

The General terms and conditions and the following terms and conditions all apply to this section.

Special definitions for this section

Advertising	Advertising, publicity, or promotion in or of your products or services.
Business activity	The activities shown in the schedule, which you perform in the course of your business .
Computer system	Any computer network, hardware, software or information technology and communications system, including any email, intranet, extranet or website.
Defence costs	Costs incurred with our prior written agreement to investigate, settle or defend a claim against you .
Hacker	Any third party, including anyone supplied to a client by you under contract but not an employee of yours , who maliciously targets you and gains unauthorised access to or unauthorised use of your computer system or data held electronically by you or on your behalf.
Medical treatment	The provision of, or failure to provide, any: a. medical or veterinary diagnosis or prescription; or b. medical or veterinary treatment, including any nursing, care, habilitation and rehabilitation which is carried out under medical or veterinary supervision.
Predecessor	Any person, practice or other firm to which you have succeeded.
Retroactive date	a. The date stated as the retroactive date in the schedule; or b. in respect of any claim against an employee, the date the employee commenced employment with you ; or c. in respect of any claim against any self-employed contractor or personal service company, the date the self-employed contractor or personal service company commenced obtaining services from you ; whichever is the later. However, if the employee, self-employed contractor or personal service company can evidence that they benefited from cover pursuant to a preceding professional indemnity policy and subject to there being no break in cover between the expiry of the previous policy and the inception of cover under this policy , the retroactive date shall be the first date upon which the employee, self-employed contractor or personal service company held such policy.
You/your	Also includes: a. any person who was, is or during the period of insurance becomes your partner or director or senior manager who is in actual control of your operations, or if deceased, incapacitated, insolvent or bankrupt, their legal representative; b. any predecessor provided that they observe, fulfill and adhere to the terms and conditions of this policy where they can reasonably be expected to do so; c. at your request any employee or if deceased, incapacitated, insolvent or bankrupt, their legal representative; in respect of any claim which falls within the scope of What is covered .

What is covered

Claims against you	If during the period of insurance , and as a result of your business activity or advertising on or after the retroactive date within the geographical limits , any party brings a claim against you for: a. negligence or breach of a duty of care; b. negligent misstatement or negligent misrepresentation;
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Marsh Commercial Umbrella professional indemnity

Policy wording

- c. infringement of intellectual property rights including copyright, patent, trademark or moral rights or any act of passing-off;
- d. breach of confidence or misuse of any information, which is either confidential or subject to statutory restrictions on its use;
- e. defamation;
- f. dishonesty of **your** individual partners, directors, employees or self-employed freelancers directly contracted to **you** and under **your** supervision, but not anyone supplied to a client by **you** under contract;
- g. dishonesty of anyone supplied to a client by **you** under contract;
- h. negligence or breach of a duty of care in connection with the transmission of a **virus** or a denial of service attack;
- i. any other civil liability unless excluded under **What is not covered** below;

we will indemnify **you** against the sums **you** have to pay as compensation.

We will also pay **defence costs** but **we** will not pay costs for any part of a claim not covered by this section.

Asbestos claims

If during the **period of insurance**, and as a result of **your business activity** within the United Kingdom, the Channel Islands or the Isle of Man on or after the **retroactive date**, any party brings a claim against **you** directly due to a defective valuation or assessment of any property for which **you** or anyone supplied by **you** under contract provided or should have provided instructions, recommendations, notices, warnings, supervision or advice in connection with asbestos, asbestos fibres or structures or materials containing asbestos, **we** will indemnify **you** against the sums **you** have to pay as compensation, provided that:

- a. the claim is brought against **you** within the United Kingdom, the Channel Islands or the Isle of Man; and
- b. **we** will not make any payment if the claim is due to death or bodily or medical injury or disease suffered by anyone, or the fear of such death, injury or disease; and
- c. **we** will not provide indemnification for more than the minimum coverage mandated by the Royal Institution of Chartered Surveyors.

We will also pay **defence costs** but **we** will not pay costs for any part of a claim not covered by this clause.

Payment of withheld fees

If **your** client has reasonable grounds for being dissatisfied with the work **you** have, or anyone supplied to a client by **you** under contract has, done, refuses to pay for any or all of it, including amounts **you** legally owe to subcontractors at the date of the refusal, and threatens to bring a claim against **you** for more than the amount owed, it may be possible to settle the dispute with the client by **your** agreeing not to press for the disputed amount. If so, **we** will pay **you** the amount owed to **you** at that time if **we** believe that this will avoid a legitimate claim for a greater amount and **we** have given **our** prior written approval to settling in this way and for this amount.

