

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

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## Special definitions for this section

<b>Business activity</b>	The activities shown in the schedule, or proposal form, or in material representations agreed by <b>us</b> , which <b>you</b> perform in the course of <b>your business</b> .
<b>Defence costs</b>	Costs incurred with <b>our</b> prior written agreement to investigate, settle or defend a claim against <b>you</b> including representation at a coroner's inquest, arising out of the death of any patient of <b>yours</b> .
<b>Malpractice</b>	Any bodily injury, mental injury, illness, disease or death of any patient caused by any negligent act, error or omission committed by <b>you</b> : <ol style="list-style-type: none"><li>in the performance of a <b>business activity</b>; or</li><li>in the course of a <b>Samaritan act</b>.</li></ol>
<b>Public liability</b>	<ol style="list-style-type: none"><li>Any bodily injury, mental injury, illness, disease or death of any person; or</li><li>physical loss of or damage to or destruction of tangible property including the resulting loss of use of such property.</li></ol>
<b>Products</b>	Any goods sold, supplied, distributed, manufactured, constructed, erected, installed, altered, tested, serviced, maintained, repaired, cleaned or treated by <b>you</b> .
<b>Samaritan act</b>	Treatment administered by <b>you</b> at the scene of a medical emergency, accident or disaster at which <b>you</b> are present either by chance or in response to a S.O.S. call following a disaster.
<b>Sexual misconduct</b>	Actual or attempted sexual relations, sexual contact or intimacy, sexual harassment or sexual exploitation in the course of treatment or under the guise of treatment.
<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.

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## What is covered

Claims against you	<p>If, as a result of <b>your business activity</b> within the <b>geographical limits</b> for clients, any party brings a claim against <b>you</b> for:</p> <ol style="list-style-type: none"><li><b>malpractice</b>; or</li><li><b>public liability</b>; or</li><li>negligence or breach of a duty of care; or</li><li>negligent misstatement or negligent misrepresentation; or</li><li>dishonesty of <b>your</b> individual partners, directors, employees, volunteers or sub-contractors or outsourcers directly contracted to <b>you</b> and under <b>your</b> supervision; or</li><li>defamation; or</li><li>breach of confidence or misuse of any information, which is either confidential or subject to statutory restrictions on its use;</li></ol> <p>occurring during the <b>period of insurance</b>, <b>we</b> will indemnify <b>you</b> against the sums <b>you</b> have to pay as compensation, unless excluded under <b>What is not covered</b> below.</p> <p>This includes a claim brought against any employee or volunteer or <b>yours</b> when they are acting on <b>your</b> behalf in whatever capacity.</p> <p><b>We</b> will also pay <b>defence costs</b> but <b>we</b> will not pay costs for any part of a claim not covered by this section.</p>
Sub-contractors or outsourcers	<p><b>We</b> will indemnify <b>you</b> against any claim falling within the scope of <b>What is covered</b>, Claims against you, which is brought as a result of <b>business activity</b> undertaken on <b>your</b> behalf by any sub-contractor or outsourcer provided that such sub-contractor or outsourcer held a suitable qualification applicable to that work at the time it was undertaken.</p>

Avoiding a potential claim against you

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 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.

Claims against 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 **your** principal and **you** are liable for that claim, **we** will treat such claim as if made against **you** and make the same payment to the principal that **we** would have made to **you**, provided that the party to be indemnified:

- a. has not, in **our** reasonable opinion, caused or contributed to the claim against them;
- b. accepts that **we** can control the claim's defence and settlement in accordance with the terms of this section;
- c. has not admitted liability or prejudiced the defence of the claim before **we** are notified of it;
- d. gives **us** the information and co-operation **we** reasonably require for dealing with the claim.

Cross liabilities

If more than one insured is named in the schedule, **we** will deal with any claim as though a separate policy had been issued to each of them provided that **our** liability in the aggregate shall not exceed the limit of indemnity shown in the schedule.

**Your own losses**

Dishonesty of your employees, sub-contractors or outsourcers

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 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. The most **we** will pay is €25,000 during any one **period of insurance**. **You** must pay the **excess** shown in the schedule for each loss.

