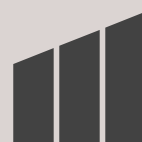


Technology Risks Excess Layer Policy

Policy wording



MARKEL



Technology Excess Layer Policy

Policy wording



Welcome

Welcome and thank you for choosing to buy your policy from Markel.

This document, the schedule and any endorsement(s) attached form your policy. This document sets out the conditions of the insurance between **you** and **us**. Please carefully read the following and keep them in a safe place:

- this document,
- the schedule, and
- any endorsements that apply

The insurance contract

In return for payment of the premium shown in the schedule, **we** agree to insure **you** as described in each section of this document, subject to the terms and conditions contained in or endorsed on this policy.

The cover provided

It is important that:

- **you** check that the information **you** have given **us** is accurate - see 'our reliance on the information provided to us' in the 'important information' section
- **you** notify **your** broker as soon as practicable of any inaccuracies in the information **you** have given **us**
- **you** comply with **your** duties under this policy as a whole.

Exclusions

Your policy is subject to exclusions and these tell you what is not covered.

Conditions

Your policy is subject to certain conditions that apply.

The meaning of highlighted words

Some of the words in this policy have a special meaning, **we** have highlighted these words in bold print.

Important information

How to make a claim

If **you** want to make a claim under this policy, either:

- contact **your** insurance broker, or
- contact **us** by
 - writing to our claims team at Markel (UK) Limited, Verity House, 6 Canal Wharf, Leeds LS11 5AS, or
 - emailing our claims team - claimsuk@markel.com

quoting your policy number and the name of the policyholder shown in the policy schedule.

If you want to discuss a claim under **your** policy phone our claims team on 0345 335 2227.

Things you must do

You must comply with the claims conditions. These can be found under 'claims conditions that apply to this policy'.

If **you** fail to comply with these conditions **we** may not pay **your** claim or any payment could be reduced.

Fraudulent claim

If **you** make a fraudulent claim under this policy:

- **we** are not liable to pay the claim, and
- **we** may recover from **you** any sums **we** have paid to **you** in respect of the claim, and
- **we** may write telling **you** that **we** are treating the contract as having been terminated with effect from the fraudulent act.

If **we** do write to **you** telling **you** that **we** are treating this policy as having been terminated:

- **we** will not be liable to **you** in respect of any relevant event occurring after the time of the fraudulent act. A relevant event is whatever gives rise to **our** liability under this policy (such as a loss, the making of a claim, or the notification of a potential claim), and
- **we** need not return any of the premium paid.

If this policy provides cover for any person who is not a party to the contract of insurance ('a covered person', for example, the **insured**), and a fraudulent claim is made under this policy by or on behalf of a covered person, **we** may exercise the same rights as above as if there was an individual contract of insurance between the covered person and **us**. However, the exercise of any of these rights shall not affect the cover provided under this policy for any other person.

Our reliance on the information provided to us

In deciding to accept this policy and in setting the terms and premium **we** have relied on the information **you** have given **us**. **You** must take care when answering any questions **we** ask by ensuring that all information provided is accurate and complete.

If **you** become aware that information **you** have given **us** is inaccurate **you** must inform **us** as soon as practicable.

The information **you** have provided **us** constitutes **your** fair presentation of risk. A 'fair presentation of the risk' is one

- which discloses to **us** every material circumstance which **you** know of or ought to know of, or
- gives **us** sufficient information to put **us** on notice that we will need to make further enquiries for the purpose of revealing those material circumstances, and
- which makes that disclosure in a manner which is reasonably clear and accessible to **us**

and

- in which every material representation as to a matter of fact is substantially correct and every material representation as to a matter of expectation or belief is made in good faith.

A 'material circumstance' is one that would influence **our** decision as to whether or not to agree to insure **you** and, if so, the terms of that insurance. If **you** are in any doubt as to whether a circumstance is material **you** should disclose it to **us**.

If **you** fail to make a fair presentation of risk there are a number of remedies available to **us** which are set out in condition 7 (breach of the duty of fair presentation) in the section 'conditions that apply to this policy'.

We will write to **you** if **we** intend to take one of these remedies.

How to cancel this policy

You can cancel this insurance at any time by writing to **your** broker.

We can cancel this insurance by giving **you** 30 days written notice. **We** will only do this for a valid reason, examples of valid reasons are:

- a change in risk occurring which means **we** can no longer provide **you** with insurance cover
- non-cooperation or failure to supply any information or documentation **we** request.

