

# Cyber and Data Security Insurance Policy



**QBE**

As part of your policy with QBE Europe, your company now has access to the our risk management portal. This portal is designed to help you prevent network, Cyber and privacy losses and offers technical resources, including:



Details about QBE's Cyber Claims Service Partners.



An incident roadmap to help you understand the process for a loss notified under your Cyber policy.



Current news reports and articles on issues relating to Cyber and security management.



Risk management tools and templates, including a data breach cost calculator and self assessments resources.



Online training modules on Cyber security issues, including password protection and phishing.

Please make sure to check back often, as content and features are updated regularly.

## To register for the QBE eRiskHub:

**1** Go to <https://www.eriskhub.com/qbe>

**2** Complete the **New User Registration** form in the center of the webpage. Create your own username and password. Enter **12781** in the **Access Code** field.

**3** Once you've completed registration, you can login immediately by entering the username and password you just created in the **Login** box in the top right corner of the screen.

### Please note the following:

- The QBE Cyber Risk Management portal is for customers of QBE only. Do not share portal access instructions with anyone outside your organisation. You are responsible for maintaining the confidentiality of the **Access Code** provided to you.
- To register please use either Google Chrome or Mozilla FireFox web browsers.
- **Up to three individuals** from your organisation may register and use the portal.
- Should you experience a Cyber incident, you should call the QBE Cyber Incident Manager noted in your policy schedule.

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## SECTION 1: HOW YOUR POLICY WORKS

- PARTIES TO THIS AGREEMENT** 1.1 This **policy** is between **you** (the **insured** shown in the **schedule**) and **us** (the **insurer**). This document, together with its **schedule** (including any **schedules** issued in substitution), and any attached endorsements is the **policy** which sets out this insurance. It is a legal contract so please read all of it carefully.
- WORDS IN BOLD** 1.2 Other than in the headings, words in bold carry specific meanings which are set out in the Definitions **section**.
- POLICY STRUCTURE** 1.3 Each **section** sets out the extent of cover, how **our** liability to **you** may be limited or excluded and other relevant terms and conditions applicable to that **section**.
- The cover provided by each insured **section** is only operative if stated as 'insured' in the **schedule**. Where any **schedule** heading or sub-heading states 'n/a', 'not applicable' or 'not insured' then no cover applies for that **section**.
- Certain terms apply to the whole **policy** and they are set out in:
- Section 3: Exclusions
  - Section 4: Notification and Claims
  - Section 5: General Conditions
  - Section 6: How to Complain
  - Section 7: Privacy; and
  - Section 8: Definitions.
- Limits of indemnity** and **sub-limits** operate in accordance with the general terms and conditions.
- YOUR DUTY OF FAIR PRESENTATION** 1.4 **You** must make a fair presentation of **your** risk in proposing for, or proposing to vary, this **policy**, having conducted a reasonable search of information available to **you**, including information held by third parties. **You** should obtain advice from your broker or other suitably qualified persons as to the requirements of a fair presentation.
- It is important that **your** disclosure is substantially correct and presented to **us** in a clear and accessible manner. Incomplete, incorrect or false information may result in any claim being rejected, the amount **you** receive being reduced or the whole **policy** being avoided.
- MATERIAL CHANGES DURING THE PERIOD OF INSURANCE** 1.5 **You** must notify **us** within thirty (30) days of any material change to **you**, **your business services** or the risks insured if indemnity under this **policy** is sought in relation to any such change. Any acquisitions or creations falling under clause 5.1 shall not be considered a material change for the purposes of this clause.
- We** shall not indemnify **you** for any liability arising out of a material change for which indemnity would otherwise have been available under this insurance unless **we** have provided valid confirmation of cover, whether by an express term of this **policy**, endorsement, written confirmation or otherwise.

PREMIUM PAYMENT	1.6	<p><b>We</b> will, in consideration of the payment of the premium and for the <b>period of insurance</b>, provide insurance in accordance with the sections of the policy shown as 'operative' in the schedule, subject to the conditions, exclusions and endorsements of the policy.</p> <p>If any instalment of premium is not paid and accepted by <b>us</b> on or before its payment date shown in the <b>schedule</b>, <b>we</b> can give written notice to <b>you</b> at the address shown on the <b>schedule</b> cancelling the <b>policy</b> in accordance with clause 5.3(ii).</p>
HOW TO CLAIM	1.7	<p><b>You</b> must follow the provisions set out in <b>section 4</b> - 'Notification and Claims' which explain the process and <b>your</b> responsibilities.</p>
HOW TO COMPLAIN	1.8	<p>Please refer to <b>section 6</b> – 'How to Complain'.</p>

## SECTION 2: INSURING AGREEMENTS

Subject to the provisions of the **policy**, including any applicable **excess** or **waiting period** and any applicable **limit of liability/sub-limit**, **we** will:

### CYBER, DATA SECURITY AND MULTIMEDIA COVER

CYBER AND DATA SECURITY INSURING CLAUSE	2.1	<p>indemnify <b>you</b> for any <b>claim</b> and <b>defence costs</b> first made against <b>you</b> during the <b>period of insurance</b> which arises out of any actual or alleged <b>cyber risk</b> of which <b>you</b> first become aware during the <b>period of insurance</b>.</p>
MULTIMEDIA INSURING CLAUSE	2.2	<p>indemnify <b>you</b> for any <b>media claim</b> and <b>defence costs</b> first made against <b>you</b> during the <b>period of insurance</b> of which <b>you</b> first become aware during the <b>period of insurance</b>.</p>
	2.2.1	<p><b>Limit of Indemnity</b></p> <p><b>Our</b> liability under clauses 2.1 and 2.2 shall not exceed the <b>sub-limit</b> stated in the <b>schedule</b> but this <b>sub-limit</b> shall be reinstated to the maximum amount payable in any one <b>period of insurance</b>.</p>