Loss of documents

If during the **period of insurance** any document, information or data of **yours** or which has been entrusted to **you** and which is necessary for the performance of **your business activity** is lost, damaged or destroyed while in **your** possession, **we** will pay the reasonable expenses **you** incur with **our** prior written consent in restoring or replacing it. The most **we** will pay for the total of all such expenses is €25,000 during any one **period of insurance**. **You** must pay the **excess** shown in the schedule for each loss.

**Additional cover**

Court attendance compensation

If any person within the definition of **you**, or any employee or volunteer of **yours**, has to attend court as a witness in connection with a claim against **you** covered under this section for which **we** have agreed to pay **defence costs**, **we** will pay **you** compensation for each day or part of a day that their attendance is required by **us**.

Transfer of client records

If **you** are an individual or a sole practitioner and:

- a. suffer disablement during the **period of insurance** which totally prevents **you** from working in **your business** and which lasts continuously for nine calendar months and which at the end of that period is without prospect of improvement; or
- b. die during the **period of insurance**;

**we** will pay the reasonable costs of destroying **your** client files or transferring **your** client files to a new individual, sole practitioner, partnership, limited company or not for profit organisation providing the same business activities as **you**. The most **we** will pay for the total of all such costs is €25,000 during any one **period of insurance**. **You** or **your** legal representative must pay the **excess** shown in the schedule for each loss.

### Motor contingent liability

If any party brings a claim against **you** for **public liability** occurring during the **period of insurance** and arising from any mechanically propelled vehicle or any trailer attached to it being used in connection with **your business activity** within the **geographical limits**, **we** will indemnify **you** against the sums **you** have to pay as compensation.

**We** will not make any payment under this clause for any claim:

- a. arising from any mechanically propelled vehicle or any trailer attached to it which is:
  - i. owned by **you**; or
  - ii. loaned, leased, hired or rented to **you**; or
  - iii. provided by **you**;
  - iv. being driven by **you**;
- b. for physical loss of or damage to or destruction of the vehicle or the trailer itself or to any goods carried in or on the vehicle or trailer;
- c. arising from the vehicle being driven by **you** or any person who to **your** knowledge or that of **your** representatives does not hold a licence to drive the vehicle;
- d. more specifically insured under another insurance policy.

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### 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 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.
2. any breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation.
3. any pollution or contamination, including noise, electromagnetic fields, radiation and radio waves.
4. transmission of a computer **virus**.
5. any liability under any contract which is greater than the liability **you** would have at law without the contract, unless **our** prior written agreement has been obtained.
6. activities carried out in the name of a consortium, joint venture or profit-sharing scheme in which **you** are a party, unless **our** prior written agreement has been obtained.
7. any work undertaken on **your** behalf by any sub-contractor or outsourcer who does not hold a suitable qualification applicable to that work at the time it was undertaken.

#### Matters insurable elsewhere

8. loss of, damage to or destruction of any property belonging to **you** or which at the time of the loss, damage or destruction is in **your** care, custody or control. This does not apply to:
  - a. employees', volunteers' or visitors' vehicles or effects while on **your** premises;
  - b. premises, including their contents, which are not owned or rented by **you**, where **you** are temporarily carrying out **your business**;
  - c. premises rented to **you**, for loss, damage or destruction not insured under property insurance policies and for which **you** would not be liable other than by the lease or other agreement;
  - d. loss of documents, as described under **What is covered, Your own losses**.
9. anyone's employment with or work for **you**, or any breach of an obligation owed by **you** as an employer.
10. any discrimination, harassment or unfair treatment.

