

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

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**Special definitions for this section**

<b>Advertising</b>	Advertising, publicity, or promotion in or of <b>your</b> products or services, including online.
<b>Applicable courts</b>	The courts of competent jurisdiction in those countries stated as the applicable courts in the schedule.
<b>Business activities</b>	The activities shown in the schedule, which <b>you</b> perform in the course of <b>your business</b> .
<b>Claim</b>	Any written assertion of liability or any written demand for financial compensation or injunctive relief first made against <b>you</b> within the <b>applicable courts</b> .
<b>Client</b>	Any person or entity with whom <b>you</b> have contracted to provide services or deliverables that expressly fall within <b>your business activities</b> .
<b>Defence costs</b>	All reasonable and necessary lawyers' and experts' fees and legal costs incurred with <b>our</b> prior written agreement in investigating, settling, defending, appealing or defending an appeal against a covered <b>claim</b> but not including any overhead costs, general business expenses, salaries, or wages incurred by <b>you</b> or any other person or entity entitled to coverage under this section.
<b>Employee</b>	An individual performing employment duties solely on <b>your</b> behalf in the ordinary course of <b>your business activities</b> and who is subject to <b>your</b> sole control and direction and to whom <b>you</b> supply the instruments and place of work necessary to perform such <b>business activities</b> . <b>You</b> and <b>your</b> independent contractors will not be treated as <b>employees</b> under this section.
<b>Liquidated damages</b>	A sum of money, or mechanism for calculating such sum, agreed between <b>you</b> and <b>your client</b> by contract as the amount payable by <b>you</b> in the event of a specified breach of such contract provided that, at the time the sum or mechanism was agreed, it represented a fair and reasonable estimate of <b>your client's</b> loss in the event of <b>your</b> breach of the contract.
<b>Loss</b>	Any financial harm caused to <b>your business</b> .
<b>Personal data</b>	<ol style="list-style-type: none"><li>Any data relating to a living individual who can be identified from that data; or</li><li>any sensitive personal data as defined in the Data Protection Act 1998 or any similar or successor legislation.</li></ol>
<b>Potential claim</b>	Anything likely to lead to a <b>claim</b> covered under this section.
<b>Retroactive date</b>	The date stated as the retroactive date in the schedule. For any <b>subsidiary</b> acquired by <b>you</b> during the <b>period of insurance</b> the retroactive date will be the date of acquisition.
<b>Subsidiary</b>	An entity: <ol style="list-style-type: none"><li>that has been identified in <b>your</b> proposal for this <b>policy</b> and <b>you</b> own more than 50% of the book value of the assets or of the outstanding voting rights as of the first day of the <b>period of insurance</b>; or</li><li>which <b>you</b> acquire during the <b>period of insurance</b> where the turnover at the date of acquisition is less than 20% of <b>your</b> turnover and the acquired entity's <b>business activities</b> are the same as <b>yours</b>.</li></ol>
<b>You/your</b>	Also includes: <ol style="list-style-type: none"><li>any person who was, is or during the <b>period of insurance</b> becomes <b>your</b> partner, director, trustee, in-house counsel or senior manager in actual control of <b>your</b> operations;</li><li>any <b>subsidiary</b>.</li></ol>

