**;
- b) if the **Underlying Insurance** provides for the limit of liability or indemnity to be inclusive of **Defence Costs**, the **Limit of Indemnity** under this Policy shall apply in like manner;
- c) if any **Underlying Insurer** has exercised a right under their insurance to pay the limit of liability or indemnity of the **Underlying Insurance** and only be liable for **Defence Costs** for which they are responsible up to the time of payment, then the **Insurer** will not pay those costs for which that **Underlying Insurer** would have been liable but for the exercise of that right.

EXHAUSTION OF UNDERLYING AGGREGATE LIMIT

Where the **Underlying Limit** operates on an aggregate

basis and becomes reduced or exhausted by reason of any claim or claims made upon the **Underlying Policy(ies)**:

- a) upon reduction, the indemnity provided by this Policy shall apply in excess of the reduced **Underlying Limit**;
- b) upon exhaustion, this Policy shall continue in force in excess of the exhausted limit until expiry of the **Period of Insurance**.

This Policy shall not however operate in excess of any reduced, or exhausted aggregate **Inner Limit** applicable to an **Underlying Policy**.

DEFINITIONS

Business

means the **Insured's** business as described in the **Schedule**.

Defence Cost(s)

means costs and expenses covered by the **Underlying Insurance** and incurred in connection with any event or occurrence to which the **Underlying Insurance** applies.

Inner Limit

means a limit of liability or indemnity within an **Underlying Policy**, which is lower in amount than the full limit applicable to that policy and applicable to a specific aspect of cover, or type of event or occurrence.

Insured

means the person(s) or corporate body(ies) named as such in the **Schedule** of this Policy.

Insurer

means CNA Insurance Company Limited (registered number 950). Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority (firm reference number 202777)

Limit of Indemnity

means the limit as specified in the **Schedule** and is the maximum amount payable by the **Insurer**.

Period of Insurance

means the period specified in the **Schedule**, or such other period(s) as may be agreed by the **Insurer**.

Premium

means the amount payable by the **Insured** specified as such in the **Schedule** or in any Endorsement.

Primary Policy

means the policy which provides the first **Underlying Limit** of liability or indemnity.

Proposal

means any information provided by, or on behalf of the **Insured** in connection with this Policy, and any declaration



made in connection therewith.

Schedule

means the Schedule of Insurance attaching to and forming part of this Policy.

Terrorism

means the actual or threatened:

- i. use of force or violence against persons or property; or
- ii. commission of an act dangerous to human life or property; or
- iii. commission of an act that interferes with or disrupts an electronic or communication system

undertaken by any person or group, whether or not acting on behalf of or in connection with any organisation, government power, authority or military force, when any of the following applies:

- iv. the reasonably apparent intent or effect is to intimidate or coerce a government or business, or to disrupt any segment of the economy; or
- v. the reasonably apparent intent or effect is to cause alarm, fright, fear of danger or apprehension of public safety in one or more distinct segments of the general public, or to intimidate or coerce one or more such segments; or
- vi. the reasonably apparent intent or effect is to further political, ideological, religious or cultural objectives, or to express support for (or opposition to) a philosophy, ideology, religion or culture.

Underlying Insurance

means the **Primary Policy** or, where there is more than one **Underlying Policy**, the policy providing the limit which is immediately below that provided by this Policy.

Underlying Insurer(s)

means the insurer(s) providing the **Underlying Policy(ies)** and identified as such in the **Schedule**.

Underlying Limit

means the sum total of the limits of liability or indemnity provided by the **Underlying Policy(ies)**, which together form the amount in excess of which this Policy applies, as specified in the **Schedule**.

Underlying Policy(ies)

means the **Primary Policy** and all other policies providing insurance in excess of the **Primary Policy** up to an amount at which the indemnity provided by this Policy applies.

United Kingdom

means England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man.

EXCEPTIONS

The **Insurer** shall not indemnify the **Insured** in respect of any liability or **Defence Costs**:

1. **Asbestos**
directly or indirectly arising out of, resulting from, in consequence of, or in any way involving asbestos, or any materials containing asbestos, in whatever form or quantity;
2. **Inner Limit**
in respect of any aspect of cover, or type of event or occurrence, which is subject to the application of an **Inner Limit** in any **Underlying Policy**;
3. **Terrorism**
directly or indirectly caused by, or contributed to by, or arising from or in connection with :
 - a) any act of **Terrorism**, regardless of whether there is another cause which may have contributed concurrently or in any sequence;
 - b) any action taken in controlling, preventing, suppressing or in any way relating to any act of **Terrorism**.

If the **Insurer** alleges that by reason of this Exception any liability or **Defence Cost** is not covered by this insurance, the burden of proving the contrary shall be upon the **Insured**.

4. **War & Kindred Risks**
directly or indirectly occasioned by or in consequence of or arising out of war invasion act of foreign enemy hostilities or warlike operations (whether war be declared or not) civil war rebellion revolution insurrection or military or usurped power or nationalisation confiscation requisition seizure or destruction by order of the Government or any Public Authority except destruction by the order of any Public Authority at the time of and for the purpose of preventing the spread of fire or explosion.

CONDITIONS

1. **Changes to Underlying Policy Terms**
No amendment or change to the terms, conditions, exceptions and endorsements of any **Underlying Policy** shall be imported into, or extend the scope of this Policy, unless agreed in writing by the **Insurer**. The **Insurer** shall not be bound to agree to an amendment or change but, where they do agree, the **Insurer** has the right to charge additional **Premium** or vary the terms of cover granted.
2. **Material Change in the Risk Insured**
This Policy will apply automatically to all of the **Insured's** activities established, created, acquired or disposed of (including premises) during the **Period of Insurance**



but the **Insured** will notify the **Insurer** within thirty (30) days of those alterations that represent a change to the nature of the **Business**.

