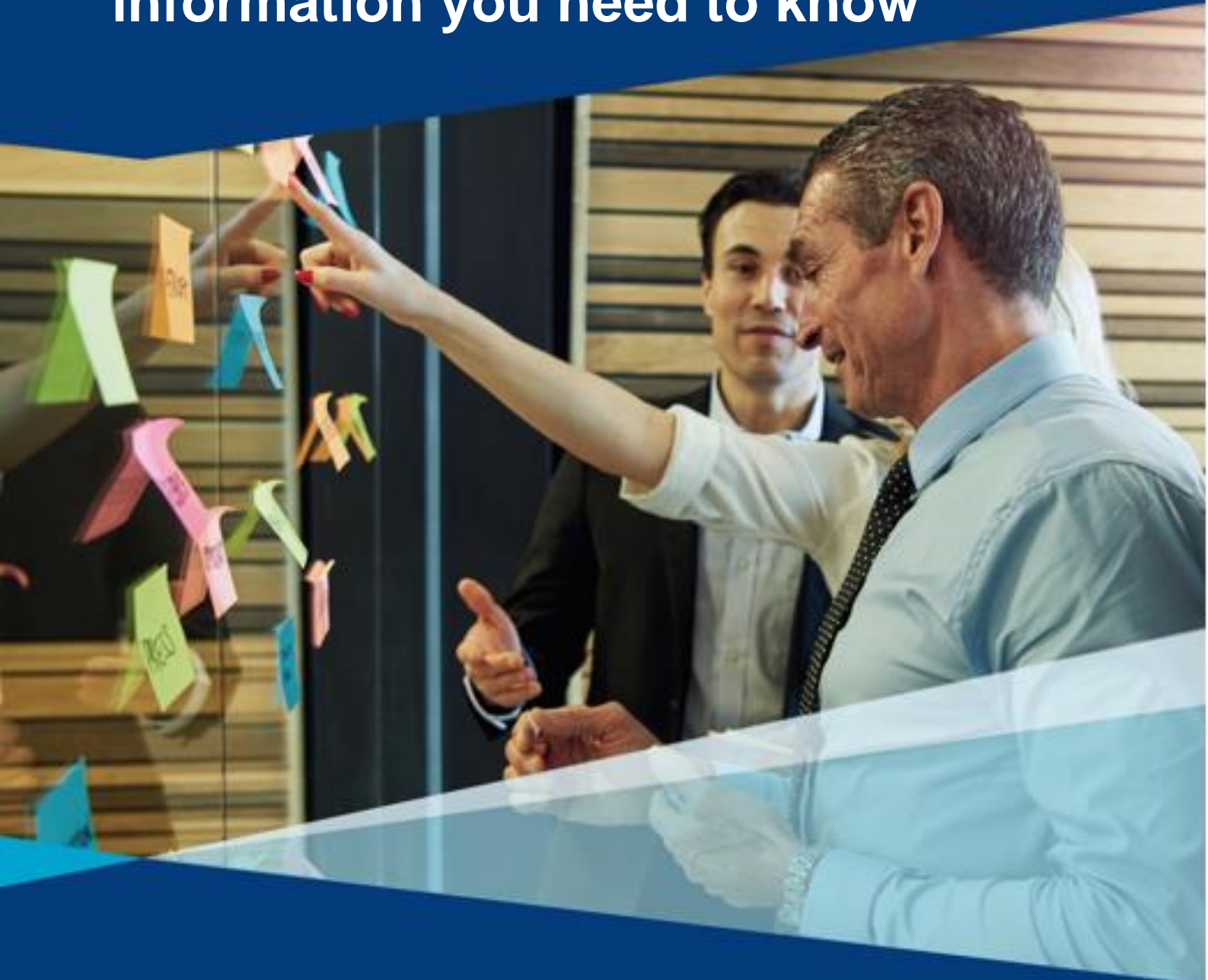


Important legal and regulatory information you need to know



Our information and/or documentation can be made available in a larger font, or an alternative format, on request. Please contact your usual Marsh contact for further assistance.

1. Summary

This document should be read in conjunction with our insurance correspondence and your policy documents. Insurance is an important decision, and we want to help you make the right one by being upfront with any legal information or terms and conditions.

In this document you will find information regarding:

The Duty of Disclosure and Fair Presentation of Risk



- The Insurance Act 2015 aims to make insurance fairer for policyholders. However, to benefit from the Act you will need to comply with your duty of “fair presentation”. Make sure you are in the know by reviewing the [Duty of Disclosure and Fair presentation](#) section of this report.

Regulations



- If your placement requires cover for military goods, or you transact business with any country, person, or legal entity subject to trade sanctions, your insurance programme may not be able to provide cover.

Premium Finance



- If you are considering paying for your insurance by premium finance, please ensure that you read the terms and conditions of the [premium finance arrangement](#).

Our Commercial Terms of Business



- Please read our [Terms of Business](#) as this is our standard client agreement upon which we intend to rely, and also the additional important information relating to the Terms of Business.

Important Information for Marsh Commercial Clients



- Please read the [Important Information](#) which contains important regulatory information we are required to give to you.

We believe this information is important. Which is why at Marsh Commercial, it's not hidden away in a small font but clearly presented to help you make an informed decision. If you would like to discuss any aspect of this document, have any questions, queries or concerns, or need assistance in some way, please get in touch with your normal Marsh Commercial contact.

2. The Duty of Disclosure and Fair Presentation

Please read this guidance carefully, as any failure to comply with the duty of fair presentation and disclose material information to your insurer may adversely affect the validity of your insurance policy. If you have any questions, please do not hesitate to contact your usual Marsh Commercial contact in the first instance.

This guidance does not purport to constitute legal advice but it does reflect the law. Your insurance policy may contain clauses which vary the strict legal position. If appropriate you should, in addition to speaking with your usual Marsh Commercial contact, consider taking your own independent legal advice.

Please tell us if the person in your organisation responsible for arranging insurance changes so that we may explain the duty of disclosure/fair presentation to that person.