Cooling-off period

This policy has a cooling-off period of 14 days from either:

- the date **you** receive this insurance policy, or
- the start of the period of insurance shown in the policy schedule

whichever is the later.

Refund of premium

If **we** pay (or have agreed to pay) any claim, in whole or in part, then no refund of premium will be allowed. If **we** haven't paid (or agreed to pay) any claim, in whole or in part, then:

- if **we** cancel this policy **you** will be entitled to a refund of any premium paid, subject to a deduction for any time for which **you** have been covered. This will be calculated on a proportional basis. For example, if **you** have been covered for 6 months and the period of insurance shown in the policy schedule is for 12 months, the deduction for the time **you** have been covered will be half the annual premium.
- if **you** cancel this policy within the cooling-off period **we** will return to **you** all of the premium paid without any deduction.
- if **you** cancel this policy outside the cooling-off period **you** will be entitled to a refund of any premium paid, subject to a deduction for any time for which **you** have been covered. This will be calculated on a proportional basis.

If the premium is paid by instalments the way **we** calculate the return premium may differ, please refer to condition 3 (premium payment).

How to make a complaint

Markel is committed to providing a high quality and professional service and to maintain fair outcomes for our customers. If you are dissatisfied or have any complaints about your policy or the handling of a claim you should, in the first instance, contact Legal, Regulatory & Compliance on the following contact details:

By telephone: +44 (0)20 7953 6020

By email: complaints@markelintl.com

By writing to: Legal, Regulatory & Compliance
Markel International Insurance Company Limited
20 Fenchurch Street
London
England
EC3M 3AZ

The aim of this procedure is to settle the complaint fairly and as quickly as possible. We will use our best endeavours to comply with the timeframes set out below.

A complaint received by Markel International Insurance Company Ltd (whether by letter, facsimile, e-mail, telephone conversation or other oral representation) will be allocated to an appropriate person to carry out an

independent review of the justification of the complaint.

- Complaints will be acknowledged in writing no later than five business days after receipt. That acknowledgement will include the name of the person who will be reviewing the complaint and a copy of this Complaint Procedure.
- We will try to resolve a complaint within four weeks and give a written final response, or send an interim response explaining why we are not yet in a position to resolve matters.
- By the end of eight weeks following receipt of a complaint, a final response will be issued or a further interim response giving an indication as to when a final response can be expected.
- When we issue our final response we will include a copy of a leaflet published by Financial Ombudsman Service ("FOS").

The FOS operates a dispute resolution facility for consumers, micro-enterprises (small businesses), small charities and trustees. An eligible Complainant has up to six months to register a complaint with the FOS if the outcome was not to their satisfaction. If you do not refer your complaint in time, the Ombudsman may not have our permission to consider the complaint and will only be able to do so in very limited circumstances. For example if the Ombudsman believes that the delay was as a result of exceptional circumstances.

The Financial Ombudsman Service (FOS)

The FOS is an independent service in the UK for settling disputes between consumers and businesses providing financial services. You can find out more information on the FOS at www.financial-ombudsman.org.uk

The contact details for the FOS are:

The Financial Ombudsman Service
Exchange Tower
London E14 9SR

Telephone: 0800 023 4567 (calls to this number are free from 'fixed lines' in the UK), or
0300 123 9123 (calls to this number are charged at the same rate as 01 and 02 numbers on mobile tariffs in the UK)

Email: complaint.info@financial-ombudsman.org.uk
Website: www.financial-ombudsman.org.uk

Complaints that cannot be resolved by us may be referred to the Financial Ombudsman Service. The following are the Customers who can currently complain to FOS:

- Consumer
- Micro-enterprise; employs fewer than 10 persons and has a turnover or balance sheet that does not exceed £1 million
- Charity which has an annual income of less than £1 million at the time the Complainant refers the complaint to the respondent
Trustee of a Trust which has an asset value of less than £1 million at the time the Complainant refers the complaint to the respondent
- Small business; employs fewer than 50 persons; or has a balance sheet total of less than £5 million.

If **you** are unsure whether **you** are able to refer **your** complaint, please refer to the Financial Ombudsman Service.

Details of the Financial Services Compensation Scheme

Markel International Insurance Company Limited is covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation from FSCS if Markel International Insurance Company Limited is unable to meet its obligations to you under this insurance.

If you are entitled to compensation from FSCS, the level and extent of compensation will depend on the nature of this insurance. Further information about FSCS is available on their website: www.fscs.org.uk or you can write to them at PO Box 300, Mitcheldean, GL17 1DY.

