

## Policy Wording *Down to the nitty-gritty*

### About this document

The policy wording is the insurer's definitive statement of what is and isn't covered.

It contains general terms and conditions, the specific elements of your cover and the details of who to go to if you want to complain.

Insurers sometimes use quite technical insurance language in their wordings. If you'd like a layman's terms explanation of anything you find, please give us a call.

### Professional Indemnity

Professional indemnity insurance is for professional people or businesses that provide a specialist service – design, advice, words, numbers, ideas or other expertise – to paying clients.

It protects you if one of those paying clients (or a third party) alleges you've made a mistake and it's cost them money. And they decide to sue you for their loss.

### Public Liability

Public liability insurance covers you, your business and its employees. Especially the clumsy ones.

If there's an accident and someone's injured or their property's damaged (and it's deemed your fault), you could be held liable.

### Cyber Insurance

It covers system repair costs, investigation costs and your business's lost revenue after a cyber-attack.

*Prefer to talk it through?*

No problem.

*I'm Jane,*

our professional insurance expert.



Got a question? Need a quote? Call me on:

**0345 222 5360**

# Policy (General Terms, Definitions, Exclusions and Conditions)

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## Introduction

This Policy is a contract between **you** and **us**, based upon the **statement of fact**. This Policy consists of the General Terms, Definitions, Exclusions and Conditions, the terms of the coverage Sections purchased, the Schedule and Endorsements as well as the **statement of fact**, all of which are understood to be a single document and are to be read as one contract.

Please read the Policy carefully and make sure that it meets **your** needs. You should contact PolicyBee LLP immediately if any corrections are necessary.

## Data Protection Act

Any information provided to **us** regarding **you**, any person indemnified or any **person employed** will be processed by **us** in compliance with the provisions of the Data Protection Act 1998, for the purpose of providing insurance and handling claims, if any, which may necessitate providing such information to third parties.

## Complaints Procedure

Catlin Insurance Company (UK) Ltd. is dedicated to providing a high quality service and **we** want to ensure that **we** maintain this at all times. If **you** feel that **you** have not been offered a first class service or if **you** have any questions or concerns about the Policy, or the handling of a claim **you** should, in the first instance, contact PolicyBee LLP.

If you are unable to resolve the situation and wish to make a complaint you can do so at any time by referring the matter to:

Compliance Officer,  
Catlin Insurance Company (UK) Ltd.  
20 Gracechurch Street, London EC3V 0BG  
Tel No: 020 7743 8487  
Email: [Catlinukcomplaints@catlin.com](mailto:Catlinukcomplaints@catlin.com)

Complaints that cannot be resolved by the Compliance Officer may in certain circumstances be referred to the Financial Ombudsman Service at:

South Quay Plaza, 183 Marsh Wall, London E14 9SR  
Tel No: 0800 0234 567  
Email: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

*From within the United Kingdom:*

Telephone Number: 0800 0234 567 (free for people phoning from a "fixed line", for example, a landline at home)

Telephone Number: 0300 1239 123 (free for mobile-phone users who pay a monthly charge for calls to numbers starting 01 or 02)

*From outside the United Kingdom:*

Telephone Number: +44 (0) 20 7964 1000  
Fax: +44 (0) 20 7964 1001

# General Terms, Definitions, Exclusions and Conditions

The General Definitions, Exclusions and Conditions apply to all Sections in this Policy unless stated otherwise.

## 1 General Definitions

Words shown in **bold** type have the same meaning wherever they appear in this Policy unless stated otherwise in any particular Section.

### 1.1 Aggregate

Means, in the context of any applicable limit of indemnity, that the limit of indemnity is the maximum that **we** shall pay for all such claims made and notified to **us** during the **period of insurance**.

### 1.2 Business

Means those activities **you** declared to **us** and which are stated in the Schedule.

### 1.3 Excess

Means the first part of each and every claim or loss payable by **you** before **we** make any payment under this Policy.

The excess in respect of each claim or loss will be the amount stated under the relevant Section in the Schedule.

The limit(s) stated under each Section in the Schedule are in excess of and are not reduced by the amount of any excess.

The excess does not apply to defence costs.

### 1.4 Offshore

Means from the time of embarkation on to a vessel or aircraft for conveyance to any offshore installation, until disembarkation from a conveyance on to land upon return from any offshore installation.

### 1.5 Period of insurance

Means the period stated in the Schedule.

### 1.6 Person employed

Means any:

- (a) person under a contract of service or apprenticeship with **you**;
- (b) labour master and persons supplied by him;
- (c) person employed by labour only sub-contractors;
- (d) self-employed person;

- (e) person hired to or borrowed by **you**; or
- (f) person undertaking study or work experience, voluntary work or a youth training scheme with **you**;

working for **you** and under **your** control in connection with the **business**.

### **1.7 Pollution**

Means any pollution, seepage, discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including, but not limited to, smoke, vapours, soot, dust, fibres, fungi, mould, fumes, acids, alkalis, chemicals and waste (including, but not limited to, material to be recycled, reconditioned or reclaimed) or contamination of any kind.

### **1.8 Premises**

Means the premises specified as such in the Schedule including any outbuildings, hoardings and annexes **you** occupy on the same premises.

### **1.9 Statement of fact**

Means all and any information supplied to **us** by or on **your** behalf.

### **1.10 Terrorism**

Means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of person, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government(s) and/or to put the public, or any section of the public, in fear.

### **1.11 We / us / our**

Means Catlin Insurance Company (UK) Ltd.

### **1.12 You / your**

(except for the purpose of construing the meaning and effect of the cover provided by the Directors and Officers Liability Section and the Corporate Liability Section/extension of this Policy, in which case it will have the meaning given in those sections) Means:

- (a) the person, persons or corporate body or other entity named in the Schedule to this Policy; or
- (b) **your** subsidiary companies which have been notified to and accepted by **us** in writing.

## What's not covered

### 2 General Exclusions

Except where specifically included, **we** will not have any liability under this Policy for, or directly or indirectly arising out of, or in any way connected with any of the following:

#### 2.1 Asbestos

manufacture, mining, processing, distribution, testing, remediation, removal, storage, disposal, sale, use of or exposure to asbestos or materials or products containing asbestos whether or not there is another cause of loss which may have contributed concurrently or in any sequence to a loss in respect of that part of any property insured by this Policy which consists of asbestos;

#### 2.2 Changes in or failure to provide information

any claim against **you** or any person indemnified by this Policy arising from:

- (a) information contained in the **statement of fact** that has been misrepresented or which was required by **us** prior to the beginning of the **period of insurance** but which was not disclosed; or
- (b) a material change in circumstances from the information contained in the **statement of fact** or in relation to the information required by **us** prior to the beginning of the **period of insurance** but which was not disclosed unless such change has been agreed in writing by **us**;

#### 2.3 Known claims or circumstances

claims or circumstances known to **you** or any person indemnified by this Policy or which **you** or such person indemnified ought to have known prior to the beginning of the **period of insurance**;

#### 2.4 Other insurance

any claim or loss in respect of which **you** are entitled to be indemnified under the terms of any other policy of insurance except for any amount in excess of that which would be payable under that other policy of insurance if this policy had not been taken out;

#### 2.5 Punitive damages

award of punitive or exemplary damages whether as fines, penalties, multiplication of compensatory awards or damages or in any other form whatsoever;

#### 2.6 Radioactive contamination

- (a) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- (b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

## 2.7 Terrorism

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

This exclusion also applies to any action taken in controlling, preventing, suppressing or in any way relating to any act of **terrorism**.

In the event that any part of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect;

## 2.8 War

war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power.

# What we both agree to

## 3 General Conditions

Except where expressly overridden, the following conditions apply to the whole of this Policy. Any changes, additions or deletions to these conditions are shown in the relevant Section to which they apply.

### 3.1 Arbitration

If there is a disagreement about the way **we** handle a claim or loss that is not resolved through **our** internal complaints procedure, **you** and **we** can choose a suitably qualified person to arbitrate whose decision will be binding on both **you** and **us**.

If **we** have decided to take control of the investigation, settlement or defence of any claim against **you** (pursuant to the General Condition 3.4 Defence and settlement of claims) then the appointment of an arbitrator shall not prevent **us** from continuing to exercise such control.

**You** and **we** must both agree to the choice of this person to arbitrate.

Failing this **we** will ask the president of a national association relevant to the arbitration to choose a suitably qualified person.

All costs of resolving the matter must be paid by the party whose argument is rejected. If the decision is not clearly made against either party, the arbitrator will decide how the costs are shared.

### 3.2 Cancellation

Subject always to any lesser period of notice permitted in respect of non-payment of premium, **we** or **you** may cancel this Policy by giving 30 days' notice in writing. Unless a claim or circumstance has been notified during the **period of insurance you** will be entitled to the return of a proportionate part of the premium in respect of the unexpired **period of insurance**.

If **we** have agreed to collect the premium by Direct Debit instalments and **we** have not received an instalment within 15 days after the due date, then **we** shall have the right to cancel this Policy with immediate effect. In such circumstances the **period of insurance** will equate to the period for which the premium instalments have been received by **us**.

**We** will confirm the cancellation and amended **period of insurance** in writing.

### **3.3 Change of information**

The **statement of fact** provided by **you** or on **your** behalf is the basis of this Policy. **You** must tell **us** as soon as reasonably practicable of any change in that information during the **period of insurance**. **We** may then change the terms and conditions of this Policy. **We** shall not be liable for any claim or loss arising from such altered information until **we** have agreed to such change in writing.

### **3.4 Defence and settlement of claims**

**We** have the right, but not the obligation, to take control of any claim against **you** and to conduct the investigation, settlement or defence in **your** name, even if any of the allegations of the claim are groundless, false or fraudulent.

After taking into account the commercial considerations of the costs of defence **we** may choose to settle a claim instead of defending it if **we** do not think there is a reasonable prospect of success.

If **you** refuse to agree to any settlement or compromise recommended by **us** which is acceptable to the claimant and **you** elect to contest the claim, the most **we** will pay will not exceed the amount for which the claim could have been settled, less the **excess**, plus the defence costs incurred up to the time of such refusal, or the applicable limit of indemnity, whichever is less, and **we** will have the right to withdraw from the further defence of the claim by tendering control of the defence to **you**.

### **3.5 Duty to co-operate**

Following notification under the Notification of a claim condition in the relevant Section, **you** must provide **us**, at **your** expense, with any information which **we** may reasonably require and **you** must cooperate fully in the investigation defence or settlement of any claim or loss under this Policy.

### **3.6 Fraudulent claims**

If a claim under this Policy is made fraudulently by **you**, as to amounts or otherwise, **we** may refuse to make payment to **you** or on **your** behalf in respect of the claim. In such circumstances, **we** may also cancel this Policy immediately.

However, the making of a fraudulent claim will not remove **our** obligations with regard to claims made under this Policy notified to **us** before the making of the aforementioned fraudulent claim unless, after review of any prior claims, **we** establish that one or more of such prior claims had been made fraudulently.

### **3.7 Governing Law**

This Policy shall be governed by and construed in accordance with the laws of England and Wales.

### **3.8 Interpretation**

Unless the context otherwise requires:

- (a) headings are descriptive only, not an aid to interpretation;
- (b) all reference to specific legislation shall include amendments to and re-enactments of such legislation;

- (c) if any terms, condition, exclusion or endorsement or part thereof is found to be invalid or unenforceable the remainder shall be in full force and effect.

