The General terms and conditions and the following terms and conditions all apply to this section.

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What is covered

Claims against you

If during the period of insurance, and as a result of your business activity or advertising on or after the retroactive date within the geographical limits, a claim is first brought against you for any actual or alleged:

Breach of contract and liquidated damages

1. breach of any contract between you and your client, including any service level agreement forming part of such contract, or any claim for liquidated damages, where the claim is brought by your client;

2. intellectual property infringement (but not any patent infringement or trade secret misappropriation), including but not limited to:
   a. infringement of copyright, trademark, trade dress, publicity rights, moral rights or design rights;
   b. cyber squatting violations;
   c. any act of passing-off;
   d. misappropriation of formats, characters, trade names, character names, titles, plots, musical compositions, voices, slogans, graphic material or artwork;

Negligence

3. negligence or breach of any duty to use reasonable care and skill, including but not limited to negligent misrepresentation or negligent loss of or damage to any third-party document, data or information for which you are responsible;

Breach of confidentiality

4. breach of any duty of confidence, invasion of privacy, or violation of any other legal protections for personal information;

Defamation

5. defamation, including but not limited to libel, slander, trade libel, product disparagement, or malicious falsehood;

Dishonesty

6. dishonesty of employees or sub-contractors or outsourcers directly contracted to you or under your supervision;

Civil liability

7. any other civil liability,

We will pay the amount agreed by you and us through good faith negotiation, mediation or some other form of alternative dispute resolution to settle a claim or the amount to satisfy a judgment or arbitration award against you including any judgment or award ordering the payment of claimant's lawyers fees and costs.

We will also pay defence costs in respect of covered claims against you.

Sub-contractors or outsourcers

We will indemnify you against any claim falling within the scope of What is covered. Claims against you, which is brought as a result of business activity undertaken on your behalf by any sub-contractor or outsourcer.

Network security and personal data events

We will also indemnify you if, during the period of insurance and as a result of your business activity or advertising, a claim is brought against you for any actual or alleged:

1. transmission of malicious software including, but not limited to, a computer virus, worm, logic bomb or trojan horse;

2. denial of service attack against a third-party;

3. unauthorised acquisition, access, use, or disclosure of personal data or confidential corporate information that is held or transmitted in any form;

4. prevention of authorised electronic access to any computer system, personal data or confidential corporate information.

Payments toward your outstanding fees

If:

a. your client refuses to pay your contractually agreed fees (including any amount you are legally liable to pay a sub-contractor at the date your client first refuses to pay); and

b. you satisfy us that your client intends to make a claim against you for an amount covered by this section that is greater than the amount you are owed;
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then **we** will pay the amount **you** are owed above the amount of the **excess** (excluding any amount for **your** lost profit, mark-up and liability for taxes or its equivalent) if **you** satisfy **us** that **our** payment is reasonably likely to fully and finally resolve all known **claims** and **potential claims** by **that client**.

If subsequently a **claim** is still made against **you** following **our** payment of **your** outstanding fees, these payments will be a credit against any amounts payable by **us** in the defence or resolution of that **claim** and will also be deducted from the remaining limit of indemnity for that **claim**.

**Your own losses**

**Dishonesty of your employees, sub-contractors or outsourcers**

If during the **period of insurance**, and in the performance of **your business activity** within the **geographical limits**, **you** discover a loss from the dishonesty of **your employees** or sub-contractors or outsourcers directly contracted to **you** and under **your** supervision, where there was a clear intention to cause **you** **loss** or damage and to obtain a personal financial gain over and above any salary, bonus or commission, **we** will indemnify **you** against **your** direct financial loss, provided the **loss** was suffered on or after the **retroactive date**.

**Loss of documents**

If during the **period of insurance** any document, information or data of **yours** which is necessary for the performance of **your business activities** is lost, damaged or destroyed while in **your** possession, **we** will pay the reasonable expenses **you** incur with **our** prior written consent in restoring or replacing it.

