

## Professional indemnity for health and safety consultants

### Policy wording

The General terms and conditions and the following terms and conditions all apply to this section. Cover under this section is given on an aggregate basis unless otherwise specified.

### Special definitions for this section

<b>Advertising</b>	Advertising, publicity or promotion in or of <b>your</b> products or services.
<b>Applicable courts</b>	The courts of competent jurisdiction in those countries stated as the applicable courts in the schedule.
<b>Business activity</b>	The activities stated in the schedule, which <b>you</b> perform in the course of <b>your business</b> .
<b>Communicable disease</b>	Any communicable, infectious or contagious disease, including any related variation, strain, virus, complex or syndrome.
<b>Computer system</b>	Any computer network, hardware, software, information technology and communications system, including any email, intranet, extranet or website.
<b>Defence costs</b>	Costs incurred with <b>our</b> prior written agreement to investigate, settle or defend a claim against <b>you</b> .
<b>Hacker</b>	Any third party, other than an employee of <b>yours</b> , who maliciously targets <b>you</b> and gains unauthorised access to or unauthorised use of <b>your computer system</b> or data held electronically by <b>you</b> or on <b>your</b> behalf.
<b>Pollution</b>	Any pollution or contamination, including noise, electromagnetic fields, radiation and radio waves.
<b>Retroactive date</b>	The date stated as the retroactive date in the schedule.
<b>You/your</b>	Also includes any person who was, is or during the <b>period of insurance</b> becomes <b>your</b> partner or director or senior manager in actual control of <b>your</b> operations.

### What is covered

<b>Claims against you</b>	If during the <b>period of insurance</b> , and as a result of <b>your business activity</b> or <b>advertising</b> on or after the <b>retroactive date</b> within the <b>geographical limits</b> , any party brings a claim, including any injunctive proceedings, against <b>you</b> for:
Negligence	a. negligence or breach of a duty of care;
Negligent misstatement	b. negligent misstatement or negligent misrepresentation;
Intellectual property infringement	c. infringement of intellectual property rights including copyright, trademark or moral rights or any act of passing-off;
Breach of confidentiality	d. breach of confidence or misuse of any information, which is either confidential or subject to statutory restrictions on its use;
Defamation	e. defamation;
Dishonesty	f. dishonesty of <b>your</b> individual partners, directors or employees, or sub-contractors or outsourcers directly contracted to <b>you</b> and under <b>your</b> supervision;
Transmission of a virus	g. negligence or breach of a duty of care in connection with the transmission of a computer <b>virus</b> or a denial of service attack;
Other civil liability	h. 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, including any liability for claimants' legal costs and expenses.

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

Sub-contractors  
or outsourcers

**We** will indemnify **you** against any claim falling within the scope of **What is covered, Claims against you**, which is brought as a result of any **business activity** undertaken on **your** behalf by any sub-contractor or outsourcer.

Avoiding a potential  
claim against you

If:

- a. **your** client has reasonable grounds for being dissatisfied with the work **you** have done or which has been done on **your** behalf and 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;
- b. **your** client threatens to bring a claim against **you** for more than the amount owed; and
- c. **we** believe that it may be possible to settle the dispute with the client by **your** agreeing not to press for the disputed amount,

**we** may pay **you** the amount owed to **you** over and above the **excess**. If **we** do, **you** must agree not to press **your** client for the disputed 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** may pay the amount owed to **you** at that time, over and above the **excess**.

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 stated 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 any payment above, **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 money owed to **you** if the claim or threatened claim, or part of the claim or threatened claim, is not covered by this section.

## Your own losses

Breach of statutory obligations If proceedings are brought against **you** during the **period of insurance** under:

- a. the Health and Safety at Work etc. Act 1974; or
- b. the Health and Safety at Work (Northern Ireland) Order 1978; or
- c. the Corporate Manslaughter and Corporate Homicide Act 2007;

or any similar or successor legislation or regulations **we** will pay the reasonable costs incurred with **our** prior written agreement to defend **you** if, in **our** opinion, a successful defence may avoid a claim being made against **you** which would be covered by this section.

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 **your** employees, or sub-contractors or outsourcers directly contracted to **you** and under **your** supervision, 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 tangible document of **yours** which is necessary for the performance of **your business activity** is physically lost, damaged or destroyed while in **your** possession, **we** will pay the reasonable expenses **you** incur with **our** prior written agreement in restoring or replacing it. The most **we** will pay for the total of all such expenses is the relevant amount stated in the schedule.

## 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 stated 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 stated in the schedule.

