



**INSURANCE FOR COMPANIES THAT RELY ON TECHNOLOGY**

# Policy Document

## Contents

Preamble	1
Insuring Clauses	1
Costs	2
Limits of Our Liability	2
Your Deductible	2
Definitions	3
Exclusions	4
Conditions	7



## CFC Underwriting

CFC Underwriting Limited  
4th Floor Lloyd's Building  
12 Leadenhall Street  
London EC3V 1LP  
United Kingdom  
T: +44 (0) 870 770 1002  
F: +44 (0) 870 770 1005  
E: [enquiries@cfcunderwriting.com](mailto:enquiries@cfcunderwriting.com)  
W: [www.cfcunderwriting.com](http://www.cfcunderwriting.com)

## PREAMBLE

This Policy is a contract of insurance between **you** and **us**. **Your** Policy contains all the details of the cover that **we** provide, subject always to **our** receipt of the Premium. This Policy consists of and must be read together with the Declarations and any Endorsements. This Policy is not complete unless it is signed and a Declaration is attached. The protection provided by this Policy is relevant only for the **period of the policy**.

The Sections of this Policy are identified by the **BLUE LINES** across the page with **WHITE UPPER CASE PRINT**. Clause headings in **BLUE UPPER CASE PRINT** are for information only and do not form part of the cover given by this Policy. Other terms in **bold lower case print** are defined terms and have a special meaning as set forth in the **DEFINITIONS** section and elsewhere. Words stated in the singular shall include the plural and vice versa.

**IMPORTANT:** Cover is provided on a claims made basis for **INSURING CLAUSES 1A-D, 3, 5, 6 AND 7**. A **claim** (which must have arisen from circumstances occurring after the date specified as the Retroactive Date in the Declarations) must be first made against the company named as the Insured in the Declarations or any **subsidiary** and notified to **us** during the **period of the policy** to be covered.

In consideration of the premium and in reliance upon the information that **you** have provided to **us** prior to commencement of this insurance and which is deemed to form the basis of this insurance:

## INSURING CLAUSES

### INSURING CLAUSE 1: PRIVACY

**We** agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim** first made against the company named as the Insured in the Declarations or any **subsidiary** and notified to **us** during the **period of the policy** as a direct result of:

#### SECTION A: PERSONAL INFORMATION

**Your** breach of any individual privacy rights, unintentional disclosure of personal information, failure to maintain the security of personally identifiable data including credit card information for which **you** are responsible, violation of any statutory obligation relating to the security of personal information, or failure to warn of an actual or potential theft of personal information.

#### SECTION B: CORPORATE INFORMATION

**Your** breach of any rights of confidentiality, including **your** breach of any provisions of a non-disclosure agreement relating to commercially confidential data and information stored on **your computer systems**.

#### SECTION C: EMPLOYEE INFORMATION

**Your** breach of privacy or any rights of confidentiality as a direct result of **your** failure to maintain the confidentiality of any **computer records** pertaining to an **employee**.

#### SECTION D: PRIVACY FINES

Any fines or penalties you are legally obligated to pay as a direct result of **your** breach of **your privacy obligations** where insurable under the applicable law.

#### SECTION E: PRIVACY BREACH NOTIFICATION & LOSS MITIGATION

In addition, **we** agree to reimburse **you** for **privacy breach costs** that **you** incur as a direct result of a **claim** or **loss** under this **INSURING CLAUSE**, subject to **our** prior written agreement (such agreement not to be unreasonably withheld) and provided **you** are legally obligated to incur such **privacy breach costs** or that such reimbursement will effectively mitigate or avoid a **claim** for which **you** would have been entitled to indemnity under **INSURING CLAUSE 1** of this Policy had such measures not been taken.

### INSURING CLAUSE 2: SYSTEM DAMAGE AND INTERRUPTION

#### SECTION A: SYSTEM DAMAGE

**We** agree to reimburse **you** for **rectification costs**, subject to **our** prior written agreement (such agreement not to be unreasonably

withheld) which **you** incur:

- a) in retrieving, restoring or replacing any of **your computer records** (or any other **computer records** for which **you** are responsible) that **you** first discover during the **period of the policy** have been destroyed or damaged or lost or mislaid (and which after diligent search cannot be found), or
- b) in repairing, restoring or replacing any of **your computer systems** that **you** first discover during the **period of the policy** have been damaged, destroyed or altered,

as the direct result of any **insured peril** first discovered during the **period of the policy**.

#### SECTION B: BUSINESS SYSTEMS INTERRUPTION

**We** agree to reimburse **you** for **business interruption** loss incurred as the direct result of any **insured peril** first discovered during the **period of the policy**.