### **3.9 Misrepresentation and non-disclosure – non-avoidance**

This insurance is provided on the basis of the information contained in the **statement of fact** which was provided by **you** or on **your** behalf before **we** agreed to insure **you**. **We** will not:

- (a) seek to avoid or repudiate this Policy for non-disclosure or misrepresentation unless the non-disclosure or misrepresentation was intentional;
- (b) seek damages for or seek to reject a claim on the grounds of non-disclosure or misrepresentation or on the grounds of a breach of any warranty given in the course of negotiating this Policy save where such non-disclosure, misrepresentation or breach was intentional.

If **we** have grounds to believe that **you** may have failed to disclose or have misrepresented a material fact or that a warranty has been breached **you** must establish to **our** satisfaction that such alleged non-disclosure, misrepresentation, breach or untrue statement was not deliberate or made with any intention to deceive.

### **3.10 No admission of liability**

**You** shall not, without our prior approval, admit liability for, compromise, settle or make any offer or payment in respect of any claim or any circumstance likely to give rise to a claim where cover has been or will be requested under this Policy.

### **3.11 Precautions and care**

It is a condition precedent to **our** liability that **you** shall:

- (a) take all reasonable precautions to prevent or minimise accidents or injury;
- (b) take all reasonable precautions for the safety of or to prevent or minimise loss in respect of property insured;
- (c) exercise due care in the selection and supervision of **persons employed**;
- (d) use **your** best endeavours to observe and comply with statutory or local authority obligations, regulations, laws or bye-laws.

### **3.12 Premium payment**

Unless **we** have agreed that the premium can be paid via Direct Debit instalments, the premium must be paid in full to **us** within 30 days of the beginning of the **period of insurance**. If **we** have not received the premium by the due date then **we** will have the right to cancel this Policy by giving 15 days written notice. In the event of cancellation, the premium due to **us** will be on a pro-rata basis for the **period of insurance we** have been on risk.

### **3.13 Queen's counsel**

**You** will not be required to contest any legal proceedings unless a Queens Counsel (or by mutual agreement between **you** and **us** a similar authority) shall advise that such proceedings could be contested with the probability of success.

### **3.14 Recoveries**

Any amount recovered in excess of **our** total payment of a claim (inclusive of defence costs) shall be reimbursed to **you** less the cost to **us** of such recovery.

### **3.15 Rights of third parties**

**You** and **we** are the only parties to this Policy. No other person has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Policy but this does not affect any right or remedy they may have other than by that Act.

### **3.16 Subrogation**

**You** must give **us** all assistance which **we** may reasonably require to pursue recovery of amounts **we** may become liable to pay under this Policy, in **your** name but at **our** expense.

# Policy (Professional Indemnity for Information Technology)

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## Professional Indemnity for Information Technology

This is a “claims made” insurance which means that it covers only claims or losses made and notified to **us** during the **period of insurance**.

This Section is subject to the General Terms, Definitions, Exclusions and Conditions except where expressly overridden.

### 1 Definitions (applicable to this Section only)

#### 1.1 Computer system

Means:

- (a) any computer, data processing equipment media or part thereof, or system of data storage and retrieval, or communications system, network, protocol or part thereof, or storage device, microchip, integrated circuit, real time clock system or similar device or any computer software (including but not limited to application software, operating systems, runtime environments or compilers) firmware or microcode; and/or
- (b) any electronic documents utilised in the ownership, security and management of **your** electronic communication system.

#### 1.2 Computer virus

Means any unauthorised executable code that replicates itself through a **computer system** with the intention of corrupting, manipulating or erasing computer records or damaging computer hardware whether termed a virus, logic bomb, worm, Trojan horse or known by any other name.

#### 1.3 Data protection regulations

Means any privacy laws, statutes and regulations associated with the control and use of personal data, including but not limited to the Data Protection Act 1998, the Regulation of Investigatory Powers Act 2000 and the Privacy and Electronics Communications (EC Directives) Regulations 2003.

#### 1.4 Defence costs

Means costs and expenses incurred by **you** or on **your** behalf with **our** prior agreement to investigate, settle or defend a claim or potential claim against **you**.

This does not include **your** own costs and expenses or any value attributable to the time spent by **you** in dealing with a claim or potential claim.

#### 1.5 Deliverable(s)

Means any software, hardware, firmware, cabling, peripherals or electronic equipment.

#### 1.6 Documents or data

Means all and any records in connection with the **business** kept by or on **your** behalf, whether kept in paper, magnetic or electronic form, for which **you** are legally responsible. Documents or data do not include stamps, currency, bank notes and instruments, traveller’s cheques, cheques, postal orders, money orders, securities and the like.

### 1.7 IT services

Means any services provided in the conduct of the **business** relating to and in connection with any **deliverable**, including but not limited to data processing, data warehousing, domain name registration, facilities management and outsourcing, systems analysis and design, telecommunications and data communication, website design and web hosting services.

### 1.8 Retroactive date

Means the date (if any) specified in the Schedule.

## What's covered

### 2 Operative Clauses

#### 2.1 Awards by ombudsmen

**We** will indemnify **you** in accordance with the recommendation of any ombudsman under any recognised ombudsman scheme in respect of:

- (a) any amount paid or payable;
- (b) any **defence costs** incurred in taking any steps which **you** are directed to take by the ombudsman in relation to a claimant,

to the same extent **we** are obliged to indemnify **you** in respect of any civil liability covered under the Civil liability Operative Clause 2.2.

#### 2.2 Civil liability

**We** will pay on **your** behalf any sums **you** have to pay as compensation (including interest and claimant's costs) if the performance by **you** or by any **person employed**, or by any other person, firm or company directly appointed by and acting for or on **your** behalf in connection with **your business**, results in a claim being first made against **you** during the **period of insurance** for any actual or alleged:

- (a) negligence or breach of any duty to use reasonable skill and care where **you** have assumed liability for such breach in a written contract;
- (b) negligence or breach of an express or implied contractual duty to use reasonable skill and care;
- (c) negligent misstatement or negligent misrepresentation;
- (d) breach of a written contract to design, produce or supply **deliverables** or **IT services** due to;
  - (i) the **deliverables** or **IT services** either not conforming in all material respects with any written specification that forms part of the relevant contract and where it is an express term of the contract that the **deliverables** or **IT services** must comply with that specification;
  - (ii) the **deliverables** or **IT services** containing a material defect;

- (iii) the **deliverables** or **IT services** failing to meet any implied statutory terms concerning necessary quality, safety or fitness;
- (e) libel or slander;
- (f) any dishonest or fraudulent act or omission on the part of any **person employed** or by any other person, firm or company directly appointed by and acting for or on **your** behalf;
- (g) breach of confidentiality or of any right to privacy or of **data protection regulations**;
- (h) infringement of intellectual property rights including copyright, design right, trademark or moral rights or any act of passing-off, including any liability **you** have for infringement of intellectual property rights under an indemnity in a written contract with **your** client for the supply of **deliverables**;
- (i) negligent transmission of a **computer virus**;
- (j) any other civil liability unless relating to:
  - (i) liability for breach of contract or dishonesty beyond that specifically set out above;
  - (ii) any exclusions under this Section or the General Exclusions of this Policy;

**We** will also pay **defence costs** until the limit of indemnity applicable to this Section has been exhausted.

### **2.3 Court attendance costs**

In the event that **we** require **you** or any **person employed** to attend any court or other judicial tribunal in connection with any claim covered under this Section **we** shall pay **you** the following amounts of compensation:

£500 per day for any partner, member, director or senior manager of **your business**;

£250 per day for any other **person employed**.

### **2.4 Criminal prosecution**

Where a prosecution is first brought against **you** and is notified to **us** during the **period of insurance** in respect of an offence alleged to have been committed on or after the **retroactive date** specified in the Schedule **we** will pay **your defence costs** incurred with **our** prior written consent in the defence of any criminal proceedings against **you** or any **person employed** which arise from the alleged breach of any statutory regulation in any legal jurisdiction stated in the Schedule applicable to this Section where such alleged breach arises out of the conduct of the **business**, provided always that:

- (a) the proceedings are likely to give rise to a claim against **you** that would be covered under, and which has been notified to **us** in accordance with the notification of a claim condition in, this Section;
- (b) the defence of such proceedings would assist in the defence of any claim against **you** arising from such proceedings that would be covered under this Section;
- (c) the limit of indemnity shall be as stated in the Schedule but will be limited in the **aggregate**.

## 2.5 Loss of documents

**We** will compensate **you** for the reasonable and necessary costs of repair, replacement or reconstitution of any **documents or data** which have been unintentionally destroyed, damaged, lost or mislaid during the **period of insurance** and which after diligent search cannot be found. The limit of indemnity shall be as stated in the Schedule but will be limited in the **aggregate**.

## 2.6 Losses from dishonesty

If, during the **period of insurance** and in the performance of **your business** within the geographical limits stated in the Schedule, **you** suffer a loss from the dishonesty of a **person employed**, a subcontractor or outsourcer, where there was a clear intention to cause **you** loss or damage and to obtain a personal financial gain over and above any salary, bonus or commission, **we** will compensate **you** for **your** direct financial loss. The limit of indemnity shall be as stated in the Schedule but will be limited in the **aggregate**.

## 3 Extensions

### 3.1 Discovery run off

If this Section of the Policy is not renewed or is cancelled by **you**, **you** shall have the right to purchase a discovery run off period of 12 months immediately following the **period of insurance** so that for the purposes of the Operative Clauses, any claim made in the discovery run off period shall be deemed to have been first made during the **period of insurance**.

This discovery run off period is only available if:

- (a) this Section of the Policy is not replaced or succeeded by any other policy cover broadly equivalent to this Section in scope; or
- (b) **you** have not merged or consolidated into another entity nor has any person or entity acquired 50% or more of **your** issued share capital or taken effective control of **you** (other than by way of a management buy-out); or
- (c) there has not been an insolvency practitioner (or equivalent) appointed as **your** liquidator, administrator or receiver (or equivalent);

The discovery run off period shall additionally be subject to the following conditions and exclusions:

- i. cover shall apply only in relation to a claim arising from an act, error or omission occurring prior to the expiry of the **period of insurance**; and
- ii. there is no cover for any claim arising from any act, error or omission occurring after the expiry of the **period of insurance**; and
- iii. the limit of indemnity for any claim made during the discovery period shall be as stated in the Schedule but will be limited in the **aggregate** and be inclusive of **defence costs**; and
- iv. there will be no cover unless:
  - a) If purchased following non-renewal, an additional premium of 10% of the annual premium shown in the Schedule, or £50, whichever the greater, is paid to **us** within 30 days of the expiry of the **period of insurance**; or

- b) If purchased following cancellation by **you**, an additional premium of 50% of the annual premium shown in the Schedule, or £100, whichever the greater, as well as any arrears due, is paid to **us** within 30 days of the expiry of the **period of insurance**; and
- v. the premium for the discovery run off period is non-refundable; and
- vi. cover shall automatically lapse upon the appointment of an insolvency practitioner (or equivalent) as a liquidator, administrator or receiver.

