

Technology Protection

Policy wording

About this policy

This is a claims made and notified policy. This means that, subject to its other provisions, the policy only covers claims first made against you in the policy period and which are also notified to us in that period. It is important that you understand the full extent of your and our rights and duties under this policy so we urge you to read the entire policy carefully. All words and phrases that appear in bold type (except headings) have special meaning and are defined under Definitions (Section VIII) of this policy.

I. Our promise to you

We will indemnify **you** for any **claim** that falls within What has to go wrong (Section II) under this policy, What we will pay (Section IV) under this policy, and How much we will pay (Section V) under this policy.

We will not make any payment in connection with any **claim** unless **we** are notified in accordance with What you must notify and when (Section III) under this policy, the premium and applicable **retention** are paid, and **you** are in compliance with your obligations to us (Section VII) under this policy. Also, **we** will not make any payment that is excluded by What we will not pay (Section VI) under this policy.

II. What has to go wrong

The performance of **business activities** on or after the **retroactive date** by **you** or anyone on **your** behalf, including **your** subcontractors and outsourcers, results in a **claim** first made against **you** during the **policy period** for any actual or alleged:

- a. Unintentional breach of a written contract brought by a **client**;
- b. negligence or breach of any duty to use reasonable care, including but not limited to negligent transmission of a computer virus, worm, logic bomb or Trojan horse or negligence in connection with a denial of service attack, or negligent misrepresentation;
- c. intellectual property infringement (but not any patent infringement or trade secret misappropriation), including but not limited to copyright infringement, trademark infringement, trademark dilution, trade dress infringement, publicity rights violations, cyber squatting violations, moral rights violations, any act of passing-off, or any misappropriation of formats, characters, trade names, character names, titles, plots, musical compositions, voices, slogans, graphic material or artwork;
- d. unfair competition, deceptive business practices or false designation of origin but only when asserted in conjunction with and based on the same allegations as a **claim** under What has to go wrong (c) above;
- e. breach of any duty of confidentiality, invasion of privacy, or violation of any other legal protections for personal information, including but not limited to false light, intrusion upon a person's seclusion, public disclosure of a person's private information, misappropriation of a person's picture, name, voice or identity for commercial gain, unauthorised interception or recording of images or sound in violation of any civil anti-wiretap statute; or
- f. defamation, including but not limited to libel, slander, trade libel, product disparagement, or injurious falsehood.

III. What you must notify and when

A. Claims

It is a condition precedent that **you** must notify **us** of **claims** against **you** as soon as practicable and within the **policy period**. Proper notification of **claims** must be sent in accordance with the notification details in the schedule.

B. Potential claims

You may notify **us** of **potential claims** under this policy. If **you** do, such notification must be provided as soon as practicable and within the **policy period**, and must to the fullest extent possible identify the particulars of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, the likely demand for relief, and any additional information about the **potential claim** that **we** reasonably request. If such a **potential claim** notification is made to **us** then **we** will treat any **claim** arising from the same particulars as that notification as if it had first been made against **you** on the date **you** properly notified **us** of it as a **potential claim**, even if that **claim** is first made against **you** after the **policy period** has expired. Proper notification of **potential claims** must be sent in accordance with the notification details in the schedule.

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- C. Automatic extended reporting period
- If **we** renew this policy, then **we** agree to accept **your** proper notification of **claims** and **potential claims** under this policy up to 30 days after the **policy period** has expired, provided **you** first become aware of the **claim** or **potential claim** during the last 30 days of the **policy period**.
- If **we** cancel this policy or do not offer renewal terms for this policy, then **we** agree to accept **your** proper notification of **claims** and **potential claims** under this policy up to 30 days after the **policy period** has expired, provided **you** first become aware of the **claim** or **potential claim** during the last 30 days of the **policy period** or during the 30 day window immediately following the **policy period**, and such **claim** or **potential claim** directly arises from **business activities** first performed after the **retroactive date** but before the end of the **policy period**.
- The automatic extended reporting periods described in this section do not apply unless **we** are notified of such **claim** or **potential claim** as soon as practicable but no later than 30 days from the date **you** first learned of the **claim** or **potential claim**, and they do not apply to any policy that **we** have cancelled or refused to renew due to or failure to comply with Your obligation to us (Section VII)