### INSURING CLAUSE 3: COMPUTER VIRUS TRANSMISSION AND HACKING

**We** agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim** first made against the company named as the Insured in the Declarations or any **subsidiary** and notified to **us** during the **period of the policy** as a direct result of:

- a) any **third parties'** financial losses arising directly from a **hacking attack** or **virus** that has emanated from or passed through **your computer systems**, or
- b) any **third parties'** financial losses arising directly from their inability to access **your computer systems** in the way in which **you** have authorized them to as a direct result of **your computer systems'** failure or impairment due to a **hacking attack** or **virus**, or
- c) any **third parties'** financial losses arising directly from the loss or theft of **your** data or data for which **you** are responsible or alleged to be responsible arising directly from a **hacking attack** or **virus**.

### INSURING CLAUSE 4: COMPUTER CRIME

**We** agree to reimburse **you** for **loss** first discovered and notified to **us** during the **period of the policy** by reason of the transferring, paying or delivering any funds or property, establishing any credit, debiting any account or giving any value directly caused by the fraudulent input, fraudulent destruction or fraudulent modification of electronic data:

- a) in **your computer system**, or
- b) in any of **your customers' computer systems**, or
- c) in the **computer system** of any service bureau with whom **you**

have a written agreement to provide data processing services, or d) during electronic transmission between, stored within or being run within any of the **computer systems** in (a), (b) or (c) above,

committed by any **third party** or any **employee** of the company named as the Insured in the Declarations or any **subsidiary** with a clear intent of causing **you loss** or damage.

#### INSURING CLAUSE 5: INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT

**We** agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim** first made against the company named as the Insured in the Declarations or any **subsidiary** and notified to **us** during the **period of the policy** as a direct result of:

- a) infringement of any **intellectual property right** arising directly from **your internet and e-mail content**, or
- b) infringement of any **intellectual property right** arising directly from **your promotional material**, or
- c) infringement of any **intellectual property right** arising directly from **third party** digital content downloaded, shared, or distributed from your **computer systems**.

#### INSURING CLAUSE 6: LIBEL, SLANDER, AND DEFAMATION

**We** agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including liability for claimants' costs and expenses) as

a result of any **claim** first made against the company named as the Insured in the Declarations or any **subsidiary** and notified to **us** during the **period of the policy** as a direct result of libel, slander, or defamation arising directly from **your internet and e-mail content**.

#### INSURING CLAUSE 7: BREACH OF STATUTORY DUTIES RELATING TO E-COMMERCE

**We** agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim** first made against the company named as the Insured in the Declarations or any **subsidiary** and notified to **us** during the **period of the policy** as a direct result of **your** breach of any statutory duty relating to **electronic commerce**.

#### INSURING CLAUSE 8: BRAND PROTECTION COVER

**We** agree to pay costs reasonably incurred with the prior written consent of the Claims Managers on the services of a public relations consultancy for the purpose of averting or mitigating damage to any of **your** brands caused by a **claim** or **loss** that is insured and that the Claims Managers have accepted under this Policy and that constitutes a **newsworthy event**.

The public relations consultancy shall be chosen by the Claims Managers who shall take into account the nature of the **claim** or **loss** and the cost and quality of the services that they can deliver, unless **you** have reasonable cause to request a different public relations consultancy and the Claims Managers and **you** mutually agree upon such a company.

## COSTS

**We** will also pay **costs and expenses** on **your** behalf.

## LIMITS OF OUR LIABILITY

**Our limit of liability** for all **claims** or **losses** in respect of each **INSURING CLAUSE** of this Policy and in respect of all **INSURING CLAUSES** of this Policy, including **costs and expenses** and **rectification costs**, shall not exceed the amounts shown in the Declarations.

Where more than one **claim** or **loss** arises from the same original cause or single source or event all such **claims** or **losses** shall be deemed to be one **claim** or **loss** and only one **limit of liability** shall be payable in respect of the aggregate of all such **claims** or **losses**.

## YOUR DEDUCTIBLE

**We** shall only be liable for that part of each and every **claim** or **loss** (which for the purpose of this clause shall be deemed to include all **costs and expenses** and **rectification costs** incurred), which exceeds the amount of the Deductible stated in the Declarations. If a **claim** or **loss** is brought under multiple **INSURING CLAUSES** as a

result of a single originating cause then the highest Deductible stated in the Declarations for the applicable **INSURING CLAUSES** shall apply.

If any expenditure is incurred by **us**, which by virtue of this clause is **your** responsibility then **you** shall reimburse such amount to **us** on **our** request.

## DEFINITIONS

1. **“Business interruption loss”**

means the lesser of the amount shown in the Declarations and the amount determined by the Claims Manager as the difference between the revenue, including advertising revenue, that **you** reasonably project has been lost solely and directly as a result of a failure in **your** capability to use **your computer systems** or access **your computer records** and the costs that **you** would have incurred, but which **you** have saved as a result of not making those sales (including the cost of raw materials, and other saved costs).

This amount shall be determined by the Claims Managers named in the Declarations based on an analysis of the revenue generated and costs during each month of the twelve months prior to the **loss** and taking into account the reasonable projection of future revenue and costs and all material changes in market conditions which would affect the future revenue and costs generated.