### **3.2 Indemnity to customers**

**We** will pay, on behalf of any of **your** customers, any sums which they become liable to pay as a result of a claim made against the customer by any person or entity other than **you** which results directly from a negligent act, negligent error, negligent omission or negligent breach of duty by or on **your** behalf in the conduct of the **business**.

### **3.3 Legal representation costs**

**We** will pay **your** reasonable costs and expenses incurred by **you** or any **person employed** for representation at properly constituted hearings, tribunals or proceedings provided that:

- (a) they arise directly out of a claim which is, or in **our** opinion is likely to be, covered under the Operative Clauses in this Section; and
- (b) the costs and expenses are not covered under **defence costs**; and
- (c) **we** have given **our** prior written consent to such costs and expenses.

### **3.4 Payment of outstanding fees**

**We** will reimburse **you** in respect of fees and expenses invoiced to customers for professional services rendered in the course of the **business** but which **your** customers have refused to pay on the grounds of actual, imminent or alleged loss of the customer resulting from the negligent provision of such services.

Reimbursement will be made provided **you** have shown that **you** have taken reasonable steps to recover the relevant fees and expenses and that the taking of further steps would trigger the customer into making a claim against **you** of a kind that would be covered under this Section and that refraining from pursuing payment would reduce the likelihood of such a claim being made.

If a claim is still brought, **we** will deal with it but **our** total liability, including what **we** have already paid **you** or on **your** behalf, will not exceed the applicable limit of indemnity shown in the Schedule. **You** must return the amount **we** have paid if **you** eventually recover the debt less **your** reasonable expenses.

Once **we** agree to make this payment **you** will assign to **us** such rights as **you** have in relation to the amounts owed to **you**.

**We** will not make any payment for any part of a claim not covered by this Section.

### 3.5 Subcontractors

**We** will pay any claim covered under the Operative Clauses which is brought against **you** as a result of any subcontractor undertaking **business** activities on **your** behalf.

## What's not covered

### 4 Exclusions

**We** will not have any liability under this Section of the Policy for, or directly or indirectly arising out of, or in any way connected with, any of the following:

#### 4.1 Computer systems back-ups

**your** failure to take reasonable steps to make back-up copies of any data, file or program at reasonably frequent intervals;

#### 4.2 Computer virus

any **computer virus** created or intentionally modified by **you** or by any **person employed** or by any other person, firm or company directly appointed by and acting for or on **your** behalf;

#### 4.3 Contractual liability

(a) a breach of any written contractual duty or duty of care owed by **you** to any third party which imposes a greater obligation upon **you** than would otherwise be implied by common law or statute.

This exclusion does not apply to any claim where cover is provided under sub-clause (d) of the Civil Liability Operative Clause 2.2; and

(b) any contract where before entering into or extending a contract, **you** failed to take reasonable steps to ensure that **you** could fulfil all of **your** obligations in accordance with the terms of the contract or any representations made by or on **your** behalf;

#### 4.4 Correcting problems

**your** failure (wholly or partially) to take reasonable steps to remedy and/or rectify at **your** own expense any defect or failure in any **deliverables** or service supplied by **you** to a customer arising prior to the customer's acceptance of the **deliverables** or within 180 days of acceptance or any longer period specified in any contract (including a maintenance contract) between **you** and the customer;

#### 4.5 Death and bodily injury

any bodily injury, sickness, disease, emotional distress (except emotional distress arising from any libel or slander), mental anguish, mental stress or death of any person unless it is alleged to arise from a breach of duty by **you**, or by any **person employed** or by any other person, firm or company directly appointed by and acting for or on **your** behalf, in the conduct of **your business**;

**4.6 Deliberate acts**

- (a) any deliberate or reckless breach, act, omission or infringement committed by **you** or by any **person employed**, or by anyone else and which **you** condoned or ignored; or
- (b) any statement **you** knew, or ought reasonably to have known, was not true or accurate at the time of publication;

**4.7 Director and officer**

any liability **you** may have in the capacity of a director, officer and/or trustee;

**4.8 Fines and penalties**

any regulatory or disciplinary investigations or proceedings or any fines, penalties or penal, punitive, exemplary, liquidated, restitutionary, non-compensatory or aggravated damages, or the additional award of damages consequent upon or by reason of any multiplication of compensatory damages, except with regard to libel or slander;

**4.9 Goods manufactured and supplied**

**your** supply, manufacture, sale, installation or maintenance of any product other than **deliverables** or as part of the provision of **IT services**;

**4.10 Insolvency**

**your** insolvency or bankruptcy;

**4.11 Internet service**

any failure or loss of service provided by an internet service provider, telecommunications provider or other utility provider unless these services are provided by **you** as part of the **business**;

**4.12 Joint venture**

**your** participation in a joint venture unless the claim emanates from a wholly independent third party;

**4.13 Jurisdiction and geographical limits**

any:

- (a) legal proceedings brought in a court of law outside the covered jurisdictions stated in the Schedule or brought in a court of law within the stated jurisdiction in respect of which it is alleged that the applicable law is that of a country, or to enforce a judgement or order made in any court of law outside covered jurisdictions; or
- (b) **business** undertaken outside the geographical limits shown in the Schedule;

**4.14 Patent**

the actual or alleged infringement of any patent;

#### **4.15 Pension funds and investments**

**your:**

- (a) (i) operation or administration of any pension or employee benefit scheme or trust fund; or
- (ii) sale or purchase of or dealing in any stocks, shares or securities or the misuse of any information relating to them;

or

- (b) breach of any legislation or regulation related to these activities;

#### **4.16 Pollution**

any **pollution**;

#### **4.17 Property damage**

the loss, damage or destruction of any tangible property other than **deliverables**.

This exclusion will not apply:

- (a) to Operative Clause 2.2 – Civil liability;
- (b) to Operative Clause 2.5 – Loss of documents;
- (c) if the loss, damage or destruction is alleged to arise from a breach of duty by **you**, or by any **person employed** or by any other person, firm or company directly appointed by and acting for or on **your** behalf, in the conduct of **your business**;

#### **4.18 Recall costs**

costs and expenses involved in the refund for, or recall or replacement of, any service or **deliverables** unless and to the extent that **you** satisfy **us** that **you** are legally able to recover the costs and expenses (or any part of them) under a written contract with a third party;

#### **4.19 Related companies**

any claims brought by or on **your** behalf or by any parent or subsidiary company of **yours** or any person having a financial, executive or controlling interest in **you**, unless that interest is less than 5%, or by or on behalf of any entity controlled or managed by **you** or where **you** have greater than a 5% financial interest or where **you** have accepted a financial interest, irrespective of the amount, in any entity in exchange for fees incurred;

#### **4.20 Restricted recovery rights**

that part of any claim where **your** right of recovery against a third party is restricted by the terms of any written contract entered into by **you**;

#### **4.21 Retroactive date**

any claim arising from an act or omission occurring prior to the **retroactive date** specified in the Schedule;

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

**your** liability for any breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation;

#### 4.23 Third party deliverables

- (a) any inherent defect in any **deliverables** which are supplied by or originate from a third party;
- (b) any failure or default by a third party to supply any service.

This exclusion does not apply to any amount **you** satisfy **us** that **you** are legally able to recover under a written contract with a third party;

#### 4.24 Trading losses

any trading losses or liabilities incurred by **you** or by any **business** in which **you** have any interest or which is managed by **you**.

## What we both agree to

### 5 Conditions

#### 5.1 Limit of indemnity

- (a) The most **we** will pay for loss resulting from each claim is the limit of indemnity. **We** will pay **defence costs** in addition to the loss, but the most **we** will pay for **defence costs** is an amount equal to the limit of indemnity.
- (b) All claims from the same act, error or omission or series of acts, errors or omissions, as a result of or arising directly or indirectly from the same source or originating cause, will be regarded as one claim.
- (c) If **we** cover more than one person, firm, company or organisation, **our** liability to all, as a result of any one claim, will not be more than the limit of indemnity.
- (d) **We** may at any time pay to **you** the limit of indemnity. If **we** do so **we** will then have no further liability for that claim or **defence costs** except those already incurred at the date of payment of the limit of indemnity.

If **we** exercise the above option and the amount to dispose of any claim or series of claims exceeds the limit of indemnity and such excess amount is insured either in whole or in part, with **defence costs** payable in addition to the limit of indemnity, then **we** will also contribute **our** proportion of subsequent **defence costs** incurred with **our** prior written consent (which shall not be unreasonably withheld) as the limit of indemnity bears to the amount paid to dispose of a claim.

- (e) If a loss is covered under more than one Section of this Policy, the maximum amount payable under this Policy will not exceed the largest single applicable limit of indemnity of such operative cover as shown in the Schedule.

- (f) A loss resulting from a single act or any number of acts in which the same **person employed** or third party is concerned or implicated, whether such act or acts occurred before or during the **period of insurance**, will be treated as a single loss.
- (g) **You** must pay the relevant **excess** shown in the Schedule.

## **5.2 Notification of a claim**

Any claim or circumstance which is or are likely to give rise to a claim under this Section of the Policy or the receipt by **you** of any claim form, particulars of any claim, arbitration notice or any other formal document commencing legal proceedings must be notified as soon as practicable after they come to **your** attention.

**We** will not make any payment under this Policy unless **you** notify **us** in writing at Angel Underwriting, Little Tey Road, Feering, Colchester, Essex CO5 9RS.

Notification must be made during the **period of insurance** or within 30 days of the end of the **period of insurance** and should include copies of all relevant documents.

## **5.3 Notification of dishonesty and/or a fraud claim**

In addition to notifying **us** in accordance with 5.2 Notification of a claim condition, in respect of any claim arising out of any dishonest or fraudulent act or omission:

- (a) **you** must immediately take all reasonable steps to prevent further loss;
- (b) if **we** so request **you** will take all reasonable steps to effect recovery from the person committing or condoning or knowingly participating in such fraudulent or dishonest act or omission or from the personal representatives of such person;
- (c) any money recovered following action as described in (b) above will be deducted from any amount payable under this insurance.

## **5.4 Partially covered claims**

**We** will defend **you** against any claim or part of a claim brought against **you**, including those claims which are only partially covered by this Section.

Upon final settlement of the claim **we** will deduct any amounts relating to those parts of the claim which are not covered by this Section. When calculating the amounts to be repaid to **us** **we** will ask **you** to agree the fairest allocation of costs, however in the failure of agreement **our** Arbitration (General Condition 3.1) will apply.

# Policy (Public and Products Liability)

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## Public and Products Liability

This Section is subject to the General Terms, Definitions, Exclusions and Conditions except where expressly overridden.

### 1 Definitions (applicable to this Section only)

#### 1.1 Advertisement

Means a notice which is broadcast or published to the general public or specific market segments about **your** products or services for the purpose of attracting customers or supporters.

#### 1.2 Advertising claim

Means a claim made against **you** in relation to any **advertisement** of **yours** and which:

- (a) is libellous, slanderous or disparages goods, products or services;
- (b) constitutes infringement of copyright, design right, trademark or slogan or passing off;
- (c) violates an individual's right of privacy.

