

AIG CyberEdge

CyberEdge 2014 Network Security and Privacy Insurance

SME/Middle Market Policy Wording



Bring on tomorrow

Policy Schedule

1. Policy Number				
2. Policyholder Policyholder's Main Address				
3. Policy Period	From:		To:	
	12:01 a.m. at the Policyholder's main address			
4. Limit of Liability	Aggregate Limit of Liability per Policy Period for all Loss of all Insureds under all Insurance Covers (A, B, C, and any Additional Coverage Section which is purchased) combined: GBP			
5. Response	A.1 – First Response	Emergency Number	+44 (0) 1273 730992	
		Response Advisor	CMS Cameron McKenna	
		IT Specialist	KPMG	
6. Additional Coverage Sections Sub-limits	Digital Media		GBP	
	Cyber/Privacy Extortion:		GBP	
		Cyber Extortion Advisor	NYA Neil Young Associates	
		Cyber Extortion Advisor Contact Number	+44 (0) 1273 730992	
	Network Interruption		GBP	
Outsource Service Provider		GBP		
7. Retention	General Policy Retention			GBP
	Event Management			General Policy Retention
	First Response			No Retention
	B.1 - Data Protection Investigations			General Policy Retention
	B. 2 - Data Protection Fines			General Policy Retention
	C - Liability			General Policy Retention
	Digital Media	GBP		
	Cyber/Privacy Extortion	GBP		
	Network Interruption	Waiting Hours:	Hours	
	Outsource Service Provider	GBP		
OSP Network Interruption Loss OSP Interruption and Mitigation Costs		Waiting Hours:	Hours	
8. Annual premium	GBP			
9. Continuity Date	Inception			
10. Insurer	AIG Europe Ltd The AIG Building, 58 Fenchurch Street, London, EC3M 4AB			

In consideration of the payment of the premium the **Insurer** and the **Policyholder** agree as follows:

1. Insurance Covers

All coverages under this Section 1 - Insurance Covers of the **Policy** are written specifically on a primary basis and are provided solely for **Claims** first made against an **Insured** and other **Insured Events** first arising during the **Policy Period** and reported to the **Insurer** as required by this **Policy**.

A. Event Management

A.1 First Response

The **Insurer** will pay to or on behalf of the **Company** the reasonable and necessary fees and expenses of:

- (i) the **Response Advisor** in providing the **Legal Services**;
- (ii) the **IT Specialist** in providing the **First Response IT Services**;
- (iii) the **Crisis Consultant**, if its appointment is considered necessary by the **Response Advisor** or the **Insurer**, in respect of an actual or suspected **Breach of Personal Information, Security Failure** or **System Failure**.

Such fees and expenses will only be paid by the **Insurer** to the extent that they are incurred during the period of 48 hours, which shall commence when the **Responsible Officer** of the **Policyholder** first notifies the **Response Advisor** of the **Breach of Personal Information, Security Failure** or **System Failure** by contacting the **Emergency Number**.

The **Retention** shall not apply to this Insurance Cover A.1 - First Response.

A.2 Legal Services

The **Insurer** will pay to or on behalf of the **Company** the reasonable and necessary fees and expenses of the **Response Advisor** in providing the **Legal Services** in connection with a **Breach of Personal Information, Security Failure** or **System Failure**. Such **Legal Services** shall include:

- (i) taking instruction regarding the factual background of the **Breach of Personal Information, Security Failure** or **System Failure** and co-ordinating the **IT Specialist** or **Crisis Consultants**;
- (ii) advising on the requirement to notify, notifying and corresponding with any relevant **Regulator**;
- (iii) advising on **Data Subject** notifications;
- (iv) monitoring complaints raised by **Data Subjects** and advising the **Insured** on responding to questions raised by **Data Subjects**;
- (v) advising the **Company** on the **Company's** response to the **Breach of Personal Information, Security Failure** or **System Failure**.

Such fees and expenses will only be paid by the **Insurer** to the extent they are incurred after the date of notification to the **Insurer** in accordance with Section 4.1 - Notice and Reporting or after the date of notification in accordance with Insurance Cover A.1 - First Response.

A.3 IT Services

Insurer will pay to or on behalf of the **Company** the reasonable and necessary fees and expenses of the **IT Specialist** in connection with a **Security Failure** or **System Failure** for the purpose of:

- (i) investigating a **Security Failure** or **System Failure**, including the provision of the following services:
 - (a) substantiating whether a **Security Failure** or **System Failure** has occurred, how it occurred and whether it is still occurring; and
 - (b) identifying whether such **Security Failure** or **System Failure** has resulted in a **Breach of Personal Information** or a **Breach of Corporate Information** and establishing the extent of the **Personal Information** or **Corporate Information** that may have been compromised;
- (ii) containing a **Security Failure** or **System Failure**, including containing a denial of service attack;
- (iii) resolving a denial of service attack and removing any malicious software, computer code or virus from the **Company's Computer System** and/or identifying any comprised **Data**; and
- (iv) examining the **Company's Computer System** to determine the remediation actions that are required in order to comply with an **Enforcement Notice**.

Such fees and expenses will only be paid by the **Insurer** to the extent they are incurred after the date of notification to the **Insurer** in accordance with Section 4.1 - Notice and Reporting) or after the date of notification in accordance with Insurance Cover A.1 - First Response).

A.4 Data Restoration

The **Insurer** will pay to or on behalf of the **Company** all reasonable and necessary costs and expenses incurred by the **Insured**, with the **Insurer's** prior written consent, resulting from a **Security Failure** or **System Failure** in order to:

- (i) determine whether **Data** held by the **Company**, including **Data** held on behalf of a **Third Party**, can or cannot be restored or recreated;
- (ii) recreate **Data** held by the **Company**, including **Data** held on behalf of a **Third Party**, where such **Data** is not machine readable or is corrupted;
- (iii) reload and re-customise licensed software operated by the **Company** at the time of the **Security Failure** or **System Failure**, where the licensed software is not machine readable.