IV. What we will pay

- A. Payments toward defence costs
- We** will pay covered **defence costs** on **your** behalf, and covered **defence costs** on behalf of **your employees** with **your** prior consent subject to What we will pay C. below provided **you** have paid the applicable **retention**.
- B. Payments toward claim resolution
- We** will pay the amount agreed by **you** and **us** through good faith negotiation, mediation or some other form of alternative dispute resolution to settle a claim or satisfy a judgment or arbitration against you or your employee(s) subject to What we will pay C. below, including any judgment or award ordering the payment of claimant's attorney fees and costs. Such amounts to be paid by us shall not include or be calculated based on any of your overhead expenses, or profits, salaries or wages, or any future cost of doing business, including but not limited to the cost of any future licence or royalty.
- C. Payments towards claims against your employees
- Subject to **your** written request following **your** review of a **claim** against an **employee**, **we** will pay sums as described in What we will pay A. and B. above on behalf of **your employee** due to a **claim** being made against him or her that directly arises from the performance of **your business activities**. The only payments **we** will make toward a **claim** against **your employee** under this policy are payments to which **you** would be entitled under this policy if the same **claim** against **your employee** had been made against **you**. However, **we** will not deny cover for payments toward a **claim** against **your employee** due to any failure by **you** to comply with What we will pay (Section IV) where the failure is solely attributable to **your employee's** failure to notify **you** of the **claim** against him or her as soon as practicable.
- We** will not pay for any portion of any **claim** against **your employee** that:
- arises out of any fraudulent conduct, dishonest conduct, criminal conduct, malicious conduct, conduct committed in reckless disregard of another's rights (but not in respect of a defamation claim), conduct intended to cause harm to another person or business, or any knowing or willful violation of a law committed by **your employee**; however, this exclusion will not apply unless such conduct, or willful violation of the law has been established by a final adjudication in any judicial, administrative, or alternative dispute resolution proceeding, or by **your** or **your employee's** admission in a proceeding or otherwise, at which time **you** shall reimburse **us** for all payments made by **us** in connection with such conduct or willful violation of the law and all of **our** duties in respect of that entire **claim** shall cease;
 - arises out of any matter that prior to the first day of the **policy period** **you** knew or reasonably ought to have known would be likely to lead to a **claim** against **you** or **your employee**; or
 - results in whole or in part from **your employee's** admission of liability in a proceeding or otherwise.
- D. Payments toward your own declaratory relief actions
- We** will pay reasonable attorney's fees on **your** behalf in excess of the amount of the **retention** to prosecute **your** own declaratory relief action if:

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- a. a claimant has advised **you**, in writing, that **you** are committing copyright or trademark infringement;
- b. after that claimant has asserted such a written **claim**, and after **you** have filed a declaratory relief action directly in response to that **claim**, the claimant files a counterclaim against **you** alleging copyright or trademark infringement; and
- c. the counterclaim is covered under this policy and pending against **you** while **you** are prosecuting **your** declaratory relief action.

E. Payments toward your outstanding fees

If **your client** refuses to pay **your** contractually agreed fees (including any amount **you** are legally liable to pay a sub-contractor at the date **your client** first refuses to pay), and **you** satisfy **us** that:

- a. **you** do not have reasonable grounds to legally compel payment of the amount owed; and
- b. there is written evidence from **your client** that they intend to make a legitimate **claim** against **you** for an amount covered by this policy that is greater than the amount **you** are owed;

then **we** will pay the amount **you** are owed in excess of the amount of the **retention** (excluding any amount for **your** lost profit, mark-up and liability for taxes or its equivalent) if **you** satisfy **us** that **our** payment is reasonably likely to fully and finally resolve all known **claims** and **potential claims** by that **client**.