In the event of a series of claims arising from the repeated broadcast or publication of a single **advertisement**:

- (a) all such claims shall be treated as being a single claim and has having been made on the date upon which the **advertisement** was first broadcast or published;
- (b) **we** will not pay damages or **defence costs** in respect of any **advertisement** first broadcast or published prior to the **period of insurance**;
- (c) no cover will be provided in respect of any claims arising from any **advertisement** broadcast or published after the expiry of the **period of insurance**.

#### 1.3 Business

In addition to the General Definition, **business** includes:

- (a) the ownership, repair and maintenance of property used exclusively for the purposes of **your business**;
- (b) provision and management of canteen, social, sports, medical and welfare organisations and fire fighting and security services principally for the benefit of any **person employed** and for the protection and promotion of **your** business as stated in the Schedule;
- (c) private work undertaken by any **person employed** for any of **your** directors or partners with **your** prior consent.

#### 1.4 Damage

Means loss of possession of or physical damage to tangible property including resulting loss of use of such property.

### 1.5 Defence costs

Means costs and expenses incurred by **you** or on **your** behalf with **our** prior agreement to investigate, settle or defend a claim or potential claim against **you**.

This does not include **your** own costs and expenses or any value attributable to the time spent by **you** in dealing with a claim or potential claim.

### 1.6 Injury

Means:

- (a) death, bodily injury, illness or disease of, or to a person;
- (b) mental injury or anguish or nervous shock sustained by any person as a result of actual or threat of bodily injury, illness or disease;
- (c) trespass, nuisance, invasion of the right of privacy or interference with any right of way, air, light, water or other easement;
- (d) wrongful arrest, wrong detention, false imprisonment or malicious prosecution, wrongful entry into, or eviction of a person from, a room, dwelling or **premises** that they occupy.

### 1.7 Product

means any tangible property after it has left **your** custody or control which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied distributed, treated, serviced, altered or repaired by or on **your** behalf.

### 1.8 You / your

In addition to the General Definition, also includes any person who was, is or during the **period of insurance** becomes a partner, member, director or senior manager in **your** company.

## What's covered

### 2 Operative Clauses

#### 2.1 Claims against you

**We** will pay on **your** behalf any sums **you** have to pay as compensation (including interest and claimant's costs) as a result of a claim brought against **you** in the covered jurisdictions stated in the Schedule resulting from **your business** arising out of accidental:

- (a) **injury** occurring during the **period of insurance**;
- (b) **damage** occurring during the **period of insurance**;
- (c) **advertising claim** offences committed during the **period of insurance**.

**We** will also pay **defence costs**. However, if a payment greater than the limit of indemnity has to be made for a claim **our** liability for **defence costs** will be limited to the same proportion that the limit of

indemnity bears to the amount of damages (inclusive of interest, claimant's costs, fees and expenses) paid.

## **2.2 Court attendance costs**

In the event that **we** require **you** or any **person employed** to attend any court or other judicial tribunal in relation to a claim covered under this Section of the Policy **we** shall pay **you** the following amounts of compensation:

£500 per day for any partner, member, director or senior manager of **your** operations;

£250 per day for any other **person employed**.

## **2.3 Criminal proceedings**

**We** will pay on **your** behalf, or at **your** request on behalf of any **person employed** or any of **your** directors, members or partners, the legal costs and expenses incurred with **our** prior written consent in the defence of any criminal proceedings first brought during the **period of insurance** for a breach of:

- (a) Part II of the Consumer Protection Act 1987 or of Part II of the Food Safety Act 1990; or
- (b) Health and Safety at Work etc Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978;

committed in the course of the **business** including legal costs and expenses incurred with **our** prior written consent in an appeal against conviction arising from such proceedings.

## **2.4 Data Protection Act**

If **you** are registered or are in the process of registration under Data Protection legislation (and the application has not been refused or withdrawn) **we** will pay on **your** behalf any sums **you** have to pay as compensation (including interest and claimant's costs) for damage or distress caused by a breach of any Data Protection legislation occurring during the **period of insurance** in the course of the **business** unless **your business** involves the obtaining, recording or provision of personal information for reward or to assess the financial status of any person.

## **2.5 Housing grants, construction and regeneration act 1996**

**We** will indemnify **you**, or at **your** request any party entitled to indemnity under this Policy in respect of liability which **you** may incur for claimant's costs and expenses as a result of any decision by an adjudicator appointed to resolve a dispute in accordance with the Scheme of Construction Contracts as contained in the Housing Grants Construction and Regeneration Act 1996 or an adjudication clause or rules contained in a contract.

## **2.6 Manslaughter defence costs**

**We** will pay on **your** behalf legal costs and expenses incurred with **our** prior written consent:

- (a) in defending a charge of manslaughter (including a charge of corporate manslaughter or corporate homicide brought under the Corporate Manslaughter and Corporate Homicide Act 2007) where the death in connection with which such charge arises is likely to result in a claim under this Section of the Policy;
- (b) in appealing against conviction on such charge and/or the imposition of a remedial or publicity order under the Corporate Manslaughter and Corporate Homicide Act 2007 in connection with

such charge provided that in the opinion of a Queen's Counsel or similar legal authority (to be mutually agreed upon by **you** and **us**) such appeal could be made with the probability of success.

## **2.7 Overseas personal liability**

**We** will indemnify **you**, and if **you** so request, any of **your** directors, partners or any **person employed** or their spouse or children against legal liability as a result of **injury** or **damage** incurred in a personal capacity whilst temporarily outside the United Kingdom of Great Britain and Northern Ireland, the Channel Islands or the Isle of Man subject to the geographical limits shown in the Schedule other than:

- (a) where indemnity arises out of the ownership or occupation of land or buildings;
- (b) where indemnity is not provided by any other insurance.

## **2.8 Pollution**

Provided **you** have taken all reasonable precautions to prevent **pollution** giving rise to any **advertising claim, injury** or **damage** during the **period of insurance**, **we** will pay on **your** behalf any sums **you** have to pay as compensation (including interest and claimant's costs) as a result of a sudden, identifiable, unintended and unexpected **pollution** event occurring in its entirety at a specific time and place.

# **3 Extensions**

## **3.1 Indemnity to others**

**We** will pay any sums payable as compensation (including interest and claimant's costs) as a result of a claim brought by a third party against any of the following:

- (a) any officer committee or member of **your** canteen, sports, social or welfare organisations, fire security, first aid medical or ambulance services in their respective capacities as such;
- (b) any director or senior official of **your** organisation in respect of private work undertaken by any **person employed** for such director or senior official;
- (c) in the event of the death of any person entitled to indemnity under this Section **we** will pay on behalf of the deceased's legal personal representatives but only in respect of liability incurred by such deceased person;
- (d) any person or firm for legal liabilities to any third party arising out of the performance of a contract with **you** constituting the provision of labour only;
- (e) any director or senior official of **your** organisation or **person employed**;

on condition that the claim, if it had been brought against **you**, would have been covered by this Section of the Policy and further provided that:

- (i) all such persons or parties shall observe, fulfil and be subject to the terms of this Section as though they were **you**; and
- (ii) **we** shall retain the sole conduct and control of claims.

### 3.2 Indemnity to customers

To the extent that any written contract or agreement entered into by **you** with any customer of **yours** so requires, **we** will, at **your** request:

- (a) indemnify **you** against liability **you** assume;
- (b) indemnify the customer in a like manner to **you** in respect of the liability of the customer;

arising out of **your** performance of such contract or agreement on condition that the claim, if it had been brought against **you**, would have been covered by this Section of the Policy and further provided that:

- (i) any such customer shall observe, fulfil and be subject to the Conditions of this Section as though they were **you**; and
- (ii) **we** shall retain the sole conduct and control of claims.

For the purposes of this extension the term customer includes any partner, co-venturer, subsidiary or affiliated or parent company to the customer but only to the extent that the contract between the customer and **you** requires these additional parties to be indemnified in like manner to **you**.

### 3.3 Legal representation costs

**We** will pay the reasonable costs and expenses incurred by **you** or any **person employed** for representation at properly constituted hearings, tribunals or proceedings provided that:

- (a) they arise directly out of a claim which is or in **our** opinion likely to be covered under the Operative Clauses in this Section; and
- (b) they are not covered under **defence costs**; and
- (c) **we** have given **our** prior written consent to such costs and expenses.

### 3.4 Motor contingent liability

Exclusion 4.10 Motor vehicles will not apply in respect of **your** legal liability arising from the use, in connection with the **business**, of any motor vehicle not **your** property or provided to **you**.

However this extension will not apply in respect of liability arising while such vehicle is being:

- (a) driven by **you** or any **person employed**;
- (b) driven with **your** consent by any other person who, to **your** knowledge, did not hold a valid licence to drive such vehicle unless such person has held and was not disqualified from holding or obtaining such a licence;
- (c) used elsewhere than within the member countries of the European Union.

## What's not covered

### 4 Exclusions

**We** will not have any liability under this Section of the Policy for, or directly or indirectly arising out of, or in any way connected with:

#### 4.1 Aircraft, watercraft and offshore work

the ownership, possession, work on and/or visits to, or use by **you** or on **your** behalf of any aircraft, spacecraft, hovercraft, **offshore** installation, rig, platform or watercraft (other than watercraft not exceeding 10 metres in length whilst on inland waterways) or for or arising out of any product which to **your** knowledge is intended for incorporation into the structure, machinery or controls of any aircraft, spacecraft, avionics, hovercraft, offshore installation, rig, platform or watercraft;

#### 4.2 Advertising claim

any **advertising claim**:

- (a) arising out of the failure of goods, **products** or services to conform with the advertised quality or performance;
- (b) arising out of a breach of contract other than the unauthorised misappropriation of advertising ideas based upon breach or alleged breach of an implied contract;
- (c) arising out of the wrong description of the price of goods, **products** or services sold, offered for sale or advertised;
- (d) if **your business** is that of advertising, broadcasting, publishing or telecasting;
- (e) arising out of the oral, broadcast, telecast or written publication of material whose first publication took place before the beginning of the **period of insurance**;

#### 4.3 Care, custody or control

any **damage** to property owned, leased to, hired by, under hire purchase, on loan to, held in trust by or otherwise in **your** care, custody or control other than:

- (a) clothing and personal effects of **persons employed** and visitors;
- (b) **premises** (including the contents within) temporarily occupied by **you** to work within it but **we** will not pay for **damage** to that part of the property in which **you** have been working and which arises out of such work; or
- (c) **premises** tenanted by **you** but always excluding liability for **damage**:
  - (i) arising out of any perils which the tenancy agreement requires **you** to insure against;
  - (ii) to any property which the tenancy agreement requires **you** to insure; or
  - (iii) to any property which the tenancy agreement requires **you** to be responsible for, except if such **damage** is caused, or contributed to, by **your** own negligence;

#### 4.4 Contract or agreement

any contract or agreement unless such liability:

- (a) would have attached in the absence of such contract or agreement; or
- (b) arises from a warranty, established or implied by virtue of the Sale of Goods Act 1979 or equivalent legislation, of fitness or quality of **your product** or that work done will be performed in a workmanlike manner;

#### **4.5 Defective products**

any costs incurred in the repair, reconditioning or replacement of any **product** or any part of such **product** which is or is alleged to be defective;

#### **4.6 Fines and penalties**

any regulatory or disciplinary investigations or for proceedings or for any fines, penalties or penal, punitive, exemplary, liquidated, restitutionary, non-compensatory or aggravated damages, or the additional award of damages consequent upon or by reason of any multiplication of compensatory damages;

#### **4.7 Injury to persons employed**

any **injury** to a **person employed** where such **injury** arises out of and in the course of employment with **you** or any liability arising out of worker's compensation or any similar legislation anywhere in the world;

#### **4.8 Land exclusion**

any **damage** to land or water within the boundaries or below any land presently or at any time previously owned or leased by **you** in connection with the cost of rectifying any defect or alleged defect in them;

#### **4.9 Large events**

any exhibition or show which exceeds five days in duration or where the number of attendees at any one time exceeds 250;

#### **4.10 Motor vehicles**

the ownership, possession or use by **you** or on **your** behalf or any person or party entitled to indemnity under this Section of the Policy of any motor vehicle or trailer, other than legal liability:

- (a) caused by the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer;
- (b) arising beyond the limits of any carriageway or thoroughfare caused by the loading or unloading of any motor vehicle or trailer; or
- (c) arising out of any motor vehicle or trailer temporarily in **your** custody or control for the purposes of parking;

#### **4.11 Product recall**

the recall, repair, reconditioning, removal or replacement of any **product** or part of such **product**;

#### 4.12 Professional liability

the giving of, or failure to give, professional advice or service whether or not for remuneration;

#### 4.13 Warranties and guarantees

any performance warranty, guarantee, penalty clause, liquidated damages clause or similar provision unless **your** liability would have existed to the same extent in the absence of such warranty, guarantee or clause or similar provision.