Your obligations



- If you are a business and your insurance policy is governed by English law (all references to English law include the laws of Wales, Scotland, and Northern Ireland), you must, at all times, act with utmost good faith towards your insurer.
- Before your policy is placed, at renewal, and when varying or extending a policy you have a duty to make a 'fair presentation' of the risk, and you must disclose to your insurer all information, facts, and circumstances which are, or ought to be, known to you and which are material to the risk.
- In addition, if your policy contains a particular clause stating that any change in circumstances must be advised to your insurer, you will also have to disclose certain information during the policy period.
- When providing information or completing a proposal form or otherwise confirming any information to your insurer you should take care to ensure that the details provided are complete and accurate.
- Even where a proposal form is not used, you should note that your duty to make a fair presentation is not confined to answering the specific questions listed in the form and/or asked by us or your insurer and that all material circumstances should be disclosed to your insurer, regardless of whether or not your insurer has asked for the information.
- The Insurance Act 2015 gives some guidance as to what a "fair presentation" of the risk means. You must disclose every material circumstance which is known by:
 - your senior management (the Act defines "senior management" as "those individuals who play significant roles in the making of decisions about how the insured's activities are to be managed or organised"); and
 - those individuals responsible for arranging your insurance (which includes risk managers and any employee who assists in the collection of data, or who negotiates the terms of the insurance, such as your individual brokers). If you are an individual taking out a business insurance policy, for example if you are a sole trader or a trustee, you must disclose the material information that you know and that is known by the individuals responsible for arranging your insurance.
- You "ought to know" what should reasonably have been revealed by a "reasonable search" of information available to you. This means you must conduct a reasonable search for, and disclose, material information that is available to you.

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- It is important to note that this includes not only information held within your organisation but also outside it, including information held by your agents, and also held by persons and entities who are to be covered by the insurance. If you are an individual taking out a business insurance policy, this means that it will not only be information that is known or held by you that may have to be disclosed.
 - You must not make any misrepresentations to your insurer.
 - You must provide the information to your insurer in a manner which would be “reasonably clear and accessible” to a prudent insurer. This is a new, standalone, duty.

Remember, you are responsible for the accuracy and completeness of all the information you provide to us and your insurer.

What is “material”?

- Under English law, every circumstance is material if it would influence the judgement of a prudent insurer in fixing the premium and / or the terms of the insurance and / or whether to accept the risk. This refers to “any” prudent insurer, not just the insurer who has been offered the risk.
- A circumstance may be material even if disclosure would not necessarily lead to an increased premium or declinature of the risk.
- In the context of business insurance policies, insurers are likely to regard matters such as (but not limited to) the following examples as material:
 - Special or unusual facts relating to the risk.
 - Any particular concerns which led you to seek insurance cover for the risk.
 - Anything which would generally be understood as being something that should be disclosed.
- The following are by way of non-exhaustive illustrative examples of material information:
- General information about your business including:
 - Business activity (or change to business activity), including processes, products, and geographic presence
 - New companies, markets, acquisitions, or disposals
 - Additional premises/insurable items
 - Changes to premises
 - Changes to insured values, wage rolls, turnovers etc. (due to inflation, for example)
 - Higher than ordinary degree of risk or liability (specific to your business or industry-specific)
 - Business financial status
 - Loss history/experience, including paid and outstanding claims and potential claims/circumstances/ incidents/losses that were not reported as claims (whether insured or not)
 - Details of criminal charges and convictions of your organisation, its directors or employees; regulatory investigations or enforcement/ health and safety investigations and prosecutions
 - Any insurers’ previous declinatures, refusals to renew, imposed terms/ restrictions in cover, mid-term cancellations, etc.
- Material damage policies



- Changes in construction and/or purpose
- New/amended processes
- Changes to fire protections
- Increased storage of hazardous materials/attractive stock
- Any attempted break-in or arson attack
- Use of temporary/third party premises
- Liability policies
 - Changes to business activities (including disclosing historic activities that have ceased)
 - The creation or acquisition of new companies for which cover is required
 - Products exported to, or work in, overseas territories (particularly the USA or Canada)
 - Work in or on hazardous locations such as offshore installations
 - Health and safety investigations/prosecutions
- Motor fleet policies
 - Driving convictions
 - Corporate investigations/prosecutions
 - Undisclosed accidents
 - Changes to vehicle performance
 - Change of use of vehicle
- Business personal accident and travel policies
 - Changes to business activities
 - Material differences in the travel pattern (different geographies, number of journeys, etc.)
- **Remember, this list provides examples only. If in doubt – disclose.**
 If you are unsure whether a fact or circumstance should be disclosed, or whether the duty to disclose information continues throughout the period of a particular policy, we recommend that you disclose the information anyway, as failure to do so may lead to your insurer reducing its claim payment, applying additional terms, or even avoiding the policy.

When to disclose



- Your duty to make a fair presentation applies throughout the negotiations preceding the placing of your policy until your insurer has agreed to accept the risk and has set the terms, price, and level of participation, and the contract has been finalised.
- After the policy has been placed, your duty to make a fair presentation arises again:
 - if you wish to make changes to the policy so that the insurer takes additional risk or when there is an extension of the policy period; or
 - a policy condition may also require you to advise your insurer of a specific increase or alteration in risk which puts a duty on you to disclose certain information.
 - The duty to make a fair presentation and disclose material circumstances arises again during the renewal process.

Failure to disclose



- The consequences of failing to comply with the duty of fair presentation and failing to disclose a material fact or circumstance will depend on the precise terms of your insurance policy and whether or not your failure was deliberate or

reckless but could lead to your insurer reducing its claim payment, applying additional terms or even voiding the policy.

- The Insurance Act 2015 sets out the remedies that your insurer will have if you fail to comply with the duty of fair presentation. Your insurer's remedies will depend on whether or not your failure was deliberate or reckless:
 - If you deliberately or recklessly fail to comply with your duties, your insurer will be able to void the policy, that is, to treat it as if it had never existed, and may retain the premium.
 - If your failure to comply with your duties was not deliberate or reckless, your insurer's remedy will depend on what the insurer can show it would have done had you made a "fair presentation of the risk":
 - If your insurer would not have entered into the contract on any terms, it can still avoid the contract but must return the premium;
 - If your insurer would have entered into the contract but on different terms (not relating to premium), the contract may be treated as if it included those terms from the outset; or
 - If your insurer would have entered into the contract but would have charged a higher premium, the amount paid on a claim may be reduced proportionately.
- Similar proportionate remedies are available to your insurer in the event of a breach of the duty of fair presentation in relation to a variation of your policy, and will depend on whether the breach was deliberate or reckless and what the insurer would have done had the duty not been breached. This may result in the insurer treating the policy as if the variation was never made, reducing your claim payment, or even avoiding the entire policy.

