

# Cyber & Data Risks

## What is covered

### a Data loss

If **you** suffer a **data breach** in connection with **your business**, during the period of insurance shown in the policy schedule, for 90 days immediately following **your** first discovery, **we** will pay **your** costs, reasonably incurred with **our** written consent, of

- using the services of the **cyber response service** to
  - contain, recover and assess the **data breach**
  - comply with **United Kingdom** legal requirements to establish a credit monitoring, identity theft and/or similar mitigation service
- complying with **United Kingdom** legal requirements to notify third parties and/or **employees** of an actual or suspected **data breach**
- notifying third parties and/or **employees** of an actual or suspected **data breach** where there are no legal requirements to do so but where notification will effectively reduce or avoid a loss which otherwise **you** would have been entitled to payment under subsection of cover b (data liability).

### b Data liability

**We** will pay **your** legal liability for damages and costs awarded against **you** arising from any claim first made against **you** and reported to **us** during the period of insurance shown in the policy schedule which arises from a **data breach** in connection with **your business**.

In addition **we** will pay **your costs and expenses** resulting from the claim.

### c Cyber loss

**We** will pay **your** costs, incurred with **our** written consent,

- in restoring, replacing, rebuilding, replicating or reinstating **your computer equipment** that has been subjected to a **cyber attack**
- to contain, reduce and/or pay a ransom demand resulting from **data extortion**

first discovered by **you** and reported to **us** in the period of insurance shown in the policy schedule.

### d Cyber crime

**We** will pay **you**

- the theft of **your** money or funds, and/or
- the cost of unintended or unauthorised call or bandwidth charges to **your** telephone systems directly resulting from a **cyber attack** on **your computer equipment**.

However, **we** will not pay **you** where the theft of your money or funds

- arises from the fraudulent representation of **you** by one of **your** clients or customers
- is the result of a **cyber attack** against **your** customers or suppliers.

### e Cyber liability

**We** will pay **your** legal liability for damages and costs awarded against **you** arising from any claim first made against **you** and reported to **us** during the period of insurance shown in the policy schedule which arises from

- **your** negligent transmission of a **computer virus** that has originated from or passed through **your computer equipment**
- a **cyber attack**
- an **e-media incident**

in connection with **your business**.

In addition **we** will pay **your costs and expenses** resulting from the claim.

#### **f Network interruption**

If **your computer equipment** is subject to a **cyber attack**, first discovered and reported to **us** during the period of insurance shown in the policy schedule, and as a result **your business** is interrupted or interfered with then **we** will pay **you** the subsequent reduction in **your** net profit (before taxes) and/or increase in cost of working.

The amount **we** will pay in respect of the reduction in **your** net profit will be determined by taking into account

- **your** net profit in the months preceding the **cyber attack**
- **your** probable net profit during the **cover period** had the **cyber attack** not occurred
- seasonal variations and influences
- changes in market and/or economic conditions

However, the amount **we** will pay will not include any increase in net profit **you** would likely have attained as a result of an increase in volume of business due to favourable business conditions caused by the impact of a similar event on other businesses.

The amount **we** will pay in respect of increase in cost of working shall be the additional amount of money, necessarily and reasonably spent, in order to avoid or reduce the reduction in **your** net profit which would have occurred during the **cover period** as a result of the **cyber attack** had that money not been spent.

If any of the charges or expenses of **your business** cease or are reduced as a result of the **cyber attack** the amount of those savings during the **cover period** shall be deducted from the amount **we** pay **you**.

**We** will not pay **you** where the interruption or interference to **your business** arises from or involves in any way a self-replicating or non-targeted **computer virus** or **hacking incident**.

#### **g Compensation for court attendance**

If at **our** request

- any director or partner of **yours**, or
- any **employee**

attends a court as a witness in connection with a claim **we** will pay you the following amounts:

- for any director or partner     £500 per day
- for any **employee**             £250 per day

for each day on which attendance is required.