**What is covered**

Claims against you	If during the <b>period of insurance</b> , and as a result of <b>your business activity</b> or <b>advertising</b> on or after the <b>retroactive date</b> within the <b>geographical limits</b> , a <b>claim</b> is first brought against <b>you</b> for any actual or alleged:
Breach of contract and liquidated damages	1. breach of any contract between <b>you</b> and <b>your client</b> , including any service level agreement forming part of such contract, or any <b>claim</b> for <b>liquidated damages</b> , where the <b>claim</b> is brought by <b>your client</b> ;
Intellectual property infringement	2. intellectual property infringement (but not any patent infringement or trade secret misappropriation), including but not limited to: <ul style="list-style-type: none"> <li>a. infringement of copyright, trademark, trade dress, publicity rights, moral rights or design rights;</li> <li>b. cyber squatting violations;</li> <li>c. any act of passing-off;</li> <li>d. misappropriation of formats, characters, trade names, character names, titles, plots, musical compositions, voices, slogans, graphic material or artwork;</li> </ul>
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 <b>you</b> 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 <b>employees</b> or sub-contractors or outsourcers directly contracted to <b>you</b> or under <b>your</b> supervision;
Civil liability	7. any other civil liability;
	<b>we</b> will pay the amount agreed by <b>you</b> and <b>us</b> through good faith negotiation, mediation or some other form of alternative dispute resolution to settle a <b>claim</b> or the amount to satisfy a judgment or arbitration award against <b>you</b> including any judgment or award ordering the payment of claimant's lawyers fees and costs.
	<b>We</b> will also pay <b>defence costs</b> in respect of covered <b>claims</b> against <b>you</b> .
Sub-contractors or outsourcers	<b>We</b> will indemnify <b>you</b> against any <b>claim</b> falling within the scope of <b>What is covered</b> , Claims against you, which is brought as a result of <b>business activity</b> undertaken on <b>your</b> behalf by any sub-contractor or outsourcer.
Network security and personal data events	<b>We</b> will also indemnify <b>you</b> if, during the <b>period of insurance</b> and as a result of <b>your business activity</b> or <b>advertising</b> , a <b>claim</b> is brought against <b>you</b> for any actual or alleged: <ul style="list-style-type: none"> <li>1. transmission of malicious software including, but not limited to, a computer virus, worm, logic bomb or trojan horse;</li> <li>2. denial of service attack against a third-party;</li> <li>3. unauthorised acquisition, access, use, or disclosure of <b>personal data</b> or confidential corporate information that is held or transmitted in any form;</li> <li>4. prevention of authorised electronic access to any computer system, <b>personal data</b> or confidential corporate information.</li> </ul>
Payments toward your outstanding fees	If: <ul style="list-style-type: none"> <li>1. <b>your client</b> refuses to pay <b>your</b> contractually agreed fees (including any amount <b>you</b> are legally liable to pay a sub-contractor at the date <b>your client</b> first refuses to pay); and</li> <li>2. <b>you</b> satisfy <b>us</b> that <b>your client</b> intends to make a <b>claim</b> against <b>you</b> for an amount covered by this section that is greater than the amount you are owed;</li> </ul>

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.

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### What is not covered

- A. **We** will not make any payment for any **claim** or **loss** directly or indirectly due to:
1. **your** failure to take all reasonable steps to ensure that **you** have sufficient technical, logistical and financial resources to perform a contract.
  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:
    - a. covered **defence costs** incurred by **you** to defend such portions of a **claim** 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 **you** shall reimburse **us** for all **defence costs** that **we** have paid toward that **claim**; or
    - b. any amount **you** satisfy **us** that **you** are legally able to recover under a written contract.
  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 **claim**:
    - a. seeking damages for mental anguish or distress where such damages solely stem from a covered **claim** for defamation, breach of privacy, or negligent publication; or
    - b. directly arising from designs, plans, specifications, formulae, directions or advice prepared or given by **you** for a fee, provided that such **claim** is first brought within the **applicable courts** but always excluding USA or Canada.
  4. loss, damage or destruction or loss of use of any tangible property.  
However this exclusion does not apply to any:
    - a. **claim** directly arising from designs, plans, specifications, formulae, directions or advice prepared or given by **you** for a fee, provided that such **claim** is first brought within the **applicable courts** but always excluding the USA or Canada;
    - b. **claim** for alleging or arising from damage to electronic data;
    - c. **loss** directly arising from any document of **yours** which is necessary for the performance of **your business activities** and which is lost, damaged or destroyed while in **your** possession.
  5. a. any costs or expenses involved in the repair, upgrade, correction, recall or replacement of any software, hardware, firmware, or associated network cabling including any costs or expenses relating to **your** legal obligation to comply with an injunction; or