## What we both agree to

### 5 Conditions

#### 5.1 Limit of indemnity

**We** will pay up to the limit of indemnity shown in the Schedule for damages in respect of any one event or series of events having a common originating cause.

In addition, **we** will pay **defence costs** not exceeding the limit of indemnity stated in the Schedule.

- (a) **We** may at any time pay the limit of indemnity and, if **we** do **we** will then have no further liability for that claim or **defence costs** except those already incurred at the date of payment of the limit of indemnity.

If **we** exercise the above option and the amount to dispose of any claim or series of claims exceeds the limit of indemnity and such excess amount is insured either in whole or in part, with **defence costs** payable in addition to the limit of indemnity, then **we** will also contribute **our** proportion of subsequent **defence costs** incurred with **our** prior written consent as the limit of indemnity bears to the amount paid to dispose of the claim or series of claims.

- (b) If a loss is covered under more than one Section of this Policy, the maximum amount payable under this Policy will not exceed the largest single applicable limit of indemnity of any relevant Operative Clause as shown in the Schedule.
- (c) **You** must pay the relevant **excess** shown in the Schedule.

#### 5.2 Notification of a claim

The following must be notified as soon as practicable after they come to **your** attention:

- (a) any claim made against **you** or any party indemnified by this Section of the Policy which may fall within the scope of this Policy;
- (b) the receipt of notice, whether written or oral, from any person or entity of their intention to make such a claim against **you** or any party indemnified by this Section of the Policy;
- (c) any circumstances of which **you** or any party indemnified by this Section of the Policy shall become aware which are likely to give rise to such a claim being made against **you** or them, giving reasons for the anticipation of such a claim.

**We** will not make any payment under this Policy unless **you** notify **us** in writing at Angel Underwriting, Little Tey Road, Feering, Colchester, Essex CO5 9RS.

### **5.3 Partially covered claims**

**We** will defend **you** against any claim or part of a claim brought against **you**, including those claims which are only partially covered by this Section of the Policy.

Upon final settlement of the claim **we** will deduct any amounts relating to those parts of the claim which are not covered by this Section. When calculating the amounts to be repaid to **us we** will ask **you** to agree the fairest allocation of costs, however in the failure of agreement the Arbitration condition (General Conditions 3.1) will apply.

# Policy (Cyber Liability)

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# Cyber Liability

This Section is subject to the General Terms, Definitions, Exclusions and Conditions except where expressly overridden.

## 1 Definitions (applicable to this Section only)

### 1.1 Aggregate limit of indemnity

Means the maximum amount that **we** will pay under this policy as specified in the Schedule.

### 1.2 Bodily injury

Means physical injury or illness of any person (including death sustained as a result of such) mental anguish or emotional distress.

### 1.3 Business trend

Means **your** trend, variations and circumstances either before or after the **network compromise** which would have affected **you** had the **network compromise** not occurred, so that the adjusted **loss of profit** will represent as closely as reasonably practicable the results which except for the **network compromise**, would have been obtained during the **period of restoration**.

### 1.4 Change of control

Will include any one or more of the following events:

- (a) the sale, merger or change in control of **your** business;
- (b) material change in **your** business;
- (c) the appointment of a receiver, liquidator, administrator or trustee in bankruptcy for **your** business;
- (d) any process whereby **you** become a **subsidiary** of another previous unaffiliated entity, or becomes controlled by another previously unaffiliated entity by virtue of any law.

### 1.5 Claim

Means:

- (a) a written demand for monetary or non-monetary relief arising from a **wrongful act**; or
- (b) a written communication alleging a **wrongful act**; or
- (c) any action alleging a **wrongful act** in a court of law or in arbitration; or
- (d) with respect to insuring clause 2.6 only, a **regulatory investigation**.

### 1.6 Computer systems

Means a system of computer hardware, software, and associated electronic devices that is controlled, operated or owned by **you**.

### 1.7 Confidential business information

Means any encrypted non-public third party business information that cannot be lawfully obtained or known by the general public, including trade secrets, customers lists, drawings, financial information and marketing plans that are provided to **you** by a third party.

### 1.8 Data breach

Means the unauthorised acquisition of data, which a **responsible person** first becomes aware of during the **period of insurance**, that compromises the security, confidentiality and/or integrity of **personal data** or **confidential business information** held by **you**.

### 1.9 Data breach reporting requirement

Means a provision in a law, statute or regulation that requires **you** to provide notification to affected persons of a breach of such person's **personal data**.

### 1.10 Defence costs

Means reasonable legal fees expenses incurred with the prior written consent of **us** in the defence of any **claim** or **regulatory investigation** which is covered under this policy.

### 1.11 Denial of service

Means an attack implemented over a network or the internet intended to disrupt the normal operations of a **computer system**, and to render that system inaccessible to authorised users.

### 1.12 Discovery period

Means a period immediately following expiry of the **period of insurance** during which written notice may be given to **us** of a **claim** first made during such period or the **period of insurance**, for an act, error or omission committed before expiry of the **period of insurance**.

### 1.13 Electronic data

Means information in electronic form, including but not limited to computer programs.

### 1.14 Extortion demand

Means any sums unlawfully demanded from **you** by a third party.

### 1.15 First party event

Means **network compromise**, **data breach** and **extortion demand** that triggers coverage under any of the insuring clauses 2.3 to 2.8.

### 1.16 Insured

Means the entity stated in the Schedule.

### 1.17 Limit of indemnity

Means the relevant amount specified for a given insuring clause stated in the Schedule, but shall not include the **aggregate limit of indemnity**.

### 1.18 Loss

Means:

- (a) damages, judgments, settlements or other amounts that **you** are legally obliged to pay to a third party as a result of a **claim** which is covered under this policy;
- (b) **defence costs**.

**Loss** does not include:

- (a) punitive, aggravated, or exemplary damages or the multiplied portion of any damages award; or
- (b) **your** salaries, benefits, fees, commission, bonuses, overheads, charges or expenses.
- (c) contractual penalties, service credits, liquidated damages (but only to the extent that such liquidated damages exceed the amount for which **you** would have been liable in the absence of such liquidated damages clause);
- (d) civil or criminal fines or penalties which are uninsurable under the law governing this policy.
- (e) PCI Fines assessments.
- (f) taxes incurred by any person or entity.
- (g) **your** costs or expenses of complying with any injunctive relief or any form of equitable relief;
- (h) the monetary value of any electronic fund transfer or transactions which is lost or diminished during transfer.

### 1.19 Loss of profit

Means an amount of profit, net of taxes which would have been applied to such profit has such profit been earned, which is the amount by which A exceeds B. For the purpose of this calculation:

A= gross profit that would have been earned during the **period of restoration** adjusted for **business trend** based upon the gross profit earned during the 90 day period prior to the **network compromise**;

B= actual gross profit during the **period of restoration** plus variable costs saved as a result of the **period of restoration**.

### 1.20 Malware

Means any unauthorised, corrupting or harmful code designed to insert itself into a computer disk, memory stick, or into computer memory and migrate from one computer to another.

### 1.21 Media activities

Means the publishing, transmission, display, broadcast, web cast, dissemination, distribution or release of information over the internet by or on behalf of **you**.

### 1.22 Network compromise

Means any **unauthorised access** to, use or misuse of, modification to **your computer system**, and/or denial of **computer system** resources by attacks perpetuated through **malware**, viruses, worms, and Trojan horses, spyware, zero-day attacks, hacker attacks and **denial of service** attacks.

### 1.23 Official entity

Means any regulator, government, government body, governmental or administrative agency, any self-regulatory body, recognised in that capacity under applicable law or official trade body.

### 1.24 Operational expenses

Means reasonable costs of renting additional IT equipment and other additional services, incurred in order to minimise the **loss of profit** caused by a **network compromise**.

### 1.25 Period of restoration

Means the period that begins when there has been an interruption or suspension (whether partial or full) of the **computer system** which is caused by a **network compromise**, and ends on the date that such interruption or suspension ends. The period of restoration will not in any event exceed 90 days.

### 1.26 Personal data

Means data which relates to a living individual who can be identified from such data.

### 1.27 Personal injury

Means injury, other than **bodily injury**, to a third party arising out of one or more of the following offenses by **you** arising out of **media activities**:

- (a) libel, slander, or other defamatory or disparaging statements or materials;
- (b) oral or written publication of material that breaches an individual's right of privacy;
- (c) plagiarism, piracy or misappropriation of ideas or style of doing business; and
- (d) infringement or misappropriation of copyright, title, slogan, trademark, trade name, trade dress, logo, service mark or service name.

### 1.28 Privacy and security breach wrongful act

Means:

- (a) failure to reasonably protect **personal data** or **confidential business information**;
- (b) violation of any law, statute, regulation governing the authenticity, availability, confidentiality, storage, control, disclosure, or use of **personal data**;
- (c) violation of a **data breach reporting requirement**;
- (d) negligence resulting in a failure to prevent a **network compromise** that results in:
  - (i) the inability of an unauthorised third party user to gain access to **your computer system**;
  - (ii) the malicious addition, alteration, copy, destruction, deletion, disclosure, damage, removal or theft of data residing on **your computer system**;
  - (iii) a **denial of service** attack emanating from **your computer system** which damages, destroys third party hardware, computer programs or electronic data residing on a third party's network; or

- (iv) the transmission of **malware** from **your computer system** to third parties.

### 1.29 Privacy notification and crisis management costs

Means the reasonable costs of:

- (a) determining the actions necessary to respond to comply with legislation following a **data breach**;
- (b) notifying individuals of a **data breach** who are required to be notified pursuant to any legislation;
- (c) performing computer forensics to determine the existence, cause, and scope of a **networks comprise or data breach**;
- (d) voluntarily notifying individuals of a **data breach** who may not be required to be notified under a applicable legislation;
- (e) operating a call centre to manage inquiries from individuals affected by the **data breach**;
- (f) providing credit or identity monitoring and identity protection for those individuals whose **personal data** was or may have been breached;
- (h) hiring a public relations or crisis communications firm solely in order to minimise harm to **your** reputation.

