

Cyber Section

Please read this **Section** carefully, hereunder the exclusions and duties of the **Insured**.

This **Section** applies only to:

- a a **Claim** first made during the **Period of Insurance** or the **Discovery Period**, if applicable; and
- b any **Privacy Breach, Confidentiality Breach, Cyber Extortion Threat, Business Interruption Event**, unavailability of the **Company's Computer System, Cyber Attack** or **Wrongful Act** which is first **Discovered** during the **Period of Insurance** and which are reported to the **Insurer** in accordance with this **Section's** provisions.

All covered costs including **Defence Costs** are part of and not in addition to the aggregate **Limit of Indemnity**.

Wherever the **Insurer** agrees to pay to or on behalf of the **Insured**, it is expected that the **Insured** shall fund the necessary payment and request that the **Insurer** reimburse this outlay either to themselves or to an agreed third party service provider.

Wherever the **Insurer** agrees to indemnify the **Insured**, the **Insurer** shall fund the necessary payment.

1 Cover

Subject to the **Limit of Indemnity** stated in the **Schedule** and in consideration of the payment of the premium the **Insurer** and the **Policyholder** agree as follows:

A Third Party Liability

1.1 Privacy and Confidentiality Breach Cover

The **Insurer** will pay to or on behalf of an **Insured** for **Damages** and **Defence Costs** arising from a **Claim** first made against an **Insured**, or an **Outsourced Service Provider**, during the **Period of Insurance** or the **Discovery Period**, if applicable, for a **Privacy Breach** or **Confidentiality Breach**.

1.2 Network Security Cover

The **Insurer** will pay to or on behalf of an **Insured** for **Damages** and **Defence Costs** arising from a **Claim** first made against an **Insured** during the **Period of Insurance** or the **Discovery Period**, if applicable, for a **Security Wrongful Act**.

1.3 Media Liability Cover

The **Insurer** will pay to or on behalf of an **Insured** for **Damages** and **Defence Costs** arising from a **Claim** first made against the **Insured** during the **Period of Insurance** or the **Discovery Period**, if applicable, for a **Media Wrongful Act**.

This coverage is subject to the Media Liability Cover sublimit as specified in the **Schedule**.

1.4 Regulatory Costs and Fines Cover

The **Insurer** will pay to or on behalf of an **Insured** for **Fines and Penalties** and **Defence Costs** arising from a **Claim** by a **Regulator** first made against an **Insured** during the **Period of Insurance** or the **Discovery Period**, if applicable, for a **Privacy Breach** or **Confidentiality Breach**.

Coverage for **Fines and Penalties** is subject to the **Fines and Penalties** sublimit as specified in the **Schedule**.

1.5 Internal Investigation Cover

The **Insurer** will pay to or on behalf of an **Insured** for **Defence Costs** arising from an internal investigation or enquiry first commenced during the **Period of Insurance** or the **Discovery Period**, if applicable, by or on behalf of the **Company** into the affairs of an **Insured** in its capacity as such:

- a in response to a direct request from a **Regulator**; or
- b to assess whether a **Self Report** is required or advised or in preparation of or following a **Self Report**,

which arises out of a **Privacy Breach** or **Confidentiality Breach**.

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1.6 Consumer Redress Fund Cover

The **Insurer** will pay to or on behalf of an **Insured** all sums of money the **Insured** is legally required to deposit in a fund for the payment of consumer claims, excluding any criminal fines or penalties, arising from a **Claim** or internal investigation covered under **Insuring Clauses 1.4** or **1.5**.

1.7 Payment Card Industry Data Security Standards (PCIDSS) Cover

The **Insurer** will pay to or on behalf of an **Insured** for **Damages**, **Defence Costs** and any sums of money incurred by and enforced against the **Insured** as a penalty pursuant to a written contract arising from a **Claim** first made against an **Insured** during the **Period of Insurance** or the **Discovery Period**, if applicable, by an **E-Payment Service Provider** for breach of any Payment Card Industry Data Security Standards.

This coverage is subject to the Payment Card Industry Data Security Standards (PCIDSS) Cover sublimit as specified in the **Schedule**.

B Business Interruption

1.8 Business Interruption Loss Cover

The **Insurer** will pay to the **Insured** the **Business Interruption Loss** incurred within the **Indemnity Period** as a direct result of the total or partial unavailability of the **Company's Computer System**, which is first **Discovered** during the **Period of Insurance** and which is caused by a **Business Interruption Event**. Cover is only provided where the duration of the unavailability of the **Company's Computer System** exceeds the **Waiting Period**, in which case **Business Interruption Loss** will include amounts incurred during the **Waiting Period**.

C Crisis Management

1.9 Crisis Management Costs Cover

The **Insurer** will pay to or on behalf of an **Insured**:

a Forensic Costs

the reasonable and necessary fees and expenses of an **IT Expert**, directly arising out of any actual, alleged or suspected **Privacy Breach**, **Confidentiality Breach**, **Cyber Attack** or **Business Interruption Event** first **Discovered** during the **Period of Insurance** to analyse the **Company's Computer System** in order to ascertain whether a **Privacy Breach**, **Confidentiality Breach** or **Cyber Attack** has occurred, the cause and extent of such **Privacy Breach**, **Confidentiality Breach** or **Cyber Attack** and how it can be mitigated;

b Data Breach Response Costs

the reasonable and necessary fees and expenses of an **IT Expert** or other external expert or service provider incurred by the **Insured**, with the prior written consent of the **Insurer**, directly arising out of any actual, alleged or suspected **Privacy Breach** or **Confidentiality Breach** first **Discovered** during the **Period of Insurance**:

i Data Identification and Preservation Costs

to identify and preserve relevant electronic data on the **Company's Computer System**;

ii Legal and Regulatory Advice Costs

to advise the **Insured** on its legal and regulatory duties to report such **Privacy Breach** or **Confidentiality Breach** to any data subject, **Third Party** or **Regulator**;

iii Notification Costs

to make notifications of such **Privacy Breach** or **Confidentiality Breach** to any data subject, **Third Party** or **Regulator** according to legal and regulatory duties;

