

Professional indemnity insurance for technology companies

Policy summary

Policy wording ref: WD-PROF-UK-TEC(9) 6627 01/22

Key benefits: what risks are you protected against?

Professional indemnity insurance covers you for compensation you have to pay to your clients or any other third parties as a result of problems with your work. We will pay for claims which are made against you during the period of insurance, up to the limit shown in the policy schedule. We will also pay your legal defence costs incurred with our agreement for covered claims.

We will pay compensation in relation to claims made against you for:

- breach of any contract between you and your client, including reasonable compensatory payments, where the claim is brought by your client;
- infringement of intellectual property rights like patent, trade secrets, copyright or trademark;
- negligence or breach of duty: if you fail in a duty of care to your client, perhaps giving incorrect advice or making a mistake in your work;
- defamation: libel and slander;
- work undertaken on your behalf by sub-contractors or outsourcers. However, we reserve the right to recover losses from your sub-contractors or outsourcers;
- dishonesty of your employees, sub-contractors and outsourcers;
- any other civil liability: this means that if a claim or loss occurs because of your business activities and we haven't specifically excluded it and it's not a criminal prosecution, it's covered.

Your policy may also reimburse your fees:

- which your client refuses to pay if we believe this is likely to prevent a covered claim against you for a greater amount;
- incurred by you with our consent to investigate or monitor a potential claim.

We will also pay your direct losses as a result of:

- any tangible documents needed for your business which are lost, damaged or destroyed.

In addition we will pay, subject to our prior agreement:

- service credits provided to your client in full or partial settlement of a covered claim;
- the cost to engage a consultant to manage your response to a covered claim or to replace a senior manager or director whose time is diverted to the management of a covered claim;
- compensation where your attendance at court is required in connection with a covered claim.

Significant or unusual exclusions and limitations

We will not make any payment for your lost profit or any trading loss suffered by you. We will not pay for claims or losses arising from:

- any activity regulated by the Financial Conduct Authority;
- infringement of patent or misappropriation of a trade secret brought in the USA or Canada;
- any bodily or mental injury or death, unless in relation to mental anguish due to defamation, breach of privacy or negligent publication. This also does not apply to your work for example, designs and specifications that are given by you for a fee;
- the loss, destruction or damage to tangible property, unless arising from your designs, plans, specifications, formulae, directions or advice prepared or given by you for a fee. This does not apply to any claim for damage to electronic data or the loss of any document which is necessary for the performance of your business activity which is lost whilst in your possession;
- the failure of service by an internet service provider or other utility service, other than where your business activities provide these services;
- the ownership, use or possession of any land, building, animal or vehicle;
- any breach of your obligations as an employer;
- anything which was likely to lead to a claim and which you knew about before the policy started;
- any costs or expenses involved to recall any software or hardware where required to do so by injunction;



- the chargeback or reversal of any payment transaction;
- terrorism, war or nuclear risks; including any fear or threat of such an incident, or any action taken in controlling, preventing or responding to such an incident;
- a cyber attack, hacker or social engineering communication; including any fear or threat of such an incident, or any action taken in controlling, preventing or responding to a such an incident. This does not apply to any claim arising directly out of the provision of hosting, maintenance, security or web design as part of your business activities;
- any negligent act, error or omission in the operation or maintenance of computer or digital technology such as development, installation, patching or upgrading. This does not apply to any claim arising directly out of your computer or digital technology error affecting any computer or digital technology accessed or used by your client;
- the failure of the service provided by internet, telecommunications, utilities or other infrastructure providers;
- the processing, acquisition, storage, damage, loss, alteration, disclosure, use of or access to personal data. We will pay such claims where they arise from your performance of a business activity and which is not otherwise excluded. Subject to the limit shown in the schedule;
- the Log4j vulnerability also referred to as Common Vulnerability and Exposure (CVE) reference CVE-2021-44228 listed in the National Vulnerability Database operated by the National Institute of Standards and Technology, or any associated additional CVE.

Please read the policy for details of its terms in full.

Professional indemnity for technology companies

Policy wording

The General terms and conditions and the following terms and conditions all apply to this section. Cover under this section is given on an each and every claim or loss basis unless otherwise specified.