Alternatively, if it is not possible to reach agreement with the client on this basis but **we** still believe that by not pressing for the disputed amount **you** will avoid a legitimate claim or counterclaim for a greater amount, **we** will pay the amount owed to **you** at that time. If a claim is still brought, **we** will deal with it but **our** total payment, including what **we** have already paid **you** or on **your** behalf, will not exceed the applicable limit of indemnity shown in the schedule. **You** must return the amount **we** have paid if **you** eventually recover the debt less your reasonable expenses.

Breach of Data Protection Act obligations

If during the **period of insurance**, and as a result of **your business activity** within the **geographical limits** for clients, an investigation or prosecution is brought against **you** pursuant to the Data Protection Act 2018 or any similar or successor legislation, **we** will pay the costs incurred with **our** prior written consent to defend **you**.

Representation costs

We will pay legal fees incurred with **our** consent to represent **you** at any Coroners inquest or fatal accident enquiry in respect of any death directly relating to any actual or potential claim under this section.

Indemnity to principals

If, as a result of **your business activity**, any party brings a claim which falls within the scope of **What is covered**, Claims against you, against any party with whom **you** have entered into a contract or agreement in connection with **your business** and **you** are liable for that claim, **we** will treat such claim as if it had been made against **you** and make the same payment to such party that **we** would have made to **you**, provided that they:

1. accept that **we** can control the claim's defence and settlement in accordance with the terms of this section;
2. have not admitted liability or prejudiced the defence of the claim before **we** are notified of it; and
3. give **us** the information and co-operation **we** reasonably require for dealing with the claim.

Your own losses

Losses from dishonesty

If during the **period of insurance**, and in the performance of **your business activity** within the **geographical limits**, **you** discover a loss from the dishonesty of:

1. any of **your** individual partners, directors or employees;
2. any self-employed freelancer directly contracted to **you** and under **your** supervision; or
3. anyone supplied to a client by **you** under contract,

where there was a clear intention to cause **you** loss or damage and to obtain a personal financial gain over and above any salary, bonus or commission, **we** will indemnify **you** against **your** direct financial loss provided that the loss was suffered on or after the **retroactive date**.

Loss of documents

If during the **period of insurance** any document, information or data of **yours** which is necessary for the performance of **your business activity** is lost, damaged or destroyed while in **your** possession, **we** will cover **you** against the cost of restoring or replacing it.

Court attendance compensation

If any person within the definition of **you**, other than anyone supplied to a client by **you** under contract, has to attend court as a witness in connection with a claim against **you** covered under this section, **we** will pay **you** compensation for each day that their attendance is required by **us**.

What is not covered

Matters specific to your business

A. **We** will not make any payment for any claim or loss directly or indirectly due to:

1. **your** operation or administration of any pension or employee benefit scheme or trust fund, or the sale or purchase of or dealing in any stocks, shares or securities or the misuse of any information relating to them, or **your** breach of any legislation or regulation related to these activities unless arising directly from the breach of a duty of care by anyone supplied to a client by **you** under contract.
2. **your** breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation in connection with **your business**.
3. any pollution or contamination, including noise, electromagnetic fields, radiation and radio waves.
4. any **virus** that was not specifically targeted to **your computer system**.
5. **your** liability under any contract which is greater than the liability **you** would have at law without the contract.

Matters insurable elsewhere

6. the death or any bodily or mental injury or disease suffered by anyone, unless arising directly from **your** breach of a duty of care in the performance of a **business activity** or the breach of a duty of care in the performance of the activities of anyone supplied to a client by **you** under contract,.
7. anyone's employment with or work for **you**, or any breach of an obligation owed by **you** as an employer or any kind of discrimination, harassment or unfair treatment, unless arising directly from **your** breach of a duty of care in the performance of a **business activity**.
8. the ownership, possession or use of any land or building, any animal, any aircraft, watercraft or any motor vehicle.