Language

This policy and all correspondence between **you** and **us** in relation to this policy (including any correspondence in relation to a claim) shall be in English.

Regulatory authorities

We are authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority (Financial Services number 202570) and registered in England with company number 966670 with a registered office at 20 Fenchurch Street, London EC3M 3AZ.

Data protection

Your insurance cover includes cover for individuals who are either insureds or beneficiaries under the policy (individual insureds). **We** collect and use relevant information about individual insureds to provide **you** with **your** insurance cover and to meet **our** legal obligations.

This information includes individual insureds' details such as their name and address (and may include more sensitive details such as information about their health and criminal convictions).

We will process individual insureds' details, as well as any other personal information **you** provide to **us** in respect of **your** insurance cover, in accordance with **our** full Markel privacy notice, a copy of which is available online at [<https://www.markel.com/privacy-policy>](https://www.markel.com/privacy-policy) or on request.

Information notices

To enable **us** to use individual insureds' details in accordance with current data protection laws, **we** need **you** to provide those individuals with certain information about how **we** will use their details in connection with **your** insurance cover.

You agree to provide to each individual insured **our** short form information notice set out in **our** proposal forms or risk profiles on or before the date that the individual becomes an individual insured under **your** insurance cover or, if earlier, the date that you first provide information about the individual to **us**.

Minimisation and notification

We are committed to using only the personal information **we** need to provide **you** with **your** insurance cover. To help **us** achieve this, **you** should only provide to **us** information about individual insureds that **we** ask for from time to time.

You must promptly notify **us** if an individual insured contacts **you** about how **we** use their personal details in relation to **your** insurance cover so that **we** can deal with their queries.

Rights of third parties

A person who is not a party to this policy has no right under the Contracts (Rights of Third Parties) Act 1999 (or any amendment or re-enactment of the Act) to enforce any term of this policy but this does not affect any right or remedy of a third party which exists or is available apart from the Act.

Brexit

We will not provide any benefit under this contract of insurance to the extent of providing cover, payment of any claim or the provision of any benefit where the regulatory risk location is within the European Economic Area (EEA)

Sanctions limitation

We will not provide any benefit under this contract of insurance to the extent of providing cover, payment of any claim or the provision of any benefit where doing so would expose **us** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanction, laws or regulations of the European Union, United Kingdom or United States of America.

Choice of law

The law of England and Wales will apply to this contract unless at the commencement of the period of insurance shown in the policy schedule **you** are a resident of (or, in the case of a business, the registered office or principal place of business is situated in) Scotland, in which case (in the absence of agreement to the contrary) the law of Scotland will apply.

Any legal proceedings between **you** and **us** in connection with this policy will take place in the courts of the part of the **United Kingdom** in which **you** live or have **your** registered office.

Excess Layer Insurance

What is covered

We will pay **you** for **your** legal liability for damages and costs and expenses awarded against **you** where cover is provided by the **underlying policy** for any loss in excess of the **underlying policy limit** arising from any claim first made against **you** and reported to **us** during the period of insurance shown in the policy schedule.

What we will pay

The most **we** will pay for any claim or series of claims, including **costs and expenses**, arising from the same original cause is the **limit**.

In addition **we** will pay **your costs and expenses** resulting from the claim, however, if **your** legal liability is more than the **limit** then the amount **we** will pay in respect of **costs and expenses** will be proportionately reduced.

What is not covered (exclusions)

1. Fines and penalties

We will not pay **you** for any

- fine or penalty
- non-compensatory damages

2. Radioactive contaminations and sonic bangs

We will not pay **you** for a loss that is otherwise covered under this policy if the loss is caused by or arises in any way 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 **you** for a loss that is otherwise covered under this policy if the loss is caused by or arises in any way 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.

4. Mould

We will not pay **you** for a loss that is otherwise covered under this policy if the loss is caused by or arises in any way from **mould** or a **mould event**

5. Underlying losses

We will not pay **you** for a loss unless and until the **underlying insurer** of the **underlying policy** has paid or admitted liability or has been held liable to pay the full amount of the **underlying policy limit**.

6. Retroactive date

We will not pay **you** for a loss that arises from the carrying out of **your business** prior to the **retroactive date**.