Special definitions for this section

Advertising or branding	Advertising, branding, including your company name, trading name and any web domain name, publicity, or promotion in or of those of your products or services that expressly fall within your business activity , including online.
Applicable courts	The courts of competent jurisdiction in those countries stated as the applicable courts in the schedule.
Business activity	The activities stated in the schedule, which you perform in the course of your business .
Claim	Any written assertion of liability or any written demand for financial compensation or injunctive relief first made against you within the applicable courts .
Client	Any person or entity with whom you have contracted to provide services or deliverables that expressly fall within your business activity .
Computer or digital technology	Any programs , computer network, hardware, software, operational technology, internet-connected device, network-connected device, electronic device, information technology, communications system, including but not limited to any internet-of-things devices, email system, intranet, extranet, website or cloud computing services.
Computer or digital technology error	Any negligent act, error or omission by anyone in the: <ol style="list-style-type: none"> 1. creation, handling, entry, modification or maintenance of; or 2. on-going operation, maintenance (including but not limited to installation, upgrading or patching) or development of, any computer or digital technology .
Cyber attack	Any digital attack or interference, whether by a hacker or otherwise, designed to: <ol style="list-style-type: none"> 1. gain access to; 2. extract information from; 3. disrupt access to or the operation of; or 4. cause damage to: any data or computer or digital technology , including but not limited to any: <ol style="list-style-type: none"> a. programs designed to damage, disrupt, extract data from, or gain access to computer or digital technology including, but not limited to, malware, wipers, worms, trojans, rootkits, spyware, dishonest adware, crimeware, ransomware, crypto-jacking and other malicious software or viruses; or b. denial of service attack or distributed denial of service attack.
Defence costs	All reasonable and necessary lawyers' and experts' fees and legal costs incurred with our prior written agreement in investigating, settling, defending, appealing or defending an appeal against a covered claim but not including any overhead costs, general business expenses, salaries, or wages incurred by you or any other person or entity entitled to coverage under this section.
Employee	An individual performing employment duties solely on your behalf in the ordinary course of your business activity and who is subject to your sole control and direction and to whom you supply the instruments and place of work necessary to perform such business activity . You and your independent contractors will not be treated as employees under this section.

Hacker	Anyone, including an employee of yours , who gains unauthorised access to or unauthorised use of any: <ol style="list-style-type: none"> 1. computer or digital technology; or 2. data held electronically by you or on your behalf.
Liquidated damages	A sum of money, or mechanism for calculating such sum, agreed between you and your client by contract as the amount payable by you 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 your client's loss in the event of your breach of the contract.
Loss	Any financial harm caused to your business .
Personal data	Any information about an individually identifiable natural person, including any information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular individual, including but not limited to any information protected by the Data Protection Act 2018, General Data Protection Regulation (EU) 2016/679, or any related, similar or successor legislation or regulation in any jurisdiction.
Pollution	Any pollution or contamination, including noise, electromagnetic fields, radiation and radio waves.
Potential claim	Anything likely to lead to a claim covered under this section.
Retroactive date	The date stated as the retroactive date in the schedule. For any subsidiary acquired by you during the period of insurance the retroactive date will be the date of acquisition.
Social engineering communication	Any request directed to you or someone on your behalf by a person improperly seeking to obtain possession or the transfer to a third-party of virtual currency, money, securities, data or property that such person or third-party is not entitled to.
Subsidiary	An entity domiciled in the United Kingdom of Great Britain and Northern Ireland, the Channel Islands, the Isle of Man or Gibraltar: <ol style="list-style-type: none"> 1. that has been identified in your proposal for this policy and of which you own more than 50% of the book value of the assets or of the outstanding voting rights as of the first day of the period of insurance; or 2. which you acquire during the period of insurance where the turnover at the date of acquisition is less than 20% of your turnover and the acquired entity's business activity is the same as yours.
You/your	Also includes: <ol style="list-style-type: none"> 1. any person who was, is or during the period of insurance becomes your partner, director, trustee, in-house counsel or senior manager in actual control of your operations; and 2. any subsidiary.

What is covered

Claims against you	A. If during the period of insurance , and as a result of your business activity for clients on or after the retroactive date within the geographical limits , any party brings a claim 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 , but only where such claim is brought by your client ;
Intellectual property infringement	2. intellectual property infringement, including but not limited to: <ol style="list-style-type: none"> a. infringement of copyright, trademark, patent, 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; or
- e. misappropriation of a trade secret;

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 physical damage to any third-party tangible document 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.

Unless excluded under **What is not covered** below, **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**, but **we** will not pay costs for any part of a **claim** not covered by this section.

