



Cyber Liability Insurance

Policy Wording

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Introduction

to your Cyber Liability Policy

This document and its attachments form your Policy and between them set out what is and isn't covered by your Policy. It is important that you read it all carefully, to make sure that the insurance covers you've bought actually provide the level of protection you need. You should bear in mind that your needs can change over time as your Business develops. If they do, it's important that you let your broker, intermediary or agent know so that we can update your Policy.

If you require advice on any aspect of your Policy please speak to your usual insurance adviser.

How to make a claim

If you need to make a claim, or think you potentially have a claim, you should in the first instance contact:

Charles Taylor Adjusting Ltd
Non Marine Division
88 Leadenhall Street
London
EC3A 3BA

Telephone: +44 (0)20 8476 8603

E-mail: cyber@ctplc.com

Who we are

Barbican Protect Ltd is authorised and regulated by the Financial Conduct Authority under reference number 467933, and is registered in England No.6185834 at 33 Gracechurch Street, London EC3V 0BT.

Complaints Procedure

We of course aim to provide first class service. However if the Insured feels that the Company's service has fallen short of their expectation the Insured may contact the Company at any time with their complaint.

Complaints will be handled in the following way:

- if you make a complaint we will acknowledge it within 2 working days of having received it
- our objective will be to resolve your complaint within 5 working days.

If you have any questions or concerns about your policy or the handling of a claim or if you wish to make a complaint, you can do so at any time by referring the matter to: William Hall, Barbican Protect Limited, Barlow House, Minshull Street, Manchester M1 3DZ; T: +44(0)161 235 6540.

In the event that you remain dissatisfied, it may be possible in certain circumstances for you to refer the matter to the Complaints team at Lloyd's.

Their address is:

Complaints
Lloyd's
One Lime Street
London EC3M 7HA

Tel No: +44 (0)20 7327 5693

Fax No: +44 (0)20 7327 5225

E-mail: complaints@lloyds.com

Website: www.lloyds.com/complaints

Details of Lloyd's complaints procedures are set out in a leaflet 'Your Complaints - How We Can Help' available at www.lloyds.com/complaints and are also available from the above address.

If you remain dissatisfied after Lloyd's has considered your complaint, you may have the right to refer your complaint to the Financial Ombudsman Service. The Financial Ombudsman Service is an independent service in the UK for settling disputes between consumers and businesses providing financial services. You can find more information on the Financial Ombudsman Service at www.financial-ombudsman.org.uk.

Financial Services Compensation Scheme

We are covered by the Financial Services Compensation Scheme (FSCS) which means that you may be entitled to compensation from the Scheme in the unlikely event that we cannot meet our obligations to you. This depends upon the type of insurance, size of the business and circumstances of the claim. You can find out more at www.fcsc.org.uk.

Data Protection Notice

The Company is a Data Controller and will process personal information in accordance with the Data Protection Act 1998. By submitting personal information about you (and others), you (and they) consent to it being used for the purposes described in this Data Protection Notice.

Some or all of the personal information you supply to us in connection with your insurance may be passed to other companies in order to administer the policy, including for the purposes of underwriting, claims handling and servicing. We may pass your personal information to credit reference agencies for the purpose of arranging payments by instalments, and we may tell them about your payment history with us. Your personal information may be passed to databases, regulatory and other insurance industry bodies in connection with your cover and any claims you may make. We may pass your information to other organisations for the purposes of research. We may tell you about related products and services which are provided by the Company or by other associated companies. If you do not wish to receive marketing material from either category of company outlined here, please write to us stating your preference.

In the event of the Company being merged with, being taken over by, or transferring any part of its business to another company, we reserve the right to transfer your personal information to that company under these terms. You should show this notice to anyone whose personal data may be processed to administer this policy.

Policy Contract

In consideration of the Insured having paid or agreed to pay the premium stated in the Schedule the Company agrees to indemnify the Insured or otherwise to pay the benefits and compensations stated to the extent and in the manner specified in this Policy.

Provided that

- 1 the Policyholder shall be subject to all the terms, conditions limitations and/or exclusions contained in this Policy or by additional endorsements
- 2 the Company's liability shall not exceed the sums insured or the limits of liability or any other limits expressed herein
- 3 the Schedule, general definitions, general claims conditions, general conditions, general exclusions and active covers shall be read together as part of one contract and any word or expression to which a specific meaning has been attached shall bear the same meaning throughout this Policy
- 4 the information supplied by or on behalf of the Insured is relied upon as to its completeness, correctness and accuracy by the Company. This means that if the information the Insured gives is incomplete, incorrect or inaccurate then the Insured may not be covered for any claim.

If this Policy is in the joint names of more than one Insured, each Insured shall be covered as if it had made its own application for cover and no statement or knowledge of any one Insured shall be considered to be on behalf of any other Insured.

Several Liability

This Policy is underwritten by certain underwriters at Lloyd's and/or other insurance companies (hereinafter called them "Insurers"). The liability of Insurers under this contract is several and not joint. An Insurer is not jointly liable for the proportion of liability underwritten by any other Insurer. Nor is an Insurer otherwise responsible for any liability of any other Insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by an Insurer (or in the case of a Lloyd's syndicate the total of the proportions underwritten by all the members of the syndicate taken together) is shown in the Schedule. Where the insurer is a Lloyd's syndicate each member of the syndicate (rather than the syndicate itself) is an Insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that members proportion. A member is not jointly liable for any other members proportion. Nor is any member responsible for any liability of any other Insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyds syndicate and their respective proportion may be obtained by writing to Market Services at the above address.

Although reference is made at various points in this clause to "this contract" in the singular where circumstances so require this should be read as a reference to contracts in the plural.

Interpretation

In this Policy:

- 1** reference to any Act, statute or statutory provision shall include a reference to that provision as amended, re-enacted or replaced from time to time whether before or after the date of the inception, or subsequent renewal or alteration, of this Policy;
- 2** if any term, condition, exclusion or endorsement or part thereof is found to be invalid or unenforceable the remainder shall be in full force and effect;
- 3** the headings herein are for reference only and shall not be considered when determining the meaning of this Policy;
- 4** the singular includes the plural and vice versa;
- 5** the male gender includes the female and neutral genders.