### 1.30 Publication breach

Means the publication of information from or via media owned or controlled by **you**, that is unlawful or is defamatory, a violation of a person's rights of privacy, or infringes third party intellectual property rights.

### 1.31 Regulatory fine

Means an insurable fine or civil monetary penalty imposed by a governmental or regulatory authority for a **data breach**.

### 1.32 Regulatory investigation

Means an actual or threatened investigation in writing by a regulator or governmental authority into an actual or alleged **privacy and security breach wrongful act** caused by **you** or **your sub-contractor**, that may result in the imposition of a **regulatory fine** on **you**.

### 1.33 Retroactive date

Means the date stated in the Schedule.

### 1.34 Responsible person

Means any Executive Director, Chief Information Officer, Chief Security Officer, Chief Technology Officer, Head of Legal, Compliance Officer, Head of Audit, Risk Manager or Insurance Manager (or equivalent position of any of the foregoing).

### 1.35 Sub-contractors

Means independent consultants or sub-contractors who provide services on **your** behalf under a written contract.

### 1.36 Subsidiary

Means any entity, other than an investment vehicle, in which **you** either directly or indirectly through one or more entities:

- (a) controls the composition of the board of directors;
- (b) controls more than half of the shareholder voting power; or
- (c) holds more than half of the issued share capital;

on or before the inception date of this policy.

### 1.37 Time excess

Means the period stated in the Schedule that must pass after the start of the **period of restoration**, before **we** become liable for any **loss of profit** or **operational expenses**.

### 1.38 Unauthorised access

Means the gaining of access to a **computer system** by a person or persons not authorised by **you** to do so.

### 1.39 Wrongful act

Means:

- (a) in relation to insuring clause 2.1, any of the acts, errors or omissions referred to in clauses (a) to (f);
- (b) a **privacy and security wrongful act**.

## What's covered

## 2 Operative Clauses

### 2.1 Multimedia internet liability

**We** will pay on **your** behalf all **loss** that **you** become legally obligated to pay as a result of a **claim**, first made against **you** during the **period of insurance**, arising out of the performance of **media activities** by **you** or **sub-contractors** where the **claim** is for:

- (a) negligence or breach of duty to use reasonable skill and care; or
- (b) negligent misrepresentation or negligent misstatement; or
- (c) libel, slander defamation, product disparagement or trade libel (malicious falsehood); or

- (d) infringement of copyright, or domain name, or the dilution or infringement of any trademark, service mark, service name or trade name; or
- (e) plagiarism or piracy; or
- (f) breach of confidence or misuse of information.

## 2.2 Security and privacy liability

We will pay on **your** behalf all **loss** that **you** become legally obligated to pay as a result of a **claim**, first made in writing against **you** during the **period of insurance**, arising out of a **privacy and security wrongful act** by **you** or your **sub-contractors**.

We will provide coverage under insuring clauses 2.3 to 2.8 only if the relevant insuring clause has been agreed in the Schedule. Nothing in the following insuring clauses shall increase the **aggregate limit of liability**.

## 2.3 Privacy notification and crisis management costs

We will reimburse reasonable **privacy notification and crisis management costs** that **you** incur with prior written consent from **us**, following a **data breach** which first occurs during the **period of insurance**, up to the relevant **limit of liability**.

## 2.4 Emergency response costs

Where it has not been practicable to seek **our** prior written consent to incur expense referred to in Clause 2.3 above, **we** will reimburse **you** for such expense in respect of reasonable and necessary emergency payments up to the relevant **limit of liability**.

## 2.5 Extortion demands

We will reimburse to **you** any sums paid in response to an **extortion demand** up to the relevant **limit of liability** and first made against **you** during the **period of insurance**, by a third party which has committed or credibly threatens to commit a **network compromise** or a **data breach** provided that prior to the delivery of transfer of funds, **you** after receiving such threat:

- (a) have reported the extortionist's demand to the police or local law enforcement authorities; and
- (b) had a reasonable belief that such threat was credible, could cause loss to **you**, and was technologically feasible at the time made..

## 2.6 Regulatory investigations

We will pay **defence costs** and **regulatory fines** (where insurable) up to the relevant **limit of liability**, arising from a regulatory investigation, but only where **you** were first made aware during the **period of insurance** of the intention to hold such investigation.

## 2.7 Business interruption

We will reimburse **you** for **loss of profit** and/or **operational expenses**, up to the relevant **limit of liability**, during the **period of restoration** directly caused by a **network compromise** to the **computer system** which first occurs during the **period of insurance**.

## 2.8 Loss of electronic data

We will reimburse the following reasonable costs and expenses, necessarily incurred with **our** prior written consent following a **network compromise** which first occurs during the **period of insurance**.

- (a) reasonable costs of replacing, updating or restoring **your electronic data** which has been destroyed, lost damaged, or altered during a **network compromise** from backups, but only up to level which existed prior to the **network compromise**;
- (b) reasonable costs incurred in remedying the issue which allowed **your electronic data** to be destroyed, lost, damaged, or altered during a **network compromise**.

## What's not covered

### 3 Exclusions

We will not have any liability under this Section of the Policy for, or directly or indirectly arising out of, or in any way connected with:

#### 3.1 Acquisitions and sales

any act, error, omission, **personal injury**, **network compromise** or **data breach** committed;

- (a) by any entity formed or acquired by **you** unless it becomes a newly acquired **subsidiary** or
- (b) by any entity before it became a newly acquired subsidiary, unless **we** agree by endorsement to the policy to provide such coverage, or
- (c) by any entity that was a **subsidiary** or newly acquired **subsidiary** after it ceases to be a **subsidiary** or newly acquired **subsidiary**.

#### 3.2 Bodily injury

actual or alleged **bodily injury**, except that this exclusion will not apply to any mental anguish or emotional distress caused as a result of a **publication breach** or **data breach**.

#### 3.3 Business practice

actual or alleged anti-trust violation, price fixing, restraint of trade, unfair competition, violation of consumer protection laws, or false, deceptive or unfair trade practices. This exclusion, however, does not apply to **claims** based on **data breach** under consumer privacy protection laws.

#### 3.4 Contractual liability

liability assumed or accepted by **you** under any contract or agreement, including any guarantee or warranties, except to the extent that **you** would have been liable in the absence of such contract or agreement.

#### 3.5 Director, officer and employee claims

a **claim** made by or on behalf of or instigated by any director, officer or **person employed** of **yours** except in respect of a **data breach**.

### **3.6 Dishonesty, intentional, illegal or reckless acts**

any dishonest, intentional, fraudulent, malicious, reckless, or criminal act or omission by any party with the consent or prior knowledge of any officer, director or partner, or spouse of any officer, director or partner of **yours**.

### **3.7 Electrical failure**

any electrical failure including electrical power interruption, surge, brownout or blackout, except this exclusion does not apply when the electrical failure is solely caused by **your** negligence in performing **your business**.

### **3.8 Electromagnetic discharge**

the existence, emission or discharge of any electromagnetic field, radiation or magnetism that allegedly or actually affects the health, safety or condition of any person or environment, or that affects the value, marketability, condition or use of any property.

### **3.9 Employment practices, directors and officers**

employer-employee relations, policies, practices, acts, or omissions, any actual or alleged refusal to employ any person, or misconduct with respect to employees, discrimination, humiliation, harassment, or misconduct based on an individual's race, creed, colour, age, gender, national origin, religion, disability, marital status or sexual preference or other classification.

### **3.10 ERISA / Securities**

actual or alleged violation of:

- (a) the Employee Retirement Income Security Act of 1974 (USA);
- (b) the Securities Act of 1933 (USA);
- (c) the Securities Exchange Act of 1934 (USA);
- (d) the Racketeer Influenced and Corrupt Organization Act 1961 (USA);
- (e) the Securities Fraud Enforcement Act 1988 (USA);
- (f) the Money Laundering Control Act 1981 (USA);
- (g) the Bank Security Act 1970 (USA);
- (h) the Right of Financial Privacy Act 1978 (USA); or
- (i) any rules, regulations or amendments issued in relation to the above acts, or any similar legislation in any other jurisdiction.

### **3.11 Financial guarantees**

any promise, representation, or guarantee for or relating to return on investment, cost savings, or profits.

### 3.12 Force majeure

force majeure, including power outage and any failure due to any cause whatsoever of any system, infrastructure, or network over which **you** have no direct control.

### 3.13 Gaming and lotteries

actual or alleged gambling, contest, lottery, promotional game or other game of chance.

### 3.14 Higher standard of care

actual or alleged express or implied representation establishing an express or implied standard of care as to provision of a product or service higher than the accepted industry standard.

### 3.15 Insufficient resources

where, at the time the contract was entered into, **you** were aware or ought reasonably to have been aware that there were not sufficient technical, creative, logistical, or financial resources to perform the contract as promised, including any under budgeting of a project.

### 3.16 Insured v insured

a **claim** made by or on **your** behalf against **you**.

### 3.17 Jurisdiction and geographical limits

- (a) legal proceedings brought in a court of law outside the jurisdiction stated in the Schedule or brought in a court of law within the jurisdiction stated in the Schedule to enforce a judgement or order made in any court of law outside the jurisdiction stated in the Schedule; or
- (b) **business** undertaken outside the geographical limits stated in the Schedule.

### 3.18 Licencing fees and royalties

licensing fees or royalties ordered, directed or agreed to be paid by **you** pursuant to a judgment, arbitration award, settlement agreement or similar order for the use of a person or entity's copyright, design rights, performing rights, title, slogan, trademark, trade name, trade dress, service mark, or service name.

### 3.19 Mergers

any act, error, omission, personal injury, or **data breach** committed or any **extortion demand**, or **network compromise** that occurs:

- (a) after **you**, or all or substantially all of **your** assets, are acquired by another entity,
- (b) after **you** have merged or consolidated with or into another entity if **you** are not the surviving entity, or
- (c) after any person or entity or group of persons and entities obtains the right to vote, select or appoint more than fifty percent (50%) of the directors of **you**.

### 3.20 Ownership

a **claim** by any person or entity if on or after the date or time of the act, error or omission giving rise to such a **claim**;

- (a) **you** controlled, owned, operated or managed such entity; or
- (b) **you** were an owner, partner, member, director, officer or **person employed** of such person or entity.

Control of or ownership in a business enterprise is presumed if **you** owned or held ten percent (10%) or more of the equity and/or debt instruments of such enterprise.

### 3.21 Other professional advice

any professional advice.

### 3.22 Patents and trade secrets

any patent rights, misuse of patents or trade secrets. This exclusion shall not apply to **loss** arising from **claims** directly resulting from a **network compromise** which is covered under section 2.2 Security and Privacy Liability.

### 3.23 Prior acts

any fact or circumstance known by **you** or ought reasonably to have been known by **you** whether or not such a fact or circumstance was notified under another insurance policy, or which arises from or is related to the same originating cause as any notified fact or circumstance.

### 3.24 Product recall

the costs of:

- (a) tracing, recall, replacement and/or disposal of any services or products; or
- (b) reprinting, recall, withdrawal, removal or disposal of any media communication.