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iv Third Party Indemnification Advice Costs

to determine the extent of any relevant indemnification obligations contained in any written contract between the **Insured** and any third party service provider;

v Call Centre Costs

to operate a call centre for the benefit of affected data subjects and **Third Parties**;

vi Account and Credit Monitoring Costs

to establish and procure for the affected data subjects and **Third Parties**:

- A** new account numbers; and
- B** credit monitoring services for a period of up to 12 months following the **Privacy Breach** or **Confidentiality Breach**; and

vii Other Costs

to comply with any other legal requirement owed by the **Insured** to affected data subjects and **Third Parties**;

c Loss Adjustor Costs

the reasonable and necessary fees and expenses of an **IT Expert** or other external expert incurred by the **Insured**, subject to the Loss Adjustor Costs sublimit as specified in the **Schedule**, to determine the amount and the extent of a covered **Loss**; and

d Reputation Advice Costs

the reasonable and necessary costs incurred by the **Insured**, with the prior written consent of the **Insurer** and subject to the Reputation Advice Costs sublimit as specified in the **Schedule**, in retaining a crisis communications consultant appointed by the **Insured** with the prior written consent of the **Insurer**, to prevent or reduce the effects of negative publicity which the **Insured** reasonably believes arises from an event covered under this **Section**.

D First Party Loss

1.10 Hacker Theft Cover

The **Insurer** will indemnify the **Insured** for loss of **Funds** wrongfully or erroneously paid by the **Insured** as a direct result of a **Cyber Attack** by a **Third Party** committed without collaboration with any **Insured**, which is first **Discovered** during the **Period of Insurance**.

This coverage is subject to the Hacker Theft Cover sublimit as specified in the **Schedule**.

1.11 Cyber Extortion Cover

The **Insurer** will pay to or on behalf of an **Insured** the **Cyber Extortion Loss** that the **Insured** incurs as a result of a **Cyber Extortion Threat** first **Discovered** during the **Period of Insurance**.

As a condition for payment under this cover the **Insured** will:

- a** keep the terms and conditions of this Cyber Extortion Cover confidential, unless disclosure to law enforcement authorities is required;
- b** take all reasonable steps to notify and cooperate with the appropriate law enforcement authorities; and
- c** take all reasonable steps (including the involvement of a security consultant) with the **Insurer's** prior written consent, to mitigate the **Cyber Extortion Loss**.

This coverage is subject to the Cyber Extortion Cover sublimit as specified in the **Schedule**.

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2 Extensions

2.1 Discovery Period

In the event this **Section** is neither renewed, for reasons other than for non-payment of the premium, nor replaced with similar insurance, the **Insured** will automatically be entitled, without any payment of any additional premium, to a **Discovery Period** of 60 days.

2.2 Emergency Costs

To the extent that it is not reasonably possible to obtain the **Insurer's** prior written consent, the **Insurer** will retroactively and subject to the terms of this **Section** approve the reasonable and necessary **Defence Costs** and costs covered under Insuring Clause **1.9 b** (Data Breach Response Costs) and Extensions **2.3** to **2.6**.

This cover extension is subject to the Emergency Costs sublimit as specified in the **Schedule**.

2.3 Mitigation Costs for Claims

The **Insurer** will pay to or on behalf of an **Insured** the reasonable and necessary costs incurred by the **Insured** with the **Insurer's** prior written consent to mitigate or minimize **Damages** and **Defence Costs** that would otherwise be covered under this **Section**, but only to the extent that such costs do not exceed the amount by which covered **Damages** and **Defence Costs** are reduced.

This cover extension is subject to the Mitigation Costs for Claims sublimit as specified in the **Schedule**.

2.4 Mitigation Costs for Business Interruption

The **Insurer** will pay to or on behalf of an **Insured** the reasonable and necessary costs incurred by the **Insured** with the **Insurer's** prior written consent, which are over and beyond the normal business expenses to mitigate or minimize **Business Interruption Loss** that would be covered otherwise under the **Section** (including, where reasonable and necessary, forensic costs as described under section **1.9 a**), but only to the extent that such costs do not exceed the amount by which covered **Business Interruption Loss** is reduced.

Cover is only provided where such unavailability of the **Company's Computer System** exceeds the **Waiting Period**, in which case the costs will include amounts incurred during the **Waiting Period**.

2.5 Restoration Costs

The **Insurer** will pay to or on behalf of an **Insured** **Restoration Costs** incurred as a direct result of a:

- a** **Privacy Breach, Confidentiality Breach, Cyber Attack** or
- b** **Business Interruption Event** causing the total or partial unavailability of the **Company's Computer System** which exceeds the **Waiting Period** (in which case the **Restoration Costs** will include amounts incurred during the **Waiting Period**),

but only where the relevant **Privacy Breach, Confidentiality Breach, Cyber Attack** or unavailability of the **Company's Computer System** is first **Discovered** during the **Period of Insurance**.

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2.6 Betterment following an Insured Event

Following any **Privacy Breach, Confidentiality Breach, Cyber Attack** or unavailability of the **Company's Computer System**, first **Discovered** during the **Period of Insurance** or the **Discovery Period**, if applicable, the **Insurer** will pay to or on behalf of an **Insured** the reasonable and necessary costs incurred by the **Insured** with the **Insurer's** prior written consent, to rectify the underlying cause of such **Privacy Breach, Confidentiality Breach, Cyber Attack** or the **Business Interruption Event** causing such unavailability of the **Company's Computer System**, including but not limited to upgrading or improving the **Company's Computer System** or the **Company's** software, to the extent that such rectification is reasonably necessary to prevent any future **Privacy Breach, Confidentiality Breach, Cyber Attack** or **Business Interruption Event**.