2. **“Claim”**

means a demand received by **you** for money or services, including the service of suit or institution of arbitration proceedings. **“Claim”** shall also mean a threat or initiation of a suit seeking injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction).

3. **“Computer records”**

means computer programmes or information stored, written or punched into card or tape or magnetic discs or any other data media.

4. **“Computer system”**

means all electronic computers including operating systems, software, hardware and all communication and open system networks and any data or websites wheresoever hosted, off-line media libraries and data back-ups.

5. **“Costs and expenses”**

means:

- a) in respect of **INSURING CLAUSES I SECTIONS A - D, 3, 5, 6 and 7** of this Policy,
  - i) **your** legal costs and expenses in the defence or settlement of any **claim** made against **you**, and
  - ii) **your** legal costs and expenses in the defence of any criminal claim made against **you**, provided that **we** maintain all rights of subrogation to recover such legal costs and expenses from any director, officer or **employee** if they are found guilty of such a criminal act.
- b) in respect of **INSURING CLAUSES I SECTION E, 2 and 4** of this Policy, the costs and expenses incurred by **you** or on **your** behalf in establishing that **you** have sustained a **loss** and the quantum of such **loss** or the costs and expenses incurred by **you** or on **your** behalf in mitigating any such **loss**.

Subject always to the **limit of liability** for each **INSURING CLAUSE** of this Policy and to the **limit of liability** for all **INSURING CLAUSES** of this Policy, and subject to all **costs and expenses** being incurred with the Claims Managers’ written consent (such consent not to be unreasonably withheld).

6. **“Electronic commerce”**

means the transacting, disseminating or enabling the marketing, buying, selling or distribution of goods, services or information through the internet, the world wide web, private networks, intranets, extranets, WAP, email or instant messaging systems.

7. **“Employee”**

means any individual in the service of the company named as the

Insured in the Declarations or any **subsidiary** who is compensated by salary, wages, fees or commissions and over whom **you** have the right to direct and control while performing services for **you**, but excluding any partner or director of the company named as the Insured in the Declarations or any **subsidiary**.

8. **“Hacking attack”**

means any malicious or unauthorised electronic attack including but not limited to any fraudulent electronic signature, brute force attack, phishing, denial of service attack, that has been initiated by any **third parties** or by any **employees** and that is designed to damage, destroy, corrupt, overload, circumvent or impair the functionality of **computer systems** or **computer records**.

9. **“Insured peril”**

means any:

- a) **hacking attack** or **virus**;
- b) malicious damage to **your computer systems** by an **employee**;
- c) accidental damage to or destruction of **your** data in respect of **INSURING CLAUSE 2 SECTION A** only; or
- d) failure of a **third party** hosting **your computer systems** as a direct result of (a) to (c) above.

10. **“Intellectual property right”**

means any intellectual property right including but not limited to trademarks, trade secrets, broadcasting rights, domain names, metatags and copyrights but does not include patents.

**“Intellectual property right”** does not mean any trade secret or confidential information that came into the possession of any person prior to the date he or she became an **employee**, director, or partner of the company named as the Insured in the Declarations or any **subsidiary**.

11. **“Internet and e-mail content”**

means any text, images, video, interactive content or advertising material published on **your** website or contained within an e-mail sent by **you** or any advertising material produced by **you** or on **your** behalf and published on a **third parties’** website.

12. **“Limit of liability”**

means the maximum amount payable by **us** as shown in the Declarations in respect of all **claims** and **losses**.

13. **“Loss”**

means direct financial loss sustained by **you**.

14. **“Newsworthy event”**

means an event, that has been caused by a **loss** or **claim** under one of the **INSURING CLAUSES** which you have purchased that has been publicised through any media channel, including television, print media, radio or electronic networks, including the internet, electronic mail, and the world wide web.

15. **“Period of the policy”**

means the period between the Inception Date shown in the Declarations and the Expiry Date shown in the Declarations or until the Policy is cancelled in accordance with **CONDITION 9** of this Policy.

16. **“Privacy breach costs”**

means any sums reasonably required to:

- a) fulfill any obligation **you** have to notify **third parties** of an actual or suspected breach of privacy in relation to any personal information; or

