

Professions and Specialty Commercial – Endorsement

IMPORTANT NOTICE: CHANGES TO YOUR POLICY DUE TO BREXIT

As a result of the likely departure of the United Kingdom from the European Union (Brexit), **we** have had to make some changes to how **our** policies are underwritten from 1st January 2019.

Please note that the changes referred to in this notice do not affect the cover provided under the policy.

Previously **our** policies were underwritten by Hiscox Underwriting Ltd (HUL) as an intermediary on behalf of the insurers shown in the schedule. Most sections of the policies were insured by Hiscox Insurance Company Limited (HIC), although some sections were insured by other insurers, as detailed on the schedule.

As a result of Brexit, sections of **our** policies that were previously insured by HIC are now insured by Hiscox SA (HSA) directly. HUL will no longer act as intermediary. HSA is an insurance company in the Hiscox group, domiciled and regulated in Luxembourg.

As a result of the change of insurer from HIC to HSA, **we** have had to make a number of changes to the way in which **our** policies are administered, including how complaints are dealt with.

In order to reflect these changes, the following amendments are made to **your policy**, including the schedule:

	Amended to read:
References to Hiscox Insurance Company Limited:	Hiscox SA
Address:	Hiscox SA registered head office: Avenue John F. Kennedy 35F 1855 Luxembourg LUXEMBOURG Local branch office: Hiscox SA (Irish branch) The Observatory 7-11 Sir John Rogerson's Quay Dublin 2 D02 VC42 REPUBLIC OF IRELAND Website: https://Hiscox.ie
Company number:	Hiscox SA: Registered in Luxembourg with Trade and Company Register Luxembourg (RCS Luxembourg): registration number B217018 Hiscox SA (Irish branch): Registered in Republic of Ireland with Companies Registration Office: company number 908764
Regulator:	Hiscox SA is subject to the supervision of the Commissariat aux Assurances Local branch regulator: Central Bank of Ireland
Signatory:	Richard O'Dwyer Managing Director, Hiscox SA (Irish branch)
Contact number and email address for Customer Relations	Customer relations: customerrelations.ireland@hiscox.com +353 1 238 1810
Contact numbers and email addresses for Claims	Liability claims: liabilityclaims.ireland@hiscox.com +353 1 238 1811 Commercial property claims: commercialpropertyclaims.ireland@hiscox.com +353 1 238 1812

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Complaints:	<p>Customer Relations Hiscox SA (Irish branch) The Observatory 7-11 Sir John Rogerson's Quay Dublin 2 D02 VC42 REPUBLIC OF IRELAND</p> <p>or by telephone on +353 1 238 1810 or +353 1800 901 903 (free toll number), or by email at customerrelations.ireland@hiscox.com.</p>
Complaints (regulator):	<p>If you remain dissatisfied after the internal dispute resolution process, you may have the right to refer your complaint to the Financial Services and Pensions Ombudsman.</p> <p>The Financial Services and Pensions Ombudsman (FSPO) is an independent, impartial, fair and free service that helps resolves complaints with pensions providers and regulated financial services providers.</p> <p>Contact details: Financial Services and Pensions Ombudsman Lincoln House Lincoln Place Dublin DO2 VH29</p> <p>Phone: +353 1 567 7000 Email: info@fspo.ie Web: www.fspo.ie</p> <p>If you have purchased your policy online you can also make a complaint via the EU's online dispute resolution (ODR) platform. The website for the ODR platform is: http://ec.europa.eu/odr.</p> <p>Alternatively, you can also contact:</p> <p>Commissariat aux Assurances 7, boulevard Joseph II L-1840 Luxembourg LUXEMBOURG e-mail: caa@caa.lu</p> <p>Insurance Ombudsman ACA, 12, rue Erasme, L - 1468 Luxembourg LUXEMBOURG Phone: +352 44 21 44 1 Fax: +352 44-02-89 e-mail: mediateur@aca.lu</p>
In addition, any references to Hiscox Underwriting Ltd in your policy are removed.	

The General terms and conditions and the following terms and conditions all apply to this section. Cover under this section is given on an each and every claim or loss basis unless otherwise specified.

Please pay special attention to the Notification for adjudication section in the grey box at the end of this section.

Special definitions for this section

Advertising	Advertising, publicity or promotion in or of your products or services.
Applicable courts	The courts of competent jurisdiction in those countries stated as the applicable courts in the schedule.
Business activity	The activities stated in the schedule, which you perform in the course of your business .
Computer system	Any computer network, hardware, software, 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, other than 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.
Pollution	Any pollution or contamination, including noise, electromagnetic fields, radiation and radio waves.
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	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:
	1. brings a claim, including any injunctive proceedings, against you 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 your individual partners, directors or employees, or sub-contractors or outsourcers directly contracted to you and under your supervision;
Other civil liability	g. any other civil liability; or
Housing grants adjudication	2. refers a dispute arising directly from your breach of a duty of care to adjudication under the Housing Grants Construction and Regeneration Act 1996 or similar or successor legislation, 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.