**What is not covered**

<table>
<thead>
<tr>
<th>A.</th>
<th>We will not make any payment for any <strong>claim</strong> or <strong>loss</strong> directly or indirectly due to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insufficient resources</td>
<td>1. <strong>your</strong> failure to take all reasonable steps to ensure that <strong>you</strong> have sufficient technical, logistical and financial resources to perform a contract;</td>
</tr>
<tr>
<td>Third party defect</td>
<td>2. any defect in any software, hardware, firmware, or associated network cabling that is solely caused by a third party, including but not limited to any third-party software supplier, manufacturer or originator. However, this exclusion does not apply to:</td>
</tr>
<tr>
<td></td>
<td>a. covered <strong>defence costs</strong> incurred by <strong>you</strong> to defend such portions of a <strong>claim</strong> but only until there is a finding in any legal proceeding, including any arbitration, or any admission that the defect at issue is solely caused by a third-party, at which time <strong>you</strong> shall reimburse <strong>us</strong> for all <strong>defence costs</strong> that <strong>we</strong> have paid toward that <strong>claim</strong>; or</td>
</tr>
<tr>
<td></td>
<td>b. any amount <strong>you</strong> satisfy <strong>us</strong> that <strong>you</strong> are legally able to recover under a written contract;</td>
</tr>
<tr>
<td>Bodily injury</td>
<td>3. any death or bodily injury or disease suffered or alleged to be suffered by anyone. However this exclusion does not apply to any portion of any <strong>claim</strong>:</td>
</tr>
<tr>
<td></td>
<td>a. seeking damages for mental anguish or distress where such damages solely stem from a covered <strong>claim</strong> for defamation, breach of privacy, or negligent publication; or</td>
</tr>
<tr>
<td></td>
<td>b. directly arising from designs, plans, specifications, formulae, directions or advice prepared or given by <strong>you</strong> for a fee, provided that such <strong>claim</strong> is first brought within the <strong>applicable courts</strong> but always excluding USA or Canada.</td>
</tr>
<tr>
<td>Property damage</td>
<td>4. <strong>loss</strong>, damage or destruction or loss of use of any tangible property. However this exclusion does not apply to any:</td>
</tr>
<tr>
<td></td>
<td>a. <strong>claim</strong> directly arising from designs, plans, specifications, formulae, directions or advice prepared or given by <strong>you</strong> for a fee, provided that such <strong>claim</strong> is first brought within the <strong>applicable courts</strong> but always excluding the USA or Canada;</td>
</tr>
<tr>
<td></td>
<td>b. <strong>claim</strong> for alleging or arising from damage to electronic data;</td>
</tr>
<tr>
<td></td>
<td>c. <strong>loss</strong> directly arising from any document of <strong>yours</strong> which is necessary for the performance of <strong>your business activities</strong> and which is lost, damaged or destroyed while in <strong>your</strong> possession;</td>
</tr>
<tr>
<td>Repair/replace/recall</td>
<td>5. any costs or expenses involved in the repair, upgrade, correction, recall or replacement of any software, hardware, firmware, or associated network cabling, or any costs or expenses relating to <strong>your</strong> legal obligation to comply with an injunction. However, this exclusion does not apply to any portion of a judgment requiring <strong>you</strong> to pay direct damages to <strong>your client</strong> in respect of a covered <strong>claim</strong> for breach of contract;</td>
</tr>
<tr>
<td>Category</td>
<td>Clause</td>
</tr>
<tr>
<td>--------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Hardware design or manufacture</td>
<td>6. any design or manufacture of hardware by you or on your behalf;</td>
</tr>
<tr>
<td>Government investigation/enforcement</td>
<td>7. any governmental enforcement of any legislation, regulation or order from any regulatory authority. However, this exclusion shall not apply to any otherwise covered claim from a federal, national, state, local or foreign government, agency or entity that is a client and has asserted the claim in its capacity as a client and not in its official governmental capacity;</td>
</tr>
<tr>
<td>Commercial disputes</td>
<td>8. any commercial dispute with your business partner or business associate, including but not limited to any reseller, distributor, original equipment manufacturer, third-party sales agent, systems integrator, or joint venture partner, but only to the extent such a claim is based upon: a. a commission or royalty, or any other term upon which such partner or associate is to be compensated in connection with doing business with you, or any compensation or remuneration promised or owed by you pursuant to those terms; or b. your decision to cease doing business with such a partner or associate;</td>
</tr>
<tr>
<td>Patent/trade secret</td>
<td>9. any actual or alleged: a. infringement, use, or disclosure of a patent; or b. use, disclosure or misappropriation of a trade secret;</td>
</tr>
<tr>
<td>Chargeback</td>
<td>10. any chargeback, liability, or fee incurred by you or your client as a result of a merchant service provider, including any credit card company or bank, wholly or partially reversing or preventing a payment transaction;</td>
</tr>
<tr>
<td>Infrastructure interruption</td>
<td>11. any failure or interruption of service provided by an internet service provider, telecommunications provider, utility provider or other infrastructure provider except to the extent you provide those services as part of your business activity;</td>
</tr>
<tr>
<td>Stocks, accounts, taxation and fiduciary</td>
<td>12. any: a. liability or breach of any duty or obligation owed by you regarding the sale or purchase of any stocks, shares, or other securities, or the misuse of any information relating to them, including breach or alleged breach of any related legislation or regulation; b. liability or breach of any duty or obligation owed by you regarding any statement or representation (express or implied) contained in your accounts, reports or financial statements, or concerning your financial viability; c. violation of any taxation, competition, restraint of trade or anti-trust law or regulation; d. breach of any fiduciary duty owed by you;</td>
</tr>
<tr>
<td>Pension and employee benefit schemes</td>
<td>13. any liability or breach of any duty or obligation owed by you in connection with the operation or administration of any health, pension or employee benefit scheme, plan, trust or fund;</td>
</tr>
<tr>
<td>Insolvency</td>
<td>14. your insolvency or the insolvency of your suppliers;</td>
</tr>
<tr>
<td>Sweepstakes, gambling or lotteries</td>
<td>15. your provision of any sweepstakes, gambling activities or lotteries;</td>
</tr>
<tr>
<td>Matters insurable elsewhere</td>
<td>16. the ownership, possession or use of any land, building, animal, aircraft, watercraft or motor vehicle;</td>
</tr>
<tr>
<td>Negotiable instruments</td>
<td>17. the loss, damage or destruction of any bearer bonds, coupons, share certificates, stamps, money or other negotiable paper;</td>
</tr>
<tr>
<td>Employment practices liability</td>
<td>18. anyone’s employment with you or any breach of an obligation owed by you as an employer;</td>
</tr>
<tr>
<td>Discrimination</td>
<td>19. any discrimination, harassment or unfair treatment;</td>
</tr>
<tr>
<td>Directors and officers’ liability</td>
<td>20. any liability or breach of any duty or obligation owed to you or your shareholders by any of your directors, officers, trustees or board members, including but not limited to: a. any allegation of insider trading;</td>
</tr>
</tbody>
</table>
b. any breach of any duty of corporate loyalty;