Such fees and expenses will only be paid by the **Insurer** to the extent they are incurred during the period of 185 days, which shall commence from the date of notification to the **Insurer** in accordance with Section 4.1 - Notice and Reporting or from the date of notification in accordance with Insurance Cover A.1 - First Response.

A.5 Reputational Protection

The **Insurer** will pay to or on behalf of the **Company** or any **Insured Person** all reasonable and necessary fees and expenses for advice and support from a **Crisis Consultant** and any other independent advisors approved by the **Insurer** in advance of such appointment (including legal advice concerning media strategy and independent public relations services) in order to mitigate or prevent the potential adverse effect, or reputational damage, of a **Newsworthy Event** including the design and management of a communications strategy.

Such fees and expenses will only be paid by the **Insurer** to the extent they are incurred during the period of 185 days, which shall commence from the date of notification to the **Insurer** in accordance with Section 4.1 - Notice and Reporting or from the date of notification in accordance with Insurance Cover A.1 - First Response.

A.6 Notification Costs

The **Insurer** will pay to or on behalf of the **Company** all reasonable and necessary fees, costs and expenses incurred by the **Insured**, including costs associated with setting up call centres in relation to the investigation, collation of information, preparation for and notification to **Data Subjects** and/or any relevant **Regulator** of any actual or suspected **Breach of Personal Information** or **Breach of Corporate Information**.

Such fees, costs and expenses will only be paid by the **Insurer** to the extent they are incurred during the period of 185 days, which shall commence from the date of notification to the **Insurer** in accordance with Section 4.1 - Notice and Reporting or from the date of notification in accordance with Insurance Cover A.1 - First Response.

A.7 Credit and ID Monitoring

Following notification to **Data Subjects** under Insurance Cover A.6 - Notification Costs, the **Insurer** will pay to or on behalf of the **Company**:

- (i) all reasonable and necessary fees, costs and expenses incurred by the **Insured**, with the **Insurer's** prior written consent, for credit or identity theft monitoring services to identify possible misuse of any **Personal Information** as a result of an actual or suspected **Breach of Personal Information**; and/or
- (ii) the reasonable and necessary premium for any **ID Theft Insurance**.

Such fees, costs and expenses (including premium) will only be paid by the **Insurer** for **Data Subjects** that request and/or activate the credit or identity theft monitoring services and the **ID Theft Insurance** within 90 days following receipt of notification in accordance with Insurance Cover A.6 - Notification Costs and this Insurance Cover A.7 - Credit and ID Monitoring will only be provided to each such **Data Subject** for a period of two years from the date of activation.

B. Data Protection Obligations

B.1 Data Protection Investigation

The **Insurer** will pay to or on behalf of any **Insured** all **Defence Costs** in respect of a **Regulatory Investigation**.

B.2 Data Protection Fines

The **Insurer** will pay to or on behalf of any **Company** all **Data Protection Fines** that the **Company** is legally liable to pay in respect of a **Regulatory Investigation**.

C. Liability

C.1 Personal and Corporate Information

The **Insurer** will pay to or on behalf of any **Insured** all **Damages** and **Defence Costs** arising from any **Claim** against the **Insured** in respect of an actual or alleged **Breach of Personal Information** or **Breach of Corporate Information** by an **Insured**.

C.2 Security Failure

The **Insurer** will pay to or on behalf of any **Insured** all **Damages** and **Defence Costs** arising from a **Claim** by a **Third Party** against the **Insured** in respect of an actual or alleged **Security Failure**.

C.3 Failure to Notify

The **Insurer** will pay to or on behalf of any **Insured** all **Damages** and **Defence Costs** arising from any **Claim** against the **Insured** in respect of a failure by the **Company** to notify a **Data Subject** and/or any **Regulator** of a **Breach of Personal Information** in accordance with the requirements of **Data Protection Legislation**.

C.4 Information Holder Personal and Corporate Information

The **Insurer** will pay to or on behalf of any **Company** all **Damages** and **Defence Costs** arising from a **Claim** by a **Third Party** against the **Company** for which the **Company** is alleged to be liable and which results from any actual or alleged breach of duty by the **Information Holder** in respect of the processing on behalf of the **Company** of **Personal Information** and/or **Corporate Information** (for which the **Company** is responsible).

2. Definitions

2.1 Additional Coverage Sections

any additional coverage module that is purchased by the **Policyholder** as specified at Item 6 of the Schedule and which forms part of this **Policy**.

2.2 Breach of Corporate Information

the unauthorised disclosure or transmission of **Corporate Information** for which the **Company** is responsible.

2.3 Breach of Personal Information

the unauthorised disclosure or transmission of **Personal Information** for which the **Company** is responsible as either a Data Processor or a Data Controller as defined under any applicable **Data Protection Legislation**.

2.4 Claim

the receipt by or service upon the **Insured** of:

- (i) a written demand seeking a legal remedy; or
- (ii) civil or administrative proceedings seeking a legal remedy, compliance or other sanction.

2.5 Cloud Service

any on-demand access to hosted computer infrastructure or computing platforms, including cloud computing services provided on an Infrastructure as a Service (IaaS) or Platform as a Service (PaaS) model, provided by any natural person or entity not owned, operated or controlled by an **Insured**.

Cloud Service does not include any cloud computing services solely on a Software as a Service (SaaS) model.

2.7 Company

the **Policyholder** and any **Subsidiary**.

2.8 Company's Computer System

any computer hardware, software or any components thereof that are linked together through a network of two or more devices accessible through the Internet or internal network or that are connected through data storage or other peripheral devices which are owned, operated, controlled or leased by the **Company**.