If subsequently a **claim** is still made against **you** following **our** payment of **your** outstanding fees, then these payments **we** have made less any amount recovered from **your client** in respect of **your** contractually agreed fees will be a credit against any amounts payable by **us** in the defence and/or resolution of that **claim**. Any credit that may remain after that **claim** is resolved may be applied against any amounts payable by **us** in the defence and/or resolution of any other **claim** subject to coverage under this policy or, at our discretion, may stand in reduction of the **Policy Limit**.

F. Defence arrangements

We have the right but not the obligation to take control of and conduct in **your** name, the investigation, settlement or defence of any claim. If **we** think it necessary **we** will appoint a lawyer, adjuster or other appropriate person to deal with the claim. Proceedings will only be defended if there is a reasonable prospect of success and taking into account the commercial considerations of the cost of defence.

V. How much we will pay

Our maximum payment

The **policy limit** is the maximum **we** will pay under this policy for any single **claim** (inclusive of **defence costs**) and the maximum **we** will pay for the total aggregate of all **claims** (inclusive of **defence costs**) and all other payments expressly covered by this policy.

However, if a policy sub-limit is specified in the schedule to this policy, then such sub-limit shall apply. All sub-limits under this policy are included within the **policy limit** and are not in addition to the **policy limit**.

Paying the policy limit

At any stage, **we** can pay **you** the remainder of the **policy limit**, after which **we** will have no further liability to **you** under this policy, either for **defence costs**, **claim(s)** or otherwise.

At any stage, **we** can pay **you** the remainder of a sub limit, after which **we** will have no further liability to **you** either for **defence costs**, **claim(s)**, or otherwise.

VI. What we will not pay

Exclusions

We will not make any payment, including **defence costs** toward any portion(s) of any:

1. **claim** for, alleging, or arising from any contractual liability where at the time such contract was entered **you** were aware or reasonably ought to have been aware that there were not sufficient technical, logistical, or financial resources to perform the contract as promised, including **your** promise to meet a certain performance standard under a service level agreement;

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2. **claim** for, alleging, or arising from any breach of a warranty or guarantee; however, this exclusion will not apply to the following:
 - a. **your** warranty or guarantee that **you** will use reasonable care and skill in the performance of a contract;
 - b. **your** warranty or guarantee that any software, hardware, firmware, or related services falling within **your business activities** will not infringe another's intellectual property rights;
 - c. any implied warranty or similar statutory term requiring any software, hardware, or firmware falling within **your business activities** to meet a certain standard of quality, safety or fitness, even if **you** have expressly warranted that such software, hardware, or firmware will meet the legally required standard to which **you** are subject;
 - d. **your** warranty or guarantee that any software, hardware, firmware, or related services falling within **your business activities** will substantially conform to any material, written specifications and performance standards forming part of the contract between **you** and **your client**;
 3. **claim** for, alleging, or arising from any breach of any exclusivity, non-competition, non-solicitation, or other similar commercial terms in **your** contract with a **client**;
 4. **claim** resulting in an award for consequential loss, special damages, or loss of claimant's profits. However, this exclusion will not apply to:
 - a. breach of a warranty made by **you** that any software, hardware, firmware, or related services falling within **your business activities** will not infringe another's intellectual property rights;
 - b. breach of an express contractual provision that is solely triggered by the disclosure of **your client's** confidential information;
 - c. a court's award of consequential, special or indirect damages resulting from **your** contractual disclaimer of such damages being deemed unenforceable by the same court issuing the award;
 - d. any portion of such an award that falls within and is subject to a monetary cap on damages contained in **your** contract with a **client**, or
 - e. any contract between **you** and a governmental entity that has insisted, in writing, that it retain the right to recover consequential damages as a precondition to the execution of the contract;
 5. **claim** for, alleging, or arising from any defect in any software, hardware, firmware, or associated network cabling that is solely caused by a third party, including but not limited to any third party software supplier, manufacturer or originator; however, this exclusion will not apply to: (1) covered **defence costs we** pay on **your** behalf to defend such **claims** but only until (if ever) there is a finding in any legal proceeding (including any arbitration) or any admission that the defect at issue is solely caused by a third party, at which time **our** duty to defend **you** will end and **you** shall reimburse **us** for all **defence costs** that **we** have paid toward that **claim**, or (2) any amount **you** satisfy **us** that **you** are legally able to recover under a written contract;
 6. **claim** for, alleging, or arising from any costs or expenses involved in the repair, upgrade, correction, recall or replacement of any software, hardware, firmware, or associated network cabling, or any costs or expenses relating to **your** legal obligation to comply with an injunction; however, this exclusion will not apply to any portion of a judgment requiring **you** to pay direct damages to **your client** for breach of contract;
 7. **claim** for, alleging, or arising from any false or misleading advertisement about **your** goods or services that is published or broadcast to the general public or a specific marketing segment for the purpose of promoting any aspect of your business; however, this exclusion will not apply to any covered portion of any **claim** based on **your** alleged unauthorized use of another's trademark.
 8. **claim** for, alleging, or arising from **your** commercial decision to cease providing a particular product or service but only if **you** are contractually obligated to continue
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providing such product or service;