3. Regulations

Trade Sanctions and Export Controls

Trade sanctions are restrictions placed by governments or international organisations on the provision of goods and services to designated countries, individuals or entities, industries or other targets such as vessels. Trade sanctions can prohibit Marsh or your insurers from providing insurance cover and insurance services.

Export and Trade Controls may also may also prohibit Marsh or insurance companies from offering cover for military, dual use or other controlled goods.

Please be aware that if your placement requires cover for military goods, or you transact business (including direct or indirect imports and exports, other forms of trading, services, travel and working abroad) with any country or natural person or corporate body subject to sanctions imposed by Law, you **must** notify us.

We will require all relevant details / circumstances which may arise during the period of your insurance cover, and not just at renewal. Dependent on the activity and the sanctioned country or person, your insurance programme may not be able to provide cover. Please consult us if you are in any doubt, or have any further questions.

4. Premium Finance

For the purpose of arranging premium finance, Marsh Ltd t/a Marsh Commercial ("Marsh Commercial") acts as a credit broker and we can arrange for you to pay the premiums/fee(s) due in instalments by using an exclusive facility that we have negotiated for our clients with Close Brothers Premium Finance (CBPF) who, subject to criteria and acceptance, will provide funding to you.

To assess your application, and at other stages throughout the period of your credit agreement, Close Brothers may use credit scoring, credit reference agencies and automated decision-making systems. The assessment will take place after Close Brothers have received your application. This may leave a hard footprint on your credit record. If it is unsuccessful, Close Brothers will notify you in writing. You will then need to find an alternative way to pay for your insurance premiums.

Please consider the financial commitment you will be entering into when applying for credit with Close Brothers Premium Finance. Payment via monthly instalments with CBPF is more expensive than paying in full, a full breakdown of the costs and rate applicable has been provided to you to help you decide if this product is suitable for you. We are providing this product on a 'non-advised' basis and do not give advice on its suitability. You will need to make your own decision about how to proceed.

Your credit agreement may run for a different duration to the length of your policy, a payment schedule will be provided by CBPF, confirming payment due dates.

If you decide to finance via CBPF, we will require you to advise us of your bank details, together with an email address and mobile telephone number of a person authorised to sign a credit agreement on your behalf, which we will provide to CBPF. CBPF will then send to you full details of the terms and conditions applicable together with all the required paperwork for you to sign. It is important that you read all of the information provided and take time to consider it carefully to ensure that it is the right product for you before signing. If your application is accepted by CBPF, we will receive a commission for introducing customers to CBPF and the work we undertake.

To arrange your premium finance, we and CBPF use the personal data you have provided either relating to you or a third party. More information about how we use personal data is provided in the enclosed Terms of Business and in our Privacy Notice available at www.marshcommercial.co.uk/info/privacy/. You can request a copy of our Privacy Notice by contacting dataprotection@marsh.com.

We only secure terms from CBPF. Upon request, we can investigate what, if any facilities are available from the respective insurers that we recommend for renewal. Additionally, should any of the recommended insurers inform us that instalment facilities are available from them, then these will be detailed to you on the How to Pay section of your report.

Your instruction for us to proceed with CBPF will entitle them to collect the first instalment from you prior to CBPF receiving the completed application and / or direct debit mandate. If you fail to make a minimum payment on time you'll be charged a default fee of £30 (for loans under £25,000) or £50 (for loans over £25,000) which will be collected along with the missed payment. If CBPF is unable to collect under your Direct Debit instruction, they may cancel your agreement. You may be charged a cancellation fee of £15 (for loans under £25,000) or £125 (for loans over £25,000). You'll be liable to pay all sums owing and any charges CBPF may issue. Missing payments may affect your credit rating and can lead to cancellation of any insurance policy funded by CBPF.

Please note that incorporated entities do not benefit from Consumer Credit Act 1974 protections or the Financial Conduct Authority's Consumer Credit Sourcebook.

Cancellation (Consumers)*: You can withdraw free of charge from the credit agreement within 14 days of signing your credit agreement. If you do, you'll have to pay back any credit you received and find a different way to pay for your insurance premium. You can repay the credit agreement in full at any time or make a partial repayment.

*Consumers are: **Individuals, sole traders, unincorporated members' clubs** (other than a partnership) where at least one member is an individual, **small partnerships** (of two or three partners) where at least one of the partners is an individual, **Trusts** (other than a partnership) where at least one of the trustees is an individual and **unincorporated voluntary or charitable organisations / religious communities** (other than a partnership) where at least one member is an individual.

Please note that the credit product is only appropriate for the funding of your insurance policy and associated costs and not for any other purpose.

5. Commercial Terms of Business

Introduction

Marsh Commercial is a trading name of Marsh Ltd and is an insurance intermediary, risk consultant and credit broker.

These Terms of Business will form the agreement between us and you, our client ("this Agreement").

References to 'you' and 'your' include each of your affiliates (as defined in clause 11).

These Terms of Business contain important information. If there is anything you do not understand or accept, please talk to your regular Marsh Commercial contact. By instructing us, you are accepting these Terms of Business.

In the interests of security, staff training and to generally improve our service please be aware that telephone calls may be monitored and/or recorded.