Following an unavailability of the **Company's Computer System** such cover is only provided where the unavailability exceeds the **Waiting Period**, in which case the costs will include amounts incurred during the **Waiting Period**.

This cover extension is subject to the Betterment Following an Insured Event sublimit as specified in the **Schedule**.

2.7 Voluntary Notification Costs

The **Insurer** will pay to or on behalf of an **Insured** the reasonable and necessary fees and expenses incurred by the **Insured** to make voluntary notifications of any actual, alleged or suspected **Privacy Breach** or **Confidentiality Breach** first **Discovered** during the **Period of Insurance** or the **Discovery Period**, if applicable, to any data subject, **Third Party** or **Regulator**, provided the **Insurer** reasonably believes such voluntary notification will mitigate **Loss** otherwise covered under this **Section**.

This cover extension is subject to the Voluntary Notification Costs sublimit as specified in the **Schedule**.

2.8 Industrial Control Systems/Supervisory Control and Data Acquisition (SCADA) Systems

The definition of **Computer System** will be extended to explicitly include Industrial Control Systems, including any information technology to steer or control technical processes, embedded systems or other industrial IT.

2.9 Business Interruption due to Human Error or Technical Failure

The definition of **Business Interruption Event** will be extended to explicitly include any of the following events that occur in **Computer Systems** that are under direct operational control of the **Insured**:

- a** accidental, unintentional or negligent act, error or omission of an **Insured Person** in the operation or maintenance of the **Company's Computer System**;
- b** unexpected technical failure of the **Company's Computer System** which is not an operational error under **a** above or a **Cyber Attack**.

Technical failure includes:

- i** failures in power supply, but only if the power supply is under direct operational control of the **Insured**;
- ii** over and undervoltage;
- iii** electrostatic build-up and static electricity;
- iv** overheating;
- v** a failed system upgrade;
- vi** a software error;
- vii** an internal network failure; and
- viii** hardware failure.

This cover extension is subject to the Business Interruption due to Human Error or Technical Failure sublimit as specified in the **Schedule**.

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2.10 Business Interruption due to Legal or Regulatory Requirement

The **Insurer** will pay to the **Insured** the **Business Interruption Loss** following the **Insured** actively causing the total or partial unavailability of the **Company's Computer System**, provided the **Insured** caused such unavailability:

- a complying with a legally binding order by a **Regulator** to the **Insured** to do so; or
- b fulfilling an enforceable legal or regulatory requirement of **Data Protection Regulations**,

in response to a **Privacy Breach** or **Confidentiality Breach** by the **Company** due to a **Business Interruption Event** first **Discovered** during the **Period of Insurance**.

Cover is only provided where such unavailability of the **Company's Computer System** exceeds the **Waiting Period**, in which case **Business Interruption Loss** will include amounts incurred during the **Waiting Period**.

2.11 Telephone Hacking

The **Insurer** will pay to the **Insured** the direct financial loss (including the cost of unauthorized calls or use of the **Insured's** bandwidth), which is first **Discovered** during the **Period of Insurance** and incurred by the **Insured** as a direct result of the **Insured's** telephony system being hacked by a **Third Party**.

This coverage is subject to the Telephone Hacking sublimit as specified in the **Schedule**.

2.12 Criminal Reward Fund

Following any event covered under sections **1.1**, **1.2**, **1.9** or **1.11**, at its sole discretion the **Insurer** may pay a **Criminal Reward Fund** on behalf of the **Insured**. No **Deductible** shall apply for the purposes of this Extension,

This coverage is subject to the Criminal Reward Fund sublimit as specified in the **Schedule**.

3 Definitions

In this **Section** the following words in bold will have the following meaning:

- 3.1 Business Interruption** means the necessary and complete interruption or the necessary slowdown of the **Company's** operations.
- 3.2 Business Interruption Event** means a **Cyber Attack** that occurs in **Computer Systems** that are under direct operational control of the **Insured**.
- 3.3 Business Interruption Loss** means the amount by which the **Company's** net operating profit (excluding profits out of capital and investment gains and before tax) during the **Indemnity Period** falls below the projected **Company's** net operating profit for that period as a direct result of a **Business Interruption** due to the total or partial unavailability of the **Company's Computer System**. For the purpose of projecting the net operating profit during the **Indemnity Period** which would have been earned if the **Business Interruption** had not occurred, the **Company's** revenues during the 36 months prior to the unavailability will be taken into consideration as well as all relevant trends and business developments that would have affected the **Company's** net operating profit without the unavailability of the **Company's Computer System**,

this includes:

fixed charges and other operating expenses, but only to the extent that such expenses must continue during the **Indemnity Period** and to the extent that these expenses are not covered by the **Company's** revenues as a direct result of the total or partial unavailability of the **Company's Computer System**.

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Any losses calculated will be reduced by any related benefits received by the **Company** that arise as a consequence of the **Business Interruption**, including but not limited to:

- a any alternative methods used by the **Company** to maintain its revenue stream;
- b any additional profits made by the **Company** that occur within 6 months of the **Business Interruption**; or
- c any sums saved during the **Indemnity Period** in respect of any variable charges and expenses of the **Company**.

Business Interruption Loss will not include:

- i loss resulting from suspension, cancellation or lapse of any lease, contract, license or orders by the **Company**;
- ii fines and damages for breach of contract or for late or non-completion of orders; or
- iii penalties of any nature.