Important Notice

This policy is a claims made and notified policy.

Except as otherwise provided herein, this policy covers only claims first made and notified to underwriters during the policy period and on or after the retroactive date but before the end of the policy period or any extended reporting period, if applicable. All claims are subject to the applicable limits of indemnity and the applicable deductible(s). Please note that the limits of indemnity for Insuring Agreements 1, 2, 3 and 5 include defence costs.

Terms that appear in bold are defined terms in this policy. Please read this policy carefully. When used below, the words “**You**”, “**Your**” or “**Yours**” shall mean the Insured as provided in Section 2 below and “**We**”, “**Us**”, and “**Our**” shall mean the Insurers providing this insurance.

1 Insuring Agreements

You have purchased some or all of the following Insuring Agreements.

If an Insuring Agreement has not been purchased its exclusion will be endorsed onto the policy and, that portion of this policy is not applicable.

Insuring Agreement 1: Security and privacy liability

We shall pay on Your behalf all Damages and Defence costs which exceed the Deductible stated in the Schedule, which You become legally obliged to pay as a result of a Claim first made against You and notified by You to Us in writing, during the Policy Period, or any Extended Reporting Period if applicable, which arises directly out of a Security Breach, Privacy Breach or breach of Privacy Regulations in consequence of:

- a) the failure to prevent or hinder unauthorised access to or unauthorised use of a **computer network**; failure to prevent physical theft or loss of information or **hardware** controlled by **you, your** people, or processes; security failures; or false communications designed to trick the user into surrendering personal information (commonly known ‘phishing’ or ‘pharming’) that results in:
 - i) the alteration, copying, corruption, destruction, deletion, or damage to electronic **data** on a **computer network**;
 - ii) unauthorised disclosure of commercial, personal, or private information or **data**;
 - iii) theft of **data** (including theft of identity);
 - iv) the failure to disclose a **breach of security** by the **insured** affecting personally identifiable, non -public information, or failure to dispose of such information within the required time period in violation of notification laws or regulations in effect now or in the future;
 - v) the failure to prevent the transmission of **malicious code** or **computer virus** from a **computer network** to third party computers or systems;
 - vi) the **insured’s** breach of duty to maintain the security or confidentiality of personally identifiable information, including but not limited to payment card processing agreements with a merchant bank or payment processor, or
- b) the failure to prevent or hinder participation in a **denial of service** from a **computer network** operated by the **insured**, or in his/her name, against internet sites or the **computer network** of a third party; or
- c) loss of **employee** personal information;

provided that the failures in the case of (a) and (b) or the loss in the case of (c) occurred on or after the **policy retroactive date**.

Insuring Agreement 2: Multimedia liability

We shall pay on your behalf all damages and defence costs which exceed the deductible as stated in the Schedule which you become legally obliged to pay as a result of any claim first made against you and notified by you to us in writing during the policy period or any extended reporting period if applicable, in consequence of your negligent multimedia activities which give rise to:

- a) defamation;
- b) invasion or interference with the right to privacy, including those of **employees**, or commercial appropriation of names or likeness;
- c) plagiarism, piracy or misappropriation of ideas;
- d) infringement of copyright, domain name, commercial title or slogan, commercial extortion, the dilution or infringement of trademark, service mark, service name or trade name;
- e) civil but non regulatory liability in connection with the release of **multimedia** content;

provided that the above actual or alleged negligent acts occurred on or after the **retroactive date** of the **policy**.

Insuring Agreement 3: Privacy regulation, defence and penalties

We shall pay on your behalf those amounts, which exceed the corresponding deductible as stated in the Schedule, which you become legally obliged to pay, including defence costs, as a result of a civil regulatory action, civil and /or administrative penalties, or fines whose insurance is not prohibited by law, imposed by an official regulatory or governmental body against you and notified by you to us in writing during the policy period or any extended reporting period, if applicable, as a result of a security breach or a privacy breach, or breach of privacy regulations provided that such occurred on or after the retroactive date.

Insuring Agreement 4: Crisis management costs, customer notification expenses and customer support and monitoring expenses

We shall indemnify you for the crisis management costs, customer notification expenses and/or customer support and monitoring expenses which exceed the corresponding deductible as stated in the Schedule, when such costs and expenses are incurred as a result of a security breach, a privacy breach or a breach of privacy regulations, and notified by you to us in writing during the policy period or any extended reporting period if applicable, provided that such security breach or privacy breach or breach of privacy regulations occurred on or after the retroactive date.

Insuring Agreement 5: Data recovery and loss of business income

We shall indemnify you for the first party costs and expenses incurred by you, which exceed the corresponding deductible as stated in the Schedule, and for loss of business income after expiration of the applicable waiting period as stated in the Schedule, as a result of a first party insured event incurred by you and notified by you to us in writing, during the policy period or any extended reporting period, if applicable, provided that such first party insured event occurred on or after the retroactive date of the policy.

Insuring Agreement 6: Data extortion

We shall indemnify you for those amounts, which exceed the corresponding deductible as stated in the Schedule, when cyber extortion costs are paid by you as a direct result of a cyber extortion threat to the extent insurable by law and notified by you to us in writing during the policy period or any extended reporting period if applicable, provided that the cyber extortion threat occurred on or after the retroactive date.

2 Definitions

The definitions appear in alphabetical order. Any term defined herein shall have the same meaning regardless of appearing in singular or in plural.

Application

Means any proposal form or statement of fact whether completed by the Policyholder or on its behalf whereby the Policyholder provides a fair presentation of the risk which contains materially complete, correct, clear and accurate information.

