



**EXCESS LIABILITY POLICY**  
(XL 04/10)





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### GB Underwriting Division

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In consideration of the Insured, carrying on the Business described in the Schedule and no other for the purposes of this insurance, paying the Premium to ACE EUROPEAN GROUP LIMITED (hereinafter called "the Insurer") and having made a Proposal which shall be the basis of this contract and is deemed to be incorporated herein

The Insurer agrees subject to the same terms and exclusions and conditions (except as regards the premium, settlements and limit/s of liability) as the Primary Policy specified in the Schedule and the terms limits exclusions and conditions contained herein or endorsed hereon to indemnify the Insured against all sums which the Insured shall become legally liable to pay as damages in excess of the Underlying Limit stated in the Schedule in respect of occurrences happening during the Period of Insurance and arising in connection with the Business

The liability of the Insurer under this Policy for all damages payable

- a) as a result of any occurrence or series of occurrences arising directly or indirectly from one source or original cause shall not exceed the Limit of Liability stated in the Schedule
- b) in respect of Products for all occurrences arising during any one Period of Insurance shall not exceed the Limit of Liability stated in the Schedule

This Policy shall constitute the entire contract between the parties, and should be examined and if incorrect returned immediately for alteration

The Insurer will also pay in respect of any occurrence to which this Policy applies

- a) costs and expenses recoverable by any claimant from the Insured
- b) costs and expenses incurred by the Insurer or by the Insured with the consent of the Insurer, apportioned in accordance with Condition 4

In the event that the Underlying Limit applies to either or both categories of costs and expenses as well as damages, the Limit of Liability under this Policy shall apply in the same way

PROVIDED ALWAYS THAT

1. the Primary Policy (and any Underlying Excess Policy/ies) shall be maintained in full effect during the currency of this Policy except for any reduction(s) of the aggregate limit or limits contained therein solely by payment of claims during the Period of Insurance
2. no liability shall attach to the Insurer unless and until the Insurers of the Primary Policy (and any Underlying Excess Policy/ies) have paid or have been held liable to pay the full amount of the Underlying Limit (after making deductions for all recoveries salvages and other valid and collectable insurances) as specified in the Schedule

## Conditions

### 1. Interpretation

This 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 of the Schedule shall bear such meaning wherever it may appear.

### 2. Alteration

No amendment to the Primary Policy or any Underlying Excess Policy making any changes in its terms or conditions shall apply to this Policy until agreed in writing by the Insurer.

### 3. Defence

The Insurer shall not be called upon to assume charge of the investigation or defence of any claim made or suits brought or proceedings instituted against the Insured but shall have the right and be given the opportunity to be associated in the defence and trial of any such claims suits or proceedings relative to any occurrence which in the opinion of the Insurer may create liability on the part of the Insurer under the terms of this Policy.

If the Insurer avails itself of such right and opportunity the Insurer shall do so at its own expense.

### 4. Apportionment of Costs

Costs and expenses incurred by or on behalf of the Insured with the written consent of the Insurer shall be apportioned as follows

4.1 should settlement of any claim or claims become practicable prior to the commencement of trial for not more than the Underlying Limit in respect of damages, or in respect of damages and costs and expenses to the extent that the Underlying Limit applies thereto, then no costs and expenses shall be payable by the Insurer.

4.2 should however the amount for which the said claim or claims could be so settled exceed the Underlying Limit then the Insurer if they consent to the proceedings continuing shall contribute to

the costs incurred by or on behalf of the Insured in the ratio that their proportion of the total claim or claims finally paid bears to the whole amount of such total claim or claims paid

4.3 in respect of the costs not recoverable under any Underlying Policy/ies due to the Insurers thereof having made a payment equal to their total limits of liability the Insurer shall if they consent to the proceedings continuing be liable for that proportion of costs for which such Insurers would have been liable had they not invoked that right

Part 4.2 of this condition does not apply if the Limit of Liability applies to costs and expenses as well as damages.

### 5. Partial or Total Exhaustion

If by reason of the payment of any claim or claims under any Underlying Policy/ies during the Period of Insurance the aggregate of the limit or limits of liability provided by any such Underlying Policy/ies is

5.1 partially reduced then this Policy shall apply in excess of the reduced amount of the Underlying Policy/ies for the remainder of the Period of Insurance

5.2 totally exhausted then this Policy shall continue in force as the Primary Policy until expiry hereof

Provided that this Policy shall not become excess of any reduced or exhausted underlying aggregate limit of liability or aggregate self-insured retention to the extent that such reduction or exhaustion is the result of any liability of a type excluded by this Policy.