	9. the loss, damage or destruction of any tangible property (other than documents in your care, custody or control, in connection with a business activity for a client), unless arising directly from your breach of a duty of care in the performance of a business activity or a breach of a duty of care in the performance of the activities of anyone supplied to a client by you under contract. This does not apply to your own loss under the Loss of documents cover in What is covered .
	10. the loss, damage or destruction of any bearer bonds, coupons, share certificates, stamps, money or other negotiable paper.
	11. the loss, copying or distortion of any data by a hacker . This does not apply to costs incurred with our prior written consent to defend you under the Breach of Data Protection Act obligations cover in What is covered .
	12. any personal liability incurred by a director or officer of yours when acting in that capacity or managing your business, or your breach of any fiduciary duty, other than when performing a business activity for a client, or any statement, representation or information concerning you or your business contained in your accounts, reports or financial statements.
	13. your supply, manufacture, sale, installation or maintenance of any product.
Deliberate, reckless or dishonest acts	14. any statement you knew, or ought reasonably to have known, was defamatory at the time of publication.
	15. any act, breach, omission or infringement you deliberately, spitefully, dishonestly or recklessly commit, condone or ignore. This does not apply to any claim or your own loss under the dishonesty cover in What is covered , but we will not in any event provide cover to any party who actually commits, condones or ignores any dishonesty.
Pre-existing problems	16. anything, including any actual or alleged shortcoming in your work, likely to lead to a claim against you , or your own loss, which you knew or ought reasonably to have known about, before we agreed to insure you .
War, terrorism and nuclear	17. war, terrorism or nuclear risks .
Asbestos	18. asbestos risks , but this clause does not apply to the Asbestos claims cover under What is covered .
Manual work	19. any manual work of any kind.
Medical work	20. medical treatment , unless arising directly from a breach of a duty of care in the performance of the activities of anyone supplied to a client by you under contract.
	B. We will not make any payment for:
Claims brought by a related party	1. any claim brought by an insured within the definition of you or any party with a financial, executive or managerial interest in you , including any parent company or any party in which you have a financial, executive or managerial interest, including any subsidiary company. This does not apply to a claim based on a liability to an independent third party directly arising out of the performance of your business activity .
Other losses	2. your lost profit, mark-up or liability for VAT or its equivalent.
Trading losses	3. any trading loss or trading liability including those arising from the loss of any client, account or business.
Non-compensatory payments	4. fines and contractual penalties, aggravated, punitive or exemplary damages, and also additional damages under section 97(2) of the Copyright, Designs and Patents Act 1988 or any statutory successor to that section.
Claims outside the applicable courts	5. any claim, including arbitration, brought outside the countries set out in the schedule under applicable courts.
	This applies to proceedings in the applicable courts to enforce, or which are based on, a judgment or award from outside the applicable courts.

How much we will pay

We will pay up to the limit of indemnity shown in the schedule unless limited below. **We** will also pay for **defence costs**. However, if a payment greater than the limit of indemnity has to be made for a claim **our** liability for **defence costs** will be limited to the same proportion that the limit of indemnity bears to the amount paid. **You** must pay the relevant **excess** shown in the schedule.

When **we** settle **your** own losses from dishonesty, **we** will deduct any sums **you** owe or the value of any property **you** hold belonging to the perpetrator.

For lost, damaged or destroyed documents, information or data, **we** will pay the reasonable expenses **you** incur with **our** prior written consent in restoring or replacing them.

All claims and losses which arise from the same original cause, a single source or a repeated or continuing shortcoming in **your** work will be regarded as one claim. This includes such claims and losses arising after, as well as during, the **period of insurance**.

Special limits

1. For claims brought against **you** arising out of dishonesty of **your** individual partners, directors and employees and any self-employed freelancer directly contracted to **you** and under **your** supervision and anyone supplied to a client by **you** under contract, the most **we** will pay is a single limit of indemnity for the total of all such claims and their **defence costs**.
2. For **your** own direct financial losses arising out of dishonesty of **your** individual partners, directors and employees and any self-employed freelancer directly contracted to **you** and under **your** supervision, the most **we** will pay is the amount stated in the schedule.
3. For **your** own direct financial losses arising out of dishonesty of persons supplied to a client by **you** under contract, the most **we** will pay is the amount stated in the schedule. **You** must pay an amended excess of £5,000 for each such claim.
4. For claims brought against **you** arising out of a breach of a duty of care in the performance of **medical treatment** by anyone supplied to a client by **you** under contract, the most **we** will pay is the amount stated in the schedule for all claims including **defence costs**. The **excess** for any such claim is amended to £5,000 and will apply to each claim including **defence costs**.
5. For claims arising from work in the industries listed below the most **we** will pay in total for each industry is £1,000,000 including **defence costs**:
 - a. nuclear industry;
 - b. aviation industry;
 - c. railway industry;
 - d. offshore industry;
 - e. oil and gas industry;
 - f. petrochemical industry;
 - g. pharmaceutical industry; and
 - h. motor production and maintenance industry.