### CYBER, DATA SECURITY AND MULTIMEDIA COVER - EXTENSIONS

FINANCIAL TRANSFER INDEMNIFICATION	2.3	<p>indemnify <b>you</b> for any theft of <b>your</b> money or property of which <b>you</b> first become aware during the <b>period of insurance</b> directly caused by a <b>breach of network security</b>.</p> <p><b>Our</b> liability under this clause 2.3 shall not exceed £100,000 each and every claim and in the aggregate, such <b>sub-limit</b> being part of and not in addition to the <b>limit of liability</b>,</p>
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## LOSS OF OR DAMAGE TO DOCUMENTS

- 2.4 indemnify **you** for costs and expenses reasonably incurred in replacing or restoring **documents you** discover during the **period of insurance** to be lost, damaged or destroyed and which, after diligent search, cannot be found provided that:
- (i) the loss, damage or destruction was a result of a **breach of privacy**;
  - (ii) **we** will only indemnify **you** for costs, charges and expenses of whatsoever nature incurred by **you** in replacing and/or restoring such **documents** which are supported by bills and/or accounts and which shall be subject to prior written approval by a competent person nominated by **us** with **your** consent; and
  - (iii) **we** will only indemnify **you** for the loss of any **documents** which were in **your** physical custody or control or that of any other person to whom **you** entrusted, lodged or deposited such **documents** in the ordinary course of your **business services**.

## WITHDRAWAL OF CONTENT

- 2.5 **Our** liability under this clause 2.4 shall not exceed £100,000 each and every claim and in the aggregate, such **sub-limit** being part of and not in addition to the **limit of liability**.
- indemnify **you** against all costs and expenses, which **you** shall become legally liable to pay for and as a result of the withdrawal or alteration of any **media content** by order of a court as a result of or in mitigation of a **media claim** covered by this **section** including as a result of a complaint made to the Advertising Standards Authority (ASA), the Office of Communications (OFCOM), Trading Standards Officers or any other official regulatory or self-regulatory body within the **territorial limit**, but only to the extent that such costs and expenses cannot be avoided or curtailed and providing that in the first instance **you**:
- (i) obtain **our** approval before incurring any costs or expenses; and
  - (ii) satisfy **us** that such **media content** would, if not rectified, result in damages equal to or in excess of the proposed indemnified costs and expenses; and
  - (iii) satisfy **us** that that the costs and expenses incurred are necessary to successfully avoid (or reduce the loss in respect of) a **media claim**.

Not indemnify **you** for any:

- a) payment recovered from others; or
- b) element of profit or savings for **you** in any payment or fees; or
- c) salaries, wages, overhead or any expenses of or associated with **you** incurred for the withdrawal of the content.

**Our** liability under this clause 2.5 shall not exceed £500,000 or the **limit of liability**, whichever is the lower, each and every claim and in the aggregate, such **sub-limit** being part of and not in addition to the **limit of liability**.

## VOICE / TELEPHONY

- 2.6 indemnify **you** during the **period of insurance** against your financial loss as a direct result of **you** or any **service provider** failing to protect against a **breach of network security** which results in **your** telephone systems incurring unintended or unauthorised call charges or bandwidth charges during the **period of insurance**.

## DATA BREACH NOTIFICATION COSTS COVER

### DATA BREACH NOTIFICATION COSTS

- 2.7 subject to **you** obtaining **our** prior written consent, pay on **your** behalf for an actual or suspected **cyber risk** of which **you** first become aware during the **period of insurance**:
- (i) legal expenses incurred by the **cyber and data security**

- representative** to assess whether **you** are in breach of **data protection law**; and
- (ii) **data breach notification costs**.

## INFORMATION AND COMMUNICATION ASSET RECTIFICATION COSTS COVER

### INFORMATION AND COMMUNICATION ASSET RECTIFICATION COSTS

- 2.8 indemnify **you** for costs and expenses, incurred in:
- repairing, replacing or restoring **computer systems** discovered by **you** to be lost, damaged or destroyed when:
- i) the loss, damage or destruction was a result of a **breach of network security**; and
  - ii) the discovery of such loss, damage or destruction occurred during the **period of insurance**.

Such indemnity shall be limited to the costs and expenses of whatsoever nature incurred by **you** with **our** prior written consent in relation to the replacement and/or restoration of such electronic data. Any claim for such costs and expenses shall be supported by invoices.

## REGULATORY DEFENCE AND PENALTY COSTS

### REGULATORY DEFENCE AND PENALTY COSTS

- 2.9 subject to **you** obtaining **our** prior written consent, and to the extent insurable by law, pay on **your** behalf those amounts which **you** are legally obliged to pay as a result of a **breach of data protection law** directly arising from a **breach of privacy** of which **you** first become aware during the **period of insurance** for any legal and investigation costs, as a result of a civil regulatory action, **regulatory compensatory award**, civil penalty or fines imposed by a **data protection regulator** against **you**.

## PUBLIC RELATIONS COSTS COVER

### PUBLIC RELATIONS COSTS

- 2.10 subject to **you** obtaining **our** prior written consent, pay reasonable costs **you** incur for the **cyber and data security representative** to avert or mitigate any significant damage to any of **your** brands and business operations resulting from a **cyber risk** of which **you** first become aware during the **period of insurance**.