### 3.25 Property damage

actual or alleged physical damage or destruction of any tangible property, including resulting loss of use.

### 3.26 Regulatory action

any governmental, quasi-governmental or regulatory action or investigation, except with respect to a **regulatory investigation**.

### 3.27 Retroactive date

any act, error, omission, personal injury or **first party event** that occurs before the retroactive date stated in the Schedule.

### 3.28 Shareholder action

a **claim** made by or on behalf of or instigated by any shareholder of **you**, acting in the their capacity as such, except when made as a customer or client of **you**.

### 3.29 Software upgrades

any failure to install available software product updates and releases or to apply security-related software patches to computer systems, except this exclusion does not apply to any **loss** arising out of such failure if it can be demonstrated to **our** satisfaction that **your** usual practice and procedure was to install available software product updates on behalf of its clients.

### 3.30 Supplier disputes

any accounting or recovery of profits, royalties, fees, contractual penalties, or other monies claimed to be due from **you** or for alleged excessive or unwarranted fees, compensation or charges of any kind made by **you**.

### 3.31 Unlawful activity

any act or omission by **you** intended to secure a profit or advantage to which **you** are not legally entitled.

### 3.32 Unsolicited communications and data collection

- (a) unsolicited faxes, emails or other communications sent by **you** or on **your** behalf to any third party;
- (b) actions brought under the Telephone Consumer Protection Act, the CAN-SPAM Act of 2003 or other similar federal, state or local statute, law or regulation in any jurisdiction.

This exclusion shall not apply to **loss** arising from **claims** directly resulting from a **network comprise** which is covered under insuring clause 2.8.

### 3.33 Wear and tear

wear and tear or gradual deterioration or failure of any electronic equipment in normal use.

## What we both agree to

### 4 Conditions

#### 4.1 Limit of indemnity

- (a) The **aggregate limit of indemnity** is the total sum payable that **we** will pay in respect of **you** and **we** will have no liability in excess of the **aggregate limit of liability**.
- (b) The **limit of indemnity** specified for each of insuring clauses 2.1 to 2.8 is the total aggregate sum payable by **us** under such insuring clause in respect of **you** and **we** will have no liability in excess of such **limit of indemnity** under that insuring clause.

- (c) Any sum paid by **us** under this policy will erode the relevant **limit of indemnity** and the **aggregate limit of indemnity**.
- (d) Each **limit of indemnity** is part and not in addition to the **aggregate limit of indemnity**.
- (e) **We** may at any time pay to **you**, the amount of the relevant **limit of indemnity** for a specified insuring clause (after deduction of any sums already paid), and upon such payment being made **we** shall have no further liability or obligation under such insuring clause.
- (f) **We** may at any time pay to **you**, the amount of the **aggregate limit of indemnity** and upon such payment being made **we** shall have no further liability or obligation under this policy.

#### 4.2 Aggregation

Except for insuring clause 2.7, **losses**, or fees or expenses arising out of, based upon or attributable to the same originating cause or event will be considered to be a single cause or event and only the largest applicable **Excess** will be applied to the aggregate amount payable in respect of such single cause or event.

#### 4.3 Notification of claims and first party events

- (a) **You** must give **us** written notice of any:
  - (i) **Claim** first made against **you**; or
  - (ii) any **first party event**;

as soon as practicable, during the **period of insurance**, or **discovery period**, and in any event within 30 days of first becoming aware of the existence of a **claim** or **first party event**.

If **you** do not give notice to **us** in compliance with clause 4.3, **we** will have no liability under this policy arising out of such **claim** or **first party event**.

- (b) a **claim** or **first party event** is deemed to be first made against **us** when any **responsible person** first becomes aware or should have reasonably been aware of:
  - (i) receiving such a **claim**; or
  - (ii) such **first party event**.

#### 4.4 Notification of circumstance

- (a) **you** may, during the **period of insurance**, notify **us** of any fact or circumstance which may in the reasonable opinion of the **responsible person** give rise to a **claim**. Such notice must include the reasons why **you** reasonably anticipate that the fact or circumstance may give rise to a **claim** and, where available, full particulars of the dates, acts and persons involved.
- (b) any **claim** made after expiry of the **period of insurance** which alleges, arises out of, is based upon or attributable to any fact or **wrongful act** which has the same originating cause, source or event as:
  - (i) a **claim** first made during the **period of insurance** (or applicable **discovery period**) which has been notified to **us** in accordance with clause 4.3 above;

or

- (ii) a fact or circumstance which has been notified to **us** in accordance with clause 4.4(a) above;  
will be treated by **us** as having been notified during the **period of insurance**.

In compliance with clause 4.3 and 4.4 **we** will not make any payment under this policy unless **you** notify **us** in writing at Angel Underwriting, 3<sup>rd</sup> Floor, 1 Legg Street, Chelmsford, Essex, CM1 1JS or via PolicyBee LLP.

#### 4.5 Discovery period

If this policy is not renewed or replaced, and if the total premium for this policy has been paid in full, **you** will be entitled to:

- (a) an automatic **discovery period** of 30 days; and
- (b) purchase an optional **discovery period** of one (1), two (2), or three (3) years. The premium for the optional **discovery period** will be:
  - (i) one (1) year optional **discovery period**, one hundred percent (100%) of the annual premium for the policy;
  - (ii) two (2) year optional **discovery period**, one hundred and fifty percent (150%) of the annual premium for the policy;
  - (iii) three (3) year optional **discovery period**, one hundred and seventy-five percent (175%) of the annual premium for the policy;

provided always that:

- (a) such premium is received by **us** within 30 days after the end of the **period of insurance**; and
- (b) this policy was neither renewed nor replaced upon its natural expiry; and
- (c) **you** are or have not become aware of any circumstance likely to give rise to a **claim** under this policy in the period between expiry/non-renewal of the policy and the decision to purchase the **discovery period**; and
- (d) the automatic **discovery period** will be part of and not in addition to any optional **discovery period** purchased by **you**; and
- (e) the **discovery period** is non-cancelled and the premium for the optional **discovery period** is deemed fully earned at the inception date of the optional **discovery period**.

The first sixty days of the optional **discovery period**, if purchased, will run concurrently with the automatic **discovery period**. The purchase of the optional **discovery period** will not in any way increase the **aggregate limit of indemnity** or any particular **limit of indemnity**, and any payments made with respect to **claims** first made during the optional **discovery period** will be part of and nor in addition to the **aggregate limit of indemnity**, or a particular **limit of indemnity**, for all **claims** made during the **period of insurance**. No **discovery period** will apply in the event that a **change in control** takes place in respect of **you** during the **period of insurance**.

#### 4.6 Cooperation and mitigation

**You** will:

- (a) take all reasonable steps to prevent or minimise any **loss, loss of profit**, fee or expense;

- (b) render all reasonable assistance to and cooperate with **us** in the defence of any **claim** and the assertion of indemnification and contribution rights; and
- (c) give such information and assistance to **us** as **we** may reasonably require to enable **us** to investigate any matter under which **you** seek cover under this policy or determine **our** liability under the policy.

Unless expressly provided for in this policy or otherwise agreed in writing by **us**, such steps will be at **your** own cost and will not include the admission or assumption of any liability, or settlement of any **claim** without **our** prior written consent. It is agreed however that self-reporting to any **official entity** shall not, in itself, be deemed to be an admission of liability.

#### 4.7 Emergency response costs

**We** will have no liability to indemnify **you** under insuring clause 2.4 unless **you**:

- (a) give written notice to **us** within 7 days of agreeing to make such payments, of both:
  - (i) the fact, circumstance or event that might reasonably have been anticipated to give rise to a **claim** under this policy; and
  - (ii) the nature of the amounts paid or incurred by **you**; and
- (b) establishes to **our** reasonable satisfaction that:
  - (i) such anticipated **claim** would have been covered under this policy; and
  - (ii) because of an emergency situation faced by **you**, it was reasonable and necessary for **you** to make the payment or incur the costs, fees or expenses prior to notification; and
- (iii) the amount paid or incurred by **you** was reasonable.

#### 4.8 Change in control

- (a) If during the **period of insurance** a **change of control** occurs, **we** will not be liable for or make any payment of **loss, loss of profit**, fee or expense arising out of, based upon or attributable to any act or omission occurring after the **change in control**.
- (b) **You** will, as soon as practicable, give **us** written notice of any **change in control**.
- (c) Cover for any **subsidiary** under this policy will only apply in respect of acts or omissions occurring while such entity is a **subsidiary**.

# Policy (General Terms, Definitions, Exclusions and Conditions)

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## Introduction

This Policy is a contract between **you** and **us**. The information **you** have provided in the **statement of fact** has been used to decide the premium to charge and the terms on which to provide cover to **you**.

This Policy consists of the General Terms, Definitions, Exclusions and Conditions, the terms of the coverage sections purchased, the Schedule and Endorsements as well as the **statement of fact**, all of which are understood to be a single document and are to be read as one contract.

Please read the Policy carefully and make sure that it meets **your** needs. You should contact PolicyBee LLP immediately if any corrections are necessary.

## Information you have given us

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

If **we** establish that **you** deliberately or recklessly provided **us** with untrue or misleading information **we** will have the right to:

- (a) treat this Policy as if it never existed;
- (b) decline all claims; and
- (c) retain the premium.

If **we** establish that **you** carelessly provided **us** with untrue or misleading information **we** will have the right to:

- (i) treat this Policy as if it never existed, refuse to pay any claim and return the premium **you** have paid, if **we** would not have provided **you** with cover;
- (ii) treat this Policy as if it had been entered into on different terms from those agreed, if **we** would have provided **you** with cover on different terms;
- (iii) reduce the amount **we** pay on any claim in the proportion that the premium **you** have paid bears to the premium **we** would have charged **you**, if **we** would have charged **you** more.

**We** will notify **you** in writing if (i), (ii) and/or (iii) apply.

If there is no outstanding claim and (ii) and/or (iii) apply, **we** will have the right to:

- (1) give **you** 30 days' notice that **we** are terminating this Policy; or
- (2) give **you** notice that **we** will treat this policy and any future claim in accordance with (ii) and/or (iii), in which case **you** may then give **us** 30 days' notice that **you** are terminating this Policy.

If this policy is terminated in accordance with (1) or (2), **we** will refund any premium due to **you** in respect of the balance of the **period of insurance**.

## Data Protection Act

Any information provided to **us** regarding **you**, any person insured or any **person employed** will be processed by **us** in compliance with the provisions of the Data Protection Act 1998, for the purpose of providing insurance and handling claims or complaints, if any, which may necessitate providing such information to third parties.



## Complaints Procedure

Catlin Insurance Company (UK) Ltd. is dedicated to providing a high quality service and **we** want to ensure that **we** maintain this at all times. If **you** feel that **you** have not been offered a first class service or if **you** have any questions or concerns about the Policy, or the handling of a claim **you** should, in the first instance, contact PolicyBee LLP.

