

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

Special definitions for this section

Business activity	The activities shown in the schedule, which you perform in the course of your business .
Defence costs	Costs incurred with our prior written agreement to investigate, settle or defend: a. a claim against you ; b. any complaint about you referred to an ombudsman.
Retroactive date	The date stated as the retroactive date in the schedule.
You/your	Also includes any person who was, is or during the period of insurance becomes your partner or director or senior manager in actual control of your operations.

What is covered

Claims against you	<p>If during the period of insurance, and as a result of your business activity on or after the retroactive date within the geographical limits, any party brings a claim against you for:</p> <ol style="list-style-type: none">negligence or breach of a duty of care;negligent misstatement or negligent misrepresentation;infringement of intellectual property rights including copyright, trademark or moral rights or any act of passing-off;breach of confidence or misuse of any information, which is either confidential or subject to statutory restrictions on its use;defamation;dishonesty of your individual partners, directors or employees; <p>unless excluded under What is not covered below, we will indemnify you against the sums you have to pay as compensation.</p> <p>We will also pay defence costs, including the cost of representing you before the Financial Conduct Authority or any other regulatory body for any disciplinary complaint which may lead to a claim against you. We will not pay costs for any part of a claim not covered by this section.</p>
Sub-contractors or outsourcers	<p>If during the period of insurance, and as a result of business activity undertaken on your behalf by any sub-contractor or outsourcer on or after the retroactive date within the geographical limits, any party:</p> <ol style="list-style-type: none">brings a claim against you for negligence or breach of a duty of care;brings a claim against you for negligent misstatement or negligent misrepresentation;refers any complaint arising directly from your breach of a duty of care, to any ombudsman; <p>unless excluded under What is not covered below, we will indemnify you against the sums you have to pay as compensation.</p> <p>We will also pay defence costs but we will not pay costs for any part of a claim or complaint not covered by this section.</p>
Complaints referred to an ombudsman	<p>If during the period of insurance and as a result of your business activity within the geographical limits for clients, any party refers any complaint arising directly from your breach of a duty of care to any ombudsman, we will indemnify you against the sums you have to pay as compensation, provided that the ombudsman or arbitrator has operated within any terms of reference or rule applicable to their appointment.</p> <p>We will also pay defence costs but we will not pay costs for any part of a claim or complaint not covered by this section.</p>

Avoiding a potential claim against you

If **your** client has reasonable grounds for being dissatisfied with the work **you** have done or which has been done on **your** behalf, refuses to pay for any or all of it, including amounts **you** legally owe to sub-contractors or outsourcers 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.

Once **we** agree to make this payment **you** will assign to **us** such rights as **you** have in relation to the amounts owed to **you**.

We will not make any payment for any part of a claim not covered by this section.

Your own losses

Criminal proceedings

If **you** are charged with a criminal offence during the **period of insurance** under a statute or regulation that applies to **your business activity**, **we** will pay the reasonable costs incurred with **our** prior written consent to defend **you** if, in **our** opinion, a successful defence may avoid a claim which would be covered by this section.

Additional cover

Court attendance compensation

If any person within the definition of **you**, or any employee of **yours**, has to attend court as a witness in connection with a claim against **you** covered under this section, **we** will pay **you** the amount shown in the schedule as compensation for each day or part of a day that their attendance is required by **us**. The most **we** will pay for the total of all court attendances is the amount shown in the schedule.

What is not covered

Matters specific to your business

- A. **We** will not make any payment for any claim or part of a claim or loss directly or indirectly due to:
1. any investment of, or direct advice on the investment of, client funds.
 2. any survey, inspection or valuation of real or leasehold property carried out by:
 - a. any person who is not a fellow or associate of the Royal Institute of British Architects, the Royal Institute of Irish Architects, the Royal Incorporation of Architects in Scotland, the Royal Society of Ulster Architects, the Incorporated Society of Valuers and Auctioneers, or the Faculty of Architects and Surveyors; or
 - b. any other person with less than five years' experience in undertaking surveys, inspections or valuations of a similar nature.
 3. any 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 any breach of any legislation or regulation related to these activities.
 4. any liability for any breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation arising from **your** business.
 5. any pollution or contamination, including noise, electromagnetic fields, radiation and radio waves.
 6. the work of any personnel supplied by **you** to a client, unless **you** have breached a duty of care in supplying them.
 7. any:
 - a. computer **virus** that was not specifically targeted to **your** system;
 - b. denial of service attack that was not specifically targeted to **your** system; or