#### **h Public relations management**

**We** will pay **you** for costs resulting from the use, with **our** prior agreement, of the **public relations response service** following a **crisis**.

In addition **we** will pay any other related costs agreed with **us**.

However, **you** must:

- immediately notify **us** of any event or circumstances which might result in **you** seeking payment under this section of cover and comply with **our** recommendations or the recommendations of the **public relations response service**

- take all reasonable and practical measures to avoid or reduce the costs of the **crisis**.

## i Regulatory investigations/fines

Despite exclusions 1 (fines and penalties) and 10 (contractual liability) of this section of cover, **we** will pay **you**

- the cost of legal representation, that **we** agree to in writing, at any investigation or proceedings brought about by the United Kingdom Information Commissioner's Office in connection with any matter for which **you** might receive payment from **us** under this section of cover. Examples of investigations or proceedings are those brought under the Data Protection Act 1988 and/or the General Data Protection Regulations (GDPR).
- any **PCI fines**, penalty, fine or award made against **you** provided that it is legally permissible to insure against the payment of the penalty, fine or award.

How much we will pay

The most **we** will pay in total in the period of insurance shown in the policy schedule for

- all costs in total, plus
- all claims in total, plus
- all **costs and expenses** in total, plus
- the reduction in **your** net profit and/or increase in cost of working in total

is the **limit**, however, the most **we** will pay in total in the period of insurance shown in the policy schedule

- under subsection of cover c (cyber loss) in respect of containing, reducing and/or paying a ransom demand resulting from **data extortion** is £25,000.
- under subsection of cover d (cyber crime) is £25,000.
- under subsection of cover f (network interruption) is £50,000.
- under subsection of cover h (public relations management) is £25,000.
- under subsection of cover i (regulatory investigations/fines) is £100,000.

these amounts are included within and are not in addition of the **limit**

**We** will not pay the **excess**. This must be paid by **you**. The **excess** applies to every separate claim, **data breach**, **data extortion**, loss of money or funds and/or cost of unintended or unauthorised call or bandwidth charges under subsections of cover a (data loss), b (data liability), c (cyber loss), d (cyber crime) and e (cyber liability).

Under subsection of cover f (network interruption) **we** will not pay for any reduction in **your** net profit occurring during the **time retention**. This must be paid by **you**.

## What is not covered (exclusions)

### 1 Fines and penalties

**We** will not pay a claim for any

- fine or penalty
- non-compensatory damages.

This exclusion does not apply to subsection of cover i (regulatory investigations/fines).

### 2 Radioactive contaminations and sonic bangs etc

**We** will not pay a claim for a loss that is otherwise covered under this policy if the loss is caused by or arises from

- ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
  - the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component
  - pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds
- and in Northern Ireland and the Republic of Ireland only
- riot, civil commotion, strikers, labour or political disturbances, vandals or malicious persons.

### 3 War risks and terrorism

**We** will not pay a claim for a loss that is otherwise covered under this policy if the loss is caused by or arises from

- **war** and/or **terrorism**
- any action taken in controlling, preventing or suppressing **war** and/or **terrorism**
- any unlawful or malicious act committed maliciously by a person or persons acting on behalf of or in connection with any **unlawful association**

regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

- **contamination** due to **terrorism**

If **we** allege that, because of this exclusion, any loss is not covered by this policy the burden of proving otherwise will be upon **you**.

If any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

This exclusion does not apply in respect of a **hacking incident** or **computer virus** initiated for the sole purpose of exacting malice against **you** or obtaining commercial gain from **you**.

### 4 Confiscation etc

**We** will not pay a claim for a loss that is otherwise covered under this policy if the loss is caused by or arises from

- confiscation, requisition, nationalisation, seizure, detention or destruction by any government, public, local or customs authority, and
- access by any government, public, local or customs authority or any order by the authority to take down, deactivate or block access to **your computer equipment**.