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.
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Payments toward your outstanding fees	<p>If:</p> <ol style="list-style-type: none"> 1. your client has reasonable grounds for being dissatisfied with the work you have done or which has been done on your behalf and refuses to pay for any or all of it, including amounts you legally owe to sub-contractors or at the date of the refusal; 2. your client threatens to bring a claim against you for more than the amount owed and we are satisfied that the threatened claim has reasonable prospects of success; and 3. we believe that it may be possible to settle the dispute with the client by your agreeing not to press for the disputed amount;
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we may, in **our** discretion, pay **you** the amount owed to **you** over and above the **excess**. If **we** do, **you** must agree not to press **your client** for the disputed amount.

Alternatively, if it is not possible to reach agreement with the **client** on this basis but **we** still believe that by not pressing for the disputed amount **you** will avoid a legitimate **claim** or counterclaim for a greater amount, **we** may pay the amount owed to **you** at that time, over and above the **excess**.

If a **claim** is still brought, **we** will deal with it but **our** total payment, including what **we** have already paid **you** or on **your** behalf, will not exceed the applicable limit of indemnity 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 any payment above, **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 money owed to **you** if the **claim** or threatened **claim**, or part of the **claim** or threatened **claim**, is not covered by this section.

Pre-claims assistance	If you first become aware of a potential claim , we may pay reasonable and necessary fees, costs and expenses incurred with our prior written agreement to investigate or monitor such potential claim . If a claim is subsequently brought and which arises from the same subject matter as the potential claim , our total payment, including what we have already paid to investigate or monitor the potential claim , will not exceed the applicable limit of indemnity in the schedule.
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B.

Advertising claims

If during the **period of insurance**, and as a result of **your advertising or branding** on or after the **retroactive date** within the **geographical limits**, any party brings a claim, including any injunctive proceedings, against **you** for:

1. infringement of copyright or moral rights; or
2. defamation.

Unless excluded under **What is not covered** below, **we** will indemnify **you** against the sums **you** have to pay as compensation, including any liability for claimants' legal costs and expenses.

We will also pay **defence costs** but **we** will not pay costs for any part of a claim not covered by this section.

Your own losses

Loss of documents

If during the **period of insurance** any tangible document of **yours** which is necessary for the performance of **your business activity** is physically lost, damaged or destroyed while in **your** possession, **we** will pay the reasonable expenses **you** incur with **our** prior written agreement in restoring or replacing it. The most **we** will pay for the total of all such expenses is the relevant amount in the schedule.

Additional cover

Service credits

We may agree to **you** providing service credits in full or partial settlement of a covered **claim** against **you**. Where **we** agree to a settlement on that basis, **we** will pay the cost to **you** of providing such service credits.

Key person cover

We will pay the reasonable and necessary costs incurred by **you** with **our** prior written agreement to engage a consultant to:

1. undertake the day-to-day work of a senior manager or director to the extent that such individual is unable to fulfil his or her usual responsibilities as a direct result of their time being diverted to the management of a **claim** covered under this section; or
2. manage **your** response to a covered **claim**, to enable a senior manager or director to fulfil his or her usual responsibilities.

Court attendance compensation

If any person within the definition of **you**, or any **employee** of **yours**, has to attend court as a witness in connection with a **claim** against **you** covered under this section, **we** will pay **you** the amount shown in the schedule as compensation for each day or part of a day that their attendance is required by **us**. The most **we** will pay for the total of all court attendances is the amount shown in the schedule.

What is not covered

A. **We** will not make any payment for any **claim** or **loss** or part of any **claim** or **loss** directly or indirectly due to:

Commercial disputes

1.
 - a. any liability under a contract to anyone other than a **client**; or
 - b.
 - i. a commission or royalty, or any other term upon which any party 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
 - ii. **your** decision to cease doing business with any partner, associate or other party, other than **your client**.

Repair/replace/recall

2. 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.

Chargeback

3. 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.