Professional indemnity

Policy wording

- c. transmission of a computer **virus**.
 - 8. any liability under any contract which is greater than the liability **you** would have at law without the contract.
 - 9. any infringement, use, or disclosure of a patent, or any use, disclosure or misappropriation of a trade secret.
 - 10. any construction or erection work **you** undertake or for which **you** are responsible as a building or engineering contractor.
 - 11. **your** insolvency or financial difficulty.
 - 12. **your** failure to account for any money received. This does not apply to any claim arising from dishonesty.
- Matters insurable elsewhere
- 13. anyone's employment with or work for **you**, or any breach of an obligation owed by **you** as an employer.
 - 14. any discrimination, harassment or unfair treatment, unless arising directly from **your** breach of a duty of care in the performance of a **business activity**.
 - 15. the death of 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**.
 - 16. the ownership, possession or use of any land or building, any animal, any aircraft, any watercraft or any motor vehicle.
 - 17. the loss, damage or destruction of any tangible property:
 - a. other than documents in **your** care, custody or control in connection with a **business activity** for a client; or
 - b. unless arising directly from **your** breach of a duty of care in the performance of a **business activity**.
 - 18. the loss, damage or destruction of any bearer bonds, coupons, share certificates, stamps, money or other negotiable paper.
 - 19. any personal liability incurred by a director or officer of **yours** when acting in that capacity or managing **your business**, or a 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.
 - 20. any supply, manufacture, sale, installation or maintenance of any product.
- Deliberate, reckless or dishonest acts
- 21. any statement **you** knew, or ought reasonably to have known, was defamatory at the time of publication.
 - 22. any act, breach, omission or infringement **you** deliberately, spitefully, dishonestly or recklessly commit, condone or ignore. This does not apply to any claim under the dishonesty cover in **What is covered**, Claims against you, but **we** will not in any event provide cover to any party who actually commits, condones or ignores any dishonesty.
- Pre-existing problems
- 23. 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
- 24. **war, terrorism or nuclear risks**.
- Asbestos
- 28. **asbestos risks**.
 - 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**.
- Restricted recovery rights
- 2. that part of any claim where **your** right of recovery is restricted by any contract.

Lost profit and VAT	3. your lost profit, mark-up or liability for VAT or its equivalent.
Trading losses	4. any trading loss or trading liability including those arising from the loss of any client, account or business.
Non-compensatory payments	5. fines and contractual penalties, tax liabilities or debts, 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	6. 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 overall limit of indemnity for this section shown in the schedule unless limited below or otherwise in the schedule. **We** will also pay for **defence costs**. However, if a payment greater than the applicable 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.

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

Aggregate limit for dishonesty, physical damage and injury	For claims brought against you arising from dishonesty of your partners, directors and employees and from the physical loss or destruction of or damage to tangible property and from the death, disease or bodily or mental injury of anyone, the most we will pay is a single limit of indemnity for the total of all such losses and claims and their defence costs . You must pay the relevant excess shown in the schedule.
Criminal proceedings costs	The most we will pay for the costs to defend all criminal proceedings is the amount shown in the schedule. We will not pay any costs awarded against you as a result of such proceedings. You must pay the relevant excess shown in the schedule.
Ombudsman awards	We will pay up to the amount shown in the schedule for each Ombudsman's award. You must pay the relevant excess shown in the schedule.
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 : <ol style="list-style-type: none"> a. your first awareness of anything, including any actual or alleged shortcoming in your work, which is likely to lead to a claim against you. This includes any criticism of your work even though regarded by you as unjustifiable. <p>If we accept your notification we will regard any subsequent claim as notified to this insurance;</p> b. any claim or threatened claim against you, or any complaint or threatened complaint to an ombudsman; c. your discovery, or the existence of reasonable grounds for your suspicion, that any partner, director or employee has acted dishonestly; d. your first awareness of any actual or threatened criminal proceedings against you. <p>You should make this notification directly to us (and not your insurance advisor, if you have one) as follows, ensuring you quote your policy number:</p>
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Professional indemnity

Policy wording

by email to: hiscoxMGAliability.claims@hiscox.com

by fax to: 020 7448 6923

by post to: Hiscox MGA Liability Claims, 25 London Road, Sittingbourne ME10 1PE.

Sub-contractors
and outsourcers

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 **policy** by an amount equal to the detriment **we** have suffered as a result. **You** must also not reveal the amount of cover available under this insurance, unless **you** had to give these details in negotiating a contract with **your** client or have **our** prior written agreement.
3. **We** will not make any payment for any claim or loss arising from acts or omissions of a specialist, designer or consultant working for **you** as a sub-contractor or outsourcer unless:
 - a. **you** have taken reasonable steps to ensure that the sub-contractor has and maintains professional indemnity insurance with a reputable insurer; and
 - b. there is a written sub-contract between **you** and the sub-contractor which is subject to English law, includes an arbitration clause and provides that the sub-contractor will indemnify **you** against any liabilities **you** incur as a result of the sub-contractor's performance of the sub-contractor; and
 - c. **you** have disclosed the sub-contractor's fees to **us**.

Control of defence

We have the right, but not the obligation, to take control of and conduct in **your** name, the investigation, settlement or defence of any claim. If **we** think it necessary **we** will appoint an adjuster, solicitor or any other appropriate person to deal with the claim. **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. Proceedings will only be defended if there is a reasonable prospect of success and taking into account the commercial considerations of the costs of defence.

Notification for adjudication

In view of the strict timetable relating to an adjudication **you** must notify **us** by electronic mail within two (2) working days of **your** receipt of any notice of an intention to adjudicate, or of **your** intention to serve such a notice which may lead to a claim against **you** being dealt with by adjudication.

You should make this notification directly to **us**, and not through **your** insurance adviser, if you have one, by telephone or email to:

Hiscox MGA Liability Claims

Fax: 020 7448 6923

Email: hiscoxMGAliability.claims@hiscox.com

We will not indemnify **you** under this insurance unless **you** comply with the above.