For the purposes of all Sections other than the Network Interruption Additional Coverage Section (if purchased) and the Electronic Data Incident Additional Coverage Section (if purchased), **Company's Computer System** also includes:

- (i) any **Third Party** computer or electronic device (including mobile phones, tablets or computers owned or controlled by an employee of a **Company**) used to access a **Company's Computer System** or **Data** contained therein; and
- (ii) any **Cloud Service** used by the **Company**.

2.9 Continuity Date

the date specified in Item 9 of the Schedule.

2.10 Control

the securing of the affairs of an entity by means of:

- (i) controlling the composition of the board of directions of such entity;
- (ii) controlling more than half of the shareholder or equity voting power of such entity; or
- (iii) holding more than half of the issued share or equity capital of such entity.

2.11 Corporate Information

any **Third Party's** trade secrets, data, designs, forecasts, formulas, practices, processes, records, reports, documents subject to legal privilege or other item of information that is not available to the general public.

2.12 Crisis Consultant

any consultant appointed by the **Insurer** or the **Response Advisor**, or any other consultant appointed by the **Company** that has been approved by the **Insurer** in advance of such appointment, to provide public relations or crisis communications services.

2.13 Cyber Terrorism

the premeditated use of disruptive activities against any **Company's Computer System**, **OSP's Computer System** or network, or the explicit threat to use such activities, with the intention to cause harm and further social, ideological, religious, political or similar objectives, or to intimidate any person(s) in furtherance of such objectives. Under no circumstances shall **Cyberterrorism** include any such activities which are part of or in support of any military action, war or warlike operation.

2.14 Damages

- (i) judgments, or arbitral awards rendered against the **Insured**;
- (ii) punitive or exemplary damages, where insurable by law; or
- (iii) monies payable by an **Insured** pursuant to any settlement agreement negotiated by the **Company** and which is approved by the **Insurer**.

which the **Insured** is legally liable to pay resulting from a **Claim**.

Damages shall not mean and this **Policy** shall not cover any: (i) non-compensatory damages (except to the extent covered at (ii) above), multiple or liquidated damages; (ii) fines or penalties (except to the extent covered at (ii) above); (iii) the costs and expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief; (iv) costs or other amounts that the **Insured** is responsible for under a merchant services agreement, unless they are liable for such amounts in the absence of such agreement; or (v) discounts, service credits, rebates, price reductions, coupons, prizes, awards or other contractual or non-contractual incentives, promotions or inducements offered to the **Insured's** customers or clients.

2.15 Data

electronically stored digital or digitised information or media.

2.16 Data Protection Fines

any lawfully insurable fines and/or penalties which are adjudicated by a **Regulator** to be payable by a **Company** for a breach of **Data Protection Legislation**.

Data Protection Fines shall not include any other type of civil or criminal fines and penalties.

2.17 Data Protection Legislation

the Data Protection Act 1998 (UK) and any subsequent legislation that alters, repeals or replaces such data protection act and any and all other equivalent laws and regulations relating to the regulation and enforcement of data protection and data privacy in any country.

2.18 Data Protection Officer

an employee who is designated by the **Company** as the person responsible to implement, monitor, supervise, report upon and disclose the **Company's** regulatory compliance standards with respect to data collection, data processing and delegation of data processing.

2.19 Data Subject

any natural person whose personal information has been collected or processed by or on behalf of the **Company**.

2.20 Defence Costs

reasonable and necessary legal fees, costs and expenses which the **Insured** incurs, with the prior written consent of the **Insurer**, in relation to the investigation, response, defence, appeal and/or settlement of a **Claim** or **Regulatory Investigation** made against the **Insured**.

Defence Costs shall not include the remuneration of any **Insured**, **Outsource Service Provider** or **Information Holder**, cost of their time or any other costs or overheads of the **Insured**, **Outsource Service Provider** or **Information Holder**.

2.21 Emergency Number

the telephone number shown at Item 5 of the Schedule.

2.22 Enforcement Notice

a notice from a **Regulator** requiring the **Company** to:

- (i) confirm compliance with the applicable **Data Protection Legislation**;
- (ii) take specific measures to comply with the applicable **Data Protection Legislation**; or
- (iii) refrain from processing any specified **Personal Information** or **Data** held on behalf of a **Third Party**, within a specified time period, but in no event later than five (5) years after the date of notice.

2.23 First Response IT Services

- (i) substantiating whether a **Security Failure** or **System Failure** has occurred, how it occurred and whether it is still occurring;
- (ii) identifying whether such **Security Failure** or **System Failure** has resulted in a **Breach of Personal Information** or a **Breach of Corporate Information** and establishing the extent of the **Personal Information** or **Corporate Information** that may have been compromised; or
- (iii) containing the **Security Failure** or **System Failure**, including a denial of service attack.

2.24 ID Theft Insurance

an identify theft policy issued by the **Insurer** or by another carrier with the **Insurer's** prior written consent, to be offered to **Data Subjects** whose **Personal Information** has been compromised.

2.25 Information Commissioner

an Information Commissioner of the Information Commissioner's Office (UK) or position that replaces such a role under laws and regulations relating to the regulation and enforcement of data protection and data privacy in the UK and any equivalent position in any other jurisdiction.

2.26 Information Holder

a third party that (i) a **Company** has provided **Corporate Information** or **Personal Information** to, or (ii) has received **Corporate Information** or **Personal Information** on behalf of a **Company**, including an **Outsource Service Provider**.

2.27 Insured

- (i) the **Company**;
- (ii) any **Insured Person**;
- (iii) any natural person who is or has been an employee of the **Company**;
- (iv) any independent contractor under the direction and supervision of the **Policyholder** but only in relation to the services provided by the independent contractor to the **Policyholder**; and
- (v) any estates or legal representatives of any **Insured** described in (i), (ii) and (iii) of this definition to the extent that a **Claim** is brought against them in respect of an act, error or omission of such **Insured**.

2.28 Insured Event

any matter or event triggering coverage under Parts A and B of Section 1 - Insurance Covers or under any **Additional Coverage Sections**.

