Freelancer Tax Enquiry Insurance Policy Wording

Arranged by:
Qdos Broker & Underwriting Services Limited

Underwritten by:
Groupama Insurance Company Limited

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This insurance policy has been arranged by Qdos Broker & Underwriting Services Limited on behalf of:

Groupama Insurance Company Limited, Registered in England No. 995253. Registered Office: 6th Floor, One America Square, 17 Crosswall, London, EC3N 2LB.

Qdos Broker & Underwriting Services Limited and Groupama Insurance Company Limited are authorised and regulated by the Financial Services Authority. This can be checked on the FSA register by visiting the FSA website at **www.fsa.gov.uk/register** or by contacting them on **0845 606 1234**.

This is the Qdos Freelancers Tax Enquiry Insurance Policy. The Policy Schedule, Order Form, Proposal Form and any other information supplied or requested as part of the proposal are incorporated into this Policy. The *insurer* will pay for *professional fees incurred* by the *appointed consultant* when undertaking work on the *policyholder's* behalf in respect of an *insured event* covered by this Policy. This is provided that the claim is notified to the *insurer* during the *period of insurance* or the *notification period* and the claim falls within the *territorial limits*.

Definitions

Words shown in italics have the same meaning wherever they appear in this Policy or the Policy Schedule.

Appointed Consultant
An Accountant or other appropriately qualified person or firm as nominated on the Policy Schedule or as approved by the insurer, who is appointed to represent the *policyholder* in accordance with the terms of this Policy.

Excess
The first amount of any claim specified in the Policy Schedule borne by the *policyholder* in respect of each and every claim.

Incurred
Work undertaken by the *appointed consultant* for which an invoice may or may not have been raised.

Insured Event
The date on which the *policyholder* receives a notification in writing by HMRC of an enquiry or dispute.

Insurer
Groupama Insurance Company Limited or such other insurer as shall from time to time be notified to the *policyholder*.

Limit of Indemnity
The amount specified in the Policy Schedule as the maximum amount payable by the *insurer* in respect of any one claim and in aggregate for all claims made during any *period of insurance*.

Notification Period
The 30 day period commencing on the first day following the expiry of the *period of insurance* during which a claim can be notified, provided the notification is in respect of an *insured event* that occurred during the *period of insurance*.

Period of Insurance
The period for which the *insurer* has agreed to provide this insurance as shown on the Policy Schedule.

Policyholder
The company, firm, partnership, association, individual or any other entity that has paid the appropriate premium, declared by the *appointed consultant* for inclusion in this Policy.

Professional Fees
Any fees, expenses and other disbursements reasonably *incurred* in respect of work undertaken on behalf of the *policyholder* by the *appointed consultant* in connection with any matter falling within the terms and conditions of this Policy and not exceeding the *limit of indemnity*.

Tax Avoidance Scheme
A tax avoidance mechanism that is individually marketed to the *policyholder*, often by a third party, which requires significant implementation costs, is expected to obtain a tax advantage as a main benefit, involves certain employment or financial products and if adopted after the 1 August 2004 will require notification to HMRC under Part 7 of the Finance Act 2004. Some examples include: Employee Benefit Trusts, Soft Currency Loans and Film Partnerships.

Territorial Limits
Great Britain and Northern Ireland, excluding the Isle of Man and the Channel Islands.

Qdos Broker & Underwriting Services Limited
Qdos Broker & Underwriting Services Limited which manages claim settlements on behalf of the *insurer* and to whom any notification of claim must be made. Also an insurance intermediary who has been delegated the authority to bind cover by the *insurer*.

This Policy Will Cover

Professional fees incurred by the *appointed consultant* in respect of:

Section 1. H M Revenue & Customs (HMRC) Enquiries and Disputes
a. A full enquiry by HMRC into the *policyholder's* self-assessment return following the issue of a notice under Section 9A or Section 12AC of the Taxes Management Act 1970 or Schedule 18, paragraph 24 of the Finance Act 1998 which includes a request to examine all the *policyholder's* books and records.
b. An aspect enquiry by HMRC which is limited to one or more specific aspects of the *policyholder's* self-assessment return following the issue of a notice under Section 9A or Section 12AC of the Taxes Management Act 1970 or Schedule 18, paragraph 24 of the Finance Act 1998 which does not include a request to examine all the *policyholder's* books and records.
c. An enquiry by Special Civil Investigations Office under Code of Practice 8 provided that at the culmination of such enquiry it is proved that the *policyholder* was not found guilty of any fraud, fraudulent intent or serious irregularities.