If you are unable to resolve the situation and wish to make a complaint you can do so at any time by referring the matter to the:

Complaints Manager,  
Catlin Insurance Company (UK) Ltd.  
20 Gracechurch Street, London EC3V 0BG

Email: [xlcatlinukcomplaints@xlcatlin.com](mailto:xlcatlinukcomplaints@xlcatlin.com)  
Telephone Number: +44 (0) 20 7743 8487

If you remain dissatisfied after the Complaints Manager has considered your complaint, or you have not received a final decision within eight (8) weeks, you can refer your complaint to the Financial Ombudsman Service at:

Exchange Tower  
London  
E14 9SR  
United Kingdom

Email: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

### From within the United Kingdom

Telephone Number: 0800 0234 567 (free for people phoning from a "fixed line", for example, a landline at home)  
Telephone Number: 0300 1239 123 (free for mobile-phone users who pay a monthly charge for calls to numbers starting 01 or 02)

### From outside the United Kingdom

Telephone Number: +44 (0) 20 7964 1000  
Fax: +44 (0) 20 7964 1001

The Financial Ombudsman Service can look into most complaints from consumers and small businesses. For more information contact them on the above number or address, or view their website: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

# General Terms, Definitions, Exclusions and Conditions

The General Definitions, Exclusions and Conditions apply to all Sections in this Policy unless stated otherwise.

## 1 General Definitions

Words shown in **bold** type have the same meaning wherever they appear in this Policy unless stated otherwise in any particular Section.

### 1.1 Aggregate

Means, in the context of any applicable limit of indemnity, that the limit of indemnity is the maximum that **we** shall pay for all such claims made and notified to **us** during the **period of insurance**.

### 1.2 Business

Means those activities **you** declared to **us** and which are stated in the Schedule.

### 1.3 Excess

Means the first part of each and every claim or loss payable by **you** before **we** make any payment under this Policy.

The excess in respect of each claim or loss will be the amount stated under the relevant Section in the Schedule.

The limit(s) stated under each Section in the Schedule are in excess of and are not reduced by the amount of any excess.

The excess does not apply to defence costs.

### 1.4 Insurance Advisor

Means the insurance broker or intermediary who arranged this contract of insurance on **your** behalf.

### 1.5 Offshore

Means from the time of embarkation on to a vessel or aircraft for conveyance to any offshore installation, until disembarkation from a conveyance on to land upon return from any offshore installation.

### 1.6 Period of insurance

Means the period stated in the **Schedule**.

### 1.7 Person employed

Means any:

- (a) person under a contract of service or apprenticeship with **you**;
- (b) labour master and persons supplied by him;
- (c) person employed by labour only sub-contractors;
- (d) self-employed person;
- (e) person hired to or borrowed by **you**; or

(f) person undertaking study or work experience, voluntary work or a youth training scheme with **you**;  
working for **you** and under **your** control in connection with the **business**.

### 1.8 Pollution

Means any pollution, seepage, discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including, but not limited to, smoke, vapours, soot, dust, fibres, fungi, mould, fumes, acids, alkalis, chemicals and waste (including, but not limited to, material to be recycled, reconditioned or reclaimed) or contamination of any kind.

### 1.9 Premises

Means the premises specified as such in the Schedule including any outbuildings, hoardings and annexes **you** occupy on the same premises.

### 1.10 Statement of fact

Means all and any information supplied to **us** by or on **your** behalf.

### 1.12 We / us / our

Means Catlin Insurance Company (UK) Ltd.

### 1.13 You / your

(except for the purpose of construing the meaning and effect of the cover provided by the Directors and Officers Liability Section and the Corporate Liability Section/extension of this Policy, in which case it will have the meaning given in those sections) Means:

- (a) the person, persons or corporate body or other entity named in the Schedule to this Policy; or
- (b) **your** subsidiary companies which have been notified to and accepted by **us** in writing.

## What's not covered

### 2 General Exclusions

Except where specifically included, **we** will not have any liability under this Policy for, or directly or indirectly arising out of, or in any way connected with any of the following:

#### 2.1 Asbestos

Manufacture, mining, processing, distribution, testing, remediation, removal, storage, disposal, sale, use of or exposure to asbestos or materials or products containing asbestos whether or not there is another cause of loss which may have contributed concurrently or in any sequence to a loss in respect of that part of any property insured by this Policy which consists of asbestos;

#### 2.2 Changes in or failure to provide information

Any claim against **you** or any person insured by this Policy arising from:

- (a) information contained in the **statement of fact** that has been misrepresented or which was required by **us** prior to the beginning of the **period of insurance** but which was not disclosed; or
- (b) a material change in circumstances from the information contained in the **statement of fact** or in relation to the information required by **us** prior to the beginning of the **period of insurance** but which was not disclosed unless such change has been agreed in writing by **us**;

#### 2.3 Cyber Attack

Any claim against you from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.

#### 2.4 Known claims or circumstances

Claims or circumstances known to **you** or any person insured under this Policy or which **you** or such person insured ought to have known prior to the beginning of the **period of insurance**;

#### 2.5 Other insurance

Any claim or loss in respect of which **you** are entitled to be insured under the terms of any other policy of insurance except for any amount in excess of that which would be payable under that other policy of insurance if this policy had not been taken out;

#### 2.6 Punitive damages

Award of punitive or exemplary damages whether as fines, penalties, multiplication of compensatory awards or damages or in any other form whatsoever;

#### 2.7 Radioactive contamination

- (a) Ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or
- (b) The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof; or

- (c) Any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; or
- (d) The radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. This exclusion (iv) shall not apply to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored or used for commercial, agricultural, medical, scientific or other similar purposes; or
- (e) Any chemical, biological, bio-chemical or electromagnetic weapon.

## 2.8 Sanctions

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 breach any sanction, prohibition or restriction imposed by law or regulation.

## 2.9 Terrorism

- (a) An act of terrorism meaning an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear; or
- (b) Any action taken in controlling, preventing, suppressing or in any way relating to any **act of terrorism**.

In the event that any part of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect;

## 2.10 War

War, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, strikes, riots or civil commotion.

# What we both agree to

## 3 General Conditions

Except where expressly overridden, the following conditions apply to the whole of this Policy. Any changes, additions or deletions to these conditions are shown in the relevant Section to which they apply.

### 3.1 Cancellation

Subject always to any lesser period of notice permitted in respect of non-payment of premium, **we** or **you** may cancel this Policy by giving 30 days' notice in writing. Unless a claim or circumstance has been notified during the **period of insurance you** will be entitled to the return of a proportionate part of the premium in respect of the unexpired **period of insurance**.

If **we** have agreed to collect the premium by Direct Debit instalments and **we** have not received an instalment within 15 days after the due date, then **we** shall have the right to cancel this Policy with immediate

effect. In such circumstances the **period of insurance** will equate to the period for which the premium instalments have been received by **us**.

**We** will confirm the cancellation and amended **period of insurance** in writing.

### 3.2 Change of information

The **statement of fact** provided by **you** or on **your** behalf forms part of this contract of insurance. **You** must tell **us** as soon as reasonably practicable of any change in that information during the **period of insurance**. **We** may then change the terms and conditions of this Policy. **We** shall not be liable for any claim or loss arising from such altered information until **we** have agreed to such change in writing.

### 3.3 Defence and settlement of claims

**We** have the right, but not the obligation, to take control of any claim against **you** and to conduct the investigation, settlement or defence in **your** name, even if any of the allegations of the claim are groundless, false or fraudulent.

After taking into account the commercial considerations of the costs of defence **we** may choose to settle a claim instead of defending it if **we** do not think there is a reasonable prospect of success.

If **you** refuse to agree to any settlement or compromise recommended by **us** which is acceptable to the claimant and **you** elect to contest the claim, the most **we** will pay will not exceed the amount for which the claim could have been settled, less the **excess**, plus the defence costs incurred up to the time of such refusal, or the applicable limit of indemnity, whichever is less, and **we** will have the right to withdraw from the further defence of the claim by tendering control of the defence to **you**.

### 3.5 Duty to co-operate

Following notification under the Notification of a claim condition in the relevant Section, **you** must provide **us**, at **your** expense, with any information which **we** may reasonably require and **you** must cooperate fully in the investigation defence or settlement of any claim or loss under this Policy.

### 3.6 Fraudulent claims

If a claim under this Policy is made fraudulently by **you**, as to amounts or otherwise, **we** may refuse to make payment to **you** or on **your** behalf in respect of the claim. In such circumstances, **we** may also cancel this Policy immediately.

However, the making of a fraudulent claim will not remove **our** obligations with regard to claims made under this Policy notified to **us** before the making of the aforementioned fraudulent claim unless, after review of any prior claims, **we** establish that one or more of such prior claims had been made fraudulently.

### 3.7 Governing Law

This Policy shall be governed by and construed in accordance with the laws of England and Wales.

### 3.8 Interpretation

Unless the context otherwise requires:

- (a) headings are descriptive only, not an aid to interpretation;
- (b) all reference to specific legislation shall include amendments to and re-enactments of such legislation;
- (c) if any terms, condition, exclusion or endorsement or part thereof is found to be invalid or unenforceable the remainder shall be in full force and effect.

### 3.9 Misrepresentation and non-disclosure – non-avoidance

The **statement of fact** provided by **you** or on **your** behalf forms part of this contract of insurance. **We** will not:

- (a) seek to avoid or repudiate this Policy for non-disclosure or misrepresentation unless the non-disclosure or misrepresentation was intentional;
- (b) seek damages for or seek to reject a claim on the grounds of non-disclosure or misrepresentation or on the grounds of a breach of any warranty given in the course of negotiating this Policy save where such non-disclosure, misrepresentation or breach was intentional.

If **we** have grounds to believe that **you** may have failed to disclose or have misrepresented a material fact or that a warranty has been breached **you** must establish to **our** satisfaction that such alleged non-disclosure, misrepresentation, breach or untrue statement was not deliberate or made with any intention to deceive.

### 3.10 No admission of liability

**You** shall not, without our prior approval, admit liability for, compromise, settle or make any offer or payment in respect of any claim or any circumstance likely to give rise to a claim where cover has been or will be requested under this Policy.

### 3.11 Precautions and care

The following conditions are very important. **We** explain below what happens to the cover under this **Policy** if these conditions are not complied with.

- (a) Take all reasonable precautions to prevent or minimise accidents or injury;
- (b) Take all reasonable precautions for the safety of or to prevent or minimise loss in respect of property insured;
- (c) Exercise due care in the selection and supervision of **persons employed**;
- (d) Use **your** best endeavours to observe and comply with statutory or local authority obligations, regulations, laws or bye-laws.

**We** will not make any payments which results from **your** failure to comply with requirements a) – d) above.

### 3.12 Premium payment

Unless **we** have agreed that the premium can be paid via Direct Debit instalments, the premium must be paid in full to **us** within 30 days of the beginning of the **period of insurance**. If **we** have not received the premium by the due date then **we** will have the right to cancel this Policy by giving 15 days written notice. In the event of cancellation, the premium due to **us** will be on a pro-rata basis for the **period of insurance we** have been on risk.

### 3.14 Recoveries

Any amount recovered in excess of **our** total payment of a claim (inclusive of defence costs) shall be reimbursed to **you** less the cost to **us** of such recovery.

### 3.15 Rights of third parties

**You** and **we** are the only parties to this Policy. No other person has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Policy but this does not affect any right or remedy they may have other than by that Act.

### 3.16 Subrogation

**You** must give **us** all assistance which **we** may reasonably require to pursue recovery of amounts **we** may become liable to pay under this Policy, in **your** name but at **our** expense.