This special limit does not apply to anyone supplied to a client by **you** under contract undertaking work which is:

- i. clerical in nature; or
- ii. administrative in nature; or
- iii. related to information technology and does not involve any:
 - project management work; or
 - work which could be deemed mission critical or safety critical.

This clause does not increase the total amount **we** will pay under this section.

6. For claims arising from the following professions the most **we** will pay in total for each profession is £1,000,000 including **defence costs**:
 - a. independent financial advisors;
 - b. surveyors;
 - c. architects;

- d. accountants;
- e. actuaries; and
- f. legal professionals.

This clause does not increase the total amount **we** will pay under this section.

- 7. The most **we** will pay for representation costs is the amount shown in the schedule. This applies to all costs incurred in relation to any and all deaths occurring during the **period of insurance**.
- 8. For court attendances, **we** will pay the following amount for each day or part of a day:
 - a. £500 for directors, partners or senior managers; or
 - b. £250 for all other employees.

The most **we** will pay for the total of all court attendances is £100,000.

Paying out the limit of indemnity

At any stage of a claim **we** can pay **you** the applicable limit of indemnity or what remains after any earlier payment from that limit. **We** will pay **defence costs** already incurred at the date of **our** payment. **We** will then have no further liability for that claim or its **defence costs**.

Your obligations

If a problem arises

- 1. **We** will not make any payment under this section unless **you** notify **us** promptly of the following within the **period of insurance** or at the latest within 14 days after it expires for any problem **you** first become aware of in the seven days before expiry:
 - a. **your** first awareness of anything, including any actual or alleged shortcoming in **your** work, or any work carried out for a client by anyone supplied to a client by **you** under contract, which is likely to lead to a claim against **you**. This includes any criticism of **your** work or the work of anyone supplied to a client by **you** under contract even though regarded by **you** as unjustifiable.

If **we** accept **your** notification **we** will regard any subsequent claim as notified to this insurance;
 - b. any claim or threatened claim against **you**;
 - c. **your** discovery, or the existence of reasonable grounds for **your** suspicion, that any partner, director, employee, self-employed freelancer or anyone supplied to a client by **you** under contract has acted dishonestly.
- 2. When dealing with **your** client or a third party, **you** must not admit that **you** are liable for what has happened or make any offer, deal or payment, unless **you** have **our** prior written agreement. If **you** do, **we** may reduce any payment **we** make under this section by an amount equal to the detriment **we** have suffered as a result.

Control of defence

This is a duty to defend section. This means that **we** have the right and duty to defend **you** against any claim, investigation or prosecution or part of a claim, investigation or prosecution brought against **you** which is covered by this section and which **we** consider **you** have reasonable prospects of successfully defending.

If **we** do not consider that **you** have reasonable prospects of defending a claim, investigation or prosecution or part of a claim, investigation or prosecution **we** have the right but not the obligation to take control of and conduct in **your** name, the investigation, settlement or defence of the claim, investigation or prosecution or part of the claim, investigation or prosecution. Proceedings will only be defended taking into account the commercial considerations of the costs of defence. **We** may request that an opinion be obtained from a mutually agreed Queen's Counsel, or equivalent in a different jurisdiction, as to the prospects of **you** successfully defending a claim, investigation or prosecution or part of a claim, investigation or prosecution. Such opinion shall be binding on **you** and **us**. The costs of obtaining such opinion shall be met by **us**.



Marsh Commercial Umbrella professional indemnity

Policy wording

Appointment of legal representation

If a covered or partially covered claim, investigation or prosecution is brought against **you**, then **we** have the right to appoint suitably qualified legal representation to defend **you**. **We** may appoint **your** own solicitor but on a similar-fee basis as **our** solicitor and only for work done with **our** prior written approval.

Partially covered claims, investigations and prosecutions

If a claim, investigation or prosecution which is only partially covered by this section is brought against **you**, amounts relating to the non-covered parts of the claim, investigation or prosecution will be deducted from **our** final settlement. **We** and **you** agree to use best efforts to determine a fair allocation of covered and non-covered parts of any claim, investigation or prosecution. If **you** and **we** cannot agree on a fair allocation, **you** and **we** agree to refer any such dispute to a single arbitrator in accordance with the Arbitration Act then in force.

Payment of full limit of indemnity

We have no duty to defend **you** against any claim, investigation or prosecution where **we** pay **you** the applicable limit of indemnity as described in **How much we will pay**, Paying out the limit of indemnity.

Payment of excess

Our duty to make any payment under this section arises only after the applicable **excess** is fully paid. The **excess** will only be eroded by the covered parts of a claim, investigation or prosecution.