You have the right to ask us for a copy of any personal data that we hold about you in our records, and to correct any inaccuracies or out-of-date information. Should you wish to do so or if you have any questions about our use of the personal data you provide please contact your regular Marsh Commercial contact or write to the Data Protection Officer:

Data Protection Officer
Marsh Ltd
1 Tower Place West
London EC3R 5BU
Email: dataprotection@marsh.com

1. Our services

- 1.1. We will use the reasonable skill and care expected of a competent and professional insurance intermediary and risk consultant providing similar services.
- 1.2. We offer a wide range of products and our services may include advice or recommendations (or both) as set out in your insurance pack or report. However, it is up to you to decide whether or not to accept our advice or recommendations.
- 1.3. We will be entitled to provide the services ourselves or, where appropriate, through one of our affiliates or sub-contractors.
- 1.4. Claims related services will only be provided up to the time this Agreement ends, unless specifically agreed otherwise in writing.
- 1.5. Any information we provide on insurance regulatory and tax issues will be based on information available publicly and our experience from working on similar matters for other clients. We are not qualified to provide, and will not provide legal, accounting, regulatory or tax advice. We recommend that you obtain your own advice on such matters from relevant professional advisers.
- 1.6. After assessing your needs, we will normally recommend an insurance solution for you. You will then need to decide how to proceed. When we receive your instructions, we will try to arrange insurance to meet the needs you have specified. If we cannot place your insurance policy, we may refer you to another insurance intermediary.
- 1.7. As part of our negotiations with insurers on your behalf, we may on occasion be able to obtain more favourable terms and conditions for your placement by providing insurers with certain types of information. Where we believe your interests would be advanced by doing so, you authorise us to do the following:
 - 1.7.1. at the outset of the negotiations, to provide insurers with the terms of the expiring policy, including pricing and/or a pricing objective for your placement;
 - 1.7.2. during negotiations, to provide one or more insurers with the terms of a quote received from another insurer, where in our judgement doing so may lead to improved terms for you; and
 - 1.7.3. at the end of negotiations, to provide one or more insurers with an opportunity to submit an improved quote after all other quotes have been received.
- 1.8. In the event that you fail to perform any of your obligations in this Agreement, we reserve the right to suspend the provision of our services to you.
- 1.9. In the event that you have direct interaction with insurers, without our involvement as your appointed intermediary, we shall not be responsible for the outcome and consequences of such direct interactions.

2. How we are paid by you

- 2.1. We are either paid:
 - a percentage of the premium due to the insurer for your insurance policies (a commission and/or brokerage);
 - a fee; or
 - a combination of commission, brokerage and fee.
- 2.2. We will also make individual client administration charges per policy (up to a maximum of 3 policies, per policy period) to cover the costs associated with administering your insurances e.g. arranging a new policy, carrying

out short-period or mid-term cancellations, mid-term changes, providing replacement or duplicate documents and for other administrative tasks. We will advise you of the amount of fee before you become liable to pay it. Individual charges will not be made in relation to employee benefit related products.

- 2.3. For insurance broking services, we will be considered to have fully earned our commission, brokerage, and/or fee from the inception of your policy. We will keep our commission, brokerage and/or fee even if an insurance policy is amended, terminated or cancelled. This does not affect any statutory cancellation rights you have. Our right to fee earnings is not conditional on the placement of an insurance policy.
- 2.4. If you would like details of how much commission we earn for arranging your policy, please let us know. If you have any questions, issues or concerns regarding how we are paid, then please contact a member of your Marsh Commercial service team. Alternatively, you may send an email to commission.disclosure@marshcommercial.co.uk.
- 2.5. Where appropriate we will charge reasonable expenses in connection with travel, accommodation and meals while working on your behalf away from any Marsh office.
- 2.6. If you ask us for a copy of your files, we may charge you for our time spent and costs reasonably incurred in dealing with such a request.
- 2.7. All fees and expenses we quote do not include VAT (which will be added if applicable).

3. Client money

- 3.1. If we hold money on a client's behalf, it will be held in a trust fund that is separate from our own cash assets. These separate trust fund arrangements are commonly known as "client money". If we were ever unable to pay our debts, then those to whom we owe money (our creditors) should not be able to make claims on our client money in the separate trust funds as it does not form part of our own cash assets.
- 3.2. The trust arrangement we use for client money is known as a non-statutory trust. Here, we may use premiums and claims monies we receive to cross-fund clients' premiums and claims; for example we may pay a premium on to an insurer before we have received it from the client if we believe it is in the best interests of that client.
- 3.3. We have agreements with some insurers (known as "risk transfer agreements"). Under these risk transfer agreements the insurers agree that they are responsible to you for any premium that you have already paid to us and that they remain responsible for any premium refunds or claims payments until the premium refund or claim payment is received by you. In this case we may hold client money due to or from the insurers in the same trust fund.
- 3.4. Where we do not have risk transfer agreements in place with insurers the client money we hold will still be protected within the non-statutory trust but will be known as "non risk transfer" client money. Non risk transfer clients have priority over insurers to the money in the trust fund as insurers granting risk transfer have agreed to subordinate their interests in the trust to those of Marsh's non risk transfer clients.
- 3.5. We do not use client money to pay ourselves commission before we receive your premium.
- 3.6. When we hold client money on trust for you this gives rise to fiduciary duties upon us that will not be discharged until the client money is deemed to have reached the insurer or product provider (as detailed above, this is when we receive premium in the case of risk transfer agreements).
- 3.7. Without affecting our fiduciary duties to you, in some cases we may:

- hold client money in accounts which are outside of the United Kingdom and which may be subject to different legal and regulatory conditions and may treat money differently in the event of a bank failing. If you are a consumer (a person who buys products or services for personal use and not for business purposes) you can ask us not to put your client money in an account in a particular country;
- pass client money to another intermediary, including ones outside of the United Kingdom where different legal and regulatory conditions apply and where money may be treated differently in the event of an intermediary failing. If you are a consumer, you can ask us not pass your money to an intermediary outside of the United Kingdom or in a particular country; and
- arrange to hold certain investments with a value at least equal to the money that would otherwise have been paid into a separate client account. If we do this, we will be responsible for meeting any shortfall in the client money funds if the shortfall is due to a reduction in the market value of those investments.

3.8. If, in the process of handling client money, we earn interest or benefit from investment income or from foreign exchange rate movements, we will keep any such amounts.

4. Your obligations

4.1. Your attention is drawn to Section 2, entitled “The Duty of Disclosure and Fair Presentation”, which sets out some of your insurance obligations. In addition, the below sets out further obligations which apply to all services.

4.1.1. You shall provide us with all relevant information in relation to your business to enable us to provide the services. Such information must be provided within the timeframe that we agree with you in a format which allows us to provide a clear presentation to insurers. We can rely on any information provided to us by you and/or your outgoing insurance broker.