## FORENSICS COSTS COVER

### FORENSIC COSTS

- 2.11 subject to **you** obtaining **our** prior written consent, pay forensic costs incurred by the **cyber and data security representative** as a result of a **cyber risk** or a **cyber extortion threat** of which **you** first become aware during the **period of insurance** to:
- (i) establish the cause and extent of the **cyber risk** or **cyber extortion threat**;
  - (ii) assess **your** network security and recommend security improvement; and
  - (iii) temporarily store **your** electronic data at a third-party host location when **your computer systems** remain vulnerable to damage, destruction, alteration, corruption, copying, stealing or misuse.

## CREDIT MONITORING COSTS COVER

### CREDIT MONITORING

- 2.12 subject to **you** obtaining **our** prior written consent, pay the costs of offering credit monitoring or identify theft services **you** incur for a maximum period of

## COSTS

twelve (12) months to those affected by a **breach of privacy** of which **you** first become aware during the **period of insurance**.

## CYBER EXTORTION COVER

### CYBER EXTORTION

- 2.13 indemnify **you** to the extent insurable by law for **cyber extortion expenses** arising from a **cyber extortion threat** during the **period of insurance** when:
- (i) **you** can demonstrate to **our** satisfaction that **you** have taken all reasonable efforts to determine that the **cyber extortion threat** is genuine and not a hoax;
  - (ii) if a **ransom** is demanded by a **hacker**, at least one of **your** director has agreed to the payment of the **ransom**; and
  - (iii) **you** can demonstrate to **our** reasonable satisfaction that the payment of such **ransom** is reasonable and necessary.

## CYBER BUSINESS INTERRUPTION COVER

### CYBER BUSINESS INTERRUPTION

- 2.14 indemnify **you** for loss of **business income** incurred by **you**, including where caused by damage to **your** reputation, during the **period of reinstatement** directly as a result of:
- a) a failure by **you** or the **service provider** to protect against a **breach of network security**; or
  - b) **system error**.
- We** will not provide an indemnity for any losses incurred during the **waiting period** commencing when the total or partial interruption, material degradation in service, or failure of **computer systems** began.
- Our** liability under this clause will not exceed the lesser of:
- (i) the amount of **business income you** would have earned during the **period of reinstatement** but for the total or partial interruption, material degradation in service, or failure of **computer systems**; or
  - (ii) the **limit of indemnity** specified in the **schedule**; or
  - (iii) GBP 250,000 for **system error** or the cyber business interruption **sub-limit**, whichever is the lower.

#### 2.14.1 Professional accountants

Any particulars or details contained in **your** books of account or other **documents** which may be required by the **insurer** for the purpose of investigating or verifying any claim made under this insuring clause – ‘Cyber business interruption’ may be produced by professional accountants if at the time they are regularly acting as such for **you** and their report will be the basis for evidence of the particulars and details to which such report relates, unless any such contradictory circumstance or evidence is apparent in which case the onus to prove the loss shall be upon **you**.

The **insurer** will indemnify **you** for the reasonable charges payable by **you** to **your** professional accountants for producing such particulars or details or any other proofs, information or evidence as may be required by the **insurer** and reporting that such particulars or details are in accordance with **your** books of account or other **documents**.

## SOCIAL ENGINEERING FRAUD COVER

**SOCIAL ENGINEERING FRAUD** 2.15 indemnify **you** during the **period of insurance** against the theft of **your** money, property, products, goods, services or other financial benefit, where such theft is as a direct result of a **social engineering fraud communication** during the **period of insurance** designed to impersonate **your** partners and/or **directors**, officers or **employees**, or those of any of **your** suppliers or any other third parties.

## PCI DSS COSTS COVER

**PCI DSS COSTS** 2.16 subject to **you** obtaining **our** prior written consent, and to the extent insurable by law pay costs **you** incur for a **claim** and **defence costs** first made against **you** by a **Payment Card Entity**, or a party to whom **you** are liable for the **claim** arising from a **breach of privacy** during the **period of insurance** for:

- (i) a **PCI forensic consultant** to investigate any suspected or actual non-compliance with the **PCI DSS** if required by a **Payment Card Entity**;
- (ii) the costs of **PCI DSS** recertification;
- (iii) any liability to a **Payment Card Entity** for its costs of re-issuing credit, debit or pre-funded cards due to your breach of **PCI DSS**;
- (iv) any costs or penalties imposed by the **Payment Card Entity** on you.

**Our** liability under this clause 2.16 shall not exceed GBP 100,000 any one claim and in the aggregate, such **sub-limit** being part of and not in addition to the **limit of liability**.

## SECTION 3: EXCLUSIONS

**We** shall have no liability to make payments under this **policy** directly or indirectly attributable to any:

- BETTERMENT** 3.1 costs in repairing, replacing or restoring **your computer systems** to a level beyond that which existed prior to any claim or loss.
- BODILY INJURY OR PROPERTY DAMAGE** 3.2
  - (i) **bodily injury** unless arising from any **claim** seeking compensatory damages for mental anguish or distress where such damages arise from **claims** covered under this **policy**;
  - (ii) physical loss, destruction or damage of tangible property (including the loss of use) unless expressly provided to the contrary.
- BREACH OF LEGISLATION/ANTI-TRUST** 3.3 Actual or alleged breach of taxation, competition, restraint of trade, anti-trust or unsolicited communications legislation or regulation including but not limited to
  - (i) the Employment Retirement Income Security Act 1974 and any amendment thereto, or any rules or regulations promulgated thereunder;
  - (ii) any actual or alleged violations of the Racketeer Influenced and Corrupt Organisation Act 18 USC Sections 1961 et seq and any amendments thereto, or any rules or regulations promulgated thereunder;
  - (iii) any actual or alleged violation of any of the provisions of the Securities Act of 1933, the Securities Exchange Act 1934 or any similar Federal or State law or any common law relating thereto;