Claim means:

- a) A written demand for monetary damages or non-monetary relief, a request for a standstill agreement, the service of civil proceedings or institution of arbitration proceedings made against the **insured** seeking monetary damages or including the threat or initiation of proceedings seeking precautionary measures;
- b) An administrative proceeding or a formal regulatory action to the extent covered by Insuring Agreement 3 of this Policy;
- c) **First party insured event**;
- d) The incurring of **crisis management costs, customer notification expenses** and **customer support and credit monitoring expenses**;
- e) **Cyber extortion threat**; or
- f) Notice by a third party to the **insured** of circumstances that could reasonably be expected to result in any of the foregoing (a) to (e) above;

made for the first time during the **policy period**.

All the **claims** arising out of the same cause, regardless of the amount of claimants or **claims** made, shall be considered as a single **claim** and such **claim** shall be considered as made during the **policy period** in which the first **claim** was made.

Computer network

Means any interconnected electronic system, wireless, web or similar systems (including all **hardware** and software) used to process **data** or information in an analogue, digital, electronic or wireless format including but not limited to, computer programs, electronic **data**, operating systems, servers, media libraries, associated input and output devices, mobile devices, networking equipment, websites, extranets, off line storage facilities (to the extent that they hold electronic **data**), and electronic backup equipment.

Computer virus

Means a program that possesses the ability to create replicas of itself (commonly known as 'auto-reproduction' program) within other programs or operating system areas, or which is capable of spreading copies of itself wholly or partly to other computer systems or networks.

Crisis management costs

Means those reasonable and necessary fees and expenses incurred by **you** and approved by **us** in advance for the appointment of professionals, when such appointment is needed to avert or mitigate any material damage to any of **your** brands owing to a **security breach, privacy breach** or a **breach of privacy regulations**.

Customer notification expenses

Means those reasonable and necessary legal expenses, public relations expenses, postage expenses, and related advertising expenses incurred by **you** to comply with privacy legislation mandating customer notification in the event of a **security breach, privacy breach** or the breach of **privacy regulations** that results in the compromise or potential compromise of personal information maintained by **you** or otherwise residing on a **computer network** operated by **you** or on **your** behalf.

Customer support and monitoring expenses

Means the reasonable and necessary expenses incurred by **you** for the provision of customer activity support services, including the monitoring of credit files, identity theft training and assistance, in the event of a **privacy breach**, that actually or allegedly compromises the personal information managed by **you** or in any other manner stored on the **computer network** operated by **you** or on **your** behalf.

Cyber extortion costs means:

- a) the amount payable by **you**, with **our** prior written consent to one or more person(s) or entity(ies), which is reasonably considered to represent a **cyber extortion threat**, with the purpose of bringing such threat to an end; or
- b) any other reasonable and necessary costs and expenses incurred by **you**, with **our** prior written consent as a direct result of a **cyber extortion threat**.

Cyber extortion threat

Means a real threat, or a series of related threats, including the request for an amount of money, against the **insured** to avoid damage, destruction, corruption or introduction of a **computer virus**, a **malicious code**, or a **denial of service** of any aspect of **your computer network**, or any threat or series of related threats to reveal or disclose personal and confidential information stored on **your computer network**.

Damages

Means a monetary judgment, consumer redress fund, award or settlement including punitive damages to the extent as insurable under the law pursuant to which this policy is construed. **Damages** do not include:

- a) **your** future profits, royalties, restitution, or loss of **your** profits;
- b) the costs arising out of a judicial order or execution resolutions granting non-monetary relief, including specific compliance or any agreement establishing such relief;
- c) the loss of **your** fees or profits, return or offset of **your** fees or charges, **your** commissions or royalties for the goods or services provided or contracted to be provided;
- d) taxes, fines, penalties or sanctions, save to the extent insurable by law;
- e) any damages that are a multiple of compensatory damages;
- f) any amount **you** are not financially or legally obligated to pay;
- g) loss of any remuneration or financial advantage to which **you** were not legally entitled;
- h) monetary judgments, awards or settlements which are uninsurable under the law pursuant to which this **policy** is construed;
- i) past, present or future license fees of any kind;
- j) liquidated damages.

Data

Means any machine readable information, including programs irrespective of the way they are used and rendered including, but not limited to, text or digital media.

Deductible

Means any amount of money, expressed as a figure or a percentage, that corresponds and is borne by **you** in such as way that **we** shall only be liable to pay in excess of the amount indicated as the **deductible** in the Schedule. The **deductible** shall apply to each **claim**, including all the costs and expenses charged against this **policy**, under all insuring clauses.

Defence costs means:

- a) those reasonable and necessary legal costs and expenses incurred with our prior consent for the legal defence of you and charged by the lawyer and solicitor designated by us to defend a claim;
- b) any other reasonable and necessary cost or expense resulting from an investigation, transaction, defence and/or appeal of a **claim**, borne by **us** or by **you** with **our** prior written consent;
- c) **defence costs** does not include salaries or overheads or charges of any other nature which **you** may have incurred, nor for the time **you** may have spent in cooperating in the defence and investigation of any **claim** or circumstance which might lead to a **claim** notified under this **policy**;
- d) with respect to Insuring Agreement 3 of this **policy**, the reasonable and necessary legal costs and expenses incurred with **our** prior consent in the defence of any civil administrative proceeding or regulatory action as a result of a **security breach, privacy breach** or breach of **privacy regulations** by **you** or on **your** behalf or by someone for whom **you** are legally responsible.

Denial of service

Means unauthorised or unexpected interference or malicious attack on **your computer network** that restricts or prevents access to such **computer network** by persons or entities authorised by **you** to gain such access.

Employee

Means any individual at the service of **you**, including any part-time, temporary or seasonal **employees** who are under a contract of service or any individual who is working at the direction, under the control of or on behalf of **you**. Partners or directors of **you** are excluded.

Extended reporting period

Means the period after the expiry of the **policy period** during which **you** may continue to notify **claims** according to the provisions under Section 6.