3.4 Claim means:

- a any written demand, suit or proceeding; and
- b for the purposes of Insuring Clause 1.4 only:
 - i any official, administrative or regulatory investigation or audit conducted by a **Regulator**; or
 - ii any criminal prosecution brought by or at the instigation of a **Regulator**.

A **Claim** will be deemed to be first made or commenced when any of the **Company's** directors or officers, partners or any member of the **Company's** risk management department, legal department, IT department or HR department or any senior manager of any other department first becomes aware of it.

3.5 **Company** means the **Policyholder** and its **Subsidiaries**.

3.6 **Company's Computer System** means a **Computer System** the **Company** leases, owns or operates or which is made available or accessible to the **Company** for the purpose of storing and processing the **Company's** electronic data or software.

3.7 **Computer System** means a computer and all input, output, processing, storage, intranets and communication facilities including related communication or open systems networks and extranets which are connected directly or indirectly to such a device.

3.8 **Confidential Information** means:

- a confidential information which is in the care, custody or control of an **Insured** in the ordinary course of its business; and
- b information provided to the **Insured** which the **Insured** agrees in writing to treat as confidential.

3.9 **Confidentiality Breach** means:

- a the accidental or negligent disclosure by the **Insured** or the **Outsourced Service Provider** of **Confidential Information**; or
- b the unauthorised access to or use of **Confidential Information** stored in the **Company's Computer System**.

3.10 **Criminal Reward Fund** means an amount offered by the **Insurer** to the provider of information that leads to the arrest and conviction of any **Third Party** committing or attempting to commit any illegal activity related to the coverage under the following covers:-

- a **1.1** Network Security Cover;
- b **1.2** Privacy and Confidentiality Breach Cover;
- c **1.9** Crisis Management Costs Cover; or
- d **1.11** Cyber Extortion Cover.

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3.11 Cyber Attack means an intrusion into the **Company's Computer System** which results in unauthorised access or use of the **Company's Computer System** or unauthorised modification, destruction, deletion, transmission or copying of electronic data or software or consumption of computer resources, including denial of service attacks.

3.12 Cyber Extortion Loss means:

- a** reasonable and necessary fees, costs and expenses incurred by or on behalf of the **Insured** with the prior written consent of the **Insurer** directly resulting from a **Cyber Extortion Threat**; and
- b** monies payable by the **Insured** with the prior written consent of the **Insurer** in order to resolve or terminate a **Cyber Extortion Threat**.

3.13 Cyber Extortion Threat means a credible and probable threat by an extortionist to cause a **Privacy Breach, Confidentiality Breach** or **Cyber Attack**.

3.14 Damages means the following, incurred as a result of a **Claim**:

- a** any amounts that an **Insured** will be legally liable to pay to a **Third Party** in respect of judgments or arbitral awards rendered against an **Insured**;
- b** monies payable by an **Insured** to a **Third Party** pursuant to a settlement agreement negotiated by the **Company** with the prior written approval of the **Insurer**; and
- c** punitive or exemplary damages where insurable by the law of this **Section** and the jurisdiction in which the payment is to be made.

Damages will not include:

- i** the loss, offset or return of fees, commissions, royalties, bonuses or profits by the **Insured** or the costs to reperform any services;
- ii** the costs to comply with any order for, grant of or agreement to provide injunctive or other non-monetary relief;
- iii** the costs to design, upgrade, maintain, or improve a **Computer System** or software, including correcting any deficiencies or problems; or
- iv** taxes, fines or contractual penalties, unless covered under Insuring Clauses **1.4** or **1.7**.

3.15 Data Protection Legislation means any law or regulation regulating the processing of personal information, including the Data Protection Act 2018.

3.16 Defence Costs means reasonable and necessary legal fees, costs and expenses incurred by or on behalf of the **Insured**, with the prior written consent of the **Insurer**,

- a** in relation to the investigation, response, defence, appeal or settlement of a **Claim**, including the costs of attachment or similar bonds provided the **Insurer** will have no obligation to furnish such bonds;
- b** in relation to preparing, investigation, response or defence of a **Self Report** and/or assessing whether a **Self Report** is required or advised.

Defence Costs will not include any internal costs of the **Insured** (e.g. wages, salaries or other remuneration) or any amount paid by the **Insurer** or any other insurer pursuant to any policy or policies of insurance, other than this **Section**, under which there is a duty to defend.

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- 3.17 Discovered** or **Discovery** means the first manifestation of the **Insured's** directors and officers, partners or any member of the **Insured's** risk management department, legal department, IT department or HR department, or any senior manager of any other department, becoming aware of an event under Insuring Clauses **1.8, 1.9, 1.10** or **1.11** or reasonably suspecting that such event has occurred, and which would cause this person to reasonably assume that a **Loss** covered under Insuring Clauses **1.8, 1.9, 1.10** or **1.11** has been or is likely to be incurred, even though the exact amount or detail of the **Loss** may not be known at that time.
- 3.18 Discovery Period** means the period commencing immediately after the expiry of the **Period of Insurance**, during which written notice may be given to the **Insurer** of a **Claim** arising from a **Wrongful Act, Confidentiality Breach** or **Privacy Breach** that occurred prior to the expiry date of the **Period of Insurance** and only where **Loss** arising from such **Claim** is not partially nor wholly covered by any other insurance policy in force after the expiry date of the **Section**.
- 3.19 E-Payment Service Provider** means one of the following service providers: American Express, Mastercard, Visa, Maestro Card or any other similar service provider.
- 3.20 Fines and Penalties** means all monetary fines and penalties insurable by the law of this **Section** and the jurisdiction in which the payment is to be made, which the **Insured** is legally obligated to pay.
- 3.21 Funds** means any cash, money or currency owned by the **Company** or held by a financial institution in an electronic form on behalf of the **Company**.
- 3.22 Insured** means the **Company** and the **Insured Persons**.
- 3.23 Insured Persons** means any person who was, is, or during the **Period of Insurance** becomes a **Company's** director, officer or employee.
- 3.24 Indemnity Period** means the period which starts when the **Business Interruption** first occurs and ends when the **Business Interruption** has ended, but will be no longer than 180 days.
- 3.25 IT Expert** means any external IT expert appointed by the **Insured** with the prior written consent of the **Insurer**.
- 3.26 Limit of Indemnity** means the Section Limit of Indemnity specified in the **Schedule**.
- 3.27 Loss** means:
- a Damages;**
 - b Defence Costs;**
 - c Fines and Penalties** covered under Insuring Clause **1.4**;
 - d** sums covered under Insuring Clause **1.6** (Consumer Redress Funds);
 - e** contractual penalties covered under Insuring Clause **1.7** (PCIDSS);
 - f** costs covered under Insuring Clause **1.9** (Crisis Management);
 - g Restoration Costs;**
 - h Cyber Extortion Loss;**
 - i Business Interruption Loss;**
 - j** loss of **Funds** covered under Insuring Clause **1.10** (Hacker Theft);
 - k** sums covered under Section 2. Extensions; and
 - l** any other amount the **Insurer** is liable to pay under the terms and conditions of this **Section**.