- b) establish a credit monitoring service or identity theft helpline; or  
 c) conduct an independent security audit of **your computer systems** to identify the source of the privacy breach.
17. **“Privacy obligations”**  
 means **your** legal obligations arising directly from:  
 a) any privacy statement governing the handling of information on **your computer systems**; or  
 b) any written contract between **you** and a **third party** governing the processing and storage of credit card information on **your computer systems**;  
 c) any implied contractual duty to use reasonable care and skill in the handling of personal data or credit card information (including breaches of the Payment Card Industry Data Security Standard);  
 d) any legal obligation to notify individuals of an actual or potential breach of their private or confidential data; or  
 e) statutory data protection regulations in the country or countries where **you** operate, including industry specific data protection and security regulations (e.g. the Healthcare Insurance Portability and Accountability Act 1996) as they currently exist and as amended.
18. **“Promotional material”**  
 means any marketing materials or tangible goods produced by **you** or on **your** behalf for the purpose of marketing **your business activities**.
19. **“Rectification costs”**  
 means those costs that **you** incur as a result of the use of external consultants, contractors or advisers or any additional costs that **you** incur to pay **your employees**. For the avoidance of doubt, **rectification costs** does not include the basic salaries of **your employees** or **your** office expenses or any payments that **you** have paid or agreed to pay as part of any service or maintenance contract.
20. **“Subsidiary”**  
 means any company which the company named as the Insured in the Declarations controls through:  
 a) holding 50% or more of the voting rights, or  
 b) having the right to appoint or remove 50% or more of its board of directors; or  
 c) controlling alone, pursuant to a written agreement with other shareholders or members, 50% or more of the voting rights therein.
21. **“Third Party/ies”**  
 means any person or company who is not a director, partner or **employee** of the company named as the Insured in the Declarations or any **subsidiary**, at the time of their acts or omissions.
22. **“Virus”**  
 means any software code including but not limited to any logic bomb, Trojan horse or worm that has been introduced by any **third parties** and/or by any **employees** and that is designed to damage, destroy, corrupt, overload, circumvent or impair the functionality of **computer systems** or **computer records**.
23. **“We/our/us”**  
 means the Underwriters named in the Declarations.
24. **“You/your”**  
 means:  
 a) the company named as the Insured in the Declarations, or any **subsidiary**, and  
 b) any past, present or future **employee**, director or partner of the company named as the Insured in the Declarations or any **subsidiary**.

## EXCLUSIONS

### We will not:

- make any payment on **your** behalf for any **claim**, or
- incur any **costs and expenses** or **rectification costs**, or
- reimburse **you** for any **loss**, legal expenses, fees or costs sustained by **you**.

### EXCLUSIONS RELATING TO OTHER INSURANCES:

- Aviation and marine**  
 arising directly or indirectly from **your** ownership, possession or use of any land, building, aircraft, watercraft, vessel or mechanically propelled vehicle.
- Double insurance**  
 for which **you** are entitled to indemnity under any other insurance except for:  
 a) any additional sum which is payable over and above such other insurance, or  
 b) any contribution that **we** are obliged to make by law and that contribution shall be in proportion to the respective Limits of Liabilities of the Policies.
- Employer's liability**  
 arising directly or indirectly from bodily injury, sickness, disease or death sustained by any **employee**, or for any breach of any obligation owed by **you** as an employer to any **employee** unless such a **claim** is specifically covered by **INSURING CLAUSE I SECTION C** of this Policy and **you** have purchased cover under **INSURING CLAUSE I SECTION C**.
- Employment practices liability**  
 arising out of or resulting from any employer-employee relations, policies, practices, acts, omissions, any actual or alleged refusal to employ any person, or misconduct with respect to employees unless such a **claim** is specifically covered by **INSURING CLAUSE I SECTION C** of this Policy and you have purchased cover under **INSURING CLAUSE I SECTION C**.
- General liability**  
 arising directly or indirectly from bodily injury, sickness, disease, or death but not mental anguish sustained by any person, or from any loss, damage or destruction of property, except as specifically covered by **INSURING CLAUSES 2 and 3** of this Policy and **you** have purchased cover under that **INSURING CLAUSE**.
- Intellectual Property Rights Infringement**  
 arising out of the actual or alleged infringement of any **intellectual property right** except as specifically covered by **INSURING CLAUSE 5** of this Policy and only if you have purchased cover under **INSURING CLAUSE 5**.
- Products liability**  
 arising out of or relating to any alleged defects in any goods or products sold, supplied, repaired, altered, manufactured, installed or maintained by **you** or by any other person, persons, partnership, firm or company acting for **you** or on **your** behalf.
- Professional liability**  
 relating to any inadequate or erroneous advice or breach of duty

of care arising from a negligent act error or omission except as specifically covered by an **INSURING CLAUSE** of this Policy and only if **you** have purchased cover under that **INSURING CLAUSE**.