First party costs and expenses

Means the costs and expenses as authorised by **us** that may include:

- a) your actual costs to restore, compile or replace your data including expenses for materials, working time and overhead cost allocation at the affected location associated with restoring, compiling or replacing of such data;
- b) the reasonable and necessary costs and expenses of **yours** of specialists, investigators, forensic auditors, loss adjusters retained by **you** for the purpose of conducting a review or audit to substantiate that a **first party insured event** has occurred or is occurring, or to determine the scope, cause or extent of any theft or unauthorised disclosure of the **insured's** information or **data, privacy breach** or breach of **privacy regulations**;
- c) **your** reasonable and necessary costs and expenses for the use of rented, leased, or hired external equipment, services, labour, premises or additional operating costs, including staff overtime and expenditure, provided that these costs and expenses were reasonably incurred as a result of a **first party insured event**; or
- d) the reasonable and necessary costs and expenses of **yours** of specialists investigators, forensic auditors, loss adjusters retained by **you** for the purpose of conducting a review or audit to substantiate or determine the scope, cause or extent of any theft or unauthorized disclosure of **your** information or **data, privacy breach** or breach of **privacy regulations**, when your portable media or the **data** storage devices are away from your premises.

The **first party costs and expenses** do not include loss of profit or **loss of business income**.

First party insured event

Means loss sustained by **you** that occurs at **your** premises or at **your** external backup, data centre or storage facilities, arising out of:

- a) **security breach**;
- b) **computer virus**;
- c) **malicious code**;
- d) accidental damage or destruction of **data** because of an operational error, an error while establishing the parameters, or an involuntary error of **your employee** or a third party rendering its services to **you**;
- e) electrostatic build-ups or electromagnetic disturbances;
- f) accidental damage or destruction of **hardware** so that the **data** stored is not machine readable;
- g) malfunction or failure of the **computer network**;
- h) any error which occurs during the development or encoding of a computer programme, software or application which could, when in operation, result in a malfunction or an incorrect operation of the **computer network**, provided always that such programmes, software or application have finished the development stage and are prepared for operation, and have passed all the tests and have been tested successfully in a real environment; or
- i) failure of a direct or back-up power supply or under/over voltage but only if such power supply is owned, managed and controlled by the **insured** or by a business process service provider or IT service provider.

The **first party insured event** only affects losses suffered by **you** and does not provide coverage regarding any third party claim.

Hardware

Means all the physical components of a **computer network**.

Indemnity limits and sub-limits

Please see Section 5.

Insured or you, your or yours means:

- a) the entity shown as the **insured** in the **policy** Schedule, owning the interest object of this coverage and that, in absence of the **policyholder**, assumes the obligations arising out of the Contract;
- b) any **subsidiary** of the entity shown in item (a) above, but only in respect with wrongful acts, events, threats or breaches, covered under the purchased Insuring Agreements, occurring while in its condition as a **subsidiary**;
- c) any past, present or future officer, director, trustee, partner or **employee** of the entities shown under items (a) and (b) above, but only while acting within the scope of their duties as such;
- d) any agent or independent contractor, including distributors, licensees and sub-licensees, but only while acting on behalf of, at the direction of or under the control of any of the entities shown in items (a) and (b) above.

Coverage is also extended to the inheritance, heirs and legatees, legal representatives and/or estates of an **insured** in the event of his/her death, incapacity, insolvency or if he/she is involved in a bankruptcy proceeding.

Insurer or we, us or our

Means the entity shown in the policy Schedule that, upon the payment of the premium, covers the risks that are the object of this Contract in accordance with the policy conditions.

Loss of business income means:

- a) the net income (net profit or loss before taxes) which would have been obtained or incurred had no **first party insured event** occurred; or
- b) reasonable, continuing and normal operating expenses incurred and affected by a **first party insured event**.

Malicious code

Means software designed to infiltrate and/or damage a **computer network** without the owner's informed consent by a variety of possible forms including, but not limited to, Trojan horses, spyware, worms, dishonest adware and mutations of any of the aforementioned.

Multimedia

Means the release of any content in a physical or electronic format, including electronic data, internet, newspapers, magazines, newsletters, books, brochures or any other kind of publication and advertising materials, including presentations, digital images and photographs.

Policy

Means the document containing the conditions that regulate the Insurance including the Schedule, the Special Conditions, the General Conditions, the endorsements or appendixes issued thereto to complete or amend it, and the **application**.

Policyholder

Means the legal person indicated as such in the **policy** Schedule that purchases from us the insurance of the risk the object of cover under this **policy** and to whom the obligations and rights arising out of such **policy** correspond.

Policy period

Means the period of time between the inception date and the expiry date of the **policy** specified in the Schedule, or between the inception date and the effective cancellation, termination or expiry date of the Insurance Contract if earlier.

Premium

Is the amount payable by the **policyholder** or the **insured**, to which all applicable legal taxes and surcharges will be added.

The **premium** may be adjusted at the end of the **policy period** according to the provisions under the **policy's** Schedule, applying an adjustment rate to a parameter indicated in such Schedule. This adjustment will under no circumstance mean an amount lower than the amount initially paid.

Privacy breach

Means a breach of confidentiality, infringement or violation of any right to privacy including, but not limited to, a breach of the **insured's** privacy policy, breach of a person's right of publicity, false light, intrusion upon a person's seclusion, public disclosure of a person's private information.

Privacy regulations

Means the legal regulations applicable to the confidentiality, access, control and use of personally identifiable non-public personal **data**.

Retroactive date

Means the date indicated in the Schedule that modifies the temporal scope of this **policy**. If the term 'none' appears in the **policy** Schedule this means that retroactive coverage is unlimited.

Security breach

Means any intentional, malicious or wilful act that results in the misuse of **your computer network** to modify, delete, corrupt or destroy **data** or a **denial of service**, or the actual or alleged act, error, omission or breach of duty to protect the security and confidentiality of non-public corporate information owned by **you**, personally identifiable non-public information, or any other confidential information on paper records or electronic information. This definition includes, but is not limited to, electronic or non-electronic security failures, failures regarding the anticipation of potential threats or hazards, failure to protect against unauthorised access, use, disclosure or physical theft of documentation, **hardware**, false communications, or engineering techniques designed to trick the user into surrendering personal information (commonly known as "phishing" or "pharming").