Section 2. HMRC Pay As You Earn (PAYE) Control Visits
A compliance and/or control review or routine inspection undertaken by HMRC into the operation of PAYE.

Section 3. HMRC PAYE Disputes
Any challenge in writing by HMRC of the accuracy or completeness of returns submitted in accordance with the PAYE regulations following a compliance and/or control review or routine inspection undertaken by HMRC into the operation of PAYE.

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Section 4. Chapter 5, Part 5 of the Income Tax (Trading & Other Income) Act 2005 Enquiries

An enquiry by HMRC brought under Chapter 5, Part 5 of the Income Tax (Trading and Other Income) Act 2005.

Sections 1, 2, 3 and 4 include *professional fees incurred* in respect of preparation and representation of the *policyholder* at a HMRC Commissioners' Hearing and provided that the insurer has consented, an appeal against a decision following such a hearing.

Section 5. Value Added Tax (VAT) Disputes

a. An appeal, including the local review procedure, to a VAT and Duties Tribunal, against an assessment or written decision issued by HMRC relating to a *policyholder's* VAT affairs.
b. An enquiry held under Section 60 or 61 of the VAT Act 1994 or any matters handled by the National Investigations Service of HMRC providing that at the culmination of such investigation it is proved that the *policyholder* was not found guilty of dishonesty, fraud or-fraudulent intent.

Section 6. Judicial Review

At the *insurer's* discretion cover will be granted for *professional fees incurred* by the *appointed consultant* in respect of:

a. An application for judicial review where there is no statutory right of appeal against a VAT and Duties Tribunal decision.
b. An application for judicial review following a HMRC Commissioners' Hearing, other than in respect of a status enquiry.

Section 7. Status Enquiries

An enquiry conducted into the status of the *policyholder* under the Social Security Contributions (Intermediaries) Regulations 2000 and/or the Welfare Reform and Pensions Act 1999 and/or the Finance Act 2000 up to and including *professional fees incurred* in respect of preparation and representation of the policyholder at a HMRC Commissioners' Hearing but not professional fees incurred in respect of an appeal against a decision following such a hearing.

Section 8. Chapter 5, Part 5 of the Income Tax (Trading & Other Income)Act Taxes, Interest and Penalties

Any taxes, interest and any additional payments necessarily arising from a settlement, which are both related to the tax to be paid and capable of mitigation, which are imposed upon a *policyholder* or the *appointed consultant* by HMRC in connection with an enquiry by HMRC brought under Chapter 5, Part 5 of the Income Tax (Trading and Other Income) Act 2005.

Section 9. Status Enquiry Taxes and Interest

Any taxes and interest, which may be imposed upon a *policyholder* or the *appointed consultant* by HMRC in connection with an status enquiry as covered in Section 7.

Section 10. Status Enquiry Penalties

Any additional payments necessarily arising from a settlement, which are both related to the tax to be paid and capable of mitigation and which are imposed upon a *policyholder* or the *appointed consultant* by HMRC in connection with a status enquiry as covered in Section 7. Status Enquiries.

This Policy Will Not Cover

Professional fees incurred:

1. Prior to acceptance of a claim by the *insurer*.
2. Where any circumstances of a claim are known of at the inception of this Policy or the time a *policyholder* was declared for inclusion under this Policy about which the *policyholder* or *appointed consultant* knew or ought reasonably to have known was likely to give rise to a claim under this policy.
3. In the event of misrepresentation or misdescription of any material fact submitted by the *insured* in their proposal for this insurance.
4. In respect of any claim under this Policy which is in any respect fraudulent or if any fraudulent means or devices are used by the *insured* or anyone acting on the *insured's* behalf to obtain any benefit under this Policy.
5. If a claim under this Policy is in any respect dishonest or if any dishonest means or devices are used by the *insured* or anyone acting on the *insured's* behalf to obtain any benefit under this Policy.
6. Where an incident arises directly from an enquiry or dispute undertaken by HMRC prior to the commencement of this Policy or the time a *policyholder* was declared for inclusion under this Policy, unless in the case of a renewal of this Policy.
7. Relating to the defence of any criminal prosecution other than as covered in 'This Policy Will Cover,' Section 1 c).
8. Relating to any claim arising from an enquiry into a *policyholder's* tax return or an amendment to a *policyholder's* tax return or any other statutory return that was not submitted within the statutory time limits. In order for the statutory return to be regarded as having been submitted within the statutory time limits, HMRC must have deemed this to be the case and the filing date must not allow HMRC the right to extend their enquiry window beyond the normal time limit of 12 months after the due filing date. Where an amendment to a *policyholder's* tax return or an amendment to any other statutory return is submitted within the 12 months after the due filing date and HMRC execute an enquiry into the return within that 12 months period then this exclusion will not apply.
9. Relating to any claim arising from an enquiry into a *policyholder's* tax affairs, if in the absence of a tax return HMRC has not been notified of chargeability to tax, within the statutory time limits.
10. Relating to any enquiry following the correction of a self-assessment return where the error requiring rectification was due to a deliberate act by the *policyholder* or *appointed consultant* or any other representative or where the *policyholder* refuses HMRC's reasonable request for rectification of the self-assessment return.
11. In respect of the preparation or rectification of self-assessment tax returns, accounts, P11Ds, P35s, VAT returns or any other statutory returns or for any *professional fees incurred* for the routine presentation of the *policyholder's* affairs, including the reconciliation of annual accounts with VAT returns.
12. In respect of any dispute arising under the National Minimum Wage Act 1998 or the Tax Credits Act 1999.
13. In respect of any claim made, brought or commenced outside the *territorial limits*.
14. In respect of any claim notified outside of the *period of insurance* or the *notification period*.
15. In respect of fees of Counsel, unless appointed by the *insurer*, to determine prospects of success.
16. In respect of an appeal following a HMRC General or Special Commissioners' hearing in connection with an status enquiry as covered in 'This Policy Will Cover' Section 7.
17. Any taxes, interest, penalties and fines or any other duties, which may be imposed upon a *policyholder* or the *appointed consultant* other than as covered in 'This Policy Will Cover' Section 8, 9 and 10.
18. Any penalties as covered in 'This Policy Will Cover' Sections 8 and 10 where an additional payment either constitutes a penalty payable in circumstances where Public Policy would prevent the application of Insurance or where the *insured* has deliberately sought to evade tax or where fraud is established.
19. Any taxes, interest or penalties, which are recoverable through Corporation Tax deductions arising in any year.

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Conditions of Cover - General

1. Due Observance
The *insurer* will only make payment under this Policy if the *policyholder* and the *appointed consultant* have complied with the terms and conditions of this Policy.

2. Cancellation
This Policy may be cancelled in writing at any time by the *policyholder* by giving immediate written notice to the *insurer*. The *insurer* may also cancel this Policy by giving 30 days written notice to the *policyholder*. In the event of cancellation the *policyholder* will be entitled to a full refund of premium if the Policy is cancelled within the first 14 days or refund of a proportionate part of the premium corresponding to the un-expired *period of insurance* where the Policy is cancelled after the first 14 days. There will be no refund of premium if the *policyholder* has notified a claim during the *period of insurance*.

3. Disputes
If there is a dispute between the *policyholder* and the *insurer*, both parties shall agree to the appointment of a suitably qualified arbitrator to decide the matter in accordance with the Arbitration Act 1996. If there is no agreement on an arbitrator, an appropriately qualified person shall be appointed by the President of the Chartered Institute of Arbitrators.

The arbitrator shall have the power to apportion costs. The *policyholder's* costs in preparation for and representation at meetings with the arbitrator shall not be recoverable under this Policy.

4. Insolvency of the Policyholder
If the *policyholder* becomes insolvent during the course of any claim or legal proceedings to which the *insurer* has consented the *insurer* shall reserve the right to withdraw consent. The *policyholder* shall be deemed to be insolvent upon the appointment of an office holder within the meaning given by Section 233(1) or 372(1) of the Insolvency Act 1986.