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| Financial advice | 4. any activity regulated by the Financial Conduct Authority (or any successor regulator) in connection with any specified investments as defined in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (No. 2001/544), including any similar or successor legislation or regulations. |
| Injury | 5. any death of or any bodily or mental injury or disease suffered or alleged to be suffered by anyone.
However this exclusion does not apply to any part of any claim : <ol style="list-style-type: none">seeking damages for mental anguish or distress where such damages solely stem from a covered claim for defamation; ordirectly 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. |
| Property damage | 6. loss, damage or destruction or loss of use of any tangible property, including but not limited to bearer bonds, coupons, share certificates, stamps, money or other negotiable paper.
However this exclusion does not apply to any: <ol style="list-style-type: none">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;claim directly arising from physical damage to a tangible document belonging to a third-party where covered under What is Covered, A.3. Negligence; orloss directly arising from any tangible document of yours which is necessary for the performance of your business activity and which is physically lost, damaged or destroyed while in your possession. |
| Infrastructure interruption | 7. 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 . |
| Sweepstakes, gambling or lotteries | 8. your provision of any sweepstakes, gambling activities or lotteries. |
| Land, animals and vehicles | 9. the ownership, possession or use of any land, building, animal, aircraft (including any drone or small unmanned aerial vehicle), watercraft or motor vehicle. |
| Employees | 10. anyone's employment with you or any breach of an obligation owed by you as an employer. |
| Directors' and officers' liability | 11. 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 any: <ol style="list-style-type: none">allegation of insider trading;breach of any duty of corporate loyalty;liability for any statement, representation or information concerning you or your business contained in your accounts, reports or financial statements.liability for any statement, representation or information concerning you or your business contained in your advertising or branding. |
| Personal liability | 12. 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 or branding . |
| Dishonest or criminal conduct | 13. any fraudulent, dishonest, malicious, reckless 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: <ol style="list-style-type: none">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.
- Pre-existing problems 14. 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 risks 15. or contributed to by, resulting from or in connection with any:
- war**;
 - terrorism**;
 - nuclear risks**;
 - fear or threat of 15.a. to 15.c above; or
 - any action taken in controlling preventing, suppressing, responding or in any way relating to 15.a. to 15.d. above.
- If there is any dispute between **you** and **us** over the application of clause 15.a. above, it will be for **you** to show that the clause does not apply.
- Cyber incidents 16. or contributed to by, resulting from or in connection with any **social engineering communication**.
17. or contributed to by, resulting from or in connection with any:
- cyber attack**;
 - hacker**;
 - any fear or threat of 17.a. to 17.b. above; or
 - any action taken in controlling, preventing, suppressing, responding or in any way relating to 17.a. to 17.c. above; or
- However this does not apply to any claim made against **you** by a **client** which arises directly out of **your** provision of hosting, maintenance, security or web design where these fall within **your** performance of **business activities** for that **client**.
18. or contributed to by, resulting from or in connection with any **computer or digital technology error**. However, this does not apply to any **claim** made against you by a **client** which arises directly out of **your** error or omission affecting:
- your client's computer or digital technology**; or
 - your computer or digital technology** where it is directly accessed or used by **your client**.
- In **your** performance of **business activities** for that **client**.
- Asbestos or pollution 19. **asbestos risks** or **pollution**.
- Trademarks and false advertising 20. any actual or alleged:
- act of passing-off, unauthorised use of another's trademark, name or logo; or
 - false or misleading advertising;
- in relation to **your advertising or branding**.
- Log4j vulnerability 21. or contributed to by, resulting from or in connection with the Common Vulnerability and Exposure (CVE) reference CVE-2021-44228 listed in the National Vulnerability Database operated by the National Institute of Standards and Technology.
- 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 activity**.

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 part of any **claim**:

- a. solely based on **business activity** 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 activity**.

However, this exclusion shall not apply to any otherwise covered **claim** from an **employee**, sub-contractor or outsourcer that is brought entirely independently of that party's position as **your employee**, sub-contractor or outsourcer.

Punitive and exemplary damages

3. a. punitive or exemplary damages, unless insurable in the jurisdiction where such award was first ordered; or
- b. service credits, unless **we** agree to pay for such service credits as part of an agreed settlement in lieu of damages under **What is covered, Claims against you**. However, **we** will not make payment for any service credits **you** are obliged to provide under the terms of a contract between **you** and **your client**.

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, local, federal, state or foreign 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.

Patent and trade secret claims in USA/Canada

7. any **claim**, including arbitration, brought in the USA or Canada for any actual or alleged infringement, use, or disclosure of a patent, or any use, disclosure or misappropriation of a trade secret.

This also applies to any **claim**, including arbitration, brought outside of the USA or Canada to enforce, or which is based on, a judgment or award from the USA or Canada, regardless of whether such judgment or award is against **you** or a third-party.

Personal data claims

8. any claim or loss relating to the actual or alleged processing, acquisition, storage, destruction, erasure, loss, alteration, disclosure, use of or access to **personal data**.