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- 3.28 Media Wrongful Act** means, in the context of the **Insured's** publication or broadcasting of any digital media content, any actual or alleged:
- a** defamation, unintentional infringement of any intellectual property (other than patent infringement), misappropriation or theft of ideas or information;
 - b** invasion, infringement or interference with an individual's rights of privacy or publicity, disclosure of private facts and commercial appropriation of name, persona or likeness;
 - c** unfair competition, but only if alleged in conjunction with any of the acts listed in (a) or above; or
 - d** negligence by the **Insured** with respect to any digital media content.
- 3.29 Merger or Acquisition** means:
- a** the merger of the **Policyholder** with, or consolidation into, another entity;
 - b** the sale of all or the majority of the **Policyholder's** assets to another entity; or
 - c** the acquisition by any natural person or entity acting alone or in concert of securities or voting rights which results in ownership or control by such natural person or entity of more than 50% of the outstanding securities representing the present right to vote for the election of the board of directors of the **Policyholder**.
- 3.30 Outsourced Service Provider** means any **Third Party** who stores or processes, pursuant to a written contract, **Personally Identifiable Information** or **Confidential Information**.
- 3.31 Personally Identifiable Information** means any personal data controlled or processed by the **Insured** that is subject to protection by any **Data Protection Legislation**.
- 3.32 Policyholder** means **The Insured** as stated in the **Schedule**.
- 3.33 Privacy Breach** means:
- a** any unauthorised disclosure by **the Insured** or by the **Outsourced Service Provider** of any **Personally Identifiable Information**; or
 - b** any unauthorised access to or use of **Personally Identifiable Information** in the **Company's Computer System**,
- in actual or alleged breach of any **Data Protection Legislation**.
- 3.34 Regulator** means any official or public body with responsibility to enforce **Data Protection Legislation** including but not limited to the Information Commissioner's Office.
- 3.35 Related Events** means all **Losses** or **Claims** which arise out of, are based upon, attributable to or connected in any way to the same originating cause or source.
- 3.36 Responsible Person** means the **Company's** Chief Executive Officer, Chief Financial Officer, Chief Risk Officer, General Counsel, Head of IT, Head of HR, Data Protection Officer and Chief Compliance Officer or any **Insured Person** in a functionally equivalent position.
- 3.37 Restoration Costs** means the reasonable and necessary costs of an **IT Expert** incurred by the **Insured** as a direct result of any **Privacy Breach**, **Confidentiality Breach**, **Cyber Attack** or **Business Interruption Event** to:
- a** restore the **Company's Computer System** to the same level of functionality which existed immediately prior to such **Privacy Breach**, **Confidentiality Breach**, **Cyber Attack** or **Business Interruption Event**; and

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- b technically restore, retrieve or reinstall electronic data or software, including the cost of purchasing a software licence necessary to reproduce such electronic data or software.

Restoration Costs will not include:

- i costs to comply with any order for, grant of or agreement to provide injunctive or other non-monetary relief;
- ii legal costs or legal expenses of any type;
- iii costs that the **Insured** would have incurred anyway, without the **Privacy Breach, Confidentiality Breach, Cyber Attack** or **Business Interruption Event** (e.g. maintenance cost);
- iv costs for the correction of incorrect manual input of electronic data;
- v costs to design, upgrade, maintain, or improve the **Company's Computer System** or software, unless otherwise covered under Extension 2.6 Betterment following an Insured Event; or
- vi the **Insured's** own internal costs (e.g. labour costs, overheads, etc) unless the **Insurer** provides its written consent to such costs.

3.38 Deductible means the amount specified in the Cyber Section Schedule.

3.39 Security Wrongful Act means any actual or alleged act, error or omission of the **Insured** as a result of which a **Cyber Attack** occurred.

3.40 Self Report means the report to any **Regulator** by any **Insured** pursuant to an obligation to inform the **Regulator** of matters giving rise to actual or potential regulatory issues, where failure to give such notification or delay in notifying, can itself give rise to enforcement consequences.

3.41 Subsidiary means any entity that during the **Period of Insurance** the **Policyholder** either directly or indirectly:

- a controls the composition of the board of directors;
- b holds more than 50% of the voting shares; or
- c holds more than 50% of the issued share capital.