## What is not covered

	A. <b>We</b> will not make any payment for any claim or part of a claim or loss directly or indirectly due to:
Investments	1. any investment advice, financial advice, investment of client funds or any activity regulated by the Financial Conduct Authority, Prudential Regulation Authority or any other similar or successor regulatory body.
Valuations or construction work	2. any valuation of physical property or any construction or erection work.
Pension schemes	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.
Taxation and competition	4. any liability for any breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation.
Pollution	5. <b>pollution</b> .
Virus	6. any <b>virus</b> that was not specifically targeted to <b>your</b> system.
Discrimination and harassment	7. any discrimination, harassment or unfair treatment, unless arising directly from <b>your</b> breach of a duty of care in the performance of a <b>business activity</b> .
Injury	8. the death of or any bodily or mental injury or disease suffered by anyone, unless arising directly from <b>your</b> breach of a duty of care in the performance of a <b>business activity</b> .
Land, animals and vehicles	9. the ownership, possession or use of any land or building, any animal, any aircraft, any watercraft or any motor vehicle.
Property damage	10. the loss, damage or destruction of any tangible property unless arising directly from <b>your</b> breach of a duty of care in the performance of a <b>business activity</b> . This clause does not apply to <b>your</b> own loss under the Loss of documents cover in <b>What is covered</b> .
Negotiable instruments	11. the loss, damage or destruction of any bearer bonds, coupons, share certificates, stamps, money or other negotiable paper.
Hacker	12. the loss, copying or distortion of any data by a <b>hacker</b> .
Directors and officers' liability	13. any personal liability incurred by a director or officer of <b>yours</b> when acting in that capacity or managing <b>your business</b> , or a breach of any fiduciary duty, other than when performing a <b>business activity</b> for a client, or any statement, representation or information concerning <b>you</b> or <b>your business</b> contained in <b>your</b> accounts, reports or financial statements.
Product liability	14. any supply, manufacture, sale, installation or maintenance of any product.
Defamatory statements	15. any statement <b>you</b> knew, or ought reasonably to have known, was defamatory at the time of publication.
Deliberate, reckless or dishonest acts	16. any act, breach, omission or infringement <b>you</b> deliberately, spitefully, dishonestly or recklessly commit, condone or ignore. This does not apply to any claim under the dishonesty cover in <b>What is covered, Claims against you</b> , but <b>we</b> will not in any event provide cover to any party who actually commits, condones or ignores any dishonesty.
Pre-existing problems	17. anything, including any actual or alleged shortcoming in <b>your</b> work, likely to lead to a claim against <b>you</b> or <b>your</b> own loss, which <b>you</b> knew or ought reasonably to have known

about before **we** agreed to insure **you**.

Date recognition	18. <b>date recognition.</b>
War, terrorism and nuclear	19. <b>war, terrorism or nuclear risks.</b>
Asbestos	20. <b>asbestos risks.</b>
Contractual liability	21. any liability under any contract which is greater than the liability <b>you</b> would have at law without the contract.
Employees	22. anyone's employment with or work for <b>you</b> , or any breach of an obligation owed by <b>you</b> as an employer.
Supplied personnel	23. the work of any personnel supplied by <b>you</b> to a client, unless <b>you</b> have breached a duty of care in supplying them.
Patent/trade secret	24. any infringement, use, or disclosure of a patent, or any use, disclosure or misappropriation of a trade secret.
Communicable disease	<p>25. any of the following:</p> <ul style="list-style-type: none"> <li>a. influenza A (H5N1) (also known as 'avian flu' or 'bird flu');</li> <li>b. influenza A (H1N1) (also known as 'swine flu');</li> <li>c. coronavirus disease (COVID-19);</li> <li>d. severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);</li> <li>e. any variation, strain, virus, complex or syndrome that is related to anything in a. to d. above;</li> <li>f. any fear or threat of a. to e. above; or</li> <li>g. any action taken in controlling, preventing, suppressing or in any way relating to or responding to a. to f. above.</li> </ul> <p>26. Any:</p> <ul style="list-style-type: none"> <li>a. <b>communicable disease</b>;</li> <li>b. fear or threat of any <b>communicable disease</b>; or</li> <li>c. action taken to control, prevent suppress or in any way relating to or responding to any such <b>communicable disease</b>,</li> </ul> <p>which has led to any:</p> <ul style="list-style-type: none"> <li>i. full or partial imposition of quarantine or restriction in the movement of people or animals, including any shelter in place or stay at home order or instruction; or</li> <li>ii. travel advisory, warning or restriction,</li> </ul> <p>being issued or imposed by any state, national or international body, agency or other competent body or authority.</p> <p>B. <b>We</b> will not make any payment for:</p>
Claims brought by a related party	1. any claim brought by an insured within the definition of <b>you</b> or any party with a financial, executive or managerial interest in <b>you</b> , including any parent company or any party in which <b>you</b> 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 <b>your business activity</b> .
Restricted recovery rights	2. that part of any claim where <b>your</b> right of recovery is restricted by any contract.
Lost profit and VAT	3. <b>your</b> 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 **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

The most **we** will pay for the total of all claims, their **defence costs**, and losses is the overall limit of indemnity stated in the schedule, irrespective of the number of claims or losses, unless limited below or in the schedule. **You** must pay the relevant **excess** stated in the schedule.

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

## Special limits

Losses from dishonesty

The most **we** will pay for the total of **your** own losses arising from the dishonesty of **your** employees, sub-contractors and outsourcers is the relevant amount stated in the schedule, which is included within, and not in addition to, the overall limit of indemnity for this section.

**You** must pay the relevant **excess** stated 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, including payments in relation to other claims. **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** of the following promptly and 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, which is likely to lead to a claim against **you**. This includes any criticism of **your** work 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, sub-contractor or outsourcer 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 **policy** 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 or part of a claim 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 or part of a claim **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 or part of the claim. 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 or part of a claim. Such opinion shall be binding on **you** and **us**. The costs of obtaining such opinion shall be met by **us**.

Appointment of legal representation

If a covered or partially covered claim 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

If a claim which is only partially covered by this section is brought against **you**, amounts relating to the non-covered parts of the claim 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. 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 where **we** pay **you** the applicable limit of indemnity as described in **How much we will pay**, Paying out the limit of indemnity, or if the overall limit of indemnity stated in the schedule has been exhausted.

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.