9. **claim** for, alleging, or arising from any self-replicating, malicious code that was not specifically targeted to **your** system; however, this exclusion will not apply to any covered portion of any **claim** for negligent transmission of a computer virus, worm, logic bomb, or Trojan horse;
10. **claim** for, alleging, or arising from any commercial dispute with **your** business partner or business associate, including but not limited to any reseller, distributor, original equipment manufacturer, third-party sales agent, systems integrator, or joint venturer, but only to the extent such a **claim** is based upon:
 - a. a commission or royalty, or any other term upon which such partner or associate is to be compensated in connection with doing business with **you**, or any compensation or remuneration promised or owed by **you** pursuant to those terms; or
 - b. **your** decision to cease doing business with such a partner or associate.
11. **claim** for, alleging, or arising from any infringement, use, or disclosure of a patent, or any use, disclosure or misappropriation of a trade secret;
12. **claim** for, alleging, or arising from any fraudulent conduct, dishonest conduct, criminal conduct, malicious conduct, conduct committed in reckless disregard of another's rights (but not in respect of a defamation **claim**), conduct intended to cause harm to another person or business, or any knowing or willful violation of a law, whether committed by **you** or committed by another whose conduct or violation of the law **you** have ratified or actively condoned; however, this exclusion will not apply unless such conduct, or willful violation of the law has been established by a final adjudication in any judicial, administrative, or alternative dispute resolution proceeding, or by **your** own admission in a proceeding or otherwise, at which time **you** shall reimburse **us** for all payments made by **us** in connection with such conduct or willful violation of the law and all of **our** duties in respect of that entire **claim** shall cease;
13. **claim** for, alleging, or arising from any unfair competition, deceptive trade practices, restraint of trade or antitrust statute, legislation or regulation; however, this exclusion will not apply to any covered portion of any **claim** for unfair competition, deceptive trade practices, or false designation of origin where that cover is expressly granted under What has to go wrong (Section II);
14. **claim** for, alleging, or arising from any governmental enforcement of any state or federal/central regulation, including but not limited to any regulation promulgated by the Federal Trade Commission, Federal Communications Commission or the Securities and Exchange Commission or equivalent entities in any jurisdiction;
15. **claim** for, alleging, or arising from any:
 - a. liability or breach of any duty or obligation owed by **you** regarding the sale or purchase of any stocks, shares, or other securities, or the misuse of any information relating to them, including breach or alleged breach of any related legislation or regulation, including but not limited to the U.S. Securities Act of 1933 and Securities Exchange Act of 1934, both as amended;
 - b. liability or breach of any duty or obligation owed by **you** regarding any statement or representation (express or implied) contained in **your** accounts, reports or financial statements, or concerning **your** financial viability;
 - c. liability or breach of any duty or obligation owed by **you** regarding financial advice **you** give or the arrangement of any financing or credit by **you**;
 - d. violation of any taxation law or regulation(s);
 - e. breach of any fiduciary duty owed by **you**;
16. **claim** for, alleging, or arising from any:
 - a. racketeering or conspiracy law, including but not limited to violation of the Racketeer Influenced and Corrupt Organizations (RICO) Act and all amendments to this Act or any rules or regulations promulgated under it;

