

Construction Industry Scheme Tax Enquiry Insurance Policy Wording



Arranged by: Rhino Trade Insurance

Administered by: ARAG plc on behalf of ARAG Allgemeine Versicherungs-AG Branch UK.

This Policy has been arranged by Rhino Trade Insurance which is a trading style of Rhino Protect Limited and is administered by ARAG plc who is a coverholder of the *insurer*, ARAG Allgemeine Versicherungs-AG Branch UK.

ARAG plc is registered in England number 02585818. Registered address: 9 Whiteladies Road, Clifton, Bristol BS8 1NN.

ARAG plc is authorised and regulated by the Financial Conduct Authority firm registration number 452369. This can be checked by visiting the FCA website at www.fca.org.uk/register.

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This is the Construction Industry Scheme 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

The words explained below will have the same meaning wherever they appear within the Policy or 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.

Computer Virus

A set of corrupting, harmful, or otherwise unauthorised instructions or code, whether these have been introduced maliciously or otherwise, and multiply themselves through a computer system or network of whatsoever nature.

Electronic Data

Facts, concepts and information stored to form useable data for communications, interpretations, or processing by electronic or electromechanical data processing or other electronically controlled hardware, software and other coded instructions for the processing and manipulation of data, or the direction and manipulation of such hardware.

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

ARAG plc who is a coverholder of the *insurer*, ARAG Allgemeine Versicherungs-AG Branch UK.

Limit of Indemnity

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* in respect of any one *policyholder*.

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 named on the Policy Schedule that has paid the appropriate premium.

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*.

Rhino Protect Limited

Rhino Protect 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*.

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 legislation including but not limited to:

1. s.98C Taxes Management Act 1970;
2. s.132A Social Security Administration Act 1992;
3. Part 7 of the Finance Act 2004 (ss 306-319);
4. s.58A and Sch 11A Value Added Tax Act 1994; and,
5. Statutory Instrument 2004/1922.

Territorial Limits

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

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. An enquiry by HMRC into the *policyholder's* corporation tax or income tax self-assessment return following the issue of formal notification by HMRC.
- b. Fees *incurred* in respect of any challenge in writing by HMRC of the accuracy or completeness of returns submitted in accordance with the PAYE regulations following a compliance check or routine inspection undertaken by HMRC into the operation of PAYE.
- c. An enquiry conducted into the employment status of the *policyholder* under the PAYE and/or NIC Regulations or Part 2, Chapter 8 of Income Tax (Earnings and Pensions) Act 2003 (IR35).
- d. 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 1 a), b) and d) include *professional fees incurred* in respect of preparation and representation of the *policyholder* at a Tax Tribunal hearing and provided that the *insurer* has consented, an appeal against a decision following such a hearing. Section 1 c) includes *professional fees incurred* in respect of preparation and representation of the *policyholder* at a Tax Tribunal hearing but does not include *professional fees incurred* in respect of an appeal against a decision following such a hearing.

Section 2. Value Added Tax (VAT) Disputes

- a. A dispute following a compliance check or routine inspection undertaken by HMRC of the *policyholder's* VAT record-keeping.
- b. An enquiry held under Section 60 or 61 of the VAT Act 1994, Schedule 24 Finance act 2007 or Compliance checks under HMRC Notice 160 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.

This Policy Will Not Cover

Professional fees incurred by the appointed consultant:

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 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. Where an incident arises directly from an enquiry or dispute undertaken by HMRC prior to the commencement of this Policy unless in the case of a renewal of this Policy.
4. Relating to attendance at a compliance and/or control review or routine inspection undertaken by HMRC (PAYE/NIC and/or VAT).
5. Relating to the defence of any criminal prosecution.
6. 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.
7. 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.
8. 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.
9. 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.
10. In respect of any dispute arising under the National Minimum Wage Act 1998 or the Tax Credits Act 2002.
11. In respect of any claim made, brought or commenced outside the *territorial limits*.
12. In respect of any claim notified outside of the *period of insurance* or the *notification period*.
13. In respect of fees of Counsel, unless appointed by the *insurer*, to determine prospects of success.
14. Any taxes, interest, penalties and fines or any other duties, which may be imposed upon a *policyholder* or the *appointed consultant* will not be covered by this Policy.
15. In any claim where the *policyholder* has adopted a *tax avoidance scheme*.
16. Directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.
17. In respect of any direct or indirect consequence of terrorism as defined by the Terrorism Act 2000 and any amending or substituting legislation.
18. In respect of any consequence, howsoever caused, including but not limited to *Computer Virus in Electronic Data* being lost, destroyed, distorted, altered, or otherwise corrupted.

19. Directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with:
1. irradiation or contamination by nuclear material; or
 2. the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter; or
 3. any device or weapon employing atomic or nuclear fission and / or fusion or other like reaction or radioactive force or matter.

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

If you decide that for any reason, this policy does not meet your insurance needs then please return it to Rhino Trade Insurance within 14 days from the day of purchase or the day on which you receive your policy documentation, whichever is the later. On the condition that no claims have been made or are pending, we will then refund your premium in full.

If you wish to cancel your policy after 14 days, you will be entitled to a pro-rata return of premium.

We shall not be bound to accept renewal of any insurance and may at any time cancel any insurance document by giving 14 days notice in writing where there is a valid reason for doing so. A cancellation letter will be sent to you at your last known address. Valid reasons may include but are not limited to:

- a. Where we reasonably suspect fraud
- b. Non-payment of premium
- c. Threatening and abusive behaviour
- d. Non-compliance with policy terms and conditions
- e. You have not taken reasonable care to provide complete and accurate answers to the questions we ask.