### 5 Other insurance

**We** will not pay a claim where **you** have a right to payment under any other insurance.

However, if **you** have a right to payment under any other insurance **we** will contribute in excess of the payment provided by that insurance. If the other insurance is also provided by **us** then the amount that **we** will pay under this insurance will be reduced by the amount that **we** pay under the other insurance.

### 6 Legal action

**We** will not pay a claim under subsections of cover b (data liability) or e (cyber liability)

- where the claim is brought in a court of law outside the jurisdiction of the applicable courts shown in the policy schedule for this section of cover, and/or
- where action for damages is brought in a court within that jurisdiction to enforce a foreign judgment.

### 7 Geographical limits

**We** will not pay a claim for any legal liability or loss that **you** suffer that results from the conduct of **your business** outside of the **United Kingdom** other than whilst a director of **yours** or an **employee** is temporarily outside the **United Kingdom** in connection with **your business**.

## **8 Employers liability**

**We** will not pay a claim where **your** legal liability arises from

- bodily injury, mental injury, emotional distress, shock, sickness, disease or death (other than emotional distress arising from a **data breach**) to any **employee** that results from their employment by **you**, or
- a breach of your responsibility as an employer to any **employee** or prospective **employee**.

## **9 Dishonest and malicious acts**

**We** will not pay a claim where **your** legal liability or any loss that **you suffer** results from any

- dishonest
- fraudulent
- criminal
- malicious
- wilful, or
- reckless act or omission

of any

- board director
- trustee
- governor
- council member
- committee member
- partner, or member of **yours**
- in-house lawyers of **yours**
- risk managers
- chief operating officers
- chief technology officers
- chief information officers
- chief privacy officers
- self-employed persons working for **you**
- or any other person acting in a similar capacity

or any

- dishonest
- fraudulent
- criminal, or
- malicious

act or omission committed by any person after the discovery of reasonable cause for suspicion of that person.

In addition:

- no one will be entitled to payment in respect of any legal liability and/or **costs and expenses** resulting from their dishonest, fraudulent, criminal or malicious act or omission or from condoning such an act or omission.
- **we** will deduct from any amount payable by **us**:
  - any amounts due from **you** to the person committing or condoning the dishonest, fraudulent, criminal or malicious act or omission
  - any amounts held by **you** and owed to the person committing or condoning the dishonest, fraudulent, criminal or malicious act or omission
  - any amount recovered following action in accordance with general condition 1 (subrogation) of this policy.

## 10 Contractual liability

**We** will not pay a claim where **your** legal liability arises from any agreement **you** have entered into if **your** liability is increased beyond that applicable in the absence of the agreement.

## 11 Joint ventures

If **you** are part of a joint venture or consortium **we** will only cover **you** for **your** legal liability arising from **your** own acts or omissions; **we** will not pay a claim where **your** legal liability arises from the acts or omissions of other members of the joint venture or consortium.

## 12 Circumstances known at inception

If **you** knew or ought to have known of any circumstances that existed prior to the date that this section of cover started then **we** will not pay a claim for any legal liability or loss that you suffer that arises from those circumstances.

## 13 Retroactive date

**We** will not pay a claim where **your** legal liability arises from the carrying out of **your business** prior to the **retroactive date**.

## 14 Injury/property damage

**We** will not pay a claim where **your** legal liability arises from

- bodily injury, mental injury, emotional distress, shock, sickness, disease or death sustained by any person (other than emotional distress arising from a **data breach**), or.
- any loss, damage or destruction of property including the loss of use of the property (other than in respect of **computer equipment**).

## 15 Insolvency/bankruptcy

**We** will not pay a claim where **your** legal liability or any loss that **you** suffer results from **your** insolvency or bankruptcy, or the insolvency or bankruptcy of **your** suppliers, subcontractors or service providers.