5. Minimising Claims or Legal Proceedings
The *insurer* may restrict the amount claimed if the *policyholder* has not:

a. Taken all reasonable steps to minimise the cost and effect of any enquiry or dispute involving HMRC.
b. Observed the requirement of taxpayers to maintain records as required under the self-assessment regulations and, in the case of a corporate *policyholder*, maintain records and books of account in accordance with the Companies Act and for VAT, maintain records in accordance with Schedule 11 of the VAT Act 1994 and the Value Added Tax Regulations 1995.
c. Given the *appointed consultant* full co-operation and information including a full and truthful account of their affairs and all relevant documentary or other evidence.

6. Offers of Settlement
Where the *policyholder* rejects an offer of settlement, which the *insurer* deems to be reasonable, the *insurer* reserves the right to remove or restrict any further payment of *professional fees*.

7. Tax Avoidance Schemes
Where the *policyholder* has adopted a *tax avoidance scheme*, unless the *insurer* has approved the scheme in question in writing prior to its adoption and any enquiry arising, the costs relating to this part of an enquiry shall be limited to no more than £250.

8. Capital Gains Valuations
Where a valuation is required as a result of an enquiry involving Capital Gains, the *insurer* reserves the right to limit fees relating to a qualified valuation specialist to no more than £250 where the tax return in question was submitted without a proper valuation being carried out by a suitably qualified person.

9. Prepared or Submitted
Where a *policyholder's* most recently submitted tax return was not prepared or submitted by the *appointed consultant* and the return has significant mis-statements or omissions, any claim as a result of an enquiry into that return may be restricted by *insurers* to an amount that would have been payable had there been no significant mis-statements or omissions.

10. Managed Service Companies
Where the Policyholder is deemed by HMRC to be a Managed Service Company, as defined by Chapter 9 of The Income Tax (Earnings and Pensions) Act 2003, no indemnity will be provided in respect of taxes, interest and penalties.

11. Choice of Law
The law applicable to this Policy shall be English Law and the parties hereby agree to submit to the jurisdiction of the Courts of England and Wales.

Conditions of Cover - Claims Settlement

1. Insurer's Consent
Professional fees will only be covered under this Policy if *incurred* with the *insurer's* prior consent.

The *insurer* will give consent in writing or by telephone provided that there are reasonable grounds for representation of the *policyholder* and provided that the *insurer* is satisfied that there are reasonable prospects of the *policyholder* achieving a satisfactory outcome in the enquiry or dispute and that it is reasonable to incur *professional fees*.

Reasonable prospects of the *policyholder* achieving a satisfactory outcome exist if:

a. The *policyholder* has a reasonable prospect of either pursuing or defending a claim.
b. The *appointed consultant* would advise a paying party of moderate financial means to proceed with the claim.
c. The benefits likely to be obtained by proceeding with the claim justify the likely costs.
d. The *appointed consultant* considers it reasonable in all circumstances that the claim should proceed.

Where a claim is made in respect of an status enquiry as covered in 'This Policy Will Cover' Section 7, consent will be given up to and including a HMRC General or Special Commissioners' Hearing, provided the *appointed consultant* has managed the dispute from inception including attendance at the compliance and/or control review or routine inspection undertaken by the HMRC into the operation of PAYE.

The opinion of the *appointed consultant* will be taken into account in determining the prospects of achieving a satisfactory outcome. If the *insurer* is not satisfied that there are prospects of achieving a satisfactory outcome in the enquiry or dispute *insurer's* consent will not be given. If the *policyholder* proceeds without consent and is unsuccessful, *professional fees* will not be covered. If the *policyholder* proceeds and is successful then the *insurer* may indemnify the *policyholder* as if consent had been given subject to the terms and conditions of this Policy.

The *insurer* will withdraw consent if facts become known which mean that a particular claim would not have been accepted under the terms and conditions of this Policy. If the *policyholder* or appointed consultant makes a fraudulent or false claim, this Policy shall become void, any premiums shall be forfeited and any indemnity paid shall be recoverable by the *insurer*.

2. Duty to Notify
The *policyholder or the appointed consultant* must advise the *insurer* of any claim prior to incurring any *professional fees* and during the *period of insurance* or *notification period*.