Subsidiary means:

- a) any entity in which the entity indicated as **insured** under the Schedule holds, upon the effective date of this **policy**, control via (i) the ownership of at least 50% of voting rights, (ii) the right to appoint or dismiss at least 50% of the board members; or (iii) written agreements with other shareholders or partners which allow it to control at least 50% of the voting rights on its own;
- b) any entity which becomes a **subsidiary** during the **policy period** provided that such entity does not represent more than a fifteen percent (15%) increase in the **insured's** total assets, **employee** count or gross revenue as of the date of the acquisition. Where such entity represents an increase in the **insured's** total assets, **employee** count or gross revenue of more than fifteen percent (15%), such entity shall be deemed a **subsidiary** under this **policy**, but only upon the condition that within thirty (30) days of it becoming a **subsidiary**, the **insured** shall have provided the **insurer** with full particulars of the **subsidiary** and agreed to any additional premium and/or amendment of the provisions of this **policy** required by the **insurer**. This amendment shall be subject to the advanced review and acceptance by the **insurer** of the full and necessary information.

Waiting period

Means the number of hours that must elapse, as provided in the Schedule, before the recovery of **loss of business income** can be considered.

3 Exclusions

We shall not be deemed to provide cover nor shall we be liable to pay any **claim** or provide any benefit under this **policy** to the extent that the provision of such cover, payment of such **claim** or the provision of such benefit would expose us to any sanction, prohibition or restitution under United Nations resolutions of the trade or economic sanctions, law or regulations of the European Union, United Kingdom or United States of America.

We shall also not be liable for any **claim** directly or indirectly arising out of or in any way attributable to:

- 1 Any acts, events, threats or breaches that could have given rise to a **claim** under this **policy** of which **you** had knowledge or should have reasonably had knowledge prior to the First Inception Date of this **policy**, regardless of whether you have notified under another insurance or not.
- 2 Any **claim** made by an **insured** against another **insured** unless such **claim** is brought by an **employee** under Insuring Agreement 1 Security and Privacy Liability, 3 Privacy Regulation, Defence and Penalties and 4 Crisis Management Costs, Customer Notification Expenses and Customer Support and Monitoring Expenses.
- 3 Any **claim** arising out of wilful, deliberate, malicious, fraudulent or dishonest acts or omissions committed by any director, officer or partner of the entity indicated as the **insured** under the Schedule and its **subsidiaries**, unless such person is no longer a director, officer or partner of such entities at the moment when such acts were committed.
- 4 **Your** insolvency or bankruptcy or the insolvency or bankruptcy of any other insured entity including but not limited to the omission, inability or unwillingness to make payments because of the insolvency, liquidation or bankruptcy of any individual or entity.
- 5 Real or alleged physical or mental injury, sickness, depression, disease or death sustained by any person, excepting mental anguish directly caused as a result of negligent **multimedia** activities, **security breach**, **privacy breach** or the breach of **privacy regulations**.
- 6 Physical damage, impairment, destruction or corruption of any tangible property, including the loss thereof. **Data** is not considered tangible property.
- 7 The confiscation or commandeering or requisition or destruction of or damage to **hardware** by order of any government de jure or de facto, or by any public or local authority.
- 8 Satellite failures, electrical or mechanical failures and/or interruption including, but not limited to, electrical disturbance, spike, brownout or blackout, outages to gas, water, telephone, cable, telecommunications, or other infrastructure, unless such infrastructure is under **your** operational control and unless such **claim** forms part of a **first party insured event**.
- 9 The wear and tear, drop in performance, progressive or gradual deterioration, or aging of electronic equipment and other property or **hardware** used by **you**, or **your** failure or the failure of those acting on **your** behalf to maintain any computer, **computer network** or computer software, or other equipment.
- 10 Failure or gradual deterioration of overhead transmission, distribution lines or subterranean insulation or cabling.
- 11 Liability arising directly or indirectly based upon, attributable to or in any way connected with the distribution of unsolicited mail, direct mail and facsimiles or from telemarketing.
- 12 Liability arising out of **your** trading loss or trading debt or **your** liability for VAT or its equivalent.
- 13 **Your** assumption of liability in a written or verbal contract or agreement except that this exclusion shall not apply to liability that would have existed in the absence of such contract or agreement.
- 14 Any employer-**employee** relations, policies, practices, acts or omissions, any actual or alleged refusal to employ any person or any misconduct with respect to the **employees**.
- 15 Any actual or alleged discrimination of any kind including, but not limited to, age, colour, race, gender, creed, national origin, marital status, sexual preferences, disability, or pregnancy.

- 16 Strikes or similar labour measures, war, invasion, acts of a foreign enemy, hostilities or civil war (whether declared or not) mutiny, civil commotion assuming the proportions of or amounting to a popular or military uprising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against these actions including acts of terrorism.
- 17 Gambling, pornography, prizes, awards, coupons, or the sale or provision of prohibited, restricted, or regulated items including, but not limited to, alcoholic beverages, tobacco, or drugs.
- 18 Any fine or penalty arising out of any agreement that the **insured** does not comply with or for not adhering to the Payment Card Industry Standards or Rules; or for the failure to implement, maintain or comply with any security measures or standards related to any payment card data including, but not limited to, any fine or penalty imposed by a payment card company on a merchant bank or payment processor that the **insured** has agreed to pay or has agreed to reimburse or indemnify. However, this exclusion shall not apply to civil penalties and fines to the extent insurable by law arising out of a **claim** covered under Insuring Agreement 3.
- 19 Any actual or alleged unfair competition, antitrust violations, deceptive trade practices, or restraint of trade or any actual or alleged breach of any competition or antitrust statute, legislation, or regulation.
- 20 The actual or alleged infringement of any patent or the misappropriation, theft, copying, display or publication of any trade secret by, or with the active cooperation, participation, or assistance by **you**, any former **employee of yours**, subsidiaries, directors, executive officers, partners, principals, trustees, or any of **your** successors or assignees.
- 21 The use of programs, applications and software that have not been tested successfully in a real environment.
- 22 **Your** knowing or reckless use of illegal or unlicensed programs or those in violation of the provisions or laws referring to software or programme protection.
- 23 Damage caused by nuclear fusion or fission, radiation and radioactive or chemical contamination.
- 24 The actual or alleged purchase, sale, offer of, or solicitation of an offer to purchase or sell securities, or violation of any securities law including but not limited to the provisions of the Securities Act 1933, the Securities Exchange Act 1974, the Sarbanes-Oxley Act 2002, or any regulation promulgated under such statutes or any federal, state, local or foreign laws similar to such statutes, whether such law is statutory, regulatory or common law.
- 25 The actual or alleged violation of the Organized Crime Control Act 1970 (commonly known as "Racketeer Influenced and Corrupt Organisations Act" or "RICO") as amended or any regulation promulgated under such statute or any similar federal, state, local or foreign laws, whether such law is statutory, regulatory or common law.
- 26 The actual or alleged application of any state or federal regulation including, but not limited to, regulations promulgated by the United States Federal Trade Commission, Federal Communications Commission, or the Securities and Exchange Commission; however this exclusion does not apply to the extent that a **claim** is covered under Insuring Agreement 3.
- 27 The failure to provide professional services. However, this exclusion will not be applicable to the liability arising of any disclosure of contents **multimedia**, provided that this disclosure has taken place after the **retroactive date**, but excludes liability arising from the object of the professional service provided.