Cover for any **Subsidiary** will only apply to **Loss** which results directly or indirectly from any **Confidentiality Breach, Privacy Breach, Wrongful Act, Cyber Attack, Cyber Extortion Threat** or **Business Interruption Event** which took place, and are **Discovered**, while such entity is a **Subsidiary** of the **Policyholder**.

3.42 Third Party means any natural or legal person except the **Insured**.

3.43 Waiting Period means the period as specified in the **Schedule**, taken from the beginning of the **Business Interruption**.

3.44 Wrongful Act means any **Security Wrongful Act** and/or **Media Wrongful Act**.

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4 Exclusions

A General Exclusions

No coverage will be available under this **Section** with respect to any **Loss** arising out of, based upon or attributable to:

4.1 Dishonest or Improper Conduct

any:

- a deliberate criminal, fraudulent, dishonest or malicious act or omission; or
- b intentional breach or knowing violation of any duty, obligation, contract, law or regulation; or
- c intentional causing of a **Business Interruption Loss**,

by any **Insured**.

Provided, however, the **Insurer** will advance **Defence Costs** until there is:

- i a final decision of a court, arbitration tribunal or **Regulator**; or
- ii a written admission,

which establishes such behaviour. Following such finding the **Insured** will promptly repay to the **Insurer** any amount paid to or on behalf of the **Insured** under this **Section**.

No conduct, act or omission of one **Insured** will be imputed to any other **Insured**.

Notwithstanding the above, the knowledge possessed by and any conduct, act or omission of any past, present or future **Responsible Person** will be imputed to all **Companies**.

4.2 Bodily Injury and Property Damage

any actual or alleged bodily injury, sickness, mental anguish or emotional distress or disturbance, disease or death of any person howsoever caused or damage to or destruction of any tangible property, including loss of use thereof. Electronic data and software are not considered tangible property.

However, this exclusion will not apply to **Claims** to the extent that they:

- a are in respect of mental anguish or emotional distress or disturbance of a data subject resulting from a **Privacy Breach** or **Media Wrongful Act**; or
- b are for a **Privacy Breach** or **Confidentiality Breach** resulting from a loss or theft of elements of the **Company's Computer Systems**.

4.3 Contractual Liability

any liability under any contract, agreement, guarantee or warranty assumed or accepted by an **Insured** except to the extent that:

- a such liability would have attached to an **Insured** in the absence of such contract, agreement, guarantee or warranty;
- b coverage is afforded under Insuring Clause **1.7**;
- c such liability is the subject of a confidentiality agreement or non-disclosure agreement entered into by an **Insured**.

Cyber Section continued

4.4 Prior claims and Circumstances

any Claim, **Confidentiality Breach, Privacy Breach, Cyber Attack, Cyber Extortion Threat, Business Interruption Event, Wrongful Act** or any fact, event or circumstance which is likely to give rise to a **Claim, Confidentiality Breach, Privacy Breach, Cyber Attack, Cyber Extortion Threat, Business Interruption Event** or **Wrongful Act**:

- a notified to any prior insurance policy; or
- b which a **Responsible Person** was aware of, or after reasonable enquiry should have been aware of, prior to the **Period of Insurance**.

4.5 Trade Secrets and Intellectual Property

any actual or alleged plagiarism of, or infringement of any rights with respect to, information including a formula, compilation, pattern, programme, device, method, process or technique that derives independent economic value, actual or potential, from not being generally known and not readily ascertainable through proper means by another person who can obtain economic advantage from its disclosure or use, patents, trademarks, trade names, copyrights, licenses or any other form of intellectual property. However, this exclusion will not apply to coverage afforded under Insuring Clause **1.3**.

4.6 War, Looting and Governmental Acts

war, any invasion, act of foreign enemy, hostile operations (whether war has been declared or not), civil war, rebellion, revolution, insurrection, riot or civil commotion assuming the proportion of or amounting to a popular uprising, military or usurped power or martial law, looting and any expropriation, nationalisation, confiscation, requisition, seizure or any other act by or under order of any governmental, de facto or public local authority. However, this exclusion will not apply to coverage afforded under Insuring Clause **1.4** or for **Business Interruption Loss** covered under Extension **2.9**.

4.7 Trading

any losses or liabilities connected with any types of purchase or sale transactions or other dealing in securities, commodities, derivatives, foreign or Federal funds, currencies, foreign exchange, and the like.

4.8 Pollution

any discharge, dispersal, seepage, migration, release or escape of:

- a any solid, liquid, gaseous, biological or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, radiation and waste. Waste includes materials to be recycled, reconditioned or reclaimed;
- b electromagnetic energy, radiation or fields; or
- c nuclear or other radiation.

4.9 Natural Perils

any electromagnetic fields, radiation, earthquake, windstorm or other natural peril.

4.10 Licensing Fees

any actual or alleged licensing fee or royalty payment including, but not limited to, any obligation to pay such fees or royalty payments. However, this exclusion shall not apply to **Restoration Costs** incurred to purchase a software license necessary to reproduce electronic data or software.

4.11 Securities Claims

any actual or alleged violation of any statutory or common laws, rules or regulations regulating securities, the purchase or sale or offer or solicitation of an offer to purchase or sell securities, issuance or any registration relating to securities, including but not limited to the UK Financial Services and Markets Act 2000, the United States Securities Act of 1933 and the United States Securities Exchange Act of 1934 (or any amendments thereof).

Cyber Section continued

4.12 Company versus Insured Claims

any **Claim** brought by, on behalf of, or at the instigation of any **Company**.

4.13 Inadequate Description and Financial Communications – applicable to Insuring Clause 1.3 only

any:

- a actual or alleged inadequate, inaccurate or incomplete description of the price of goods, products, services and cost guarantees, cost representations, cost estimates and the authenticity of any goods, products or services or the failure of any goods, products or services to confirm with any representation regarding their quality or performance;
- b actual or alleged errors in financial data or information disseminated or publicised by the **Company**; or
- c gambling, lottery, contest, promotional game or other games of chance.