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| Deliberate, reckless or dishonest acts | <p>11. the ownership, possession or use of any land or building, any aircraft, any watercraft or any motor vehicle. This does not apply to the cover provided under <b>What is covered, Additional cover</b>, Motor contingent liability.</p> <p>12. <b>public liability</b> caused by any equine animal.</p> <p>13. <b>malpractice</b> arising from the treatment of any equine animal that has been, is currently or is intended to be at any time during the <b>period of insurance</b>:</p> <ul style="list-style-type: none"> <li>a. used in horse trials, polo, eventing, bloodstock or racing, or any other professional competition, excluding pony club or other amateur competition; or</li> <li>b. profession, occupation or business.</li> </ul> <p>14. any personal liability incurred by a director or officer of <b>yours</b> when acting in that capacity or managing <b>your</b> business, or <b>your</b> 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</b> business contained in <b>your</b> accounts, reports or financial statements.</p>  |
| Sexual misconduct                      | <p>15. any act, breach, omission or infringement, not amounting to <b>sexual misconduct</b>, <b>you</b> deliberately, spitefully, dishonestly or recklessly commit, condone or ignore. This does not apply to any claim under the cover for dishonesty in <b>What is covered, Your own losses</b>, but <b>we</b> will not in any event provide cover to any party who actually commits, condones or ignores any dishonesty.</p> <p>16. <b>sexual misconduct</b>. This shall only apply:</p> <ul style="list-style-type: none"> <li>a. after a judgment or other final adjudication or an admission by <b>you</b> that such <b>sexual misconduct</b> did occur; or</li> <li>b. if <b>we</b> have obtained an opinion from a mutually agreed senior counsel, or equivalent in a different jurisdiction, as to the prospects of a court or tribunal finding that such <b>sexual misconduct</b> did occur and such counsel is of the opinion that there are no reasonable prospects of the court or tribunal finding that such <b>sexual misconduct</b> did not occur. Such opinion will be binding on <b>us</b> and <b>you</b>. The costs of such opinion shall be met by <b>us</b>.</li> </ul> <p>17. the performance of any <b>business activity</b> by <b>you</b> whilst under the influence of intoxicants or narcotics.</p> |
| Pre-existing problems                  | <p>18. any claim, loss or shortcoming in <b>your</b> work which <b>you</b> knew about, or ought reasonably to have known about, before <b>we</b> agreed to insure <b>you</b>.</p>   |
| Date recognition                       | <p>19. <b>date recognition</b>.</p>   |
| War, terrorism and nuclear             | <p>20. <b>war, terrorism or nuclear risks</b>.</p>  |
| Asbestos                               | <p>21. <b>asbestos risks</b>.</p>   |
| Aids and hepatitis                     | <p>22. the transmission of hepatitis non-A or any condition directly or indirectly caused by, or associated with Human Immune Deficiency Virus (HIV), even if this is initially named as either HTLV III or LAV or is a mutant, derivative or variation, or is in any way related to Acquired Immune Deficiency Syndrome (AIDS) or AIDS related complex (ARC) or any syndrome or condition of a similar kind howsoever it may be named.</p>   |
| Excluded persons                       | <p>23. any medical diagnosis, prescription, treatment or advice provided by any of the following persons:</p> <ul style="list-style-type: none"> <li>a. medical practitioners;</li> <li>b. social workers;</li> <li>c. dieticians;</li> <li>d. osteopaths;</li> <li>e. physiotherapists;</li> <li>f. chiropractors;</li> <li>g. podiatrists;</li> <li>h. chiropodists;</li> <li>i. psychiatrists.</li> </ul>  |