4 Defence, settlement and investigation of claims

- 1 With respect to Insuring Agreements 1, 2, 3, and 5, if purchased, **we** shall have the right but not the obligation, to take control of and conduct in your name the investigation, defence, or settlement of any claim or circumstance as **we** in our absolute discretion see fit.
- 2 The limit of indemnity available to pay **damages** and as stated within the Schedule shall be reduced, and may be completely exhausted, by payment of **defence costs** or any other amounts covered under the policy. **Damages, defence costs** and any other amounts covered under this policy are all subject to the excess, as stated within the Schedule.
- 3 **We** shall have the right to make any investigation **we** deem necessary including, without limitation, any forensic investigation as to potential liability under any of the Insuring Agreements or with respect to the **application**, or to state ments made in the **application**.
- 4 With respect to Insuring Agreements 1, 2, 3, and 5, if **you** refuse to consent to any settlement or compromise recommended by **us** that is acceptable to the claimant and elect to contest the **claim, our** total liability for any **damages, defence costs**, and other amounts covered under this policy shall not exceed:
 - a) The amount for which the **claim** could have been settled, less the remaining excess, plus the **defence costs** incurred up to the time of such refusal; and
 - b) Twenty-five percent (25%) of any additional **damages, defence costs** or other payments incurred after the date such settlement or compromise was recommended to **you**. The remaining seventy five percent (75%) of such **damages, defence costs**, or other payments are to be borne by **you** at **your** own risk and are uninsured under this **policy**.
- 5 It is further provided that **we** shall not be obligated to pay any **damages, defence costs** or any other amounts covered under this **policy**, or to undertake or continue to defend any **claim** after the applicable limit of indemnity has been exhausted by payment of **damages, defence costs** or other amounts covered under this **policy** and that upon such payment, **we** shall have the right to withdraw from the further defence thereof by tendering control of said defence to **you**.

5 Limit of indemnity and deductibles

- 1 The **limit of indemnity** per **claim** is the maximum amount indicated in the Schedule payable by **us** regarding each **claim** regardless of the amount of victims or damaged parties, including **defence costs**.
- 2 The aggregate annual **limit of liability** is the maximum amount indicated in the Schedule payable by **you** during the **policy period** and any **extended reporting period** and/or any **policy period** extension, for all risks subject to coverage and for all Insuring Agreements and coverage afforded by the **policy**.
- 3 The **indemnity sub-limit** is the maximum amount indicated in any endorsement to the **policy** payable by the **insurer** for each **claim** in respect with the additional Insuring Agreements for which **you** have established an **indemnity sub-limit** that is an integral part of the annual aggregate **limit of indemnity** and not in addition to such **limit of indemnity**.
- 4 The **deductible** shown in the Schedule shall apply to each **claim** and if one **claim** is covered by more than one Insuring Agreements covered under this **policy**, the highest **deductible** shall apply.
- 5 **Your** payment of the **deductible** is a condition precedent to the payment by **us** of any amounts covered under this **policy** and we shall only be liable for the amount which exceeds the **deductible**.
- 6 With respect to the **loss of business income** under Insuring Agreement 5, the **waiting period** listed in the Schedule shall apply to covered amounts.

6 Extended Reporting Period

- 1 Automatic Extension. If **we** or **you** cancel or non-renew this **policy**, **you** shall automatically have, without any payment of addition **premium**, an **extended reporting period** of 30 days following the expiry of the **policy period**, to notify **us** in writing of any actual or alleged act that may be covered under this **policy**, as well as any **first party insured event**, **security breach**, **privacy breach**, breach of **privacy regulations** or **cyber extortion threat** that occurred prior to the expiry date of the **policy**.
- 2 Extended Reporting Period Endorsement. In the event of cancellation or non-renewal of this **policy**, **you** shall have the right, upon payment of:
 - a) 100% of the last year's **premium** for the **policy period** if **you** cancel or non-renew; or
 - b) 200% of the last year's **premium** for the **policy period** if **we** cancel (other than for non payment of **premium**) or non-renewals;to have issued an endorsement for the purchase of an **extended reporting period** for 12 months as of the expiry date, to notify in writing any actual or alleged wrongful act that could be covered under this **policy**, as well as any **first party insured event**, **security breach**, **privacy breach**, breach of **privacy regulations** or **cyber extortion threat** that occurred prior to the expiry date of this **policy**.
- 3 The renewal proposal offered by **us** for terms, conditions, **deductibles**, **limits of indemnity** or **premium** other than those established in this **policy**, shall not be interpreted as a denial to offer renewal terms.