2.29 Insured Person

any natural person who is or has been a director, principal, partner or officer (including any **Responsible Officer**) of the **Company** to the extent such person is or was acting in such capacity.

2.30 Insurer

AIG Europe Limited.

2.31 IT Specialists

the firm listed at Item 5 of the Schedule or any other firm appointed by the **Company** that has been approved in advance of such appointment by the **Insurer**.

2.32 Legal Services

- (i) legal advice and support provided pursuant to a **Relevant Engagement**;

- (ii) the co-ordination of the **IT Specialist**, and, if considered necessary by the **Response Advisor** the **Crisis Consultant**.

2.33 Limit of Liability

the amount specified in Item 4 of the Schedule.

2.34 Loss

- (i) **Damages, Defence Costs, Data Protection Fines** which the **Insured** is legally liable to pay; and
- (ii) any other amounts covered under any Insurance Covers or Additional Coverage Sections, but only to the extent set out in the relevant section.

Loss shall not include the remuneration of any **Insured, Outsource Service Provider** or **Information Holder**, cost of their time, or any other costs or overheads of the **Insured, Outsource Service Provider** or **Information Holder**.

2.35 Newsworthy Events

the actual or threatened public communication or reporting in any media which arises directly out of an actual or potential or suspected **Breach of Personal Information** or **Breach of Corporate Information**, a **Security Failure**, a **System Failure** or an **OSP Security Failure** (if the Outsource Service Provider Additional Coverage Section is purchased) or an **Extortion Threat** (if the Cyber/Privacy Extortion Additional Coverage Section is purchased) or an **Electronic Data Incident** (if the Electronic Data Incident Additional Coverage Section is purchased) and which is likely to bring the **Company** or any **Insured Person** into disrepute or tarnish its reputation and damage its goodwill amongst the community of people or businesses who are its customers or suppliers or with whom the **Company** habitually deals in the course of its business.

2.36 Outsource Service Provider

an entity which is not owned, operated or controlled by the **Company** that the **Company** has appointed to provide specified services (including webhosting, payment processing and IT security data collection, data processing, delegation of data processing, storage of data and/or deletion or destruction of data) which would otherwise be provided internally whether based on an express contractual agreement, but only to the extent of the provision of such services.

2.37 Personal Information

any information that relates to a natural person and that is non-public information capable of individually identifying such natural person. **Personal Information** shall include a natural person's name, address, telephone number or medical information.

2.38 Policy

this policy and any purchased **Additional Coverage Section**.

2.39 Policyholder

the entity specified as such in Item 2 of the Schedule.

2.40 Policy Period

the period from the inception date to the expiry date specified in Item 3 of the Schedule.

2.41 Regulator

an **Information Commissioner** or statutory body established pursuant to **Data Protection Legislation** in any jurisdiction and which is authorised to enforce statutory obligations in relation to the processing or control of **Personal Information** (or, where relevant, **Corporate Information**).

2.42 Regulatory Investigation

any formal or official action, investigation, inquiry or audit by a **Regulator** against an **Insured** once the **Insured** is identified in writing by the **Regulator** arising out of the use or suspected misuse of **Personal Information** or any aspects of the control or processing of **Personal Information** or delegation of data processing to an **Outsource Service Provider** which is regulated by **Data Protection Legislation**, but shall not include any industry-wide, non-firm specific, inquiry or action.

2.43 Relevant Engagement

an agreement between the **Response Advisor** and the **Company** governing the provision of the legal advice and support to the **Company**.

2.44 Response Advisor

the law firm listed at Item 5 of the Schedule, or the correspondent law firms instructed by such law firm, or any replacement firm nominated by the **Insurer** in the event of a conflict, with respect to whom the **Policyholder** shall enter into a **Relevant Engagement**.

2.45 Responsible Officer

any Chief Executive Officer, Chief Financial Officer, Chief Compliance Officer, Chief Information Officer, **Data Protection Officer**, Risk Manager or General Counsel (or equivalent positions).

2.46 Retention

the amounts specified as such in Item 7 of the Schedule.

2.47 Security Failure

- (i) any intrusion due to the failure of the security of the **Company's Computer System**, including that which results in or fails to mitigate any unauthorised access, unauthorised use, denial of service attack or denial of access or receipt or transmission of a malicious code, malicious software or virus which causes the destruction, modification, corruption, damage or deletion of **Third Party Data** stored on any **Company's Computer System**;
- (ii) the disclosure of data:
 - (a) due to the physical theft or loss of hardware controlled by the **Company** (or components thereof); or
 - (b) by an employee of the **Company**;
- (iii) **Security Failure** also includes any such failure or intrusion resulting from the theft of a password or network access code from:
 - (a) a **Company's** premises;
 - (b) a **Company's Computer System**;
 - (c) an officer, director or employee of a **Company**.

2.48 System Failure

any negligent act or negligent failure to act by an employee of the **Company** whilst operating, maintaining or upgrading the **Company's Computer System**.

System Failure shall not include any negligent act or negligent failure to act by an employee of the **Company** whilst operating, maintaining or upgrading any **Cloud Service** used by the **Company** or any **Third Party** computer or electronic device (including mobile phones, tablets or computers owned or controlled by an employee of a **Company**) used to access a **Company's Computer System** or **Data** contained therein.

2.49 Single Claim

any one or more **Claims** or **Insured Events** to the extent that such **Claims** or **Insured Events** arise out of, are based upon, are in connection with, or are otherwise attributable to the same cause or source and all such **Claims** or **Insured Events** shall be regarded as a **Single Claim** regardless of whether such **Claims** or **Insured Events** involve the same or different claimants, **Insureds** or causes of action.

2.50 Subsidiary

any entity of which the **Policyholder**, has or had **Control** on or before the inception date of this **Policy** either directly or indirectly through one or more of its other **Subsidiaries**.