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- b. collusion, extortion, or threatened violence;
17. **claim** for, alleging, or arising from any:
- a. liability or breach of any duty or obligation owed by **you** in connection with the operation or administration of any health, pension or employee benefit scheme, plan, trust or fund, including but not limited to violation or alleged violation of any related legislation or regulation such as the Employee Retirement Income Security Act of 1974;
 - b. liability or breach of any duty or obligation owed by **you** as an employer, including but not limited to any allegation of discrimination, harassment, or wrongful termination;
 - c. liability or breach of any duty or obligation owed to **you** and/or **your** shareholders by any of **your** director(s), officer(s), trustee(s), or board member(s), including but not limited to any allegation of insider trading or breach of any duty of corporate loyalty;
18. **claim** for, alleging, or arising from any chargeback, liability or fee incurred by **you** or **your client** as a result of a merchant service provider, including any credit card company or bank, wholly or partially reversing or preventing a payment transaction;
19. **claim** made against **you** by:
- a. any person or entity falling within the definition of **you**;
 - b. any entity in which **you** directly or indirectly hold more than a 15% ownership interest, or that **you** directly or indirectly manage, control, or operate, in whole or in part; or
 - c. any person or entity that directly or indirectly holds more than a 15% ownership interest in **you**, or that directly or indirectly owns, manages, controls, or operates **you**, in whole or in part;
- however, this exclusion will not apply to any portion of any **claim** based on a liability to an independent third party directly arising out of the performance of **your** defined **business activities** but which is brought against **you** via a subsidiary, parent or sister company;
20. **claim** made against **you** by any person or entity that **you** currently employ or formerly employed, including but not limited to **employees**, freelancers, and independent contractors; however, this exclusion will not apply to any portion of any **claim** solely based on **business activities** performed when such person or entity was not working for **you**;
21. **claim** for or arising from **your** provision of any sweepstakes, gambling activities, or lotteries;
22. **claim** for which **you** are legally obligated to pay punitive and/or exemplary damages; however **we** will pay an award of such damages if insurable in the jurisdiction where such award was first ordered and permissible in the jurisdiction where the policy is issued;
23. **claim** for which **you** are legally obligated to pay criminal, civil, or regulatory sanctions, fines, penalties, disgorgement of profits, treble damages, and/or multiple damages, including but not limited to those imposed by any federal/central, state, or local governmental body or by ASCAP, BMI, SESAC, or other similar licensing organization;
24. **claim** arising out of any matter that prior to the first date of the **policy period** (or if this policy is a renewal then prior to the first date of the first policy issued to **you** by **us** and from which the current policy forms an unbroken chain of successive policies issued to **you** by **us**), **you** knew or reasonably ought to have known would be likely to lead to a **claim**;
25. **claim** for or arising from any armed struggle, civil unrest or conflict or any nationalization, confiscation, requisition, expropriation, appropriation, seizure or destruction of property by or under the order of any government or public or local authority;
26. **claim** for, alleging, or arising from any act or threatened act of terrorism, including but not limited to the use of force or violence, of any person(s) or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed

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for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear;