c. any statement, representation or information concerning you or your business contained in your accounts, reports or financial statements;

Personal liability

21. any personal liability incurred by any director, officer, trustee, or board member of yours when acting in that capacity or managing your business other than when performing a business activity for a client or advertising;

Dishonest or criminal conduct

22. any fraudulent, dishonest, malicious or criminal conduct intended to cause harm to another person or business (but not in respect of a defamation claim), or any knowing or wilful violation of a law, whether committed by you or committed by another whose conduct or violation of the law you have ratified or actively condoned or any act you knew, at the time you performed it, would give rise to a claim or loss.

However, this exclusion will not apply unless:

a. such conduct or wilful violation of the law has been established by a final adjudication in any judicial, administrative, or alternative dispute resolution proceeding; or

b. such conduct or wilful violation of the law has been established by your admission in a proceeding or otherwise; or

c. you or we discover evidence of such conduct or wilful violation of the law; at which time you shall reimburse us for all payments made by us in connection with such conduct or wilful violation of the law and all of our duties in respect of that entire claim shall cease;

Reckless conduct

23. any conduct committed in reckless disregard of another person or business’ rights, but not in respect of a defamation claim;

Pre-existing problems

24. any matter that prior to the first date of the period of insurance you knew or reasonably ought to have known would be likely to lead to a claim, potential claim or loss;

War, terrorism and nuclear

25. war, terrorism or nuclear risks;

Asbestos

26. asbestos risks;

Pollution

27. any pollution, contamination including noise, electromagnetic fields, radiation and radio waves.

B. We will not make any payment for:

Claims brought by a related party

1. any claim brought by any person or entity falling within the definition of you or any party with a financial, executive or managerial interest in you, including any parent company or any party in which you have a financial, executive or managerial interest, including any subsidiary company.

However, this does not apply to a claim based on a liability to an independent third-party directly arising out of the performance of your business activities;

Claims by current and former employees

2. any claim made against you by any person or entity that you currently employ or formerly employed, including but not limited to employees, sub-contractors or outsourcers.

However, this exclusion will not apply to any portion of any claim:

a. solely based on business activities performed when such person or entity was not working for you; or

b. based on a liability to an independent third party directly arising out of the performance of your business activities;

Non-compensatory payments

3. a. punitive or exemplary damages, which you are legally obliged to pay.