This extension is subject to:

- i) **your** requesting the purchase of the extension within 30 days as of the expiry date of the **policy period**; and
- ii) **your** paying the additional **premium** within 30 days as of the expiry date of the **policy period**; and
- iii) this **policy** not being replaced by another policy or policies offering similar insuring clauses; and
- iv) the cancellation or resolution of the **policy** not owing to the lack of payment of the **premium** or to any other assumption legally considered.

If the option of purchasing the **extended reporting period** is elected, the **limit of indemnity** shall not be increased.

7 Insured's obligations on the notification of claims and circumstances

- 1 **You** must irrefutably notify **us** of any **claim** within a maximum period of 7 days of having become aware of such **claim**.
- 2 **You** must provide **us** with all necessary information regarding the circumstances of the **claim**. Failure to comply with this requirement may entitle **us** to reject the **claim**.
- 3 If during the policy period, you become aware of any act, fact or circumstance that could reasonably be the basis of a claim, you must, as soon as possible and within the policy **period**, notify **us** and supply **us** with the following information:
 - a) details of the acts, facts or circumstances that could reasonably be the basis of a **claim**;
 - b) possible **damages**, fines or any other amount potentially covered by the **policy** that could be the result of such facts or circumstances;
 - c) details of how **you** became aware of such facts, acts or circumstances;
 - d) a detailed description of the **computer network** security and the entries into the system that bear witness to the alleged incident.

Should you fail to abide by these notification provisions with the result that we suffer prejudice in our handling or defence of a claim then we will reduce the amount that is paid in settlement of a claim by an amount which reflects the additional loss or cost to us occasioned by such prejudice.

- 4 Any subsequent **claim** arising out of these acts, facts or circumstances that are the object of the written notification, shall be considered as a **claim** notified to **us** in due time and form.
- 5 Notice to **us** under Clauses 1 and 2 above shall be deemed to have been properly made if received in writing by:

Charles Taylor Adjusting Ltd
Non Marine Division
88 Leadenhall Street
London
EC3A 3BA

Telephone: +44 (0)20 8476 8606
Email: cyber@ctplc.com

8 Calculation of net income for Insuring Agreement 5

- 1 The calculation of net income in respect with **loss of business income** under insuring clause 5 shall be based on an analysis of the revenues and costs generated during each month of the last twelve (12) months prior to the loss occurring and will also take into account the reasonable projection of future income they would have obtained had no loss occurred and will include all material changes in market conditions that could affect the future profits generated.
- 2 When **you** request **us** for indemnity under this **policy** that request must be accompanied by a computation of the loss. This shall set out in detail how the loss has been calculated and what assumptions have been made. **You** shall produce any documentary evidence, including any applicable reports, books of accounts, invoices, receipts and any other vouchers or copies that **we** may require and **you** shall afford **us** every assistance in our investigations.
- 3 Any **claims** payment under this insurance clause 5, where applicable, shall be reduced by the extent to which **you**:
 - a) use damaged or undamaged **data**, or
 - b) make use of available stock, merchandise or other **data**, or
 - c) use substitute facilities, equipment or personnel.
- 4 In the event of **loss of business income** during the time of the **waiting period** listed in the Schedule, **we** are not obliged to indemnify **you**.

9 Assistance and cooperation of the insured

- 1 Unless agreed to the contrary, **we** shall assume the legal management of any **claim** covered under this policy and we will act with the utmost discretion regarding the management of any negotiation or procedure to settle such **claim** covered under this **policy**.
- 2 **We** will appoint lawyers to defend and represent **you** for all judicial or administrative actions processed against **you** to claim for the civil or administrative liabilities covered under this **policy**, even when such **claims** are groundless.
- 3 **You** must provide **us** with all necessary cooperation towards such defence. If due to the lack of this cooperation the possibilities of defending the **claim** are damaged or diminished, then **we** may claim damages from **you** in proportion to the amount by which damages are increased by reason of **your** fault.
- 4 Notwithstanding the aforementioned, when the person claiming is also a person insured with **us** or when there is any other possible conflict of interest, the latter will immediately notify the **insured** of such circumstances without prejudice to undertaking the actions that due to their urgent nature, are necessary for the defence. The **insured** may choose for **us** to keep managing the defence or to appoint another person. In this last case, **we** agree to pay the legal expenses of such defence within the **limits of indemnity** agreed under the **policy**.
- 5 If **you** are sentenced under a court or administrative proceeding, or a proceeding of any other nature, with an express statement of his/her civil or administrative liability, **we** shall decide whether the merits justify **our** paying for an appeal before the competent higher court. If **we** consider the appeal is not so justified, **we** will notify the interested party, and such party shall be free to submit such appeal on his/her own exclusive behalf, and **we** shall agree to reimburse the costs and expenses in the event that such appeal should be accepted.

10 Insurer's consent

You shall not admit liability regarding any **claim**, nor undertake any transaction, offer or settlement without having first obtained **our** prior written consent.

However, should **you** not reach an agreement with **us** as to the actions **we** consider should be pursued to resolve a **claim** and **you** elect to contest or continue with the legal proceedings in respect thereof, then **our** liability shall not exceed the amount for which the **claim** could have been resolved, plus the fees, costs and expenses arising out of the legal defence incurred with **our** consent, on the date on which the disagreement occurred, less the **deductible** and subject always to the **limit of indemnity** available under the **policy**.

Should **you** at any time admit or negotiate or promise to pay any **claim** without having first obtained our written consent then **we** will be under no liability to indemnify you in relation to that **claim**.

11 Territorial limits and jurisdiction

The territorial limit of this **policy** extends to any insured events, breaches or threats detailed in the relevant Insuring Agreements which are the object of the insurance under this **policy**, committed, alleged to have been committed or occurring anywhere in the world unless a different territorial limit is established in the Schedule.

Furthermore and in respect to the jurisdiction, the same shall be limited to the actions served and the corresponding judgements or resolutions executed, within the courts of any country unless a different territorial limit is agreed in the Schedule.