### 6. Nuclear Energy Liability Exclusion

This Policy does not apply to liability of whatsoever nature directly or indirectly caused or contributed to by or arising from

6.1 ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of



nuclear fuel

6.2 the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

### 7. Primary Inner Limit

This Policy does not apply to liability of a type which is subject to a limit of liability under the Primary Policy lower than the Primary Limit stated in the Schedule.

### 8. Aggregate limit

Subject always to Condition 7 the Limit of Liability stated in the Schedule shall apply in the aggregate in respect of all occurrences arising during any one Period of Insurance where liability is of a type which under the Primary Policy is subject to an aggregate limit of liability applying to the Period of Insurance.

### 9. Policy Response

In circumstances where the Primary Policy applies criteria different to those applicable to this Policy in determining under which Period of Insurance a claim is admissible, this Policy shall be subject to the same criteria.

Provided that in respect of liability to which an aggregate Limit of Liability applies under this Policy to any one Period of Insurance the liability of the Insurer for all damages payable pertaining to any one Period of Insurance shall not exceed the Limit of Liability stated in the Schedule.

### 10. Adjustment

If any part of the Premium is calculated on estimates furnished by the Insured, the Insured shall keep an accurate record containing all particulars relative thereto and shall at all times allow the Insurer to inspect such record.

The Insured shall within one month from the end of the Period of Insurance furnish to the Insurer such particulars and information as the Insurer may require.

The premium for such period will thereupon be adjusted and the difference paid by or allowed to the Insured as the case may be.

### 11. Notice of Occurrence

It is a condition precedent to any liability of the Insurer under this Policy that in the event of an occurrence reasonably likely to produce a claim which exceeds 50% of the Underlying Limit the Insured shall give written notice as soon as practicable to the Insurer.

Such notice shall contain particulars sufficient to identify the Insured and fullest information obtainable at the time.

### 12. Discharge of Liability

The Insurer may at its sole discretion in respect of any occurrence covered by this Policy pay to the Insured the Limit of Liability applicable to such occurrence (but deducting therefrom any sum or sums already paid), or any lesser sum for which the claim or claims arising from such occurrence can be settled and the Insurer shall thereafter be under no further liability in respect of such occurrence except for the payment of costs incurred prior to the date of such payment and for which the Insurer may be responsible hereunder.

### 13. Cancellation

This Policy may be cancelled in accordance with the terms of the Primary Policy or by the Insurer sending not less than 30 days' notice thereof by recorded delivery letter to the Insured at the Insured's last known address. In such event the Insurer shall make a return of the proportionate part of the premium in respect of the unexpired Period of Insurance from the effective date of cancellation or if the premium has been based wholly or partly on any estimates the premium shall be adjusted in accordance with Condition 10.

Where any premium payable by direct debit instalments is not received, the Insurer will request payment for that unpaid premium in writing. If payment is not received within 15 days of that request, the Policy will be cancelled with effect from the date on which the initial unpaid direct debit was due.

### 14. Choice of Law

This Policy of insurance shall be governed by and construed in accordance with the laws of England and Wales and the Commercial Court, Queen's Bench Division of the High Court of Justice, Royal Courts of Justice, The Strand, London WC2A 2LL shall have exclusive jurisdiction in respect of any dispute arising under or in connection with this Policy, including any dispute as to the formation or validity of the Policy.

### 15. Contracts (Rights of Third Parties) Act

A person or company who is not a party to this Policy has no rights under the Contracts (Rights of Third Parties) Act 1999 in respect of this Policy. This condition does not affect any right or remedy which exists or is available notwithstanding such Act.

### 16. Asbestos Exclusion

This Policy does not apply to any loss demand claim or suit arising out of or related in any way to asbestos or asbestos containing materials

The Insurers shall have no duty of any kind with respect to any such loss demand claim or suit

This Exclusion applies to all coverages under this Policy

## Definitions

### 1. Underlying Policy/ies

Underlying Policy/ies means

1.1 the Primary Policy specified in the Schedule, and

1.2 any Underlying Excess Policy/ies.

### 2. Underlying Excess Policy/ies

Underlying Excess Policy/ies means those excess liability policies the details of which have been supplied to the Insurer.

### 3. Underlying Limit

The Underlying Limit is as stated in the Schedule and consists of the total of the limit or limits of liability provided by the Underlying Policy/ies.

### 4. Proposal

For the purposes of this Policy, Proposal means any information in connection with this insurance supplied by or on behalf of the Insured whether at the time of acceptance or prior or subsequent thereto.

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### 5. Products

Products means products or goods as defined in the Primary Policy but where there is no such definition in the Primary Policy, Products shall mean anything sold supplied altered constructed repaired serviced designed tested installed or processed by or on behalf of the Insured including containers packaging and labelling and which is not

in the possession of the Insured at the time of the occurrence.