However, this does not apply to any covered claim or part of a covered claim made against **you** by a **client** which arises directly from **your** performance of a **business activity** for that **client** and which is not otherwise excluded by **What is not covered**, A. 16. and 17. **Cyber incidents** or A. 21. **Log4j vulnerability** above. The most we will pay in relation to any such covered claim(s) is the Special Limit stated in the schedule for personal data claims.

How much we will pay

We will pay up to the limit of indemnity for this section stated in the schedule unless limited below or otherwise stated in the schedule. **We** will also pay for **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 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** stated in the schedule. The **excess** will only be eroded by the covered part of the **claim**.

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

The most **we** will pay for each item below, unless otherwise stated in the schedule, is a single limit of indemnity, which is an aggregate limit, for the total of all **claims** (including their **defence costs**) brought against **you** arising from:

Dishonesty

1. the dishonesty of **your** partners, directors, **employees**, sub-contractors or outsourcers;

Property damage

2. the physical loss or destruction of or damage to tangible property; and

Injury

3. claims brought against **you** arising from the death, disease or bodily or mental injury of anyone.

Personal data claims

The most **we** will pay for the total of all claims or parts of claims against **you** by a **client** including **defence costs**, which arise directly from your performance of a **business activity** for that **client** relating to **personal data** is the amount stated in the schedule, which is included within, and not in addition to, the overall limit of indemnity for this section.

Patent infringement

The most **we** will pay in total for **claims** arising from **your** infringement, use or disclosure of a patent is the amount shown in the schedule.

Trade secret misappropriation

The most **we** will pay in total for **claims** arising from **your** use, disclosure or misappropriation of a trade secret is the amount shown in the schedule.

Service credits

Where **we** pay service credits as part of an agreed settlement, **we** will only pay the cost to **you** of providing such credits. The amount **we** pay will not include **your** profit or mark-up.

The amount **we** pay for the cost of service credits is included within, and not in addition to, the limit of indemnity.

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 any potential claimant, 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;

- c. **your** discovery, or the existence of reasonable grounds for **your** suspicion, that any **employee** or sub-contractor or outsourcer has acted dishonestly, as soon as reasonably practicable.

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 that **you** are liable for what has happened or make any offer, deal or payment, unless **you** have **our** prior written agreement.

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.

Control of defence

We have the right, but not the obligation, to take control of and conduct in **your** name the investigation, settlement or defence of any or any part of a **claim**.

You must give **us** the information and co-operation which **we** may reasonably require and take all reasonable steps to defend any **claim**. **You** should not do anything which may prejudice **our** position.

Appointment of legal representation

We have the right, but not the obligation, to select and appoint an adjuster, lawyer or any other appropriate person of our choosing to deal with the **claim**.

Partially covered claims

We will not pay any part of a **claim** and its associated costs which is not covered by this section. If a **claim** is made which is not wholly covered by this section or is brought against **you** and any other party who is not covered under this section, then at the outset of the **claim**, **we** and **you** agree to use best efforts to determine a fair allocation of covered and non-covered parts of any **claim** or associated costs, including **defence costs** on the basis of the relative legal and financial exposures.

Advancement of defence costs

We will pay **defence costs** covered by this section on an ongoing basis prior to the final resolution of any **claim**. However, **we** will not pay any **defence costs** in connection with any **claim** or part of a **claim** which is not covered under this section. **You** must reimburse **us** for any **defence costs** paid where it is determined there is no entitlement under this section.

Payment of full limit of indemnity

We have no further duty to indemnify **you** against any claim where **we** pay **you** the applicable limit of indemnity as described in **How much we will pay**, Paying out the limit of indemnity, or if the overall limit of indemnity stated in the schedule has been exhausted.

Payment of excess

Our duty to make any payment under this section arises only after the applicable **excess** is fully paid. The **excess** will only be eroded by the covered parts of a claim.

Disputes

For the purposes of **control of defence** in this section of the **policy**, **General condition 14**, Arbitration, within the **General terms and conditions** is amended to read as follows:

Any dispute as to whether to settle or to continue the defence of a **claim** or as to the fair allocation of any partially covered **claim** and its associated costs, will be referred to a single Queen's Counsel (or equivalent in this or any other jurisdiction) to be mutually agreed or in the absence of such agreement to be nominated by the President of the Law Society of England and Wales. The opinion of such Queen's Counsel shall be binding on **you** and **us** in relation to matters referred under this clause. The costs of such opinion shall be met by **us**.