Government investigation/ enforcement	<p>b. any design or manufacture of hardware by <b>you</b> or on <b>your</b> behalf.</p> <p>6. any governmental enforcement of any legislation, regulation or order from any regulatory authority.</p> <p>However, this exclusion shall not apply to any otherwise covered <b>claim</b> from a federal, national, state, local or foreign government, agency or entity that is a <b>client</b> and has asserted the <b>claim</b> in its capacity as a <b>client</b> and not in its official governmental capacity.</p>
Commercial disputes	<p>7. any commercial dispute with <b>your</b> 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 <b>claim</b> is based upon:</p> <p>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 <b>you</b>, or any compensation or remuneration promised or owed by <b>you</b> pursuant to those terms; or</p> <p>b. <b>your</b> decision to cease doing business with such a partner or associate;</p>
Patent/trade secret	<p>8. any actual or alleged:</p> <p>a. infringement, use, or disclosure of a patent; or</p> <p>b. use, disclosure or misappropriation of a trade secret.</p>
Chargeback	<p>9. any chargeback, liability, or fee incurred by <b>you</b> or <b>your client</b> as a result of a merchant service provider, including any credit card company or bank, wholly or partially reversing or preventing a payment transaction.</p>
Infrastructure interruption	<p>10. any failure or interruption of service provided by an internet service provider, telecommunications provider, utility provider or other infrastructure provider except to the extent <b>you</b> provide those services as part of <b>your business activity</b>.</p>
Stocks, accounts, taxation and fiduciary	<p>11. any:</p> <p>a. liability or breach of any duty or obligation owed by <b>you</b> 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;</p> <p>b. liability or breach of any duty or obligation owed by <b>you</b> regarding any statement or representation (express or implied) contained in <b>your</b> accounts, reports or financial statements, or concerning <b>your</b> financial viability;</p> <p>c. violation of any taxation, competition, restraint of trade or anti-trust law or regulation;</p> <p>d. breach of any fiduciary duty owed by <b>you</b>.</p>
Pension and employee benefit schemes	<p>12. any liability or breach of any duty or obligation owed by <b>you</b> in connection with the operation or administration of any health, pension or employee benefit scheme, plan, trust or fund.</p>
Insolvency	<p>13. <b>your</b> insolvency or the insolvency of <b>your</b> suppliers.</p>
Sweepstakes, gambling or lotteries	<p>14. <b>your</b> provision of any sweepstakes, gambling activities or lotteries.</p>
Matters insurable elsewhere	<p>15. the ownership, possession or use of any land, building, animal, aircraft, watercraft or motor vehicle.</p>
Negotiable instruments	<p>16. the loss, damage or destruction of any bearer bonds, coupons, share certificates, stamps, money or other negotiable paper.</p>
Employment practices liability	<p>17. anyone's employment with <b>you</b> or any breach of an obligation owed by <b>you</b> as an employer.</p>
Discrimination	<p>18. any discrimination, harassment or unfair treatment.</p>
Directors' and officers' liability	<p>19. any liability or breach of any duty or obligation owed to <b>you</b> or <b>your</b> shareholders by any of <b>your</b> directors, officers, trustees or board members, including but not limited to:</p> <p>a. any allegation of insider trading;</p>

- 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 20. any personal liability incurred by any director, officer, trustee, or board member of **you** 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 21. 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 22. any conduct committed in reckless disregard of another person or business' rights, but not in respect of a defamation **claim**.
  
- Pre-existing problems 23. anything, including any **potential claim** or any actual or alleged shortcoming in **your** work, likely to lead to a **claim** or **loss**, which **you** knew or ought reasonably to have known about before **we** agreed to insure **you**.
  
- War, terrorism and nuclear 24. **war, terrorism or nuclear risks**.
  
- Asbestos 25. **asbestos risks**.
  
- Pollution 26. 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**.

Fines and penalties	4. criminal, civil, or regulatory sanctions, fines, penalties, disgorgement of profits, treble damages or multiple damages which <b>you</b> 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 <b>claim</b> including arbitration, brought outside the <b>applicable courts</b> . This applies to proceedings in the <b>applicable courts</b> to enforce, or which are based on, a judgment or award from outside the <b>applicable courts</b> .
Trading losses	6. any trading loss or trading liability including those arising from the loss of any <b>client</b> , account or business.

## How much we will pay

The most **we** will pay for the total of all **claims**, their **defence costs**, and **losses** is the **limit of indemnity** shown in the schedule, irrespective of the number of **claims** or **losses**, unless limited below or in the schedule.

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.

## Special limits

Aggregate limit for dishonesty, physical damage and injury

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

1. **We** will not make any payment under this section unless **you** notify **us** of:
  - a. 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 the **policy** expires for any **claim** or **loss** **you** first became aware of in the seven days before expiry;
  - b. **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 the **policy** 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 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.

2. **You** must:
- a. 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;
  - b. not admit liability in connection with, make any settlement offer with respect to, or settle any **claim** under this policy without **our** prior consent.

If **you** fail to comply with these obligations, **we** may reduce any payment **we** make under this section by an amount equal to the detriment **we** have suffered as a result.

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### 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**.