		(iv) the CAN-SPAM Act of 2003 or any subsequent amendments to that Act;
		(v) the Telephone Consumer Protection Act 1991 or any subsequent amendments to that Act;
		(vi) any other law, regulation or statute relating to unsolicited communications, distributions, sending or transmitting of any communication via telephone or any other electronic or telecommunications device; or
		(vii) any law, regulation or statute relating to the wrongful collection, wrongful storage or wrongful use of biometric data.
CLAIM BY AN INSURED	3.4	<p><b>claim</b> brought directly or indirectly by or on behalf of:</p> <ol style="list-style-type: none"> <li>1. any <b>insured</b> or <b>your</b> parent or subsidiary (as defined in the Companies Act 2006); or</li> <li>2. any entity in which <b>you</b> or <b>your</b> partner or member has an executive interest or responsibility or has a shareholding or other financial interest representing more than 15% of the issued share capital</li> </ol> <p>provided that this exclusion shall not apply to such <b>claims</b> by <b>employees</b> for <b>breach of privacy</b>.</p>
CONDUCT	3.5	dishonest, fraudulent, deliberate or reckless act or omission of <b>you</b> . This exclusion shall not apply in respect of wilful misconduct of an <b>employee</b> .
CONTRACTUAL LIABILITY	3.6	liability arising under a contract except to the extent that such liability would have attached in the absence of such contract provided that this exclusion shall not apply in respect of <b>PCIDSS</b> .
EXISTING CLAIMS OR CIRCUMSTANCES	3.7	<p>occurrence:</p> <ol style="list-style-type: none"> <li>(i) prior to the <b>retroactive date</b>; or</li> <li>(ii) notified to any other insurer(s) covering the same subject matter as this insurance for a preceding period of insurance.</li> <li>(iii) known to <b>you</b> prior to inception of this <b>policy</b> that may reasonably have been expected to result in a loss under this policy.</li> </ol>
FALSE ADVERTISING	3.8	false advertising or deceptive trade practices arising from <b>media content</b> .
FINES AND PENALTIES	3.9	<ol style="list-style-type: none"> <li>(i) fines, penalties, liquidated damages or contractual penalties other than those that are covered under Regulatory Defence and Penalty Costs or PCI DSS costs; or</li> <li>(ii) punitive, multiple or exemplary damages awarded by a court or tribunal or reflected in a settlement.</li> </ol>
FRANCHISEE	3.10	franchise or franchisee of the <b>insured</b> unless noted in the <b>schedule</b> . In addition, a <b>claim</b> originating from a franchise or franchisee of the <b>insured</b> shall not be covered under this <b>policy</b> .
GAMING, GAMBLING OR LOTTERIES	3.11	use or provision of any gaming, gambling or lottery except when such services are identified as <b>business services</b> .
GOVERNMENT INTERVENTION	3.12	any government, regulatory, licensing or commission action or investigation. However this exclusion shall not apply to insuring clause 2.9 Regulatory Defence and Penalty Costs.
INACCURATE PRICING	3.13	inaccurate, inadequate or incomplete description or pricing of goods, products or services.

INSOLVENCY OF THE INSURED	3.14	<b>insolvency event.</b>
LIABILITY ARISING OUT OF EMPLOYMENT	3.15	violation relating to any individual's actual or prospective employment by <b>you</b> . This exclusion will not apply to the extent that <b>you</b> would be liable to such <b>employees</b> other than in their capacity as <b>employees</b> or a <b>breach of privacy</b> or <b>breach of data protection law</b> directly affecting <b>employees</b> .
MANAGEMENT LIABILITY	3.16	personal liability incurred by <b>you</b> in the role of the <b>director or officer</b> when:  (i) acting in that capacity; or (ii) in breach of their fiduciary duty, or (iii) making or issuing any statement, representation or information concerning <b>you</b> and the <b>business services</b> contained in any accounts, reports or financial statements.
NATURAL PERILS	3.17	physical cause or natural peril, including but not limited to fire, storm, wind, water, flood, subsidence, or earthquake, that results in physical damage to property including to <b>computer systems</b> .
NORTH AMERICAN JURISDICTION	3.18	any <b>North American jurisdiction</b> , unless jurisdiction is stated in the <b>schedule</b> to be worldwide.
NUCLEAR RISK AND IONISING RADIATION	3.19	(i) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or  (ii) the radiation, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
ORDINARY PAYROLL COSTS	3.20	ordinary salary costs incurred within <b>your</b> normal working hours. However, this exclusion shall not apply to insuring clause 2.14 Cyber Business Interruption.
PATENTS/TRADE SECRETS	3.21	the infringement of any patent or unauthorised use of trade secrets.
PENSIONS	3.22	<b>insured</b> acting as a trustee, fiduciary or administrator of the <b>insured's</b> own pension, profit sharing or employee benefits programme, including any actual or alleged breach or violation of the Employee Retirement Income Security Act of 1974 (ERISA) (USA) the Pensions Acts of 1994 and 1995 (UK) or any successor, amending or subordinate legislation of either, or any similar or equivalent law or regulation in any other jurisdiction.
POLLUTION, ASBESTOS OR ELECTROMAGNETIC FIELDS	3.23	claim:  (i) for <b>bodily injury</b> , sickness, disease, death or physical loss, destruction or damage of tangible property (including the loss of use) directly or indirectly caused by <b>pollution</b> ;  (ii) for removing nullifying or cleaning-up seeping, polluting or contaminating substances;  (iii) directly or indirectly arising out of, resulting from, in consequence of or in any way involving asbestos or any materials containing asbestos in whatever form or quantity;  (iv) directly or indirectly arising out of electromagnetic fields, electromagnetic radiation or electromagnetism.