#### EXCLUSIONS RELATING TO THE CONDUCT OF YOUR BUSINESS:

9. **Charge Backs**  
as a result of any request for funds or fines as a result of fraudulent credit or debit card transactions from **your** acquiring bank, although this exclusion shall not apply to any **claims** covered by **INSURING CLAUSE I** of this Policy.
10. **Circumstances known at inception**  
arising out of any circumstance or occurrence which could give rise to a **claim** or **loss** under this Policy of which **you** are aware, or ought reasonably to be aware, prior to the Inception Date of this Policy, whether notified under any other insurance or not.
11. **Contractual liability**  
arising directly or indirectly from any liability that **you** assumed under any express warranty, agreement or guarantee except as specifically covered under **INSURING CLAUSE I SECTION D** of this Policy and only if **you** have purchased **INSURING CLAUSE I SECTION D** unless such liability would have attached to **you** notwithstanding such express warranty, agreement or guarantee.
12. **Cost guarantees**  
for or arising out of the actual or alleged inaccurate, inadequate, or incomplete description of the price of goods, products or services; or as a result of **your** cost guarantees, cost representations, contract price, or estimates of probable costs or cost estimates being exceeded.
13. **ERISA**  
arising out of or resulting from **your** acts related to any pension, healthcare, welfare, profit sharing, mutual or investment plans, funds or trusts; or any violation of any provision of the Employee Retirement Income Security Act of 1974, or any amendment to the Act or any violation of any regulation, ruling or order issued pursuant to the Act.
14. **Failure or fitness of goods or services**  
arising out of the failure to supply goods or services or the supply of goods or services of inferior quality in breach of any contractual obligation, whether express or implied by law.
15. **Gambling**  
arising directly or indirectly or in any way involving any breach or alleged breach of any jurisdiction's gambling, gaming, licensing or money laundering laws.
16. **Inadequate server capacity**  
for any **business interruption loss** incurred as a result of **your** servers not having the sufficient capacity to process all of the requests placed upon them solely because the demand for **your** websites is larger than the servers are designed to process, unless the reason for such levels of demand is due to an attack on **your** service levels by any malicious denial of service attack.
17. **Internet infrastructure failure**  
in respect of **INSURING CLAUSE 2** only arising directly or indirectly from the failure of external networks, cables, and core internet infrastructure servers.
18. **Limiting recovery rights**  
arising out of **your** failure to take reasonable steps to ensure that

**our** rights of recovery against any **third party** are not unduly restricted or financially limited by a specific term in any contract or agreement.

19. **PCI implementation**  
as a result of fines or penalties from **your** acquiring bank arising directly from **your** failure to implement security measures in accordance with the PCI Data Security Standard implementation timetable.
20. **Programming errors**  
in respect of **INSURING CLAUSE 2** only arising directly or indirectly from any computer programming error, software bug, software implementation or upgrade error.
21. **Retroactive Date**  
in respect of **INSURING CLAUSE I SECTIONS A-D, 3, 5, 6 and 7** only, any **claim** arising out of any act committed or alleged to have been committed before the date specified as the Retroactive Date in the Declarations, and in respect of **INSURING CLAUSES I SECTION E, 2 AND 4** any **loss** event that occurred prior to the Retroactive Date in the Declarations.
22. **RICO**  
for or arising out of any actual or alleged violation of the Organised Crime Control Act of 1970 (commonly known as the Racketeer Influenced and Corrupt Organisation Act or RICO), as amended, or any regulation promulgated thereunder or any similar federal, state or local law, whether such law is statutory, regulatory or common law.
23. **SEC**  
for or arising out of the actual or alleged violation of the Securities Act of 1933, the Securities Exchange Act of 1934, or any similar state or federal law, or any amendment to the above laws or any violation of any order, ruling or regulation issued pursuant to the above laws.
24. **Telecom or power failure**  
arising directly or indirectly out of the failure, malfunction or inadequacy of any telecommunication lines, telephone lines, wireless communication connections, satellites, power or other utility supply.
25. **Wilful or dishonest acts of directors**  
arising out of any wilful, malicious, reckless or dishonest act or omission by any director or officer of the company named as the Insured in the Declarations or any **subsidiary**, unless such person had already ceased to be a director or officer of the company named as the Insured in the Declarations and all **subsidiaries** at the time of their first wilful, malicious, reckless or dishonest act or omission.

#### GENERAL INSURANCE EXCLUSIONS:

26. **Antitrust**  
for or arising out of any actual or alleged antitrust violation, restraint of trade, unfair competition, false, deceptive or unfair trade practices, violation of consumer protection laws or false or deceptive advertising.
27. **Associated companies**
  - a) in respect of any **claim** made by any company firm or partnership in which the company named as the Insured in the Declarations has an executive or financial interest; or
  - b) in respect of any **claim** made by any company firm partnership or individual which has an executive or financial interest in the company named as the Insured in the Declarations or any **subsidiary**, unless such **claim** emanates

from an independent **third party**; or

- c) arising out of or resulting from any of **your** activities as a trustee, partner, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than that of the company named as the Insured in the Declarations or any **subsidiary**; or
- d) in respect of **INSURING CLAUSES 1, 3, 5, 6, 7** by or on behalf of the company named as the Insured in the Declarations or any **subsidiary**, except as specifically covered by **INSURING CLAUSE I SECTION E** of this Policy and only if you have purchased cover under **INSURING CLAUSE I SECTION E**.

**28. Electromagnetic field**

directly or indirectly arising out of or resulting from the existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment, or that affects the value, marketability, condition or use of any property.