27. **claim** for, alleging, or arising from any pollution, contamination or toxic exposure, including but not limited to any pollution, contamination or toxic exposure caused by or arising out of the following: noise, electromagnetic fields, radio waves, nuclear radiation, or radioactive contamination; or the mining, processing, manufacturing, use, testing, ownership, sale or removal of asbestos, asbestos fibres or material containing asbestos; or exposure to asbestos, asbestos fibres or materials containing asbestos; or the provision of instructions, recommendations, notices, warnings supervision or advice given, or which should have been given, in connection with asbestos, asbestos fibres or structures or materials containing asbestos;
28. **claim** for, alleging, or arising from any bodily injury, including but not limited to death, mental injury, and mental disease; however, this exclusion does not apply to:
 - a. a **claim** (except if brought in the USA or Canada) for bodily injury directly arising from designs, plans, specifications, formulae, directions or advice prepared or given by **you** for a fee;
 - b. any portion of any **claim** seeking damages for mental anguish or distress where such damages solely stem from a covered cause of action for defamation, breach of privacy, or negligent publication;
29. **claim** for, alleging, or arising from any failure or interruption of service provided by an internet service provider, telecommunications provider or other utility provider except when **you** provide those services as part of **your business activities**;
30. **claim** for, alleging, or arising from any damage to, or destruction or loss of use of any tangible property; however, this exclusion does not apply to:
 - a. damage to data, or destruction or loss of use of data;
 - b. a **claim** (except if brought in the USA or Canada) directly arising from designs, plans, specifications, formulae, directions or advice prepared or given by **you** for a fee;
 - c. any document, information, data or model given to **you** by a client and for which **you** are responsible.
31. **claim** brought outside the countries set out in the schedule under **Applicable Courts** unless you have worldwide cover. This includes proceedings in the Applicable Courts which are based on a judgment or award outside the **Applicable Courts**.

VII. Your obligations to us

Your representations

You agree that all representations (whether verbal or written) made by **you** or on **your** behalf in connection with the application for this policy and all materials submitted by **you** or on **your** behalf in connection with the application for this policy are true, complete, and not misleading. If **we** learn that such representations or submitted materials were untrue, incomplete, or misleading, in any material respect, then **we** are entitled to treat this policy as if it had never existed.

Your dealings with others

We will not make any payment under this policy if **you**, when dealing with **your client** or a third party, admit that **you** are liable (unless **you** have **our** prior written consent), or collude to obtain a recovery under this policy, or prejudice **our** rights of recovery against any party.

You must also ensure that **our** rights of recovery, including but not limited to any subrogated rights of recovery, against a third party are not unduly restricted or financially limited by any term in any of **your** contracts.

You must also not reveal the amount of cover available under this insurance, unless **you** had to give these details in negotiating a contract with **your** client (including negotiating any request for proposal), **you** are required by law or compelled by a court, or **you** otherwise have **our** prior

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Providing us with information and assistance

written consent.

You must provide **us** with full and accurate information about any **claim** or **potential claim** that **you** have notified to **us** under this policy. If **you**, or anyone on **your** behalf, tries to deceive **us** by deliberately giving **us** false information in connection with such a notification, **we** immediately shall be relieved of all obligations under this policy with respect to the notification at issue, including **our** duty to defend **you**.

If **we** have accepted notice of any **claim** or **potential claim** under this policy, then it is a condition precedent that **you** must:

1. give **us**, or anyone appointed by **us**, at **your** expense, all the assistance, cooperation and information which **we** reasonably require under this policy, and **you** must do anything which **we** reasonably request to avoid, minimize, or resolve any **claim** or **potential claim**, including paying the **retention** when requested by **us**;
2. notify **us** as soon as practicable of all settlement offers made by a claimant in connection with such **claim(s)** or potential **claim(s)**;
3. give **us** all assistance and cooperation **we** reasonably require to pursue at **our** expense any subrogated right of recovery **we** may have in connection with such **claim** or **potential claim**.