PRODUCTS LIABILITY	3.24	goods or products (being tangible property or merchandise) sold, supplied, repaired, altered, treated, manufactured, installed or maintained by <b>you</b> or on <b>your</b> behalf.
PROFESSIONAL SERVICES	3.25	claim or loss arising out of or in connection with any act, error or omission, or any breach of contract in rendering or failure to render <b>professional services</b>
RETURN OF FEES OR COMMISSIONS	3.26	return, restitution or offset of fees, commissions, expenses or costs either by service level credits or by any other means.
SANCTION LIMITATION	3.27	claim or any benefit hereunder to the extent that the provision of such cover, payment of such <b>claim</b> or provision of such benefit would expose <b>QBE</b> or any member of the <b>QBE</b> group of companies to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of any country.
TERRORISM	3.28	<b>bodily injury</b> , damage, <b>claim</b> , loss, liability, expenses, costs or <b>defence costs</b> of whatsoever nature caused by <b>terrorism</b> . Any unlawful act of a third party resulting in a <b>breach of network security</b> shall not be regarded as act of <b>terrorism</b> .
THEFT	3.29	claim or loss sustained by <b>you</b> or a third party by the transfer of money or securities (or equivalent thereof) other than where coverage is provided under Section 2.3 Financial Transfer Indemnification of this <b>policy</b> .
TRADING LOSS AND LIABILITIES	3.30	(i) <b>your</b> lost profit, mark-up or tax liability or <b>your</b> equivalent; or (ii) <b>your</b> trading loss or trading liability including those arising from the loss of any client, account or business  other than covered under Cyber Business Interruption.
UNLICENSED SOFTWARE	3.31	use by <b>you</b> of software in breach of any intellectual property rights of another party, beyond the terms permitted by a licence granted to <b>you</b> , or in breach of applicable legislation or regulation.
UNSUPPORTED SYSTEMS	3.32	claim or loss caused by a <b>cyber risk</b> to software which is no longer supported by the producer of the software or/and where security updates are no longer being provided.
UTILITY SERVICE PROVIDER	3.33	Failure, disturbance, interruption or outage of: internet access or telecommunications services, including Domain Name System (DNS), Top-Level Domain or DNS Root Zone Service, telecommunications infrastructure or internet infrastructure, electricity, satellite or utilities. This exclusion will not apply if such services are under <b>your</b> direct operational control.
WAR AND CYBER OPERATION	3.34	(i) loss, damage, liability, cost or expense of any kind (together "loss") resulting: a. directly or indirectly from <b>war</b> ; b. from a <b>cyber operation</b> that is carried out as part of a <b>war</b> ; or c. from a <b>cyber operation</b> that causes a sovereign state to become an <b>impacted state</b> . notwithstanding any provision to the contrary in this insurance.  Provided, however, clause 3.34(i)(c) shall not apply to the direct or indirect effect of a <b>cyber operation</b> on <b>computer systems</b> used by the <b>insured</b> or its third party service providers that is not physically located in an <b>impacted state</b> but is affected by a <b>cyber operation</b> .

- (ii) In determining attribution of a **cyber operation**, the **insured** and **insurer** shall have regard to whether the government of the **impacted state** formally or officially attributes the **cyber operation** to another sovereign state or those acting at its direction or under its control.

In the absence of attribution by the **impacted state**, the **insurer** may rely upon a reasonable inference as to attribution of the **cyber operation** to another sovereign state or those acting at its direction or under its control having regard to such evidence as is available to the **insurer**.

In the event that the government of the **impacted state** either takes an unreasonable length of time to, or does not, or is unable to attribute the **cyber operation** to another sovereign state or those acting at its direction or under its control, it shall be for the **insurer** to prove attribution by reference to such other evidence as is available.

The following definition applies for the purposes of this exclusion only:

**Computer system**

any computer, hardware, software, communications system, electronic device (including but not limited to, smart phone, laptop, tablet, or wearable device), server, cloud infrastructure or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.

## SECTION 4: NOTIFICATION AND CLAIMS

### CYBER RISK - IMMEDIATE STEPS TO BE TAKEN

- 4.1 Immediately upon discovery of an actual or alleged **cyber risk**, **you** should give notice to the **cyber and data security representative** by telephone on +44 (0)207 523 5333.

The **cyber and data security representative** can provide advice and assist you in the investigation of the actual or alleged **cyber risk**. If the actual or alleged **cyber risk** which you notify to the **cyber and data security representative** is following investigation determined to be covered by any **section** of this **policy**, we shall indemnify you for any reasonable costs you incur instructing the **cyber and data security representative**. If the actual or alleged **cyber risk** which you notify is not covered by any **section** of this **policy**, we shall not indemnify you for the costs you incur instructing the **cyber and data security representative** and you will have to bear those costs.

For the avoidance of doubt, notification to the **cyber and data security representative** does not satisfy your separate obligation under clause 4.2 below to notify **us** of any potential claim under this **policy**.

### NOTIFICATION OF A CLAIM

- 4.2 It is a condition precedent to **our** liability that notice shall be given to **us** after discovery by **you** of any **claim** or **circumstance** or occurrence which may give rise to a claim under this **policy** as soon as practicable within the **period of insurance** or, if applicable, the extended reporting period. Such notice should be made via email to CoreFSM@uk.qbe.com.

**We** will be able to deal with **your** claim more effectively and speedily if **you** provide **your policy** number on first contact.

**You** may also wish to inform **your** insurance broker. For the avoidance of doubt,

notification to **your** insurance broker does not satisfy **your** obligation to notify **us**.