### 6. Period of Insurance

Period of Insurance means the period stated in the Schedule or any subsequent period for which the Insured shall have paid and the Insurer shall have accepted a renewal premium.

## Our commitment to you

- We will make sure all the information we give you will be clear fair and accurate
- We will always try to be fair and reasonable whenever you need the

protection of this policy

- We will also act promptly to provide that protection

## Our customer care policy

This Insurance is committed to delivering the highest standards of customer care. We are always interested in your feedback and you can contact us by post, e-mail or telephone.

This Insurance

Underwriting Director  
Pearl Assurance House  
15-17 Waterloo Road  
Wolverhampton  
West Midlands  
WV1 4DJ

Tel: 0845 601 7920  
Fax: 01902 713777  
E-mail: [enquiries@thisinsurance.co.uk](mailto:enquiries@thisinsurance.co.uk)

## Complaints Procedure

Any complaint you may have regarding your policy should be addressed to the Intermediary who arranged your Insurance Policy, or if you are not satisfied with the way the complaint has been handled, to This Insurance at the address shown above. Please ensure that you provide the details of your policy and in particular your policy number to help us deal with your complaint efficiently and promptly.

Please address your written complaint to either:

Complaints Officer or,  
Underwriting Director

All complaints will be acknowledged, in writing, within 5 days of receipt.

The letter of acknowledgement will include details of when you will receive a formal written response to your complaint.

A full copy of the complaints procedure or dispute resolution procedure can be obtained by contacting This Insurance.

If you still feel that we have been unable to resolve the matter then please write to our Managing Director at the same address.

If this does not provide a satisfactory resolution to your complaint you may contact The Chief Executive of the Insurer at  
Ace European Group Ltd  
100 Leadenhall Street  
London EC3A 3BP

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### Financial Ombudsman Service

If you are still unhappy following receipt of the Insurer's final response in limited circumstances you can refer the dispute to the Financial Ombudsman Service who will review your case on an independent basis.

Those limited circumstances are where the policy is taken out by:

An individual

A business with an annual group turnover of less than GBP1,000,000

A charity with annual income of less than GBP1,000,000 and

A trustee of a trust that has a net asset value of less than GBP1,000,000

The address is:

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

Tel: 0845 080 1800

### Financial Services Compensation Scheme

A C E European Group Limited and This Insurance are covered by the Financial Services Compensation Scheme (FSCS). This means that you may be entitled to receive compensation if we are unable to meet our obligations.

Full details are available from the FSCS at [www.fscs.org.uk](http://www.fscs.org.uk)

If you take any of the action mentioned above it will not affect your right to take legal action.

### Data Protection

ACE European Group Limited and its group companies ('ACE') will use the information supplied during the formation and performance of this Policy for policy administration, customer services, the payment of claims and the production of management information for business analysis. We will keep this information for a reasonable period.

Where sensitive personal data has been disclosed, including any medical or criminal record information, ACE will also use this information for these purposes. ACE are entitled to ask about criminal convictions in relation to insurance risks. There is no obligation to provide ACE with details of any convictions which are spent under the terms of the Rehabilitation of Offenders Act 1974. ACE may also transfer certain information to countries that do not provide the same level of data protection as the UK for the above purposes. A contract will be in place to ensure the information transferred is protected.

ACE may record telephone calls for quality control, fraud prevention and staff training purposes.

When personal or sensitive data is supplied to ACE about third parties other than the Insured, both during the formation and performance of this policy, ACE assumes that those third parties consent to the supply of this information to ACE, to ACE processing this data, including sensitive personal data, and to the transfer of their information abroad. ACE will also assume that the supplier of the information is authorised to receive, on their behalf, any data protection notices.

ACE may share personal and sensitive personal information with the following organisations for the purposes described above:

- our connected companies, service providers, agents and subcontractors

including loss adjusters and claims investigators;

- our reinsurers who use this information to assess the terms of specific policies and to administer our insurance policies generally;
- other insurance companies about other insurance policies you may have;
- the police, other insurance companies, fraud reference agencies and other representative bodies in relation to the prevention and detection of fraudulent claims or as part of our money laundering checks.

We work with the police, other insurance companies, fraud reference and detection agencies and other representative bodies to prevent and detect fraudulent or exaggerated claims. As part of this we will share information about your claims with providers of software designed to assist in the detection of fraudulent claims. We may also use commercially available databases to prevent money laundering.

Other companies may contact these bodies for information to help them make decisions about insurance or similar services they provide to you.

Individuals whose information has been supplied to ACE are entitled to a copy of that information on payment of a fee and to have any inaccuracies corrected. Such information is available by contacting the Data Protection Officer at 100, Leadenhall Street, London EC3A 3BP.

We do not use personal information for marketing purposes, nor do we share it with any other company for marketing purposes, unless consent to do so has been received in writing from you.