B Exclusions applicable only to Insuring Clause 1.8. (Business Interruption Loss), Extension 2.5 b (Restoration Costs) and Extension 2.9 (Business Interruption due to Legal or Regulatory Requirement)

Only with respect to Insuring Clause **1.8**, Extension **2.5 b** and Extension **2.9**, no coverage will be available under this **Section** with respect to any Loss arising out of, based upon or attributable to:

4.14 Network Interruption

any interruption or disturbance of electricity, internet, cable, satellite, telecommunication or other infrastructure, including disturbance of services provided by the service provider that hosts the **Insured's** website, blackouts and brownouts. This exclusion will only apply to such interruptions and disturbances that are outside of the **Insured's** control.

4.15 Scheduled interruption

any scheduled interruption of the **Company's Computer System** including any downtime that is the result of a planned outage lasting longer than initially planned or expected.

4.16 Unexpected Demand

the Insured's failure to anticipate or plan for normal or above normal operational demand for the **Company's Computer System** except where this demand is the result of a **Cyber Attack**.

C Exclusion applicable only to Extension 2.12 (Criminal Reward Fund)

No coverage will be available under this **Section** with respect to any **Criminal Reward Fund** arising out of, based upon or attributable to any information provided by any **Insured**, an **Insured's** auditors, any individual hired or retained to investigate the illegal activity referred to in Extension **2.12** (Criminal Reward Fund), or any other individuals with responsibilities for the supervision or management of the aforementioned individuals.

5 Duties of the Insured

5.1 Reasonable Precautions

The **Insured** will take all reasonable measures (taking into account the size and complexity of the **Insured** and resources available) to safeguard the **Company's Computer System** and prevent the occurrence, and minimize the impact, of any **Cyber Attack** or **Business Interruption Event**.

No conduct, act or omission of one **Insured** will be imputed to any other **Insured**.

Notwithstanding the above, the knowledge possessed by and any conduct, act or omission of any past, present or future **Responsible Person** will be imputed to all **Companies**.

Cyber Section continued

6 In the event of a Loss

6.1 Notification

- a** Upon **Discovery**, the **Insured** will give written notice thereof to the **Insurer** as soon as reasonably practicable, but in any event not later than 30 days after the end of the **Period of Insurance**;
- b** Upon receipt of any **Claim**, the **Insured** will give written notice thereof to the **Insurer** as soon as reasonably practicable, but in any event not later than 30 days after the end of the **Period of Insurance** or **Discovery Period**, if applicable; and
- c** If, during the **Period of Insurance**, the **Insured** becomes aware of any fact, event or circumstance which is likely to give rise to a **Claim** then the **Insured** may give written notice thereof to the **Insurer** as soon as reasonably practicable, but in any event during the **Period of Insurance**.

All notifications and all communications under this **Section** must be in writing to the address set forth in the introduction to this Policy.

6.2 Circumstances

If during the **Period of Insurance** circumstances are notified in accordance with the requirements of clause **6.1 c**, then any later **Claim** arising out of, based upon or attributable to such notified circumstances will be accepted by the **Insurer** as having been made at the same time as the circumstances were first notified to the **Insurer**.

6.3 Defence

For the purposes of Insuring Clauses **1.1, 1.2, 1.3** and **1.4** it will be the duty of the **Insured** to defend **Claims** and arrange for representation at any hearing or investigation. The **Insurer** will have the right to effectively associate with the **Insured** in respect of the conduct and management of any **Claim** to which this **Section** may apply.

6.4 Cooperation

The **Insured** will:

- a** take all reasonable steps to reduce or minimise **Loss**;
- b** in connection with the coverage afforded under Insuring Clauses **1.9, 1.10** and **1.11**, submit to the **Insurer** (at its own cost) a written, detailed proof of **Loss** which provides an explanation of the circumstances and a detailed calculation of such **Loss**;
- c** provide to the **Insurer** all such cooperation and assistance as the **Insurer** may request in connection with any **Loss**; and
- d** not admit liability, make any payments, assume any obligations, enter into any settlement or accept any judgement or award without the **Insurers** prior written consent.

6.5 Advancement of Defence Costs

The **Insurer** will pay covered **Defence Costs** to or on behalf of the **Insured** as soon as reasonably practicable after receipt of sufficiently detailed invoices.

6.6 Subrogation and Recoveries

The **Insurer** will be subrogated to all of the **Insured's** rights of recovery to the extent of all payments of **Loss** by the **Insurer** or all other amounts for which cover is provided under this **Section**. The **Insured** will do everything necessary to secure any rights, including the execution of any documents necessary to enable the **Insurer** effectively to bring suit in the name of the **Insured** whether such acts become necessary before or after payment by the **Insurer**.

Cyber Section continued

Recoveries, whether being subject to a subrogation or not, with respect to any **Loss** or any other amounts for which cover is provided under this **Section**, will be distributed as follows:

- a first, to reimburse the costs and expenses actually incurred in making the recovery;
- b second, to the **Insurer** for the amount paid to the **Insured** for any covered **Loss**;
- c third, to the **Insured** for the amount of **Loss** otherwise covered but in excess of this **Section's Limit of Indemnity** less any applicable **Deductible**;
- d fourth, to the **Insured** for any applicable **Deductible**; and
- e fifth, to the **Insured** for **Loss** specifically excluded by this **Section**.

Recovery by the **Insurer** from reinsurance will not be deemed a recovery hereunder.

7 Limit of Indemnity and Deductible

7.1 Limit of Indemnity

The **Insurer's** liability to pay or indemnify under this **Section** for each and every **Loss** and for all **Loss** in the aggregate will not exceed the **Limit of Indemnity**.