In relation to any cover provided by this **policy**, if:

- (i) **you** notify **us** of **circumstances** during the **period of insurance** in accordance with the requirements of this **section**; and
- (ii) such notification includes all relevant facts which may give rise to a **claim**, to the extent known or reasonably accessible to **you**; and
- (iii) **we** are satisfied that a claim may arise from the **circumstances** notified;

**we** will treat any **claim** subsequently arising directly from such **circumstances** as though the **claim** had been notified during the **period of insurance**.

#### YOUR DUTIES

4.3 **You** must before and after any notification under this **policy**:

- (i) not admit responsibility, liability, make an offer or promise, nor offer payment or indemnity without **our** written consent;
- (ii) not incur any expense without **our** written consent except at **your** own cost, unless expressly provided to the contrary;
- (iii) give all such information, co-operation and assistance, and forward all documents and information as requested to enable **us** to investigate, settle or resist any claim, as **we** may reasonably require;
- (iv) not destroy evidence or supporting information or documents without **our** prior written consent; nor destroy property relating to an occurrence, loss or suit that may give rise to a claim under this **policy**.

#### DUTY TO DEFEND

4.4 It shall be **your** duty to defend any **claim**. **We** shall have the right and be given the opportunity to participate with **you** in the defence and settlement of any **claim** that appears likely to involve **us**.

#### CLAIMING UNDER MORE THAN ONE INSURING CLAUSE

4.5 If it is possible for **you** to bring a claim under more than one insuring clause then **you** may elect to submit a claim against the insuring clause which offers the maximum amount of payment subject to any applicable **sub-limit**.

**You** are not permitted to submit a claim under more than one insuring clause which seeks the same indemnification in respect of the same cause of loss or costs associated with that loss in any one **period of insurance**.

#### INTERRELATED CLAIMS

4.6 Two or more claims under this **policy** arising from the same originating cause shall be deemed to constitute a single claim notwithstanding that they might involve different claimants, insureds and causes of action. Only one excess and any applicable limit of liability/sub-limit shall apply to that single claim. All such claims shall be deemed to have been first made when the first of them was notified to us.

## FRAUDULENT CLAIMS

- 4.7 If **you** or anyone acting on **your** behalf makes a fraudulent claim under this **policy**, **we**:
- (i) are not liable to pay the claim;
  - (ii) may recover any part of the claim already paid from the relevant **insured**; and
  - (iii) may by notice to **you** treat this **policy** as having been terminated with effect from the time of the first fraudulent act, in which case **we** are not liable to **you** in respect of a relevant event occurring after that time and may retain any premium.

These remedies shall not be available against any other entity which is an **insured** under this **policy** that was not implicated in the fraud.

## CLAIMS PREPARATION COSTS

- 4.8.1 In respect of all insuring clauses – we will pay the reasonable and supportable costs incurred by **you** with **our** prior written consent, for the preparation, presentation, certification and/or verification of a specified claim provided that:
- a) such claim arises from a cause not excluded by this **policy**; and
  - b) **our** liability under this clause shall not exceed 10% of a specified claim or £50,000.00, whichever is the lesser, in respect of any one claim or series of claims arising from a single occurrence or £100,000 in total in any one **period of insurance**.
- 4.8.2 For the purpose of this clause a “specified claim” shall mean any claim which combined shall have an initial reserve of £25,000 (or the currency equivalent at the time reserve is set) or more.
- 4.8.3 **We** agree that **you** may utilise external consultants for the purposes of this clause provided that such consultants:
- a) are agreed by **us**; and
  - b) have been appointed by **you** and are wholly independent of any party connected to this **policy**.
- 4.8.4 Furthermore, the indemnity provided by this clause shall exclude and not cover:
- a) any costs involved in any arbitration, dispute or legal proceedings against **us** that arise from any claim under this **policy**; and
  - b) any fees charged by any insurance broker or other intermediary for handling the claim in the ordinary course of their business; and
  - c) any indemnity provided by the ‘Professional accountants’ clause contained in the ‘Cyber business interruption’ insuring clause.

## SECTION 5: GENERAL CONDITIONS

### ACQUISITIONS AND CREATIONS

- 5.1 (i) Where **you** create or acquire during the **policy period** a company and the declared turnover relating to all such created or acquired companies does not exceed ten percent (10%) of the declared turnover of the companies covered under this **policy** at inception (less the turnover for any company which ceases to be an **insured**, by reason of sale or otherwise, during the **period of insurance**), then this **policy** shall include as an **insured** any such company from the date of creation or acquisition without additional premium provided that:
- a. the **business services** carried out by such company are similar to that of **you**;

- b. any acquired company did not pay or reserve any **claims** in the five years prior to acquisition of a kind which would fall within the scope of cover comparable to that provided by this **policy** and the total paid or reserved amount was greater than the **excess** under this **policy**;
- c. any acquired company has less than 100,000 **Personally Identifiable Information**;
- d. any acquired company has multi-factor authentication on all remote connections and administrative accounts; and
- e. all software of any acquired company is still supported by the producer of the software and/or security updates are still being provided; and
- f. the **retroactive date** applicable to the **business services** of the acquired company is deemed to be the date of the acquisition; and
- g. **you**:
  - (1) control the composition of the board of directors; or
  - (2) control more than half the voting power at a general meeting of shareholders; or
  - (3) hold more than half of the issued share capital (regardless of class of share); and
- h. such company is not, and does not own or control, an incorporated entity in a different country to **you**.

- (ii) Where **you** create or acquire a company subsequent to inception of this **policy** and the turnover relating to all such created or acquired company exceeds ten percent (10%) of the declared turnover of the companies covered under this **policy** at inception (less the declared turnover for any company which ceases to be an **insured** by reason of sale or otherwise, during the **period of insurance**), then this **policy** shall include as an **insured** any such company from the date of creation or acquisition provided that:
  - a. the terms applicable to acquisitions and creations in paragraphs 5.1(i) above also apply to such companies;
  - b. **you** notify **us** as soon as is reasonably practicable of the creation or acquisition;
  - c. **you** accept the revised premium and terms applying to each and every such creation or acquisition; and
  - d. all insurance in respect of such creation or acquisition will terminate thirty (30) days following creation or acquisition if terms cannot be agreed between **you** and **us**.