## 16 Financial interest

**We** will not pay **you** for any claim made against **you** by

- any parent company, ultimate holding company or subsidiary company, or
- any person or entity having a financial, executive or controlling interest in **your** operation, or

- any company or entity in which **you** or any director, member or partner of **yours** has a financial, executive or controlling interest.

However, **we** will pay **you** if the claim is one for payment or contribution in respect of a claim made by an independent third party against the company, person or entity making the claim against **you**.

## 17 Trading losses

**We** will not pay a claim where **your** legal liability or any loss that **you** suffer arises from any

- trading losses, or
- trading liabilities, or
- any debts incurred

by any business managed by or carried on by **you**.

This exclusion shall not apply to subsection of cover f (network interruption).

## 18 Patents

**We** will not pay a claim where **your** legal liability or any loss that **you** suffer arises from any actual or alleged infringement of any patent.

## 19 Directors and officers

**We** will not pay a claim where **your** legal liability or any loss that **you** suffer arises from or is in connection with the performance or non-performance by **you**, any director or member of **yours**, or any **employee**, of any duties as a director or officer of any company.

## 20 Taxation, competition, restraint of trade and anti-trust

**We** will not pay a claim where **your** legal liability or any loss that **you** suffer arises from a breach of any regulation or legislation governing taxation, competition, restraint of trade or anti-trust provisions.

## 21 Electromagnetic or electrical disturbances

**We** will not pay a claim where **your** legal liability or any loss that **you** suffer arises from

- electromagnetic fields, electromagnetic radiation, electromagnetic pulses, electromagnetism, solar flares and storms, or any other type of radiation
- any alleged or actual electrical or mechanical failures and/or interruption including electrical disturbance, surge or spike.

## 22 Infrastructure failures

**We** will not pay a claim where **your** legal liability or any loss that **you** suffer arises from any failure of the provision of **your** infrastructure and utilities including the provision of gas, water, electricity, telecommunications or internet services.

## 23 Betterment

**We** will not pay **you** to the extent that **your computer equipment** or **your** financial position are in a better or improved position compared to their position in the absence giving rise to payment under this section of cover.

## 24 Data extortion

**We** will not pay a claim for any loss that **you** suffer arising from **data extortion** by an **employee** or a self-employed person working for **you** or anyone acting in collusion with them.

## **25 Fraudulent representation**

**We** will not pay a claim under subsection of cover d (cyber crime) for any loss **you** suffer

- as a result of the fraudulent representation of **you** by one of **your** clients or customers
- arising from **your** clients or suppliers being subject to a **cyber attack**.

## **26 Coronavirus**

**We** will not pay **you** for any loss that is caused by or arises in any way from

- Coronavirus (COVID-19)
- severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)
- a mutation or variation of SARS-CoV-2
- a threat, fear or likelihood of infection with any of the above

# Conditions that apply to this section of cover

If **you** breach the following condition this may result in **your** claim not being covered or a reduction in the amount payable.

## 1 Data extortion

It is a condition under this section of cover that

- **you** will not disclose the existence of the cover provided in respect of **data extortion** to anyone.
- **you** will advise, or allow **us** to advise the police of the **data extortion**.

## Words with special meanings (definitions)

The following words or phrases have the same meaning wherever they are highlighted in bold in this section of cover. Plural forms of the words defined in this policy have the same meaning when used in the singular form.

**Cover period** means the period starting immediately following the expiry of the **time retention** and ending not later than 30 days afterwards.

**Crisis** means a **data breach** or any event which would result in a payment under this section of cover and where in **our** opinion there is a risk to **your business** as a consequence of adverse press, publicity or media attention.

**Cyber attack** means either

- a **hacking incident**, or
- a **denial of service attack**.

**Cyber response service** means the IT security specialist services provided by **us** or on **our** behalf.

**Data breach** means

- when used under subsection of cover a (data loss), the
  - loss of, and/or
  - unlawful or unauthorised alteration of, and/or
  - inappropriate publication of, and/or
  - theft ofdata kept on **your computer equipment** or held by **you** in non-electronic format
- when used elsewhere in this section of cover, the
  - loss of, and/or
  - unlawful or unauthorised alteration of, and/or
  - inappropriate publication of, and/or
  - theft ofeither electronic or non-electronic data.