Each sublimit of liability specified in the **Schedule** is the maximum the **Insurer** will pay for the cover to which it applies and is part of the **Limit of Indemnity**.

7.2 Deductible

The **Insurer** will only be liable to pay or indemnify under this **Section** for each and every **Loss** and all **Loss** arising from a **Related Event** that is in excess of any applicable **Deductible**.

In the event **Loss** arising from a **Related Event** is covered under more than one Insuring Clause then only one **Deductible** will apply, being the highest **Deductible** applicable to one of the relevant Insuring Clauses.

7.3 Loss attributable to a Related Event

All **Related Events** will constitute one single **Claim** or **Loss** and will be deemed to be first made or **Discovered** when the earliest of such **Claims** or **Losses** was first made or **Discovered**.

8 Changes in risk

8.1 New Subsidiaries

If during the **Period of Insurance** any **Company** creates or acquires a new **Subsidiary**, it will automatically be covered under this Policy provided that:

- a the **Subsidiary** created or acquired does not have a turnover exceeding 10% of the consolidated net turnover of the **Policyholder** at the time of inception of the **Section**;
- b the **Subsidiary** is not a financial institution, telecommunication company, IT service provider or derives more than 50% of its turnover from online sales; and
- c the **Subsidiary** is not domiciled in the USA and derives not more than 50% of its turnover from activities in the USA.

8.2 Past Subsidiaries

If an entity ceases to be a **Subsidiary** under this **Section** during the **Period of Insurance**, then no coverage will be afforded under this **Section** for any **Loss Discovered** in such **Subsidiary** or **Claim** made against such **Subsidiary** after the date it ceased to be a **Subsidiary**.

8.3 Merger or Acquisition

If during the **Period of Insurance** a **Merger** or **Acquisition** occurs, the **Insurer** will only be liable to make any payment under this **Section** in relation to any **Loss** or **Claim** based upon or attributable to any **Confidentiality Breach**, **Privacy Breach**, **Cyber Extortion Threat**, **Business Interruption Event**, **Cyber Attack** or **Wrongful Act** which occurred prior to the date on which the **Merger or Acquisition** is legally effective in the jurisdiction in which it occurs.

Cyber Section continued

The **Policyholder** will give the **Insurer** written notice of the **Merger or Acquisition** as soon as practicable after the **Policyholder** first becomes aware of the **Merger or Acquisition**.

8.4 Receivership, liquidation

If a receiver, liquidator, administrator or equivalent under the laws of any jurisdiction is appointed to any Insured during the **Period of Insurance**, the **Insurer** will only be liable to make any payment under this **Section** in relation to any **Loss** based upon or attributable to any **Confidentiality Breach, Privacy Breach, Cyber Extortion Threat, Business Interruption Event, Cyber Attack** or **Wrongful Act** which occurred prior to the effective date of such appointment.

9 General Provisions

9.1 Section administration

The **Policyholder** will act on behalf of itself and each and every **Insured** with respect to:

- a negotiating the terms and conditions of and binding cover;
- b the exercise of all rights of **Insureds** under this **Section**;
- c all notices;
- d premiums;
- e endorsements and amendments to this **Section**;
- f dispute resolution; and
- g receipt of all amounts payable to any **Insured** by the **Insurer** under this **Section**.

The payment of any **Loss** and or any other amounts payable under this **Section** to the **Policyholder** will fully release the **Insurer** with respect to such **Loss** and all other amounts.

9.2 Premium Payment and Termination

The **Insured** warrants that the premium payable for this **Section** will be paid to the **Insurer** within 60 days after commencement of the **Period of Insurance**. If such payment is not made, and absent any agreement between the Insurer and the Insured to the contrary, then this **Section** will automatically terminate with effect from inception and the **Insurer** will have no liability under the **Section** in respect of any matter notified to the **Section**.

This **Section** may be cancelled by mutual agreement between the **Policyholder** and the **Insurer**.

9.3 Other insurance/indemnification

Unless otherwise required by law, cover under this **Section** is provided only as excess over any other valid and collectible insurance, including any self **insured** retention or deductible thereof unless such other insurance is written only as specific excess insurance over the **Limit of Indemnity**.

9.4 Plurals, headings and titles

The descriptions in the headings and titles of this **Section** are solely for reference and convenience and do not lend any meaning to this **Section**. Words and expressions in the singular will include the plural and vice versa. In this **Section**, words in bold have special meaning and are defined. Words that are not specifically defined in this **Section** have the meaning normally attributed to them.

9.5 Fraudulent notifications

If the **Insured** will give notice of any **Loss** knowing the same to be false or fraudulent, as regards amount or otherwise, such **Loss** will be excluded from the **Section** and the **Insurer** reserves the right to avoid this **Section** in its entirety and in such case all **Loss** will be forfeited.

Cyber Section continued

9.6 Assignment

The **Insured** will not be entitled to assign this **Section** nor any interest or right under the **Section** without the **Insurer's** written consent.

9.7 Sanctions/Embargoes

No **Insurer** will be deemed to provide cover and no **Insurer** will be liable to pay any **Loss** or claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such **Loss** or claim or provision of such benefit would expose that **Insurer** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

9.8 Territorial scope

Where legally permissible by the law of this **Section** and the jurisdiction in which the payment is to be made and subject to all terms and conditions of this **Section**, this **Section** will apply to any **Loss** incurred or Claims made anywhere in the world, unless otherwise stated in the **Schedule**.

9.9 Governing law

Any interpretation of this **Section** relating to its construction, validity or operation will be made exclusively in accordance with the laws of England and Wales.

9.10 Jurisdiction

This **Section** is subject to the exclusive jurisdiction of the Courts of England and Wales.