ASSIGNMENT 5.2

**We** shall not be bound by any assignment of interest under this **policy** unless **we** have given **our** prior written consent.

CANCELLATION 5.3

This **policy** may be cancelled as follows:

- (i) By **you** by giving written notice:
  - a) within fourteen (14) days from the inception date of the **policy** to **your** broker or to **us** quoting **your** policy number, provided no claims are known or reported. **You** have the right to cancel the **policy** free of charge and to receive a full refund of premium under this **policy**. If **we** pay any claim, in whole or in part, then no refund of premium will be allowed; or
  - b) after fourteen (14) days from the inception date of the **policy** to **your** broker or to **us** quoting **your** policy number. **We** may refund any unearned premium calculated pro-rata to the annual premium except

in the event of a **loss** having been **discovered** prior to the date of cancellation in which case no refund of premium shall be due. If **you** cancel after fourteen (14) days from the inception date of the **policy**, there will be an additional charge, as stated in the **schedule**, to cover the administrative cost of providing the insurance; or

- (ii) By **us** giving **you** seven (7) days' written notice to **your** address in the **schedule** if **you** do not pay any premium or premium instalment (including any applicable taxes/levies payable in addition to the premium) to **us** or **our** broker on or before the relevant payment date in the **schedule**. This will have the effect of cancelling all cover from the inception of the **policy**. That cancellation will be prevented from taking effect and the **policy** will continue if the late premium instalment and any other remaining premium instalments are paid and accepted before the cancellation takes effect. Without prejudice to other forms of service, notice of cancellation is deemed to be served on the third (3rd) day after being posted if sent by pre-paid letter post properly addressed. The annual premium remains due in full if during the current **period of insurance**:
- a) a **claim** has been made for which we have made payment;
  - b) a **claim** has been made which is still under consideration; or
  - c) an incident has happened which is likely to lead to a **claim** but is yet to be reported to us.

Where the annual premium is not paid in full we will deduct any outstanding amounts from any claim payment.

#### CONFIDENTIALITY

5.4

**We** shall treat as confidential all information provided to it by **you** in connection with this **policy** and will not, without **your** prior consent, disclose any such information to any third party but **we** shall, without **your** consent, be entitled to disclose any confidential information to:

- (i) any director, officer, employee, agent, reinsurer or adviser of **QBE** or its group companies in connection with this **policy**;
- (ii) any person in order to comply with any legal or regulatory requirement; and
- (iii) as required by any court, mediator or arbitrator.

**We** will not be required to treat as confidential any information provided to it by **you** if that information:

- (i) is in the public domain, other than by means of **us** having disclosed it; or
- (ii) was in **our** possession prior to it being provided by **you**.

**You** will not disclose the terms, conditions, exclusions, or the **limit of liability** of this **policy** or the amount of the premium paid to any third party except to the extent that they are required to do so by law, or **we** consent in writing to such disclosure.

#### CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

5.5

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

DISPUTED DEFENCE OR APPEAL

5.6

Any dispute between **you** and **us** as to whether a **claim** should be defended or an appeal made will be referred to a King's Counsel (or solicitor with at least 20 years' experience in the field of insurance law) to be mutually agreed between the parties (or in default of agreement to be nominated by the President of the Law Society) whose decision will be final. In the event of conflict between any parties insured under this **policy** separate representation will be arranged for each party.

DUTY OF FAIR PRESENTATION

5.7

**You** must make a fair presentation of the risk (as set out in the Insurance Act 2015 or successor or amending legislation) in proposing for, or proposing to vary, this **policy**.

GOVERNING LAW AND ARBITRATION

5.8

This **policy** shall be governed by and construed in accordance with the laws of England and Wales.

All matters in difference between the parties arising under, out of or in connection with this **policy**, including formation and validity, and whether arising during or after the **period of insurance**, shall be referred to an arbitration tribunal. The seat and place of arbitration shall be London. The arbitration shall be conducted in accordance with the latest UK ARIAS Rules published at the time that arbitration is commenced.

Unless the parties agree to appoint a sole arbitrator within fourteen (14) days of one receiving a written request from the other for arbitration, the claimant shall appoint his arbitrator and give written notice to the respondent. Within fourteen (14) days of receiving such notice the respondent shall appoint his arbitrator and give written notice to the claimant.

If the respondent refuses to, or fails to, appoint an arbitrator within fourteen (14) days of receiving written notice of the appointment of the claimant's arbitrator, the claimant may give notice in writing to the respondent that he proposes to appoint his arbitrator to act as the sole arbitrator. If the respondent does not within seven (7) clear days of that notice being given make the required appointment and notify the claimant that he has done so, the claimant may appoint his arbitrator as sole arbitrator whose award shall be binding on both parties as if he had been so appointed by agreement.

Where two arbitrators have been appointed by the claimant and the respondent, those arbitrators shall appoint a third arbitrator. Should they fail to appoint such a third arbitrator within twenty-eight (28) days of the appointment of the respondent's arbitrator, either of them or either of the parties may apply to the appointor for the appointment of the third arbitrator. The appointor shall be the Chairman for the time being of ARIAS (UK) or if he is unavailable or it is inappropriate for him to act for any reason, such person as may be nominated by the Committee of ARIAS (UK). If for any reason such persons decline or are unable to act, then the appointor shall be the Judge of the appropriate Courts having jurisdiction at the place of arbitration.