12 Innocent insured provision

Whenever coverage under this **policy** would be excluded, suspended or lost because of non-compliance with Section 7 relating to the giving of notice of a **claim to us**, with respect to which any other **insured** shall be in default solely because of the failure to give such notice or concealment of such failure by one or more **insureds** responsible for the loss or **damage** otherwise insured hereunder, then such insurance as would otherwise be afforded under this **policy** shall cover and be paid with respect to those **insureds** who did not personally commit or personally participate in committing or personally acquiescing in such failure to give notice, provided that the **insured** entitled to the benefit of this provision shall comply with Section 7 promptly after obtaining knowledge of the failure of any other **insured** to comply therewith. Notwithstanding the foregoing, the reporting of any such **claim** must be made during the **policy period** or **extended reporting period**, if applicable.

Any insurance as afforded by this provision shall not cover a **claim** if a current executive officer or director failed to give notice as required by Section 7 for a **claim** or circumstance that could reasonably be the basis of a **claim**, which was known to a current executive officer or director.

Whenever coverage under this **policy** would be excluded, suspended or lost because of Exclusion 3 relating to wilful, deliberate, malicious, fraudulent, dishonest or criminal acts by any **insured** then such insurance as would otherwise be afforded under this **policy** shall cover and be paid with respect to those **insureds** who did not personally commit, personally participate in committing, personally acquiesce or remain passive after having personal knowledge thereof.

13 General application clauses

1 Assignment

The interest hereunder is not assignable by **you** or **your subsidiaries** without **our** prior written consent.

2 Cancellation by you

If this policy is cancelled by **you**, **we** will refund the unearned premium computed at the customary short rate. No premium will be refunded where any **claims** or circumstances have been notified under the **policy**.

3 Cancellation by us

We may cancel this **policy** or any specific Insuring Agreement by giving 30 days' notice by registered letter to the **policyholder** at its last known address in which event the **policyholder** at **our** discretion may receive a pro rata return of premium for the unexpired period of insurance.

We will cancel the **policy** in the event that the **premium** or any part thereof is not paid within 60 days of the inception of this **policy period**.

4 Words and titles of paragraphs

The titles of paragraphs, section, provisions, or endorsements of or to this policy are intended solely for convenience and reference and are not deemed in any way to limit or expand the provisions to which they relate and are not part of this **policy**. Whenever the singular form of a word is used herein, the same shall include the plural when required by context.

5 Dispute resolution

- a) No action shall lie against **us** unless, as a condition precedent thereto, there shall have been full compliance with all terms of this **policy**, nor until the amount of **your** obligation to pay shall have been finally determined either by judgment or award against **you** after actual trial or arbitration or by written agreement of **you**, the claimant and **us**.
- b) No person or organisation or any legal representative thereof who has secured such judgment, award, or written agreement shall thereafter be entitled to make a **claim** under this **policy** to the extent of the insurance afforded by this **policy**. No person or organisation shall have any right under this **policy** to join **us** as a party to an action or other proceeding against **you** to determine **your** liability nor shall **you** be entitled to join **us** to any proceedings against **you** by a third party. Bankruptcy or insolvency of **you** or of **your** estate shall not relieve **us** of **our** obligations hereunder.
- c) Mediation. If any dispute arises between **you** and **us** involving this **policy** and/or a **claim** hereunder, it is hereby mutually agreed by **you** and **us** that such dispute shall be referred to a qualified mediator in a good faith effort to negotiate a resolution of the dispute, prior to the initiation of any arbitration or other proceedings. The party electing to mediate shall provide written notice to the other party setting forth its request to mediate and a brief statement regarding the issue to be mediated. The persons named in the Schedule are authorised and directed to accept the Notice of Mediation on behalf of **us**. **You** represent that **you** are authorised and directed to accept the Notice of Mediation unless you shall have previously sent us notice of any other person or organisation that is authorised to accept the Notice of Mediation on **your** behalf.

6 Inspection and audit

We shall be permitted, but not obligated, to inspect any of **your** property, operations, or records at any time on giving **you** not less than 5 days' notice.

7 Subrogation

If **we** make any payment under this **policy** and there is available to **us** any of **your** rights of recovery against any third party, then we shall maintain all such rights of recovery. **You** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights and you shall do nothing to prejudice such rights. Any recoveries shall be applied first to subrogation expenses, second to damages, **defence costs**, or any other amounts paid by us, and lastly to the **deductible**. Any additional amounts recovered shall be paid to **you**.

8 Other Insurance

This policy shall apply in excess of any other valid and collectible insurance policy available to you, including any retention or deductible portion thereof, unless such other insurance is written only as specific excess insurance over the **limit of indemnity** under the **policy**.

9 Entire agreement

By acceptance of this **policy**, **you** agree that this **policy** embodies all agreements between **you** and **us** relating to this **policy**. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this **policy** or stop **us** from asserting any right under the terms of this insurance; nor shall the terms of this **policy** be waived or changed, except by endorsement issued to form a part of this **policy** and signed by **us**.

10 Choice of law

The interpretation of this **policy** or any disputes involving this **policy** shall be resolved applying the laws of England and Wales.

11 Warranty by you

By acceptance of this **policy** **you** agree that the statements contained in the **application** or any application for insurance if this **policy** is a renewal, and any supplemental materials submitted therewith are **your** agreements and representations, which shall be deemed material to the risk that **we** assume, and that this **policy** is issued in reliance upon the truth thereof.

The misrepresentation or non-disclosure of any matter by **you** or **your** agent in the **application**, any application for insurance if this **policy** is a renewal, or any supplemental materials submitted to **us** will render this **policy** void ab initio and relieve **us** from all liability under the **policy**.

The **application** and any application for insurance if this **policy** is a renewal, and any supplemental materials submitted to us are deemed incorporated into and made a part of this **policy**.

12 Forfeiture

Any:

- a) action or failure to act by **you** with the intent to defraud **us**; or
- b) material misrepresentation or deliberate failure to disclose any material fact or claims by you in the application or in any supplemental materials submitted to us

shall render this **policy** void ab initio, and all coverage hereunder shall be forfeited.

13 Third party rights

A person who is not a party to this contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this contract but this does not affect any right or remedy of a third party which exists or is available apart from the Act.