**29. Fines**

for fines, penalties, civil or criminal sanctions and for punitive, multiple or exemplary damages except as specifically covered under **INSURING CLAUSE I SECTION D**, of this Policy and only if **you** have purchased cover under **INSURING CLAUSE I SECTION D**.

**30. Future profits**

for future royalties or future profits, restitution, disgorgement of profits by **you**, or the costs of complying with the orders granting injunctive or equitable relief, or the return or offset of fees, charges, or commissions for goods or services already provided or contracted to be provided, except as specifically provided by **INSURING CLAUSE 2 SECTION B** of this Policy and provided that **you** have purchased cover under **INSURING CLAUSE 2 SECTION B**.

**31. Insolvency**

arising out of or relating directly or indirectly from **your** insolvency or bankruptcy.

**32. Nuclear**

for any liability directly or indirectly caused by or contributed to by or arising from:

- a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- b) the radioactive toxic explosive or other hazardous properties of

any explosive nuclear assembly or nuclear component thereof.

**33. Patents**

arising out of the actual or alleged infringement of any patent or inducing the infringement of any patent.

**34. Pollution, asbestos and toxic mold**

arising directly or indirectly or resulting from or in any way connected with (a) pollution or contamination of any kind, (b) the manufacturing, mining, use, sale, installation, removal, distribution of or exposure to asbestos, materials or products containing asbestos, or asbestos fibres or dust, or (c) the actual, potential, or alleged presence of mold, mildew or fungi of any kind whatsoever.

**35. Trade Debt**

arising out of or in connection with any trading losses or trading liabilities incurred by any business managed or carried on by **you**, or any loss of **your** profit arising from the loss of any client, account or business, except as specifically covered by **INSURING CLAUSE 2** of this Policy and provided that you have purchased cover under **INSURING CLAUSE 2**.

**36. War and terrorism**

directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the **claim** or **loss**:

- a) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- b) any **act of terrorism**.

For the purpose of this **EXCLUSION** an **act of terrorism** means an act, including but not limited to the use of force or violence or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government or to put the public, or any section of the public, in fear.

This **EXCLUSION** also excludes **claim**, **loss**, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to a) or b) above.

This **EXCLUSION** does not apply to any **claim** or **loss** arising directly from a **hacking attack** or **virus**.

## CONDITIONS

1. **Fraudulent claims**

If **you** make any **claim** or notify any **loss** knowing that **claim** or **loss** to be false or fraudulent in any way, **we** shall have no responsibility to pay that **claim** or **loss** or any other **claims** or **losses** under this insurance and the Policy will be treated as if it had not been effected.

2. **What you must do in the event of a claim or loss**

Should **you** become aware of any **claim** or **loss** or of any situation that could give rise to a **claim** against **you** or should an allegation, complaint or **claim** be made or intimated against **you**, the following obligations must be complied with by **you**:

- a) **You** must not admit liability for or settle or make or promise any payment in respect of any **claim** or **loss**, which may be covered under this Policy. Neither must **you** incur any **costs** or **expenses** or **rectification costs** in connection with such a **claim** or **loss** without **our** written consent.
- b) The Claims Managers, as specified in the Declarations, must be notified as soon as is reasonably possible if during the **period of the policy**:
  - i) **you** suffer any **loss** that could be covered by this Policy or any allegation, complaint or **claim** is made or intimated against **you**, whether verbal or made in writing.
  - ii) **you** become aware of the intention of any person to make a complaint allegation or **claim** against **you**, whether verbal or in writing. Once notice has been made to **us**, **we** will regard any subsequent **claim** that may arise as notified under this Policy.
  - iii) **you** become aware of an action of **yours** that could give rise to a **loss**, allegation, complaint or **claim** being made or intimated against **you**. Once notice has been made **we** will regard any subsequent claim that may arise as notified under this Policy.
  - iv) **you** discover reasonable cause for suspicion of fraud or dishonesty whether this could give rise to a **claim** under this Policy or not and **we** shall not be liable under this Policy for any **claim** or **loss** sustained in consequence of any fraudulent or dishonest act or omission committed after the date of such discovery.

**We** have nominated the Claims Managers to accept notice on **our** behalf and they will decide what steps should be taken to protect **your** interests.

Due to the nature of the coverage offered by some of the **INSURING CLAUSES** of this Policy, any unreasonable delay by **you** in notifying the Claims Managers of (i), (ii), (iii) or (iv) above could lead to the size of **your claim** or **loss** increasing or to **our** rights being restricted. **We** shall not be liable for that portion of any **claim** or **loss** that is due to any unreasonable delay in **you** notifying the Claims Managers of any **claim** or **loss** in accordance with this clause.

- c) **We** will expect **you** to provide **us** with full and accurate information about any matter that **you** notify to **us** under **your** obligations set out above. Once notice has been made **you** must give the Claims Managers all the assistance and information that is reasonably required. **You** must follow their advice and do anything that they reasonably require **you** to do to avoid, minimise, settle or defend any **claim** or **loss**.