If a situation arises where **we** have a good faith belief that a claimant's monetary offer to settle a covered **claim** is reasonable when **you** do not, then **we** will neither compel **you** to accept the settlement offer nor will **we** cease providing cover for such a **claim** merely because **you** did not accept the offer. However, if **we** recommend that **you** do accept such an offer and **you** elect not to, then **our** maximum payment toward that particular **claim**, following the rejection or expiration of that offer will be outstanding covered **defence costs** incurred up to the date the settlement offer was rejected or expired, plus the amount of the unaccepted settlement offer, minus **your** remaining **retention** on the day the settlement offer is rejected or expires. If this amount is in excess of the **retention**, then at **your** request and subject to **our** discretion **we** will pay this amount to **you** in a lump sum payment in return for **you** fully releasing **us** from all liability with respect to the unsettled **claim**, including **our** duty to defend **you**.

In exchange for this release, **we** will not seek reimbursement for any portion of **our claim** payment to **you**, even if the **claim** is later resolved for less than the amount **we** paid **you**.

Notifying us of changes to your business

You must promptly tell **us** if **you** materially change **your** business, acquire or merge with another business or if any party acquires **your** business. **We** will only provide cover under this policy for such a change if **we** have given **our** written approval and **you** have agreed to all additional coverage terms and/or additional premium **we** may request to cover the change in risk. However, **you** have no obligation to notify **us** under this section of any entity that falls within subsection (b) of the definition of **acquired entity** under Definitions (Section VIII) of this policy.

Satisfying your retention

We will not make any payment under this policy unless **you** pay the applicable **retention**. **You** may not insure the **retention**, and neither sums paid toward uncovered portions of **claims** nor payments **you** recover from another insurer or indemnitor will erode the **retention**.

If **you** reasonably establish that a series of **claims** against **you** directly arise from:

1. the same original cause, a single source or a repeated or continuing problem in **your** work; or
2. a single or continuing investigation or a common set of facts or state of affairs in relation to a defamatory statement;

then all such notifications that **we** accept and agree are related will be treated as a single **claim** and **you** need only pay a single **retention**. All of the notifications that are related will be considered as having been made on the date of **your** first proper notification to **us**.

VIII. Definitions

All phrases and words that appear in bold type in this policy (excluding headings), either in singular or plural form, have the meaning that is given to them below:

Acquired entity

"Acquired entity" means:

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- a. any entity that the **Insured** directly or indirectly acquires during the **policy period**, but only to the extent that the entity performs the same **business activities** as the **Insured** and only if the annual revenue or the total book value of the consideration provided in return for such control is less than 10% of the **Insured's** annual revenue, and no **claim** or **potential claim** exists against such entity that has resulted or is reasonably likely to result in a payment in excess of 50% of the **retention** (including **defence costs**);
- b. any entity that the **Insured** acquires during the **policy period** which has an annual revenue of more than 10% of the **Insured's** annual revenue, but only if **you** have provided **us** with written notification of the acquisition within 30 days of such, and only if **we** have provided **our** written consent to provide coverage to that entity under this policy, such consent never to be unreasonably withheld; and

For purposes of this definition, "acquires" means taking ownership of over 50% of the outstanding voting stock or interest, or assets of any business entity.