Professional indemnity for consulting engineers

Policy wording

Avoiding a potential claim against you

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

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

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.

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 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.

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

Investments

- 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 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.

Construction or erection work	2. any construction or erection work you undertake or for which you are responsible as a building or engineering contractor.
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. pollution.
Virus	6. transmission of a virus.
Discrimination and harassment	7. any discrimination, harassment or unfair treatment, unless arising directly from your breach of a duty of care in the performance of a business activity.
Injury	8. 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.
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 any design, specification, technical information calculation, survey or inspection carried out by you. This clause does not apply to your own loss under the Loss of documents cover in What is covered.
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 hacker.
Directors and officers' liability	13. 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.
Product liability	14. any supply, manufacture, sale, installation or maintenance of any product.
Defamatory statements	15. any statement you 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 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	17. 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.
Date recognition	18. date recognition.
War, terrorism and nuclear	19. war, terrorism or nuclear risks.
Asbestos	20. asbestos risks.
Collateral warranties	21. your agreement to take on any legal liability under any express agreement, warranty, indemnity, waiver or guarantee, unless: <ol style="list-style-type: none"> a. you would be liable even if you had not given any such agreement, warranty, indemnity, waiver or guarantee; or b. the liability arises from a collateral warranty or duty of care agreement, in which case we will not indemnify you for any liability arising from:

Professional indemnity for consulting engineers

Policy wording

- i. any fitness for purpose guarantee;
 - ii. any greater or longer lasting benefit than that given to the party with whom **you** originally contracted;
 - iii. any express guarantee, contractual penalty or liquidated damages;
 - iv. any assignment of the warranty or agreement to any purchaser or tenant after the first two assignments; or
 - v. **your** agreement to exercise a standard of care greater than would normally be expected in **your** profession.
- Employees 22. anyone's employment with or work for **you**, or any breach of an obligation owed by **you** as an employer.
- Supplied personnel 23. the work of any personnel supplied by **you** to a client, unless **you** 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.
- Project manager work 25. any work **you** undertake as a project manager which results in:
 - a. **you** failing to obtain and/or maintain adequate financing;
 - b. **you** failing to obtain and maintain adequate insurance;
 - c. any party involved in the project becoming insolvent; or
 - d. any error or omission on **your** part in the provision of cost estimates, including where such estimates are exceeded.
- Surveys, inspections and valuations 26. any survey, inspection or valuation of real or leasehold property not carried out by 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 Royal Institution of Chartered Surveyors, or by a Registered Architect with not less than one year's relevant experience, or by any person with more than five years' relevant experience in undertaking surveys, inspections or valuations of a similar nature.
- Sub-contractors 27. any acts or omissions of a specialist, designer or consultant working for **you** as a sub-contractor unless:
 - a. **you** have taken reasonable steps to ensure that the sub-contractor has and maintains professional indemnity insurance with a reputable insurer;
 - 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-contract; and
 - c. **you** have disclosed the sub-contractor's fees to **us**.
- Joint ventures 28. any activities carried out in the name of a consortium, joint venture or profit sharing scheme in which **you** are a party.
- 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 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 .
Adjudication costs	7. any claim referred to adjudication under the Housing Grants Construction and Regeneration Act 1996 or similar or successor legislation, where your contract with your client failed to provide that: <ul style="list-style-type: none"> a. an adjudicator will be appointed to resolve any disputes under the contract; b. the adjudicator is independent of the parties to the dispute; c. the decision of the adjudicator is not the final determination of the dispute; and d. the adjudicator cannot reach a decision on commercial considerations as opposed to the legal liabilities and obligations of the parties in dispute.

How much we will pay

We will pay up to the limit of indemnity for this section stated 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** 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.

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

The most **we** will pay for each item below, unless otherwise stated in the schedule, is a single limit of indemnity, which is an aggregate limit, for the total of all claims (including their **defence costs**) brought against **you** arising from:

Dishonesty	1. the dishonesty of your partners, directors, employees, subcontractors or outsourcers;
Property damage	2. the physical loss or destruction of or damage to tangible property; and
Injury	3. the death, disease or bodily or mental injury of anyone.

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 amount stated in the schedule.

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. **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 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: <ul 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;
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- c. **your** first awareness of any actual or threatened criminal proceedings against **you**;
 - d. **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.
3. **You** must:
- a. comply with any request, direction or timetable of the adjudicator, during an adjudication;
 - b. start, at **our** expense, any court or arbitration proceedings which **we** reasonably require to challenge, re-open or stay the enforcement of an adjudication decision.
- If **you** do not, **we** may reduce any payment **we** make under this section by an amount equal to the detriment **we** have suffered as a result of **your** failure to comply with these obligations.

Notification for adjudication

In view of the strict timetable relating to an adjudication **you** must notify **us** by email within two 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** use one, at hicliability.claims@hiscox.com.

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

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 the claim or part of the claim.

Appointment of legal representation

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 taking into account the commercial considerations of the costs of defence.

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 will not 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.

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.