4.1.2. You must pay our invoices in accordance with the amounts and payment dates specified in our correspondence with you. Time for payment shall be of the essence for this Agreement. **Failure to meet the payment dates may lead to insurers cancelling your policy, thus leaving you without insurance cover. Please note that where insurers have specified that the premium must be settled by a certain date (i.e. ‘premium payment warranty’), failure to comply can result in the automatic termination of your insurance contract.**

If you have any concerns about your ability to make payments, please make early contact with your normal Marsh Commercial contact.

4.2. For consulting services only;

- you must arrange for us to have access to all records, documents, files and other relevant information, personnel and/or management. If we need further information or if we need to visit any of your premises, we will arrange this with you;
- our services are based on conditions observed by us and information provided by you; and
- you agree to pay our invoices within the timescales specified in our correspondence with you. We may suspend or terminate the services entirely until all invoices are paid.

5. Work product

5.1. We disclaim all responsibility for any consequence whatsoever should a third party rely upon any report, letter, information or advice we provide to you without our prior written consent that such third party may do so.

5.2. The restrictions in this clause 5.2 apply to our consulting services only.

- 5.2.1. You must not use any materials that we create, utilise or develop in connection with this Agreement, and any intellectual property rights associated with them (the “Work Product”), for any purpose other than:
- i. your internal risk management purposes; or
 - ii. the procurement of insurance with our prior written permission (the “Purposes”).

Save for disclosures to insurers or within the Purposes or as otherwise set out in clause 5.2.4 you must not:

- disclose the Work Product to any third party;
- use it for any other purpose; or
- reproduce, disseminate, quote from or refer to, in whole or in part at any time, nor shall any public references be made concerning Marsh Commercial or the Work Product or disclosure of Marsh Commercial’s role in connection with this Agreement, or public reference to this Agreement without our prior written permission. However, subject always to clause 9, we may refer to the fact that we have carried out work for you.

- 5.2.2. Notwithstanding the above obligation not to disclose the Work Product to any third parties and only use it for the Purposes, should a third party receive the Work Product and place reliance on it, you will indemnify, defend and hold harmless Marsh Commercial, its directors, officers, shareholders, affiliates and employees (collectively “Indemnified Persons”) from and against any and all claims (including claims for reasonable legal fees) brought by such a third party in connection with the Work Product or this Agreement. You will not be liable under this indemnity to the extent any such claim is determined, by way of a final judgment of a court of competent jurisdiction, not subject to further appeal, to have resulted from the fraud or wilful misconduct of any Indemnified Person.

- 5.2.3. Any oral or draft Work Product which we might provide will not constitute our final opinions and conclusions. These will be contained in our final written Work Product, which shall be expressed as such.

- 5.2.4. Provided that any relevant party (referred to below) to which you intend to disclose a Work Product agrees in writing that it cannot rely on the Work Product and that it will not disclose the Work Product to any third party, we agree that you may provide the Work Product to your regulators, your financing banks or proposed financing banks, insurers or proposed insurers for information only.

- 5.2.5. Where we permit a third party to place reliance on a Work Product and thereby agree to accept liability or responsibility to a third party it will be by means of a letter from us to the addressees as defined in such letter (the “Release Letter”) where the addressees accept and agree:

- to enter into a contractual relationship with us;
- that the report containing the Work Product was addressed to you and was prepared on your instructions only and will not necessarily address or reflect their interests or circumstances; and
- that our liability to them is limited to, and aggregated with, our liability to you.

6. Period and termination

- 6.1. The engagement starts on the date when you receive this Agreement.
- 6.2. Either party may terminate the Terms by giving the other not less than 90 days’ notice in writing. We will still be entitled to the earnings referenced in clause 2 and/or a fee for any consulting services and/or for any Global Analytics Services which we have provided based on the time we have spent providing the services plus any reasonable expenses.
- 6.3. Either party may terminate immediately in writing if the other party:
- commits a material breach including (but not limited to) any breach of clause 4 or clause 5 and, in the case of a breach capable of remedy, fails to do so within 30 days of receipt of a notice setting out particulars of the breach; or

- becomes insolvent or bankrupt, goes into liquidation, enters into a voluntary arrangement with their creditors, becomes subject to an administration order or has a receiver appointed over their assets, or becomes subject to any equivalent foreign process.
- 6.4. When this Agreement terminates we will cooperate in the transfer of your business where necessary, in consideration of all amounts owed to us being paid.

7. Limit of our liability

- 7.1. The maximum aggregate liability of Marsh Commercial and our affiliates to you, howsoever arising, in connection with this Agreement shall be limited in total to;
- 7.1.1. for insurance broking services, £10,000,000;
- 7.1.2. for consulting services to the greater of £500,000 or ten times the total compensation paid to Marsh Commercial for providing consulting services. In the event that we agree to make the Work Product available to third party(ies) in accordance with clause 5.2 above, the aggregate liability described in this clause 7.1.2 shall be the aggregate liability to you and/or all of the third parties; and
- 7.1.3. for Global Analytics Services (including risk financing optimisation, fund reserving, catastrophe modelling, financial modelling and structured/legacy solutions) one times the fee or where no fee is charged for Global Analytics Services, then £500,000.
- 7.2. Marsh Commercial and our affiliates shall not be liable to you in any circumstances for any loss of profit or any special, indirect or consequential loss howsoever arising under or in connection with our services.
- 7.3. We are not liable for any actions or failures arising before the date you enter into this Agreement.
- 7.4. These provisions shall not apply to any liability for;
- death or personal injury;
 - fraud or fraudulent misrepresentation; and
 - any client defined as a consumer (i.e. a person acting for purposes outside their trade, business or profession)
- 7.5. This limitation of liability clause shall survive the termination of this Agreement.
- 7.6. Our obligations to you are solely contractual in nature. We act as a fiduciary for you to the extent required under English law but do not have any enhanced fiduciary or other duty to you.

8. Data protection and intellectual property

- 8.1. We shall retain all intellectual property rights in all materials developed, designed or created by us (or any of our affiliates) before or during our working relationship, however we grant you a perpetual and royalty free licence to use these materials, but only for the purposes for which they were created under this Agreement.
- 8.2. The parties both warrant that they will comply with the provisions of the applicable UK law including the General Data Protection (Regulation EU 2016/679, as incorporated into UK law by section 3 of the European Union (Withdrawal) Act 2018, as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 and 2020 and its successor laws (together the "UK GDPR"), Data Protection Act 2018 and any other data protection laws, applicable to this Agreement.