Subsidiary shall also include any entity of which the **Policyholder** acquires **Control**, either directly or indirectly through one or more of its other **Subsidiaries** during the **Policy Period** provided that such entity:

- (i) has total gross revenues that are less than 20% of the total gross revenue of the **Policyholder**; and
- (ii) does not have any revenue from the United States of America.

2.51 Third Party

any entity or natural person except: (i) any **Insured**, **Outsource Service Provider** or **Information Holder**; or (ii) any other entity or natural person having a financial interest or executive role in the operation of the **Company**.

2.52 Third Party's Computer System

any computer hardware, software or any components thereof that are linked together through a network of two or more devices accessible through the Internet or internal network or that are connected through data storage or other peripheral devices which is owned, operated, controlled or leased by a **Third Party**.

3. Exclusions

The **Insurer** shall not be liable for **Loss** arising out of, based upon or attributable to:

3.1 Anti-Trust

any actual or alleged antitrust violation, restraint of trade or unfair competition. This Exclusion 3.1 - Anti-Trust shall not apply to **Loss** arising out of, based upon or attributable to any actual or suspected unfair competition in connection with sub-section (v) of Section 1 - Digital Media Liability Cover of the Digital Media Liability Additional Coverage Section (if purchased).

3.2 Bodily Injury and Property Damage

any:

- (i) physical injury, sickness, disease or death; and if arising out of the foregoing, nervous shock, emotional distress, mental anguish or mental injury; or
- (ii) loss or destruction of tangible property, other than **Data**.

3.3 Contractual Liability

any guarantee, warranty, contractual term or liability assumed or accepted by an **Insured** under any contract or agreement except to the extent such liability would have attached to the **Insured** in the absence of such contract or agreement.

3.4 Conduct

- (i) any wilful disregard or non-compliance with a ruling, direction or injunction by a court, tribunal, arbitrator or a **Regulator** within the jurisdiction;
- (ii) any deliberate, intentional or reckless commission, aiding, abetting or condoning of or conniving in a dishonest, malicious or fraudulent act or a criminal breach of law or regulation; or
- (iii) any deliberate, intentional or reckless act by any **Insured**;

if committed by the **Company's** or the **Outsource Service Provider's** or the **Information Holder's**:

- (a) directors, principals, partners or **Responsible Officer** whether acting on their own or in collusion with others; or
- (b) employees acting in collusion with any of the **Company's** or **Outsource Service Provider's** or **Information Holder's** directors, principals, partners or **Responsible Officer**.

The **Insurer** will continue to pay on behalf of an **Insured**, **Defence Costs** under this **Policy** until any of (i) to (iii) above are found by a court, tribunal, arbitrator or **Regulator** to have been committed by (a) or (b) above. Following such finding the **Insurer** shall be entitled to repayment of any amount paid to the **Insured** under this **Policy**.

3.5 Intellectual Property

any infringement of patents and trade secrets or to loss of rights to secure registration of patents due to an unauthorised disclosure.

This Exclusion 3.5 - Intellectual Property shall not apply to **Damages** or **Defence Costs** arising out of a **Claim** by a **Third Party** against an **Insured** for a **Breach of Corporate Information**.

3.6 Licensing Fee

any actual or alleged obligation to make licensing fee or royalty payments, including the amount or timeliness of such payments.

3.7 Prior Claims and Circumstances

- (i) any circumstance that as of the inception date of this **Policy** may reasonably have been expected by any **Insured** to give rise to a **Claim**; or any circumstance, **Claim** or **Insured Event** of which notice has been given under any policy of which this **Policy** is a renewal or replacement or which it may succeed in time; or
- (ii) any pending or prior civil, criminal, administrative or regulatory proceeding, investigation, arbitration, mediation, other dispute resolution or adjudication of which the **Insured** had notice as of the **Continuity Date**, or alleging or deriving from the same or essentially the same facts alleged in such actions; or

- (iii) any **Claim** or **Insured Event** that would otherwise constitute a **Single Claim** with any claim or other matter reported under any policy of which this **Policy** is a renewal or a replacement or which it may succeed in time.

3.8 Securities Claims

any actual or alleged violation of any law, regulation or rule (whether statutory or common law) relating to the ownership, purchase, sale or offer of, or solicitation of an offer to purchase or sell, securities.

3.9 Terrorism/ War

any form of:

- (i) war, invasion, act of foreign enemy, hostilities or warlike activities (whether declared or not), civil war, military rising, rebellion or revolution;
- (ii) terrorism (not including **Cyber Terrorism**); or
- (iii) riot.

3.10 Monetary Value

any trading losses or trading liabilities; monetary value of any electronic fund transfers or transactions by or on behalf of the **Insured** which is lost, diminished or damaged during transfer from, into or between accounts.

3.11 Over Redemption

any face value of coupons, price discounts, prizes, awards or any other valuable consideration given in excess of the total contracted or expected amount.

3.12 Uninsurable Loss

any matters which the **Insurer** is prohibited from paying by the law of this **Policy** or the jurisdiction where a **Claim** is made or where an **Insured Event** first arises.

3.13 Pollution

any impact to the air, soil or water resulting from the discharge, dispersal, seepage, release or escape of any solid, liquid, gaseous, biological, radioactive or thermal irritant or contaminant whether occurring naturally or otherwise, including smoke, vapour, soot, fibres, germs, moulds, viruses, fumes, acids, alkalis, chemicals, waste, and other toxic or hazardous substances, sound, noise, smell, vibration, waves or changes in temperature.

3.14 Systems

- (i) any electrical or mechanical failure of infrastructure, other than a **Company's Computer System** whether or not under control of the **Insured**, including any electrical power interruption, surge, brown out or black out. Provided however, that part (i) of this Exclusion 3.14 - Systems shall not apply to the Electronic Data Incident Additional Coverage Section (if purchased);
- (ii) any failure of telephone lines, data transmission lines, satellites or other telecommunications or networking infrastructure not under the control of an **Insured** or an **Outsource Service Provider**. Provided however, that part (ii) of this Exclusion 3.14 - Systems shall not apply to: a **Security Failure**; **OSP Security Failure**; failure to protect **Personal Information** or **Corporate Information**; breach of **Data Protection Legislation** leading to a **Claim for Damages**, that is caused by such failure of telephone lines, data transmission lines or other infrastructure comprising or supporting the Internet;
- (iii) any satellite failure.