However we will pay an award of such damages if insurable in the jurisdiction where such award was first ordered; or

b. service credits, contractual fines or contractual penalties, other than liquidated damages;
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Fines and penalties
4. criminal, civil, or regulatory sanctions, fines, penalties, disgorgement of profits, treble damages or multiple damages which you are legally obliged to pay, including but not limited to those imposed by any national, federal, state, or local governmental body or any licensing organisation;

Claims outside the applicable courts
5. any claim including arbitration, brought outside the applicable courts. This applies to proceedings in the applicable courts to enforce, or which are based on, a judgment or award from outside the applicable courts;

Trading losses
6. any trading loss or trading liability including those arising from the loss of any client, account or business.

How much we will pay
We will pay up to the limit of indemnity for this section shown in the schedule unless limited below or otherwise shown in the schedule. We will also pay for defence costs incurred with our prior written agreement. 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 paid.

Any amounts to be paid by us shall not include or be calculated based on any of your overhead expenses, your liability for debt, taxes, lost costs or profits, salaries or wages, or any future cost of doing business, including but not limited to the cost of any future licence or royalty, or costs of improving your security, or performing audits.

You must pay the relevant excess shown in the schedule. The excess will only be eroded by the covered part of the claim.

When we settle your own losses under Your own losses, Dishonesty of your employees, sub-contractors or outsourcers, we will deduct any sums you owe or the value of any property you hold belonging to the perpetrator.

Multiple claims from a single source
All claims, losses and potential claims which arise from the same original cause, a single source or a repeated or continuing problem in your work will be treated as a single claim, loss or potential claim. This includes such claims, losses and potential claims arising after, as well as during, the period of insurance.

Special limits
For your own losses arising from the dishonesty of your employees, sub-contractors and outsourcers and for claims brought against you arising from dishonesty of your partners, directors, employees, sub-contractors or outsourcers and from the physical loss or destruction of or damage to tangible property and from the death, disease or bodily or mental injury of anyone, the most we will pay is a single limit of indemnity for the total of all such losses and claims and their defence costs. The most we will pay for the total of your own losses arising from the dishonesty of your employees, sub-contractors and outsourcers is further limited to the amount shown in the schedule, which amount is included within the overall aggregate limit stated in this paragraph and not in addition to it.

You must pay the relevant excess shown in the schedule.

Paying out the limit of indemnity
At any stage of a claim we can pay you the applicable limit of indemnity or what remains after any earlier payment from that limit. We will pay defence costs already incurred at the date of our payment. We will then have no further liability for that claim or its defence costs.

Your obligations
If a problem arises
You must notify us of any claim made against you or any loss as soon as practicable and within the period of insurance or at the latest within 14 days after it expires for any claim or loss you first became aware of in the seven days before expiry.

You must also notify us of potential claims under this section, such notification must be as soon as practicable and within the period of insurance or at the latest within 14 days after it expires, and must to the fullest extent possible identify the particulars of the potential claim, including identifying the potential claimant(s), the likely basis for liability, the likely demand for relief and any additional information about the potential claim that we reasonably request. If such a potential claim notification is made to us then we will treat any claim arising from the
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same particulars as that notification as if it had first been made against you on the date you properly notified us of it as a potential claim, even if that claim is first made against you after the period of insurance has expired.

We will not make any payment, including any defence cost payment, toward any portion of any claim if you:

1. fail to ensure that our rights of recovery, including but not limited to any subrogated rights of recovery, against a third party are not unduly restricted or financially limited by any term in any of your contracts;
2. admit liability in connection with, make any settlement offer with respect to, or settle any claim under this policy without our prior consent.

Control of defence
Defence arrangements

This is a duty to defend section. This means that we have the right and duty to defend you against any claim which is covered in its entirety. If we think it necessary we will appoint an adjuster, solicitor or any other appropriate person to deal with the claim. We may appoint your own solicitor but on a similar-fee basis as our solicitor and only for work done with our prior written approval.

If a claim which is only partially covered is made against you, we have the right and duty to defend you, but amounts relating to non-covered portions of claims will be deducted from our final settlement. However, for claims or portions of claims which allege or arise from any infringement, use or disclosure of a patent, or any use, disclosure or misappropriation of a trade secret, we and you agree to allocate all amounts, including defence costs, upon our receipt of the claim or potential claim.

We and you agree to use best efforts to determine a fair allocation of covered and non-covered portions of claims. If you and we cannot agree on a fair allocation you and we agree to follow the dispute resolution process in the General terms and conditions of this policy.

If a covered or partially covered claim is made against you, then we have the right to appoint suitably qualified legal representation to defend you.

We have no duty to defend you against claims where:

1. no portion of the claim is covered; or
2. we pay you the limit of indemnity as described in How much we will pay – Paying out the limit of indemnity.

The excess will only be eroded by the covered portion(s) of a claim.