- 8.3. To provide our services, we will collect and use information about individuals such as their name and contact details, which may also include special categories of personal data (e.g. health information) and information relating to criminal convictions and offences. We are an independent data controller of any personal data you provide to us or which we process in connection with the Services. When you provide such personal data to us, you will also be acting as a separate and independent controller. The purposes for which we use personal data may include arranging insurance cover, handling claims, for crime prevention and detection and for marketing. We may also use personal data on a de-identified and/or aggregate basis for benchmarking, modelling and other analytics offerings as described in clause 9. More information about our use of personal data is provided in the Marsh Commercial Privacy Notice available at <https://www.marshcommercial.co.uk/info/privacy/>. You or the data subjects whose data you provide to us can also request a copy of the Marsh Commercial Privacy Notice by email or writing to the Data Protection Officer, Marsh Ltd, Tower Place, London EC3R 5BU or dataprotection@marsh.com We recommend that you review this notice.
- 8.4. Providing the services may involve the disclosure of personal data to third parties such as insurers, reinsurers, loss adjusters, premium finance providers, sub-contractors, our affiliates and to certain regulatory bodies who may require your personal data themselves for the purposes described in the Marsh Commercial Privacy Notice.
- 8.5. Depending on the circumstances, the use of personal data described in this notice may involve a transfer of data to countries outside of the European Economic Area (EEA) or the United Kingdom (UK) that have less robust data protection laws.
- 8.6. Each of us shall only transfer personal data from the EEA or the UK to third countries which are not subject to an adequacy decision by the appropriate authority, after having implemented appropriate safeguards in accordance with applicable data protection laws, such as binding corporate rules or the standard contractual clauses in the form in the C(2021) 3972 final Annex to the Commission Implementing Decision. If so required by applicable data protection laws, we and you shall: (i) promptly exercise each other's rights as a data exporter in the standard contractual clauses; (ii) execute or re-execute the standard contractual clauses as separate documents setting out the proposed transfers of personal data in such manner as may be required by data protection laws; and (iii) reasonably cooperate with the other in order to demonstrate compliance with personal data transfer restrictions under applicable data protection laws.
- 8.7. **Use of personal data based on consent:** In some circumstances, we may need to collect and use special categories of personal data. Where your consent to this processing is necessary for us to provide you with the relevant services, this consent may be withdrawn at any time (and you shall promptly notify us of that) but, if it is, we may be unable to continue to provide our services and this may mean that we are unable to process an enquiry or claim and it may impact (re)insurers' ability to provide (re)insurance. We will explain the consequences of withdrawing consent at the relevant time.
- 8.8. Where you are providing us with information about a person other than yourself, you agree to notify them of our use of their personal data and, where necessary obtain their consent to our use of certain special categories of personal data. You agree that our provision of the services to you is conditional on you providing such notices and obtaining such consents. Where the consent of such third party is required, they may withdraw such consent at any time but if consent is withdrawn then we may be unable to continue to provide services to them (and possibly you), and this may mean that we are unable to process enquiries or claims and it may impact (re)insurers' ability to provide (re)insurance. We will explain the consequences of withdrawing consent at the relevant time.
- 8.9. We will maintain appropriate data security procedures designed to protect against loss or compromise of personal data.

8.10. Where you have consented or we are otherwise legally permitted to do so, from time to time we may send you information about products or services offered by Marsh Commercial and/or our affiliates either by post, telephone or email and if the product or service is offered by one of our affiliates, we may pass your contact details to them so they can contact you directly. If you would not like us, or any of our affiliates, to send you this type of information, please advise your usual contact or you can write in to the Data Protection Officer at dataprotection@marsh.com or 1 Tower Place West, Tower Place, London EC3R 5BU.

9. Confidentiality

9.1. We will keep your information confidential. However, in the normal course of business and in acting on your behalf we may disclose your information to our employees, agents, outsourcers, premium finance providers, affiliates or sub-contractors or to insurers and their agents. We may also have to disclose your information pursuant to legal or regulatory requirements including, but not limited to, requests meeting the requirements under the Third Parties (Rights Against Insurers) Act 2010. Any disclosure to any other third party will only be made with your prior written consent.

9.2. We will be entitled to use information in relation to your insurance, on a de-identified and/or aggregate basis, when dealing with insurers on other risks on behalf of policyholders other than yourself.

9.3. We may:

- provide databases to insurers which may include confidential information relating to your insurance;
- include, on a de-identified and/or aggregate basis, information relating to your insurance programme and risk management in benchmarking, modelling and other analytics offerings; and
- share with prospective insurers information about your upcoming insurance renewals to help insurers identify opportunities to compete for risk. Marsh shares the information as part of its insurer consulting offering, which is designed to help insurers expand their own offerings and create superior solutions for Marsh clients.

9.4. For more information, please visit <https://www.marshcommercial.co.uk/info/transparency/>.

9.5. This confidentiality commitment to you does not apply to information lawfully in our possession or in the public domain.

10. Bribery and corruption

Each party shall comply with all applicable laws, statutes and/or regulations relating to bribery and corruption, including but not limited to the Bribery Act 2010.

11. Affiliates

11.1. You accept this Agreement on your own behalf and on behalf of each of your affiliates (where they are receiving, or are a beneficiary of the services). You shall ensure that each of your affiliates will act on the basis that they are a party to and bound by this Agreement. All references in this Agreement to “you” (and derivatives of it) shall mean you and each of your affiliates.

11.2. For the purpose of this Agreement “affiliates” means, in relation to a company, its subsidiaries and subsidiary undertakings and any holding company it may have and all other subsidiaries and subsidiary undertakings of any such holding company (as such terms are defined in the Companies Act 2006). In addition to the foregoing, in reference to Marsh Commercial the term “affiliates” shall include Marsh & McLennan Companies, Inc. and all of its subsidiaries. As the term applies to you, “affiliate” shall also include your partners, co-ventures and/or other co-insureds to whom we or any of our affiliates may assume a responsibility as a consequence of the provision of the services or any additional services.