**You** must permit the Claims Managers and any other parties that are appointed by the Claims Managers to notify the appropriate law enforcement authorities of any **claim** or **loss** under this Policy where this action is deemed necessary, and **you** must comply with the advice given by such authorities.

3. **Agreement to pay claims**

**We** have the right and duty to take control of and conduct in

**your** name the investigation settlement or defence of any **claim** or **loss**. **We** shall also pay on **your** behalf **costs** and **expenses** or **rectification costs** incurred with **our** prior written consent (subject to the Limits of Liability and applicable Deductible shown in the Declarations) provided that **we** shall not:

- a) pay for the **costs** and **expenses** or **rectification costs** of any part of a **claim** or **loss** that is not covered by this Policy.
- b) incur any **costs** and **expenses** in the defence of any **claim** unless there is a reasonable prospect of success, taking into account the commercial considerations of the costs of defence.

**We** shall always endeavour to settle any **claim** through negotiation, mediation or some other form of alternative dispute resolution and shall pay on **your** behalf the amount so agreed by us and the claimant. If **we** cannot settle by such means, **we** shall pay the amount which **you** are found liable to pay either in court or through arbitration proceedings, subject always to the Limit of Liability shown in the Declarations.

If **you** refuse to consent to a settlement that **we** recommend and that the claimant will accept, then **you** must then defend, investigate or settle the **claim** at **your** own expense. As a consequence of **your** refusal, **our** liability for any **claim** shall not be more than the amount that **we** could have settled the **claim** had **you** consented, plus any **costs** and **expenses** incurred prior to the date of such refusal.

4. **Our rights of recovery**

If any payment is made under this Policy in respect of a **claim** or **loss** and there is available to **us** any of **your** rights of recovery against any other party then **we** maintain all such rights of recovery. **We** shall not exercise these rights against any past, present or future **employee**, director or partner of the company named as the Insured in the Declarations or any **subsidiary**, unless such payment is in respect of any wilful, malicious or dishonest acts or omissions.

5. **Your duty to advise us of material changes**

If **you** become aware that any of the information that **you** have given **us** in the Application Form or elsewhere in connection with **your** proposal for this insurance has materially changed then **you** must advise **us** as soon as is practicable. In this event, **we** reserve the right to amend the terms, conditions or premium of the Policy.

6. **Your duty to comply with additional conditions**

If **we** attach any additional conditions to **your** Policy regarding any risk survey or risk management timetable or any other conditions then it is **your** responsibility to ensure that these conditions are complied with by the deadlines shown in the conditions.

7. **Prior Subsidiaries**

Should an entity cease to be a **subsidiary** after the Inception Date of this Policy, cover in respect of such entity shall continue as if it was still a **subsidiary**, until the termination of this Policy, but only in respect of any **claim** or **loss** that arises out of any act, error or omission committed by that entity prior to the date that it ceased to be a **subsidiary**.

8. **Mergers and acquisitions**

During the **period of the policy**, if the company named as the Insured in the Declarations or any **subsidiary**:

- a) purchases assets or acquires liabilities from another entity in an amount greater than ten percent (10%) of the assets of the company named as the Insured in the Declarations as listed in its most recent financial statement; or



- b) acquires another entity whose annual revenues are more than ten percent (10%) of the annual revenues of the company named as the Insured in the Declarations for their last completed financial year;

then **you** shall have no coverage under this Policy for any **claim** or **loss** that arises out of any act, error or omission, whether committed either before or after such merger, purchase or acquisition:

- a) at the premises of the acquired entity;
- b) by the acquired entity or any person employed by the acquired entity;
- c) involving or relating to the assets, liabilities, or **computer systems** of the acquired entity; or
- d) involving or relating to the purchased assets or liabilities,

unless the company named as the Insured in the Declarations gives **us** written notice prior to the purchase or acquisition, obtains **our** written consent to extend coverage to such additional entities, assets or exposures, and agrees to pay any additional premium required by **us**.

If during the **period of the policy** the company named as the Insured in the Declarations consolidates or merges with or is acquired by another entity, then all coverage under this Policy shall terminate at the date of the consolidation, merger or acquisition unless **we** have issued an endorsement extending coverage under this Policy, and the company named as the Insured in the Declarations has agreed to any additional premium and terms of coverage required by **us**.

#### 9. Cancellation

This Policy may be cancelled:

- a) by **you** at any time on request; or
- b) by **us** if **we** give **you** 30 (thirty) days written notice, or
- c) by **us** if **we** give **you** 15 (fifteen) days written notice, should any amount in default not be paid within 15 (fifteen) days of the due date shown in the Debit Note that accompanies this Policy.

If **you** give **us** notice of cancellation in accordance with a) above, the earned Premium shall be computed at pro rata to the number of days that the Policy is in effect subject to a minimum amount of thirty percent (30%) of the Premium.