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3. Initial Consent

In the event of a likely claim:

a. The *appointed consultant or policyholder* will complete a claim form and return it to the *insurer* together with any relevant information.

b. The *insurer* may, following notification authorise fees up to £250 prior to receiving a completed claim form.

c. When the full claim form is received the *insurer* will advise whether consent is given and the amount that has been authorised. The amount authorised must not be exceeded without first obtaining written consent from the *insurer*. If this amount is exceeded without consent any such additional amount may not be covered under this Policy.

4. Information and Particulars

The *insurer* will be entitled to obtain from the *appointed consultant* any information or particulars, whether privileged or not, relating to a claim. On request the *policyholder* will give the *appointed consultant* any instructions necessary to secure the required access.

5. Payment of the Appointed Consultant's Invoices

The *insurer* will pay the *appointed consultant's* invoices for *professional fees* up to the *limit of indemnity* only if satisfied that the charges are reasonable and have been properly *incurred*. Interim invoices will be paid provided the *policyholder* acknowledges that the *insurer* will be entitled to recover such payments if for any reason the cover is deemed void by the *insurer*.

6. Recovery of Costs

Where it is possible for the *policyholder* to recover costs from the relevant authority following the successful defense of a claim, the *policy holder* and the *appointed consultant* must take all steps necessary to recover such costs and must in turn return any indemnity paid to the *insurer*.

7. Settlement by Insurer

Where *professional fees* are likely to exceed the duties that are being claimed against the *policyholder*, the insurer may pay the *policyholder* a sum equivalent to the duties in lieu of *professional fees* or further *professional fees*.

8. Maximum Hourly Charge Out Rates

The *appointed consultant's* hourly charge out rates shall be limited to the respective amounts specified in the Policy Schedule.

9. Value Added Tax

The *insurer* will not be liable to pay any VAT charged by the *appointed consultant* to the *policyholder* where such VAT can be recovered from HMRC.

Making a Claim

Initial notification of a claim must be made in writing by first class post or facsimile or e-mail to:

Qdos Broker & Underwriting Services Limited
Qdos Court
Rossendale Road
Earl Shilton
Leicestershire
LE9 7LY

Telephone: 01455 852100
Facsimile: 01455 841000
Email: claims@qdosconsulting.com

All notices and communications from the *insurer* or their representatives to the *policyholder* shall be deemed to have been sent if posted to the policyholder or *appointed consultant* at the address stated in the Policy Schedule.

All notices and communications from the *policyholder* or the *appointed consultant* to the insurer shall be deemed to have been sent if posted to Qdos Broker & Underwriting Services Limited at the above address. Qdos Broker & Underwriting Services Limited act as representatives to the *insurer*.

Complaints

If you are not satisfied with any aspect of this Policy or our service, you should write to:

Chief Executive Officer
Qdos Broker & Underwriting Services Limited
Qdos Court
Rossendale Road
Earl Shilton
Leicestershire
LE9 7LY

Telephone: 01455 850000
Facsimile: 01455 841000

We promise to:

- Acknowledge your complaint within five days of receiving it;
- Have your complaint reviewed by a senior member of staff;
- Tell you the name of the person managing your complaint; and
- Respond in full to your complaint within 28 days. If this is not possible for any reason, we will write to you to explain why we have not been able to settle the matter quickly. We will also let you know when we will contact you again.

Financial Ombudsman Service

If you are not happy with our final decision, you may be able to pass your complaint to the Financial Ombudsman Service (FOS). The FOS is an independent organisation and will review your case.

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Their address is:

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

Phone: 0800 023 4567 if calling from a landline or 0300 123 9123 if calling from a mobile

You can visit the Financial Ombudsman Service website at www.fos.org.uk.

The ombudsman's service is available to personal policyholders. Their service is also open to charities, trustees and small businesses with income or assets within defined limits. You can get more information from us or the ombudsman.

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

Financial Services Authority

Groupama Insurance Company Limited is authorised and regulated by the Financial Services Authority. You can check their website at www.fsa.gov.uk, which includes a register of all the firms they regulate. Or you can phone them on 0845 606 1234.

Financial Services Compensation Scheme
Groupama Insurance Company Limited, are covered by the Financial Services Compensation Scheme (FSCS).

If they fail to carry out their responsibilities under this policy, you may be entitled to compensation from the Financial Services Compensation Scheme. Information about the scheme is available at www.fscs.org.uk or by phone on 0800 678 1100 or 0207 741 4100.

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