12. General

- 12.1. This Agreement may only be amended by written agreement signed by each party.
- 12.2. Except as set out in this Agreement, a person who is not a party to this Agreement, has no rights to enforce or to enjoy the benefit of any term of this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 12.3. Neither party will have any liability for any failure or delay in performing their obligations because of a force majeure event. Force majeure means an event beyond the reasonable control of a party.
- 12.4. Notwithstanding clauses 6 and 12.3 Marsh Commercial reserves the right to suspend or terminate this Agreement (in whole or in part) where it believes performance could be a breach of applicable economic or trade sanctions. Marsh Commercial shall not provide insurance or reinsurance broking, risk consulting, claims or other services or provide any benefit to the extent that the provision of such services or benefit would violate applicable law or expose Marsh Commercial or its affiliates to any sanction, prohibition or restriction under UN Security Council Resolutions or under other trade or economic sanctions, laws or regulations.
- 12.5. If any provision of this Agreement is prohibited or unenforceable or is found to be invalid, illegal or unenforceable by a court or any other competent authority, that provision shall, to the extent required, be deemed deleted and the validity and enforceability of the other provisions of this Agreement shall not be affected.
- 12.6. This Agreement sets out the entire understanding of the parties in relation to the matters that it deals with and supersedes and invalidates all previous letters, agreements and understandings (oral or written) in relation to those matters.
- 12.7. Any failure or delay in exercising any rights under this Agreement shall not constitute a waiver of such rights.

13. Governing law and jurisdiction

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law and any disputes related thereto shall be subject to the exclusive jurisdiction of the English courts.

6. Important information for Marsh Commercial clients

Introduction

Please read this important information carefully and if there is anything that you do not understand, please talk to your regular Marsh Commercial contact.

We aim to treat our clients fairly and will not deliberately put ourselves in a position where our interests, or duties to anyone else, prevent us from fulfilling our duties to you.

Please visit our website at <https://www.marshcommercial.co.uk/info/transparency/> or contact us for more information on how we manage conflicts of interest.

How we are regulated

Marsh Commercial is a trading name of Marsh Ltd and is authorised and regulated by the Financial Conduct Authority ('FCA') for General Insurance Distribution and Credit Broking (Firm Reference No. 307511). You can check our authorisations and the names under which we trade by visiting their website at www.fca.org.uk/register/ or by calling them on 0800 111 6768. Not all products and services offered are regulated by the FCA. We will tell you where this is the case.

Marsh Ltd is covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of the claim. General Insurance advising and arranging is covered for 90% of the claim, without any upper limit. For Professional Indemnity insurances and compulsory classes of insurance, insurance advising and arranging is covered for 100% of the claim, without any upper limit.

Further information about compensation scheme arrangements is available from the FSCS.

Complaints and access rights

Your complaint is important to us and should be made in the first instance to your usual Marsh contact. Alternatively you can contact our Complaints Department:

Complaints Department
Marsh Ltd
Tower Place
London EC3R 5BU
Telephone: 020 7357 1000
Email: UKComplaints@marsh.com

Should you remain dissatisfied with the way we resolve a complaint, you may have the right to refer to the Financial Ombudsman Service, free of charge. The Financial Ombudsman Service can be contacted on 0800 023 4567 or 0300 123 9123. Alternatively you can contact them by Email at complaint.info@financial-ombudsman.org.uk or write to them at:

The Financial Ombudsman Service, Exchange Tower, London, E14 9SR.

Further information can be found on the Financial Ombudsman Service website: <https://www.financial-ombudsman.org.uk>

You have the right to ask us for a copy of any personal data that we hold about you in our records, and to correct any inaccuracies or out-of date information. Should you wish to do so or if you have any questions about our use of the personal data you provide please contact your regular Marsh Commercial contact or write to the Data Protection Officer, Marsh Ltd, Tower Place, London EC3R 5BU or dataprotection@marsh.com

How we are paid

In addition to the information under Section 2 above “How we are paid by you”;

We may also receive payments from insurers for work transferred to us which we do on their behalf, such as binding cover, producing and issuing policy documents and settling claims. We may also receive payments from insurers for marketing, distribution and IT systems. We will disclose to you that we receive any such payments if they specifically relate to your policies.

We may receive payments from third parties in connection with arrangements such as premium finance facilities. Such payments are not subject to any form of rebate and are not deemed to count towards any earnings limit that we may have agreed with you.

We may receive payments from insurers for providing consulting, data analytics and other services. These services are designed to:

- improve the range of products we can offer to our clients;
- help insurers to identify new opportunities; and
- make insurers more efficient.

The scope and nature of these services may vary. A list of insurers who pay us for consulting services is on our website at <https://www.marshcommercial.co.uk/info/transparency/>

If we cannot place your insurance policy, we may refer you to another insurance intermediary. If we receive payment for doing so we will tell you.

We may use an affiliate or sub-contractors to help us meet your insurance needs; if so they may receive payment from insurers or from us. If insurers with which we place your business choose to use our services or the services of an affiliate of ours for reinsurance purposes, we may also receive further payment. Unless you advise us otherwise, we will consider that you have no objection to our placing further reinsurance for your insurers.

In some circumstances, an insurer may wish to purchase reinsurance in respect of the cover provided to a client. Marsh or our Guy Carpenter business unit may receive fees of commission for work related to the reinsurance solution on behalf of an insurer, if they are the intermediary on that placement. Reinsurance helps insurers to manage their volatility, enabling them to provide more effective and efficient solutions to our retail clients.

If, in the process of handling client money, we earn interest or benefit from investment income or from foreign exchange rate movements, we will keep any such amounts (see Client Money section below).

For more details of payments we receive, please see our “Guide to how we are paid (UK and Ireland)” at <https://www.marshcommercial.co.uk/info/transparency/>

Our services

After assessing your needs, we will normally recommend an insurance solution for you. We will recommend the route to the insurer and will not introduce additional steps unless this is in your best interests. You will then need to decide how to proceed. When we receive your instructions, we will try to arrange insurance to meet the needs you have specified.

Insurance policies taken out, amended or renewed through our online/remote service (i.e. without speaking to one of our advisors) will be on a non-advised basis. This means information will be provided to you in order for you to make an informed decision about any insurance transactions undertaken by you. You should therefore ensure such transactions are suitable for your needs.