3.15 Failure to Put Right

any failure to put right defective systems, procedures or software where the existence of defects, deficiencies, or vulnerability to attack, or intrusion has been brought to the attention of a **Responsible Officer** in sufficient time in advance of a resultant **Loss** to avert or reduce the impact of the same.

3.16 Rectifying Deficiencies

reforming, improving or rectifying any deficiency or defect in the **Company's** systems, processes, operating hardware or software or virus controls which existed prior to the **Security Failure**, **OSP Security Failure** or **System Failure** whether or not such **Security Failure**, **OSP Security Failure** or **System Failure** was attributable to such deficiency or defect.

3.17 Wrongful Collection

Corporate Information or **Personal Information** which has been fraudulently or recklessly collected or maintained by an **Insured**.

3.18 Employment Practices Violation

a **Company's** employment of any individual or any of a **Company's** employment practices (including wrongful dismissal, discharge or termination, discrimination, harassment, retaliation or other employment-related claim).

3.19 Insured's Fees, Compensation or Costs of Providing Services

- (i) the return of an **Insured's** fees or compensation;
- (ii) an **Insured's** costs of providing, correcting, re-performing or completing any services; or
- (iii) the amounts for which an **Insured** is not financially liable or which are without legal recourse to any **Insured**.

3.20 Tax

taxes incurred by an **Insured**.

CONDITIONS

4. Claims

4.1 Notice and Reporting

The cover provided under this **Policy** is granted solely with respect to **Claims** first made against an **Insured**, and other **Insured Events** first arising during the **Policy Period**, or which are deemed to have been so first made or have so arisen under Section 4.2 - Related Claims, Insured Events or Circumstances.

The **Insured** shall, as a condition precedent to the obligations of the **Insurer** under this **Policy** (a) provide written notice to the **Insurer** of any **Claim** made against the **Insured** as soon as practicable after either the **Company's Responsible Officer** or any administrative direct report of the **Company's Responsible Officer** first becomes aware of such **Claim**; or (b) provide written notice to the **Insurer** of any other **Insured Event** as soon as practicable after the **Insured Event** first arises. In all events, notice must be given no later than sixty (60) days after the end of the **Policy Period**.

The **Company's Responsible Officer** may, during the **Policy Period**, notify the **Insurer** of any circumstance reasonably expected to give rise to a **Claim** or an **Insured Event**. The notice must include the reasons for anticipating such a **Claim** or such an **Insured Event**, and full relevant particulars with respect to dates, the alleged, suspected, potential or supposed breach, the potential **Insured** and claimant(s) concerned, an estimate of possible loss and the potential media or regulatory consequences.

All notifications relating to **Claims**, **Insured Events** or circumstances must be sent in writing by email or by facsimile to the address specified at Item 10 of the Schedule.

The provision of **Legal Services**, **First Response IT Services** or services by the **Crisis Consultant** under Insurance Cover A.1 - First Response or Section 1 - OSP First Response of the Outsource Service Provider Additional Coverage Section (if purchased) does not prejudice the rights of the **Insurer** under this **Policy**.

4.2 Related Claims, Insured Events or Circumstances

If notice of a **Claim**, an **Insured Event** or circumstance is given as required by this **Policy** then any subsequent **Claim**, **Insured Event** or circumstance that constitutes a **Single Claim** with that **Claim**, **Insured Event** or circumstance shall be deemed to have first been made at the same time as that circumstance was first notified, **Claim** was first made or other **Insured Event** first commenced, and reported to the **Insured** at the time the required notices were first provided.

4.3 Fraudulent Claims

If any **Insured** shall make a fraudulent claim under this policy, the **Insurer**:

- a) is not liable to pay any part of the claim;
- b) may recover from the **Insured** any sums already paid to it or on behalf of the **Insured** in respect of the claim
- c) may, by notice to the **Insured**, treat this policy as having been terminated as against that **Insured** with effect from the date of the fraudulent act, in which case the **Insurer** is not liable to that **Insured** for any relevant event occurring after that date and is entitled to receive and retain the full premium.

5. Defence and Settlement

5.1 Defence

The **Insured** must render all reasonable assistance to and cooperate with the **Insurer** in the investigation, defence, settlement or appeal of a **Claim**, an **Insured Event** or circumstance, and provide the **Insurer** with all relevant information pertaining to any **Claim**, **Insured Event** or circumstance, as the **Insurer** may reasonably require. In the event of a **Claim**, any **Insured Event** or circumstance each **Insured** shall take reasonable steps to reduce or diminish any **Loss**.

The **Insurer** does not assume any duty to defend and the **Insured** shall have the obligation to defend and contest any **Claim** or **Insured Event** made against them. The **Insurer** shall be entitled to participate fully in the defence and in the negotiation of any settlement that involves or appears reasonably likely to involve the **Insurer** making payment under the **Policy**.

5.2 Insurer's Consent

As a condition precedent to cover under this **Policy**, the **Insured** shall not admit or assume any liability, enter into any settlement agreement, or consent to any judgment or incur any **Defence Costs** or incur any amounts covered under Insurance Cover A.4 - Data Restoration, or Insurance Cover A.7 - Credit and ID Monitoring or incur any amounts where consent is required under any **Additional Coverage Section** without the **Insurer's** prior written consent (which shall not be unreasonably delayed or withheld). Only liabilities, settlements and judgments resulting from **Claims** defended in accordance with this **Policy** or other **Insured Events** handled in accordance with this **Policy** shall be recoverable as a **Loss** under this **Policy**.