If **we** give **you** notice of cancellation in accordance with b) or c) above, the Premium shall be computed at pro rata to the number of days that the Policy is in effect.

The Policy Administration Fee shall be deemed fully earned upon inception of the Policy.

#### 10. Extended reporting period

In the event of cancellation or non-renewal of this Policy by **us**, an Extended Reporting Period of 30 days following the Expiry Date as shown in the Declarations shall be automatically granted hereunder at no additional premium. Such Extended Reporting Period shall cover **claims** first made or **losses** first discovered and reported to **us** during this 30 day Extended Reporting Period but only in respect of any act, error or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions and exclusions of the policy. No **claim** or **loss** shall be accepted by **us** in this 30 day Extended Reporting Period if **you** are entitled to indemnity under any other insurance, or would have been entitled to indemnity under such insurance but for the exhaustion thereof.

#### 11. Optional extended reporting period

In the event of:

- a) cancellation or non-renewal of this Policy by **us**, or

- b) cancellation or non-renewal of this Policy by **you** because you have ceased to trade as the direct result of the retirement or death of all of your directors, officers or partners;

then **you** shall have the right, upon payment in full and not proportionally or otherwise in part, of 100% of the annual Premium shown in the Schedule, to have issued an endorsement providing a 365 day Optional Extended Reporting Period from the cancellation or non-renewal date. Such Optional Extended Reporting Period shall cover **claims** first made or **losses** first discovered against the company named as the Insured in the Declarations or any **subsidiary** and notified to **us** during this Optional Extended Reporting Period but only in respect of any **claim** or **loss** arising out of any act, error or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions and exclusions of the policy.

In order for **you** to invoke the Optional Extended Reporting Period option, the payment of the premium as stated in this **CONDITION** for this Optional Extended Reporting Period must be paid to **us** within 15 days of the date of the non-renewal or cancellation.

At the commencement of this Optional Extended Reporting Period the entire premium shall be deemed earned and in the event that **you** terminate the Optional Extended Reporting Period for any reason prior to its natural expiration, **we** will not be liable to return any premium paid.

The right to the Extended Reporting Period or the Optional Extended Reporting Period shall not be available to **you** where:

- a) Cancellation or non-renewal by **us** is due to non-payment of premium, or
- b) Cancellation or non-renewal by **us** is due to **your** failure to pay such amounts in excess of the applicable Limit of Liability or within the amount of the applicable Deductible as is required by this Policy in the payment of **claims** or **losses**.

At the renewal of this Policy, **our** quotation of different premium, Deductible or Limit of Liability or changes in policy language shall not constitute non-renewal by **us** for the purposes of granting the Extended Reporting Period or the Optional Extended Reporting Period.

In no event shall the granting of the Extended Reporting Period or the Optional Extended Reporting Period increase **our** Limit of Liability, including **costs and expenses** and **rectification costs**, as shown in the Declarations.

#### 12. Innocent non-disclosure

**We** will not seek to avoid the Policy or reject any claim on the grounds of non-disclosure or misrepresentation except where the non-disclosure or misrepresentation was reckless or fraudulent or **you** failed to conduct a full enquiry prior to providing the information that forms the basis of this insurance. In the event that **we** seek to avoid the Policy or reject any claim on this basis the burden of proving otherwise rests solely with **you**.

#### 13. Service of suit

In the event of a dispute between **you** and **us** regarding this Policy **we** agree, at **your** request, to submit to the jurisdiction of a Court of competent jurisdiction within the United States of America.

Nothing in this **CONDITION** constitutes or should be understood to constitute a waiver of **our** rights to commence an action in any Court of competent jurisdiction in the United States of America, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States of America or the laws

of any State of the United States of America.

It is further agreed that service of process in such suit may be made upon:

Mendes & Mount LLP  
750 Seventh Avenue  
New York, N.Y. 10019-6829

and that in any suit instituted against **us, we** will abide by the final decision of such Court or of any Appellate Court in the event of an appeal. Mendes & Mount LLP are authorized and directed to accept service of process on **our** behalf in any such suit and, at **your** request,

to give a written undertaking to **you** that they will enter a general appearance on **our** behalf in the event such a suit is instituted.

Additionally, in accordance with the statute of any state, territory or district of the United States which makes such a provision, **we** hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as **our** true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by **you** arising out of this Policy. Mendes & Mount LLP are hereby designated as the firm to whom the above-mentioned officer is authorized to mail such process or a copy thereof.

# C&P



**INSURANCE FOR COMPANIES THAT RELY ON TECHNOLOGY**



**CFC Underwriting**

CFC Underwriting Limited  
4th Floor Lloyd's Building  
12 Leadenhall Street  
London EC3V 1LP  
United Kingdom  
T: +44 (0) 870 770 1002  
F: +44 (0) 870 770 1005  
E: [enquiries@cfcunderwriting.com](mailto:enquiries@cfcunderwriting.com)  
W: [www.cfcunderwriting.com](http://www.cfcunderwriting.com)