If you speak to one of our advisors about taking out, amending or renewing your policy, then you are likely to do so on an advised basis. This will include the provision of advice and recommendations where appropriate, in order to ensure insurance discussed is suitable for your needs.

Sometimes we obtain quotations from a limited number of insurers, or even only a single insurer. In such a case we will approach the insurers based on our knowledge and expertise in the market. Normally we will give you a list of the insurers we intend to approach, or have approached, before arranging any insurance for you.

As part of our negotiations with insurers on your behalf, we may on occasion be able to obtain more favourable terms and conditions for your placement by providing insurers with certain types of information. Where we believe your interests would be advanced by doing so, you authorise us to do the following:

- at the outset of negotiations, to provide insurers with the terms of the expiring policy, including pricing, and/or a pricing objective for your placement;
- during negotiations, to provide one or more insurers with the terms of a quote received from another insurer, where in our judgement doing so may lead to improved terms for you; and
- at the end of negotiations, to provide one or more insurers with an opportunity to submit an improved quote after all other quotes have been received.

Our obligations to you are solely contractual in nature. We act as a fiduciary for you to the extent required under English law but do not have any enhanced fiduciary or other duty to you.

We may:

- provide databases to insurers which may include confidential information relating to your insurance;
- include, on a de-identified and/or aggregate basis, information relating to your insurance programme and risk management in benchmarking, modelling and other analytics offerings; and
- share with prospective insurers information about your upcoming insurance renewals to help insurers identify opportunities to compete for risk. Marsh shares the information as part of its insurer consulting offering, which is designed to help insurers expand their own offerings and create superior solutions for Marsh clients.

For more information, please visit <https://www.marshcommercial.co.uk/info/transparency/>

Your obligations

Documents

You must promptly check all documents you receive from us or insurers to make sure there are no mistakes or misunderstandings. You must immediately tell your regular Marsh Commercial contact or the insurer about any mistakes or anything which you do not think is in line with your instructions.

You should keep your policy documents in a safe place for as long as it is possible for you to make a claim. We may not issue new documents every year, or, depending on any regulatory requirements, keep copies.

Warranties

1. Payment

Some insurance policies may include a settlement due date or a warranty under the terms of which the premium must be paid to them by a certain date or dates. We will tell you about any such requirements and the relevant date or dates in time to enable you to meet the payment terms.

2. Other policy warranties

If you do not comply with the exact terms of a warranty, it may adversely affect the validity of your policy and/or your right to claim under the policy.

Quotations

Quotations are valid until the date cover commences up to a maximum period of 30 days, unless otherwise stated. Specimen policy wordings are available upon request.

Renewals

The information you have previously provided to us is what your insurance cover has been based on. Renewals are invited on the basis that there have been no changes in the risk or item being insured, other than those specifically notified to us or your insurers (see section 2, entitled “The Duty of Disclosure and Fair Presentation”). It is very important that you check this carefully and confirm it remains accurate and complete. You should contact us immediately if the information is incorrect or if your circumstances have changed so we can update your details.

Failure to notify us or your insurer of any incorrect information or change in circumstances may lead to your policy being avoided or your claim rejected or not fully paid.

Transferred business

Where we are appointed to service insurance policies, other than at their inception or renewal, and which were originally arranged via another party, we shall not be liable during the current insurance period for any loss arising from any errors or omissions or gaps in your insurance cover or advice not provided by us. Should you have any concerns in respect of a policy, which has been transferred to us, or if you require an immediate review of your insurance arrangements, you must notify us immediately. Otherwise we shall review your insurance arrangements and advise accordingly as each policy falls due for renewal.

Making a claim under your insurance policy

Most insurance policies have strict conditions about what you should do if you have a claim or you know about something that might lead to a claim in the future. It is your responsibility to understand these conditions and any relevant limitation period for commencing legal proceedings or other forms of dispute resolution against insurers should the need occur.

As part of our service, whilst we are your appointed broker, we will help you submit a claim on your policy to your insurer but it remains your responsibility to have read, understood or queried all documentation upon receipt. We may also provide a claims handling service but should we do so, we reserve the right to charge a reasonable fee for our services. In the event that we no longer act as your appointed broker, we may provide (at your request) a claims handling service or if we are already providing one, continue to provide a claims handling service but in each case, subject to payment of a reasonable fee.

All incidents that could possibly give rise to a claim must be notified to us or your insurer in accordance with the terms of your policy and a claim form completed where required. If you are unsure whether a matter constitutes a claim or not, please contact us and we will advise you. A delay in notifying a claim and/or completing required forms will risk a loss where you/the policyholder may suffer not being paid in part or in full. You should not, however, admit liability or agree a course of action, other than emergency measures carried out to minimise the loss, until you have agreement from your insurer.

Cancellation rights

Your insurance contract may include a cancellation clause and you may have the right to cancel your policy. If you decide to cancel your insurance contract within any stipulated timeframe and you have not made a claim on the policy, you may be entitled to receive a refund of any premium paid, less any reasonable costs incurred by the insurer in providing the cover. The terms of your policy may allow insurers to retain the premium in full or to charge short period premiums in the event of cancellation before the policy expires – please check your policy documentation for further information or ask a member of staff for clarification. Please note our commission and, where appropriate, fees are fully earned from the date insurance cover commences and will not be refundable in the event of cancellation, avoidance or early termination of a policy.

General

We only place insurance with insurers that meet our minimum financial standards, unless a client provides specific instructions to the contrary. We do not guarantee the solvency or continuing solvency of any insurers and you should note that the financial position of an insurer can change. If an insurer ceases trading we do our best to assist our clients, but you should note that in those cases of insurer insolvency where we have a risk transfer agreement with the insurer, premiums held by us will be deemed to have been paid to that insolvent insurer and therefore cannot be returned to clients. Similarly, claims monies held by us may be returnable to the insolvent insurers or their liquidators, rather than our clients.

Marsh & McLennan Companies, Inc. and its subsidiaries (including Marsh Commercial) own equity interests and have contractual arrangements with certain insurers and wholesale brokers. Information regarding these arrangements can be provided to you in paper form upon request from a member of your service team, or is available at the following web address: <https://www.marshcommercial.co.uk/info/transparency/>.

If you have any questions about this section or any part of our agreement with you, please contact your usual Marsh Commercial contact in the first instance.