Compliance with a legal obligation to give notice in respect of an actual or potential breach of **Data Protection Legislation** will not be considered as an admission of liability for the purposes of this Section 5.2 - Insurer's Consent.

5.3 Insured's Consent

The **Insurer** may make any settlement of any **Claim** or **Insured Event** it deems expedient with respect to any **Insured**, subject to such **Insured's** written consent (which shall not be unreasonably withheld or denied). If any **Insured** withholds consent to such settlement, the **Insurer's** liability for all **Loss** on account of such **Claim** or **Insured Event** shall not exceed the amount for which the **Insurer** could have settled such **Claim** or **Insured Event**, plus **Defence Costs** incurred as of the date such settlement was proposed in writing by the **Insurer**, less coinsurance (if any) and the applicable **Retention**.

5.4 Subrogation and Recovery

Where any amount is paid under this **Policy** in respect of a **Claim** or **Insured Event**, the **Insurer** shall be subrogated to all rights of recovery of the **Insured** (whether or not the **Insured** has been fully compensated for its actual loss). The **Insurer** shall be entitled to pursue and enforce such rights in the name of the **Insured** and the **Insured** shall provide the **Insurer** with all reasonable assistance and co-operation in this regard including the execution of any necessary documents. The **Insured** shall not do anything to prejudice the **Insurer's** rights of recovery. Any amount recovered in excess of the **Insurer's** total payment under this **Policy** (less any cost of recovery) shall be returned to the **Insured**. The **Insurer** shall not exercise any right of recovery against an employee of the **Company** unless the **Claim** or **Insured Event** is brought about or contributed to by any dishonest, fraudulent, criminal or malicious act or omission of that employee of the **Company**. The **Insurer** may at its sole discretion waive any of its rights of subrogation pursuant to this Section 5.4 - Subrogation and Recovery.

6. Limit of Liability and Retention

6.1 Limit of Liability

The total amount payable by the **Insurer** under this **Policy** and any Additional Coverage Section (as applicable) shall not exceed the **Limit of Liability**. **Additional Coverage Sections** and any other fees, costs and expenses are part of that amount and are not payable in addition to the **Limit of Liability**. The inclusion of more than one **Insured** under this **Policy** does not operate to increase the total amount payable by the **Insurer** under this **Policy**.

In the event that another insurance is provided by the **Insurer** or any member company or affiliate of the **Insurer**, then the maximum amount payable by the **Insurer** under all such policies shall not exceed the **Limit of Liability** of that policy referred to above which has the highest applicable **Limit of Liability**. Nothing contained herein shall be construed to increase the **Limit of Liability** of this **Policy**. To the extent that another insurance policy imposes upon the **Insurer** a duty to defend a claim, defence costs arising out of such a claim shall not be covered under this **Policy**.

6.2 Retention

The **Insurer** will only pay for any amount of **Loss** which is in excess of the **Retention**. The **Retention** amount is to be borne by the **Company** and shall remain uninsured.

No **Retention** is applicable to Insurance Covers A.1 - First Response or Section 1 - OSP First Response of the Outsource Service Provider Additional Coverage Section (if purchased).

A single **Retention** shall apply to **Loss** arising from all **Claims** and **Insured Events** that constitute a **Single Claim**.

In the event that a **Single Claim** triggers more than one **Retention**, then, as to such **Single Claim** the highest of such **Retentions** shall be deemed the **Retention** applicable to **Loss**.

7. General Provisions

7.1 Maintenance of Technology

The **Insured** will take all commercially reasonable steps to maintain data and information security procedures to no lesser standard than disclosed in the proposal form. The **Insured** will take all commercially reasonable steps to maintain software and hardware to current recommended industry standards.

The **Insured** will ensure that back-up systems and processes are maintained to no lesser standard than disclosed in the proposal form and that the ability to restore such data is regularly tested (at least every six (6) months).

7.2 Sanctions

The **Insurer** shall not be deemed to provide cover and the **Insurer** shall not be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the **Insurer**, its parent company or its ultimate controlling entity 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 the United States of America.

7.3 Policy Purchase

In granting cover to the **Insured**, the **Insurer** has relied upon the material statements and particulars in the proposal together with its attachments and other information supplied. In providing this material, the **Insured** must comply with its duty to make a fair presentation of risk. This duty also applies prior to any variation of this **Policy**.

If the **Insured** breaches its duty to make a fair presentation of risk and, but for the breach, the **Insurer**:

- (i) would not have entered into the **Policy**; or
- (ii) would have done so only on different terms

the **Insurer** will have remedies against the **Insured** as follows:

- a) The **Insurer** may avoid the **Policy** and refuse all claims if:
 - (i) the breach is deliberate or reckless, in which event the **Insurer** may retain the premium paid; or
 - (ii) but for the breach the **Insurer's** underwriter would not have entered into the **Policy** on any terms, in which event the **Insurer** shall return the premium.
- b) In all other cases:
 - (i) where the **Insurer's** underwriter would have charged more premium, any amounts payable by the **Insurer** will be scaled down to the ratio that the premium actually charged (the "Actual Premium") bears to the premium that he would have charged to assume that risk (the "Reference Premium"); and in addition
 - (ii) where the **Insurer's** underwriter would have written the risk on different terms (other than in relation to premium) the **Policy** is to be treated as if it had been entered into on those terms

7.4 Changes in Risk

The **Policyholder** shall notify the **Insurer** of any data which is materially different in quality, sensitivity or value from that which is disclosed in any proposal form, information or representation (a "**Data Change**"), provided to the **Insurer** prior to the inception date of the **Policy**. In the event of a **Data Change** cover may be extended under this **Policy** provided that the **Policyholder** and the **Insured**:

- (i) complies with its duty to make a fair presentation of risk; and
- (ii) gives the **Insurer** sufficient details to enable the **Insurer** to assess and evaluate the exposure with respect to such **Data Change**; and
- (iii) accepts any consequential amendments to the **Policy** terms and conditions, including payment of additional premium required by the **Insurer**.