Your products	<p>24. the failure of any of <b>your products</b> to perform the function for which they were intended.</p> <p>25. the costs of recalling, removing, repairing, reconditioning or replacing any <b>product</b> or any of its parts.</p>
Claims brought by a related party	<p>B. <b>We</b> will not make any payment for:</p> <p>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 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 <b>your business activity</b>.</p>
Restricted recovery rights	<p>2. that part of any claim where <b>your</b> right of recovery is restricted by any contract, unless <b>our</b> prior written agreement has been obtained to that contract.</p>
Consequential loss	<p>3. <b>your</b> lost profit, mark-up or liability for VAT or its equivalent.</p> <p>4. any trading loss or trading liability including those arising from the loss of any client, account or business.</p>
Non-compensatory payments	<p>5. fines and contractual penalties, aggravated, punitive or exemplary damages, and additional damages under Section 128(3) of the Copyright and Related Rights Act 2000 or any statutory successor to that section.</p>
Claims outside the geographical limits	<p>6. any claim, including arbitration, brought against <b>you</b> resulting from any activities undertaken by <b>you</b>, or any employee or volunteer of <b>yours</b>, in any country outside the <b>geographical limits</b>.</p>
Claims outside the applicable courts	<p>7. any claim, including arbitration, brought outside the countries set out in the schedule under applicable courts.</p> <p>This applies to proceedings in the applicable courts to enforce, or which are based on, a judgment or award from outside the applicable courts.</p>
Press, radio, or television	<p>8. any communication or contribution to the press, radio or television unless previously agreed with <b>us</b>.</p>

## How much we will pay

The most **we** will pay for any one claim or loss, including **defence costs**, is the any one claim limit of indemnity shown in the schedule.

The most **we** will pay for the total of all claims, losses and **defence costs** is an amount equal to twice the any one claim limit of indemnity shown in the schedule, irrespective of the number of claims, losses or **defence costs**.

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 claims and losses arising after, as well as during, the **period of insurance**.

**You** must pay the **excess** shown in the schedule for each claim, including **defence costs**.

### Court attendance compensation

**We** will pay **you** the following compensation for each day, or part day:

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| 1. <b>You</b> or <b>your</b> partner or director | €750 |
| 2. Any other employee or volunteer               | €500 |

The most **we** will pay for the total of all court attendance compensation is €50,000.

### 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**.

## Special limits

### Sexual misconduct

The most **we** will pay for the total of all claims, losses and **defence costs** arising from **sexual misconduct** occurring during the **period of insurance** is a single limit of indemnity of €500,000, irrespective of the total number of such claims. **You** must pay an **excess** of €1,000 for each claim, including **defence costs**.

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## Your obligations

If a problem arises

**We** will not make any payment under this section:

1. unless **you** notify **us** promptly of the following:
  - 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 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. the receipt of notice from any person of an intention to hold **you** responsible for any **malpractice**, dishonesty, error, omission, act, injury, illness, disease, death, loss, damage, destruction, breach or defamatory statement;
  - c. every letter, claim, writ, summons or process against **you** for any actual or alleged **malpractice**, dishonesty, error, omission, act, injury, illness, disease, death, loss, damage, destruction, breach or defamatory statement;
  - d. **your** discovery, or the existence of reasonable grounds for **your** suspicion, that any partner, director, employee, volunteer, sub-contractor or outsourcer has acted dishonestly.

For claims arising out of any bodily injury, mental injury, illness, disease or death of any person, **you** must notify **us** immediately and in any event within 7 days of a claim or anything which may give rise to a claim under this section. At our request, **you** must confirm the facts in writing within 30 days with as much information as is available.

**You** should make this notification directly to **us** and **your** insurance adviser as follows, ensuring you quote your policy number:

By email to: [liability.claims@hiscox.com](mailto:liability.claims@hiscox.com); or

By post to: Hiscox Liability Claims, 25 London Road, Sittingbourne ME10 1PE, United Kingdom.

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.
3. unless **you**:
  - a. at all times maintain and retain records in accordance with industry practice of all professional services and equipment used in procedures which shall be available for inspection and use by **us** or **our** duly appointed representatives;
  - b. have undertaken sufficient checks to ensure that any sub-contractor or outsourcer performing any **business activity** on **your** behalf was suitably qualified to do so at the time of its performance and **you** have retained written evidence of these checks and can provide at **our** request copies of the relevant qualification certificates.
4. for any claim unless any tool or implement used in the performance of your **business activity** which is intended to be in contact with any human or animal bodily fluid or to penetrate any human or animal tissue is handled, used and stored in accordance with the manufacturers' instructions. Where the equipment has been approved by the manufacturer for use more than once, it must be sterilised prior to such use in accordance with the health services executive and/or the Irish Medicines Board guidelines.

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## 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.