If we cancel the policy and/or any additional covers you will receive a refund of any premiums you have paid for the cancelled cover, less a proportionate deduction for the time we have provided cover.

Where our investigations provide evidence of fraud or misrepresentation, we may cancel the policy immediately and backdate the cancellation to the date of the fraud or the date when you provided your administrator / your agent with incomplete or inaccurate information. This may result in your policy being cancelled from the date you originally took it out and we will be entitled to keep the premium.

If your policy is cancelled because of fraud or misrepresentation, this may affect your eligibility for insurance with us, as well as other insurers, in the future.

3. Fraudulent Claims / Fraud

You must not act in a fraudulent way. If you or anyone acting for you:

- fails to reveal or hides a fact likely to influence whether we accept your proposal, your renewal, or any adjustment to your policy;
- fails to reveal or hides a fact likely to influence the cover we provide;
- makes a statement to us or anyone acting on our behalf, knowing the statement to be false;
- sends us or anyone acting on our behalf a document, knowing the document to be forged or false;
- makes a claim under the policy, knowing the claim to be false or fraudulent in any way; or
- makes a claim for any loss or damage you caused deliberately or with your knowledge.

If your claim is in any way dishonest or exaggerated, we will not pay any benefit under this policy or return any premium to you and we may cancel your policy immediately and backdate the cancellation to the date of the fraudulent claim. We may also take legal action against you and inform the appropriate authorities.

4. 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.

5. 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.

6. 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.

7. 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*.

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. 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:

1. On the balance of probabilities, the *policyholder* has a 51% or greater chance of successfully pursuing or defending a claim; and
2. The benefits likely to be obtained by proceeding with the claim justify the likely costs.

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 *insurers* 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*.

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 defence of a claim, the *policyholder* 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 e-mail to:

Claims Department
Rhino Protect Limited
Windsor House
Troon Way Business Centre
Humberstone Lane
Thurmaston
Leicestershire
LE4 9HA

Telephone: 01455 852100

Email: claims@rhinoprotectinsurance.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 *Rhino Protect Limited* at the above address. *Rhino Protect Limited* act as representatives to the *insurer*.

How to make a complaint

It is the intention to give you the best possible service but if you do have any questions or concerns about this insurance or the handling of a claim you should follow the Complaints Procedure below:

1. Complaints regarding the sale of the policy:

Please contact Rhino Trade insurance who arranged the Insurance on your behalf.

2. Complaints regarding claims:

Please contact in the first instance:

The Nominated Complaints Handler
Rhino Protect Limited
Windsor House
Troon Way Business Centre
Humberstone Lane

Thurmaston
Leicestershire
LE4 9HA

Tel: 01455 852050

Email: feedback@rhinoprotectinsurance.com

If it is not possible to reach an agreement, *You* have the right to make an appeal to the Financial Ombudsman Service. This also applies if *You* are insured in a business capacity and have an annual turnover of less than £6.5million and which either; have up to 50 employees, or a balance sheet threshold of £5million.. *You* may contact the Financial Ombudsman Service at:

The Financial Ombudsman Service
Exchange Tower
London
E14 9SR

Tel: 0300 123 9 123 or 0800 023 4 567

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

Website: www.financial-ombudsman.org.uk

The above complaints procedure is in addition to *Your* statutory rights as a consumer. For further information about *Your* statutory rights contact *Your* local authority Trading Standards Service or Citizens Advice Bureau.

If *You* have purchased the insurance policy online, *You* may also raise *Your* complaint via the EU Online Dispute Resolution Portal at <http://ec.europa.eu/consumers/odr/>. This will forward *Your* complaint to the correct Alternative Dispute Resolution scheme. For insurance complaints in the UK this is the Financial Ombudsman Service. However, this may be a slower route for handling *Your* complaint than if *You* contact the Financial Ombudsman Service directly.

Compensation Scheme

The *insurer* ARAG Allgemeine Versicherungs-AG Branch UK is covered by the Financial Services Compensation Scheme (FSCS). *You* may be entitled to compensation from the scheme in the unlikely event that the *insurer* cannot meet its obligations. This depends on the type of business and the circumstances of the claim. Most insurance contracts are covered for 90% of the claim with no upper limit. *You* can get more information about compensation scheme arrangements from the FSCS by visiting www.fscs.org.uk.

ARAG Privacy Statement

This is a summary of how we collect, use, share and store personal information. To view our full privacy statement, please see our website www.arag.co.uk

Collecting personal information

ARAG may be required to collect certain personal or sensitive information which may include name, address, date of birth and if appropriate medical information. we will hold and process this information in accordance with all relevant data protection regulations and legislation. Should we ask for personal or sensitive information, we undertake that it shall only be used in accordance with our privacy statement. We may also collect information for other parties such as suppliers we appoint to process the handling of a claim.

Using personal or sensitive information

The reason we collect personal or sensitive information is to fulfil our contractual and regulatory obligations in providing this insurance product, for example to process premium or handle a claim. To fulfil these obligations, we may need to share personal or sensitive information with other organisations.

We will not disclose personal or sensitive information for any purpose other than the purpose for which it was collected. Please refer to our full privacy statement for full details.

Keeping personal information

We shall not keep personal information for any longer than necessary.

Your rights

Any person insured by this policy has a number of rights in relation to how we hold personal data including; the right to a copy of the personal data we hold; the right to object to the use of personal data or the withdrawal of previously given consent; the right to have personal data deleted.

For a full list of privacy rights and when we will not be able to delete personal data please refer to our full privacy statement.