7. Legal action

We will not pay **you**

- where the claim is brought in a court of law outside the jurisdiction shown in the policy, and/or
- where action is brought in a court of law within that jurisdiction to enforce a foreign judgement

Conditions that apply to this policy

1. Maintenance of underlying policy

You must maintain the **underlying policy** in full force and effect during the period of insurance shown in the policy schedule except for any reduction in the aggregate limits solely resulting from the payment or provision of cover provided by the **underlying policy**.

If the **underlying insurer** extends the cover provided by the **underlying policy our** liability will not be extended until it has been agreed in writing by **us**.

2. Application of limit

In the event of the exhaustion of the **underlying policy limit** (whether partial or total) this policy will

- in the event of partial exhaustion apply in excess of the reduced amount of the **underlying policy limit** for the remainder of the period of insurance shown in the policy schedule.
- in the event of total exhaustion continue in force as the **underlying policy** until expiry of the period of insurance shown in the policy schedule.

3. Premium payment

Despite any other conditions relating to cancellation, if payment of the premium has been arranged on a deferred basis with a premium finance company which has entered into a contractual agreement with Markel (UK) Limited to provide premium credit facilities, then it is agreed that

- if payment of any instalment to the premium finance company is overdue, Markel (UK) Limited may, in accordance with the authority granted to the premium finance company by **you** under the terms of the Credit Agreement, accept cancellation instructions from the premium finance company and will allow a return pro-rata premium to the premium finance company provided there have been no claims or circumstances known or reported to **us** during the period of insurance shown in the policy schedule
- all premiums due or returned will be processed by the premium finance company in accordance with the Credit Agreement.

4. Costs clause

If the **underlying insurer** is not liable for any costs and expenses because they have invoked any rights under the **underlying policy**, or they have paid the **underlying policy limit** and are only liable for such costs and expenses incurred up to the time of such payment, then **we** will only pay that proportion of the costs and expenses which the **underlying insurer** would have been liable for had they not invoked such rights or made such payment

5. Notice

Any notice under this policy will be regarded as given

- to **us** if sent by first class prepaid post to Markel (UK) Limited, Verity House, 6 Canal Wharf, Leeds, LS11 5AS
- to **you** if sent by post to **your** last known address.

6. Breach of terms not relevant to the actual loss

If **you** fail to comply with a term (express or implied) of this policy (other than a term that defines the risk as a whole and compliance with the term would tend to reduce the risk of a loss, either

- of a particular kind, and/or
- at a particular location, and/or
- at a particular time

we cannot rely of the breach of the terms to exclude, limit or discharge **our** liability under this policy if **you** show that the failure to comply with the term could not have increased the risk of loss which actually occurred in the circumstances in which it occurred.

7. Breach of the duty of fair presentation

a. breach of duty prior to entering into the contract of insurance

If **you** breach the duty of fair presentation prior to entering into this insurance contract, the remedies available to **us** are:

- if the breach of the duty of fair presentation is deliberate or reckless:
 - **we** may avoid this policy and refuse all requests for payment, and
 - **we** need not return any of the premium paid
- if the breach of the duty of fair presentation is not deliberate or reckless, **our** remedy will depend upon what **we** would have done if **you** had complied with the duty of fair presentation
 - if **we** would not have entered into the contract of insurance at all **we** may avoid this policy and refuse all requests for payment and will return the premium paid
 - if **we** would have entered into the contract of insurance but on different terms (other than terms relating to the premium), this policy will be treated as if it had been entered into on those different terms from the outset
 - in addition, if **we** would have entered into the contract but would have charged a higher premium **we** may proportionately reduce the amount to be paid under this policy and, if applicable, any amount already paid in the same proportion as the premium we would have charged bears to the premium actually charged

b. breach of duty prior to entering into a variation of this contract of insurance

If **you** breach the duty of fair presentation prior to entering into a variation of this insurance contract, the remedies available to **us** are:

- if the breach of the duty of fair presentation is deliberate or reckless:
 - **we** may treat this policy as having been terminated from the time when the variation was concluded, and
 - **we** need not return any of the premium paid
- if the breach of the duty of fair presentation is not deliberate or reckless, **our** remedy will depend upon what **we** would have done if **you** had complied with the duty of fair presentation
 - if **we** would not have agreed to the variation at all **we** may treat the contract as if the variation was never made and will return any extra premium paid
 - if **we** would have agreed to the variation but on different terms (other than terms relating to the premium), the variation will be treated as if it had been entered into on those different terms from the outset

in addition, if either

- **we** would have increased the premium by more than **we** did or at all, or
- **we** would not have reduced the premium as much as **we** did or at all, then **we** may proportionally reduce the amount to be paid under this policy arising out of events after the variation.