Applicable courts	"Applicable courts" means the courts stated as the "applicable courts" on the schedule attached to this policy.
Business activities	"Business activities" means those activities described as "business activities" on the schedule to this policy, and which are performed within the geographical limit .
Claim	"Claim" means any written assertion of liability or any written demand for financial compensation or injunctive relief made against you .
Client	"Client" means any person or entity with whom you have contracted in writing to provide services or deliverables that expressly fall within your business activities .
Defence costs	"Defence costs" means all reasonable and necessary legal costs and fees incurred with our prior consent to investigate, settle, defend and/or appeal or respond to an appeal of a covered claim , including any premiums on attachment or appeal bonds (however, we are under no obligation to apply for or furnish such bonds), pre-judgment and post-judgment interest, but not including any overhead costs, general business expenses, salaries, or wages incurred by you or any other person or entity entitled to coverage under this policy.
Employee	"Employee" means an individual performing employment duties solely on your behalf in the ordinary course of your business activities , who is subject to your sole control and direction and to whom you supply the instrumentalities and place of work necessary to perform such business activities . You and your independent contractors will not be treated as employees under this policy.
Existing subsidiary	"Existing subsidiary" means each and every entity identified on the application for this policy, but only if: <ol style="list-style-type: none">a. the Insured directly or indirectly owns more than 50% of the assets or outstanding voting shares or interests as of the first day of the policy period, and its annual revenue is included on your application for this policy.b. the Insured forms the entity during the policy period, and directly or indirectly owns more than 50% of the assets or outstanding voting shares or interests, and that entity does not fall within the definition of acquired entity above.
Geographical limit	"Geographical limit" means the limit stated as the "geographical limit" on the schedule to this policy.
Insured	"Insured" means the entity stated as "the insured" on the schedule to this policy.
Policy limit	"Policy limit" means the amount stated as the "policy limit" on the schedule to this policy.
Policy period	"Policy period" means the period of time stated as the "policy period" on the schedule to this policy.
Potential claim	"Potential claim" means any matter reasonably likely to lead to a claim covered under this policy.
Retention	"Retention" means the amount as stated as the "retention" on the schedule to this policy.

Technology Protection

Policy wording

Retroactive date	Retroactive date” means the date stated as the “retroactive date” on the schedule to this policy. However, in respect of any claim or potential claim arising out of activities performed by an acquired entity above, “retroactive date” means the date the Insured first took control of such entity, unless otherwise agreed by us in writing.
We/Us/Our	We,” “Us,” and “Our,” means IFFCO Tokio General Insurance Company at 4 th and 5 th Floors, Plot No. 3, Sector 29, Gurgaon, 122001, India.
You/Your	“You” and “Your” means: <ol style="list-style-type: none">the Insured, existing subsidiaries, and acquired entities, but not including employees or independent contractors of the Insured or any existing subsidiary or acquired entity;board members, executive officers, in-house counsel, risk managers, chief technology officers, chief information officers, and chief privacy officers of the Insured, existing subsidiaries, and acquired entities; anda person or entity that takes legal control of the insured, existing subsidiary, or acquired entity upon the insolvency or bankruptcy of the insured, existing subsidiary, or acquired entity.

IX. General matters

Other insurance	Any payment due under this policy is specifically excess of and will not contribute with any other valid insurance, regardless if the insurance is collectible or not, including but not limited to any project-specific or production-specific insurance policy purchased by you or any third-party. This policy is not subject to the terms set forth in any other insurance policy.
Choice of law	This policy, including its construction, application and validity, is governed by the laws of India.
Arbitration	<ol style="list-style-type: none">Any dispute or difference between the parties arising out of or in respect of this policy shall be referred to a sole arbitrator or, in the case of disagreement as to the identity of the sole arbitrator, to three arbitrators, one each to be appointed by you and us and the third arbitrator to be nominated by the two arbitrators so appointed. The Arbitration proceedings shall be governed by the Arbitration and Conciliation Act 1996.The seat of the arbitration shall be India and the arbitration proceedings shall be in the English language.The tribunal shall decide the costs of the arbitration proceedings. It is a condition precedent to any right of action or suit upon this policy that an arbitral award shall be first obtained.If this arbitration clause is held to be invalid in whole or in part, then all disputes shall be referred to the exclusive jurisdiction of the Indian Courts. <p>You and we are the only parties to this policy. No other person has any rights to enforce any term of this policy but this does not affect any right or remedy of a third party which exists under any applicable law in force.</p>
Cancellation	We will only cancel this policy if you intentionally make a material misrepresentation to us in regard to any claim or potential claim notified to us under the policy, in which case we will provide you with a notice of cancellation in accordance with applicable law. We will return a pro-rata amount of premium unless we have accepted any notification of any claim or potential claim before the cancellation takes effect.