Where the alteration represents a change to the **Business** or any material information already provided, the **Insurer** reserves the right to accept or deny coverage at the time of notification and to establish a separate rate and **Premium** and, if appropriate, terms to provide coverage for any such change.

3. **Premium Adjustment**

Where the **Premium** is provisionally based on estimates provided by the **Insured**, the **Insured** shall keep accurate records which the **Insurer** shall be allowed to inspect and, within 90 days of the expiry of the **Period of Insurance**, declare such particulars as the **Insurer** may require. The **Premium** shall then be adjusted and any difference paid by or allowed to the **Insured** as the case may be, subject to any minimum **Premium** that may apply.

4. **Insolvency of Underlying Insurer or the Insured**

Any failure or refusal to pay any claim, liability or **Defence Costs** by an **Underlying Insurer**, or the **Insured**, whether due to insolvency, liquidation, or their affairs being subject to any legally approved scheme of administration or for any other reason whatsoever shall, for the purposes of this Policy, not operate to reduce or exhaust any part of the **Underlying Limit**, or to increase the liability of the **Insurer**.

HELPLINE, ADVICE AND DOCUMENT DRAFTING SERVICES

SPECIAL NOTES

1. The services under this section of the Policy are provided by DAS Legal Expenses Insurance Company Limited (DAS).
2. DAS Legal Expenses Insurance Company Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority

HELPLINE & ADVICE SERVICES

The **Insured** can contact DAS's UK-based call centres 24 hours a day, seven days a week. However, DAS may need to arrange to call you back depending on the enquiry. To help DAS check and improve their service standards, DAS record all inbound and outbound calls, except those to the counselling service. When phoning, please tell DAS your policy number.

Legal Advice Service: Call 0844 893 0859

DAS provide confidential legal advice over the phone on any commercial legal problem affecting the **Business**, under the

laws of any European Union country, the Isle of Man, the Channel Islands, Switzerland and Norway.

Wherever possible the Legal Advice helpline aims to provide immediate advice from a qualified legal advisor. However if this is not possible they will arrange a call back at a time to suit you.

DAS's legal advisors provide advice on the laws of England and Wales 24 hours a day, 7 days a week, 365 days a year. Where advice is sought in an area of law beyond this jurisdiction or in respect of very specialist matters, DAS will refer you to one of their specialist advisors. This will include European law and certain areas of law for Scotland and Northern Ireland.

Specialist advice is provided 9am - 5pm, Monday to Friday, excluding public and bank holidays. If calls are made outside these times, DAS will call you back.

Tax advice service: Call 0844 893 0859

DAS offer confidential advice over the phone on any tax matters affecting the **Business**, under the laws of the United Kingdom.

Tax advice is provided by tax advisors 9am - 5pm, Monday to Friday, excluding public and bank holidays. If calls are made outside these times, DAS will call you back.

Counselling service: Call 0844 893 9012

DAS will provide employees of the **Insured** (including any members of their immediate family who permanently live with them) with a confidential counselling service over the phone including, where appropriate, onward referral to relevant voluntary and/or professional services. Any costs arising from the use of these referral services will not be paid by DAS.

The counselling service helpline is open 24 hours a day, seven days a week.

DAS will not accept responsibility if the helpline services are unavailable for reasons DAS cannot control.

ONLINE LAW GUIDE AND DOCUMENT DRAFTING SERVICES

Employment manual: visit www.das.co.uk

The DAS Employment Manual offers comprehensive, up to date guidance on rapidly changing employment law. To view it, please visit www.das.co.uk and select Employment Manual. All the sections of this web-based document can be printed off for your own use. Contact DAS at employmentmanual@das.co.uk with your email address, quoting your policy number and they will contact you by email to inform you of future updates to the information

DAS business law: visit www.dasbusinesslaw.co.uk

Using www.dasbusinesslaw.co.uk you can create ready-to-



sign contracts, agreements and letters in minutes. These documents have been developed by solicitors and can be tailored by you using DAS's smart document builders.

You can also buy legal documents from the site, ranging from simple debt recovery letters to employment contracts.

The service also provides useful tools, articles and information on matters such as new legislation, employment issues, property law and taxation all regularly updated by legal experts to help you keep your business one step ahead. When registering, please enter the following code which will provide you with access to a range of free documents: DAS472301

Online Helpline or Guides Related Complaints

It is always DAS's intention to provide a first class standard of service. However, if you have any cause for complaint or wish to make any enquiry regarding these services, you should, in the first instance, contact your Insurance Broker. If, after following the above procedure, your complaint has not been resolved, you should write to:

Customer Relations Department
DAS Legal Expenses Insurance Company Limited,
DAS House
Quay Side
Temple Back
Bristol BS1 6NH
Registered in England and Wales, number 103274.

Or you can phone DAS on 0844 893 9013 or email them at customerrelations@das.co.uk

(Details of DAS's internal complaint-handling procedures are available on request.)





www.gbunderwriting.co.uk

GB UNDERWRITING

Little Braxted Hall Little Braxted Witham Essex CM8 3EU

T 01376 515702 F 01376 515122 www.gbunderwriting.co.uk

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KURTZ v2 HARDY