

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 .
Deliverables	Any software, hardware, firmware, cabling or electronic equipment.
Defence costs	Costs incurred with our prior written agreement to investigate, settle or defend a claim against you .
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

If during the **period of insurance**, and as a result of **your business activity** within the **geographical limits** for clients, any party brings a claim against **you** for:

- a. breach of a written contract to design, produce or supply **deliverables** due to:
 - i. the **deliverables** either not conforming in all material respects with any written specification that forms part of the relevant contract and where it is an express term of the contract that the **deliverables** must comply with that specification;
 - ii. the **deliverables** containing a material defect;
 - iii. the **deliverables** failing to meet any implied statutory term concerning necessary quality, safety or fitness,
- b. unintentional breach of a duty to use reasonable care and skill by any contract worker **you** have supplied to a client where **you** have assumed liability for such a breach in a written contract with that client,
- c. negligence or breach of an express or implied contractual duty to use reasonable care and skill,
- d. negligent misstatement or negligent misrepresentation,
- e. infringement of intellectual property rights including copyright, trademark or moral rights or any act of passing-off, including any liability **you** have for infringement of intellectual property rights under an indemnity in a written contract with **your** client for the supply of **deliverables**,
- f. breach of confidence or misuse of any information, which is either confidential or subject to statutory restrictions on its use,
- g. defamation,
- h. dishonesty of **your** individual partners, directors, employees or self-employed freelancers directly contracted to **you** and under **your** supervision,

WHAT IS COVERED

Avoiding a potential claim against you

- i. any other civil liability but not any liability for breach of contract or dishonesty beyond that specifically set out above,

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.

If **your** client has reasonable grounds for being dissatisfied with the work **you** have 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.

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

If during the **period of insurance**, and in the performance of **your business activity** within the **geographical limits**, **you** suffer a loss from the dishonesty of **your** employees or self-employed freelancers 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.

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. any financial advice **you** give or the arrangement of any finance or credit.
2. a. any inherent defect in any **deliverables** which are supplied by or originate from a third party;
b. any failure or default by a third party to supply any service.

This exclusion does not apply to any amount **you** satisfy **us** that **you** are legally able to recover under a written contract with a third party.

3. **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.

**WHAT IS NOT
COVERED**

**Matters insurable
elsewhere**

**Deliberate, reckless or
dishonest acts**

4. the infringement of any patent.
5. any obscenity, blasphemy or pornographic material.
6. **your** insolvency or **your** financial difficulties.
7. **your** breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation.
8. any pollution or contamination, including noise, electromagnetic fields, radiation and radio waves.
9. transmission by **you** of a computer **virus**, worm, logic bomb or Trojan horse.
10. any **virus**, worm, logic bomb or Trojan horse written or created by **you**, **your** employee or any self-employed freelancer directly contracted to **you** and under **your** supervision.
11. any **virus**, worm, logic bomb or Trojan horse which indiscriminately replicates itself and is automatically disseminated on a global or national scale, or to an identifiable class or sector of users.
12. the death or any bodily or mental injury or disease suffered by anyone, unless arising directly from designs, plans, specifications, formulae, directions or advice prepared or given by **you** for a fee.
13. 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.
14. the ownership, possession or use of any land or building, any animal, any aircraft, watercraft or any motor vehicle.
15. the loss, damage or destruction of any tangible property, unless arising directly from designs, plans, specifications, formulae, directions or advice prepared or given by **you** for a fee.
16. the loss, damage or destruction of any bearer bonds, coupons, share certificates, stamps, money or other negotiable paper.
17. 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.
18. **your** supply, manufacture, sale, installation or maintenance of any product, other than **deliverables**.
19. 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.
20. any statement **you** knew, or ought reasonably to have known, was defamatory at the time of publication.

WHAT IS NOT COVERED

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|---|--|
| Pre-existing problems | 21. any shortcoming in your work or your own loss which you knew about, or ought reasonably to have known about, before we agreed to insure you . |
| Date recognition | 22. date recognition . |
| War, terrorism and nuclear | 23. war, terrorism or nuclear risks . |
| Asbestos | 24. 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. |
| Recall costs | 3. the costs and expenses involved in the refund, recall or replacement of any service or deliverables .
This exclusion does not apply to any amount you satisfy us that you are legally able to recover under a written contract with a third party. |
| Consequential loss | 4. your lost profit, mark-up or liability for VAT or its equivalent.
5. any trading loss or trading liability including those arising from the loss of any client, account or business. |
| Non-compensatory payments | 6. 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 | 7. 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.

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.

**HOW MUCH WE
WILL PAY****Special limits**

For claims and **your** own losses arising from dishonesty 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 claims, their **defence costs** and **your** own losses. **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**

We will not make any payment under this section:

1. 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 a shortcoming in **your** work for a client which is likely to lead to a claim against **you**. This includes:
 - i. a shortcoming known to **you**, but not to **your** client, which **you** cannot reasonably put right;
 - ii. a complaint from **your** client about **your** work or anything **you** have supplied which cannot be immediately resolved;
 - iii. an escalating level of complaint from **your** client on a particular project;
 - iv. a client withholding payment due to **you** after any complaint.

If **we** accept **your** notification, this does not alter **your** obligation to take reasonable steps to correct any problem but **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 or self-employed freelancer has acted dishonestly.
2. if, when dealing with **your** client or a third party, **you** admit that **you** are liable for what has happened or make any offer, deal or payment, unless **you** have **our** prior written agreement. **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.

Onerous contracts

We will not make any payment under this section if:

1. **you** failed to take reasonable steps before entering into a contract with a client, or extending the scope of an existing contract, to ensure that either **you** could provide the required level and quality of **deliverables** or services for the quoted price using the resources available to **you** or the contract was capable of being performed in accordance with all its terms and any representations made by **you** or on **your** behalf; or

**YOUR
OBLIGATIONS**

2. **you** agreed in **your** contract with a client either to use more than reasonable care and skill or to provide something more than reasonably fit for its intended purpose or to have a greater financial responsibility for any claim covered by this insurance than would otherwise be the case at law.

Correcting problems

We will not make any payment under this section if **you** failed to take reasonable steps to remedy or rectify, at **your** expense, any defect or failure in the **deliverables** or services **you** have supplied to a client arising either prior to **your** client's acceptance of the **deliverables** or within 180 days of acceptance or any longer period specified in any contract with **your** client, including a maintenance contract. This extends to **you** ensuring that **you** could correct any such defect by having the relevant versions of the source code, if available to **you**, or by keeping back-up copies of relevant software or data.

**Computer systems
back-ups**

We will not make any payment under this section if **you** have failed to take reasonable steps to make back-up copies of any data, file or program at reasonably frequent intervals.

Consequential losses

We will not make any payment under this section if **you** failed to limit in a contract with **your** client any liability for loss of turnover, sales, revenue or profits, or for loss of software or data, or for indirect, consequential or special loss, where it was reasonable for **you** to have done so.

**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.