Claims conditions that apply to this policy

1. Notification of claims

You must notify **us** in writing as soon as possible of all claims or requests for payment of

- any claim made against **you**
- the receipt of any communication of an intention to make a claim against **you**
- any circumstance of which **you** shall become aware which is likely to give rise to
 - a claim against **you**, or
 - **you** seeking payment under this policy

if it appears that the claim, communication or circumstance may lead to a payment likely to exceed twenty five percent of the **underlying policy limit**

You must give **us**

- **your** reasons for **your** anticipation of a claim
- full details of dates and persons involved

Your notification to **us** must be within the period of insurance shown in the policy schedule.

If **you** comply with the above then any subsequent

- claim made, or
- request for payment

will be regarded as having been made, instigated or requested during the period of insurance shown in the policy schedule.

If **you** fail to do this **your** claim may not be covered or the amount **we** pay **you** may be reduced.

2. General claims handling

- **you** must give **us** the information and co-operation that **we** may reasonably request
- **you** must not do anything which might prejudice **us**
- **you** must take all reasonable steps to prevent any further claim or request for payment under this policy
- **you** must not admit liability or settle any claim or incur any **costs and expenses** without **our**
- written consent

If **you** fail to do this **your** claim may not be covered or the amount **we** pay **you** may be reduced.

3. Defence of claims

- **we** are entitled to take over the defence or settlement of any claim in **your** name
- **you** will not be required to contest any legal proceedings unless a mutually agreed counsel advises that the proceedings should be contested.
- **you** are entitled at **your** own risk to contest any claim or legal proceedings which in **our** opinion should be compromised or settled but, if **you** choose to do this, **we** will not be liable for any loss incurred as a result of **your** refusal to compromise or settle the claim or legal proceedings.

Words with special meanings (definitions)

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

Insured, you, your, yours the person to whom is insured in the **underlying policy**, as named in the policy schedule.

Business means **your** activities, profession or occupation that **you** have told **us** about and which **we** have confirmed are acceptable to **us** for the purpose of this insurance.

Contamination means the

- contamination
- poisoning
- prevention or limitation of use

of objects due to the effects of chemical or biological substances.

Costs and expenses means legal costs and expenses incurred

- by **us**, or
- by **you** (provided **we** have agreed with **you** in writing that **you** may incur these costs and expenses)

but does not include

- damages and costs awarded against **you**
- any kind of payment for work or service due to **you**.

Limit means the maximum amount **we** will pay as shown in the policy schedule.

Mould means any permanent or impermanent fungus (including mould or mildew but not including dry rot) or any of the spores, scents or by-products produced by a fungus regardless of whether or not they are proved to have caused any disease, injury or damage.

Mould event means any actual, alleged or threat of:

- contact with
- exposure to
- inhalation of
- absorption of
- discharge of
- dispersal of
- seepage of
- migration of
- release of
- escape of
- presence of
- growth of

mould.

Our, us, we means Markel International Insurance Company Limited.

Pollution means the

- discharge
- dispersal
- release, or
- escape

of any irritant or contaminant.

Retroactive date means the date stated in the policy schedule.

Terrorism means any act of terrorism (including the use or threat of violence) of any person or group of persons whether acting alone or on behalf of or in connection with any organisation or government committed for:

- political
- religious
- ideological
- or similar purposes including the intention to influence or overthrow any government (whether by right or not) and/or
- putting the public or any section of the public in fear.

Underlying Insurer means the insurer or insurers stated in the policy schedule.

Underlying policy means the contract(s) of insurance stated in the policy schedule or any contract(s) of insurance issued in substitution or renewal for the same **underlying policy** and by the same **underlying insurer**.

Underlying policy limit means the amount stated in the policy schedule and any costs and expenses for which the **underlying insurer** is liable.

United Kingdom means England, Scotland, Wales, Northern Ireland, the Isle of Man and the Channel Islands.

Unlawful association means any unlawful organisation which is engaged in **terrorism** including any organisation which at any relevant time is a proscribed organisation within the meaning of the Terrorism Act 2000 or any amendment or re-enactment of that act.

War means

- war
- invasion
- act of foreign enemies
- hostilities or warlike operations (whether or not war is declared)
- civil war
- rebellion
- revolution
- insurrection
- civil commotion assuming the proportions of or amounting to an uprising
- mutiny or usurped power.