**Data extortion** means a demand made against **you** by someone who threatens to introduce, start or continue a **data breach** which could result in **you** suffering a financial loss if the demand is not met.

**Denial of service attack** means an unlawful or unauthorised attempt by someone, that is specifically targeted at **you** alone and not at anyone else, to overload, hinder, interrupt or suspend service to **your computer equipment**, via the internet.

**E-media incident** means

- libel, slander or defamation, or
- unintentional infringement of intellectual property rights or any unintentional act of passing off solely occasioned through
- **your** website content,
- **your** social media presence (including comments made by others for which **you** may be held legally responsible), or
- **your** other online mediums.

**Employee** means anyone (other than a director of **yours**) who was, or is or may become

- under a contract of service or apprenticeship with **you**
- under a work experience or similar scheme with **you**
- supplied to **you** or hired in or borrowed by **you**

who work for **you** in connection with **your business** and are under **your** direct control and who are normally resident in the **United Kingdom**.

**Excess** means the first amount of any claim or payment for which **you** are responsible. The amount in respect of this section of cover is shown in the policy schedule.

**Hacking incident** means an electronic attack of a malicious or unauthorised nature, by someone (including an **employee**) with the intention of damaging, destroying, altering, encrypting, overloading or interfering with **your** computer systems or records.

**Insured, you, your, yours** means

- the person or persons, and/or
- the firm and all partners and former partners in the firm, and/or
- the limited liability partnership, and/or
- the trust, and/or
- the company

named as the policyholder in the policy schedule.

In the event of the death, incompetency, incapacity, bankruptcy or insolvency of any natural person named as the policyholder or partner or former partner of the policyholder then it also means

- the estate, and/or
- the heirs, and/or
- the legal representatives (including anyone to whom their rights or liabilities have been legally transferred or anyone appointed to act for them)

of the person or partner concerned.

In addition, if **you** request us to, **we** will pay the following persons in the same way that **we** would pay **you** provided that they observe, fulfil and are subject to the terms, conditions and exclusions of this policy as **you** are:

- any director or member of **yours**, or
- any **employee**.

**Limit** means the maximum amount **we** will pay. The amount in respect of this section of cover is shown in the policy schedule.

**PCI fines** means those fines imposed against **you** due to a breach of the PCI Data Security Standard, but only as a result of a **data breach**.

**Public relations response service** means the public relations specialist services provided by **us** or on **our** behalf.

**Retroactive date** means either

- the date when this section of cover was first inceptioned, or
- where equivalent cover to that provided under this section of cover has been continuously maintained immediately prior to the inception of this section of cover, then it means the date that applied to that equivalent cover.

**Time retention** means 24 hours starting from the time of **your** first discovery of a **cyber attack**.

### **Public relations response service**

This is available to all policyholders who have purchased this section of cover. In the event of a claim, this provides access to the specialist public relations organisation, The Counsel House, to help manage certain situations where there is a risk to **your business** as a consequence of adverse press, publicity or media attention.

### **How to access the public relations response service**

**Telephone:** 0345 355 2227

Email: [info@thecounselhouse.com](mailto:info@thecounselhouse.com)

Information required:

- policyholder name
- policy number
- contact details
- brief details as to the nature of the problem or the advice being sought.

### **Cyber response service**

This is available to all policyholders who have purchased this section of cover, and provides access to specialist solicitors at Markel Law and information security experts who will give expert legal and technical IT security guidance on issues arising from cyber and data protection risks.

### **How to access the cyber response service**

**Telephone:** 0333 234 2471

(Monday – Friday, 9:00am – 5:30pm)

Information required:

- policyholder name

- policy number
- contact details
- brief details as to the nature of the problem or the advice being sought.