7.5 Assignment

This **Policy** and any rights under or in respect of it cannot be assigned without the prior written consent of the **Insurer**.

7.6 Cancellation by Policyholder

This **Policy** may be cancelled by the **Policyholder** providing written notice to the **Insurer**. If no **Claim** has been made or **Insured Event** has arisen and no circumstance has been notified prior to such cancellation, the **Insurer** shall retain 25% of the original premium plus the pro-rata proportion due for time on risk. Otherwise, the premium shall not be returned and shall be deemed fully earned at the inception date.

7.7 Cancellation by Insurer

This **Policy** may be cancelled by the **Insurer** delivering to the **Policyholder** by registered, certified, other first class mail or other reasonable delivery method, at the address of the **Policyholder** set out in the Schedule, written notice stating when, not less than thirty (30) days thereafter (ten (10) days in the event of cancellation for non-payment of premium), the cancellation shall be effective. Proof of mailing or delivery of such notice shall be sufficient proof of notice and this **Policy** shall be deemed cancelled as to all **Insureds** at the date and hour specified in such notice. In such case, the **Insurer** shall be entitled to a pro-rata proportion of the premium. Payment or tender of any unearned premium by the **Insurer** shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.

7.8 Insolvency

Insolvency, receivership or bankruptcy of any **Insured** shall not relieve the **Insurer** of any of its obligations hereunder.

7.9 Interpretation

The descriptions in the headings and titles of this **Policy** are solely for reference and convenience and do not lend any meaning to this contract. Words and expressions in the singular shall include the plural and vice versa. Words following the terms including, include or any similar expression shall be construed as illustrative. Words in **bold** typeface have special meaning and are defined or in the **Policy** or in the Schedule. Words that are not specifically defined in this **Policy** have the meaning normally attributed to them.

7.10 Governing Law

This **Policy** and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England & Wales.

The **Insurer** and **Insured** agree that all of the provisions of the Insurance Act 2015 shall apply from the inception date of this **Policy**.

7.11 Disputes

Except as otherwise specifically provided in this **Policy**, any dispute regarding any aspect of this **Policy** or any matter relating to cover thereunder which cannot be resolved by agreement within 30 days, may be referred to binding arbitration by either party, upon giving seven (7) days' notice to the other, in the London Court of International Arbitration (LCIA), whose rules shall be deemed incorporated by reference to this Section 7.11 - Disputes, and the cost shall be borne equally between the Insured and Insurer.

7.12 Contracts (rights of third parties) Act 1999

Nothing in this policy is intended to confer a directly enforceable benefit on any third party other than an **Insured**, whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

7.13 Complaints

We believe you deserve courteous, fair and prompt service. If there is any occasion when our service does not meet your expectations please contact us using the appropriate contact details below, providing the Policy/Claim Number and the name of the Policyholder/Insured Person to help us deal with your comments quickly.

Claims related complaints:

Claims Manager,
AIG Europe Limited, 2-8 Altyre Road, Croydon, CR9 2LG

Telephone: +44 (0) 208 681 2556
Facsimile: +44 (0) 208 253 7515
Online: www.aig.co.uk and select "Feedback & Complaints"

All other complaints:

The Customer Relations Unit UK,
AIG Europe Limited, The AIG Building, 2-8 Altyre Road, Croydon CR9 2LG

Telephone: +44 (0) 208 649 6666
Email: uk.customer.relations@aig.com
Online: www.aig.co.uk and select "Feedback & Complaints"

We will acknowledge the complaint within 5 business days of receiving it, keep you informed of progress and do our best to resolve matters to your satisfaction within 8 weeks. If we are unable to do this you may be entitled to refer the complaint to the Financial Ombudsman Service who will review your case. We will provide full details of how to do this when we provide our final response letter addressing the issues raised.

The Financial Ombudsman Service may not be able to consider a complaint if the complainant:

- has not provided us with the opportunity to resolve the complaint, or
- is a business with more than 10 employees and a group annual turnover of more than €2 million; or
- is a trustee of a trust with a net asset value of more than £1 million or;
- is a charity with an annual income of more than £1 million.

The Financial Ombudsman Service can be contacted at:

Financial Ombudsman Service, Exchange Tower, London, E14 9SR

Telephone: 0800 023 4567 (calls are normally free for people phoning from a fixed line)
0300 123 9123 (calls are charged at the same rate as 01 or 02 numbers on mobile tariffs)

Email: complaint.info@financial-ombudsman.org.uk

Following this complaint procedure does not affect your right to take legal action.

7.14 Financial Services Compensation

The **Insurer** is covered by the Financial Services Compensation Scheme (FSCS). The **Insured** may be entitled to compensation from the scheme in the unlikely event that the **Insurer** cannot meet its obligations. This depends on the type of business and the circumstances of the claim. Further information is available from the FSCS.

Financial Services Compensation Scheme, 7th Floor Lloyds Chambers, Portsoken Street, London E1 8BN

Telephone: +44 (0) 20 7892 7300

Fax: +44 (0) 20 7892 7301

E-mail: enquiries@fscs.org.uk

7.15 Privacy Policy

AIG Europe Limited's Privacy Policy is available at www.aig.co.uk/privacypolicy_or by requesting a copy from Data Protection Officer, Legal Department, AIG Europe Limited, The AIG Building, 58 Fenchurch Street, London EC3M 4AB (email: DataProtectionOfficer@aig.com).

By submitting information to AIG relating to any identifiable individual, you represent that you have authority to provide that personal information to AIG. With respect to any individual about whom you provide personal information to AIG, you agree: (a) to inform the individual about the content of the Privacy Policy; and (b) to obtain any legally-required consent for the collection, use, disclosure, and transfer (including cross-border transfer) of personal information about the individual in accordance with the Privacy Policy.

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