The three arbitrators shall decide by majority. If no majority can be reached the verdict of the third arbitrator shall prevail. The third arbitrator shall also act as chairman of the tribunal.

Unless the parties otherwise agree the arbitration tribunal shall consist of persons (including those who have retired) with not less than ten years' experience of insurance or reinsurance as persons engaged in the industry itself or as lawyers or other professional advisers.

INSPECTION AND AUDIT

5.9

**QBE**, or such representative as **QBE** may designate, will be permitted to inspect **your** property and operations during normal working hours given reasonable notice.

LATE PAYMENT OF CLAIMS

5.10 **We** shall, pursuant to section 13A of the Insurance Act 2015, pay any sum due in respect of a valid claim within a reasonable time (which includes a reasonable time to investigate and assess the claim).

LIMIT OF LIABILITY AND EXCESS

5.11 The amount specified as such in the **schedule** shall be **our** maximum aggregate **limit of liability** under this **policy**.

For the purposes of this clause, any and all liability of **QBE** under this **policy** associated with a loss or **claim**, whether **defence costs**, costs and expenses or any other sums whatsoever shall be treated as part of the loss or **claim**.

- (i) **Our** liability shall not exceed any applicable **limit of liability, sub-limit**;
- (ii) where a **limit of liability** or **sub-limit** is stated in the **schedule** to be in the aggregate, that is the maximum **we** will pay for any and all cover whatsoever to which that limit applies in any one **period of insurance**;
- (iii) any **sub-limit** for a specified cover identified in the **schedule** applies as the **limit of liability** for that cover and is deemed to be part of and not in addition to the applicable **limit of liability** unless expressly stated otherwise;
- (iv) any additional cover, extension or endorsement is deemed to be part of and not in addition to the applicable **limit of liability** unless expressly stated otherwise;
- (v) the **limit of liability** and any **sub-limit**, as applicable, is additional to the **excess**;
- (vi) the **limit of liability** and any **sub-limit** is inclusive of any cover for **defence costs** unless expressly stated otherwise;
- (vii) where provided, a **limit of indemnity** or **sub-limit** will always be in the aggregate in respect of any **North American jurisdiction** inclusive of **defence costs** and any other sums whatsoever;
- (viii) if applicable, an extended reporting period does not reinstate or otherwise affect the **limit of liability**.

**You** shall pay the **excess** or reimburse **us** to the extent that **we** have paid up to a maximum of the **excess**.

OTHER INSURANCE

5.12 Only in the event that a covered loss, damages or claims, perils definitions, and/or conditions set forth herein are broader in meaning or scope under this **policy** than those of **your** valid and collectible insurance, the insurance coverage offered in this **policy** will become primary insurance.

REMEDIES FOR  
BREACH OF THE DUTY  
OF FAIR  
PRESENTATION –  
PROPOSING FOR THIS  
INSURANCE

- 5.13 If **you** or anyone acting on **your** behalf breaches **your** duty of fair presentation then **our** remedies shall be as follows:
- (i) if such breach is deliberate or reckless, then **we** may:
    - a. treat this **policy** as having been terminated from its inception; and
    - b. retain the premium;
  - (ii) if such breach is not deliberate or reckless and **we** would not have entered into this **policy** but for the breach, **we** may by notice to **you** treat this **policy** as having been terminated from its inception in which case **we** shall return the premium; and
  - (iii) in all other cases if, but for the said breach, **we** would have entered into this **policy** but:
    - a. on different terms (other than terms relating to the premium), **we** may require that this **policy** is treated as if it had been entered into on those different terms from the outset; or
    - b. would have charged a higher premium, **we** may reduce proportionately the amount to be paid on a claim (and, if applicable, the amount already paid on prior claims). In those circumstances, **we** shall pay X% of what it would otherwise have been required to pay, where  $X = (\text{premium actually charge/higher premium}) \times 100$ .

REMEDIES FOR  
BREACH OF THE DUTY  
OF FAIR  
PRESENTATION -  
VARIATION

- 5.14 If **you** or anyone acting on **your** behalf breaches **your** duty of fair presentation in relation to a variation of this **policy**, **our** remedies shall be as follows:
- (i) if such breach is deliberate or reckless, **we** may:
    - a. by notice to **you** treat this **policy** as having been terminated from the time when the variation was concluded; and
    - b. retain the premium;
  - (ii) if such breach is not deliberate or reckless, and **we** would not have entered into the variation but for the breach, **we** may treat this **policy** as if the variation was never made, in which case **we** shall return any additional premium relating to the variation; and
  - (iii) in all other cases if, but for the said breach, **we** would have entered into the variation but:
    - a. on different terms (other than terms relating to the premium), **we** may require that the variation is treated as if it had been entered into on those different terms;
    - b. would have increased the premium by more than it did or at all, **we** may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, **we** shall pay only X% of what it would otherwise have been required to pay, where  $X = (\text{premium actually charged/higher premium}) \times 100$ ; or
    - c. would not have reduced the premium by as much as it did or at all, **we** may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, **we**

shall pay only X% of what it would otherwise have been required to pay, where X = (premium actually charged/reduced total premium) x 100.

#### RISK MINIMISATION

5.15 **You** will take all reasonable steps at **your** own expense to prevent or minimise a loss or **claim** covered by this **policy**.

#### SUBROGATION

5.16 If **we** make any payment under this **policy**, **we** shall be subrogated to all of **your** potential or actual rights of recovery. **You** shall do all things that **we** may require to secure such rights of recovery and shall provide any assistance and cooperation to **us** as it may reasonably require.

Any amounts recovered will be payable as follows: any interested persons (including **you**) who have paid an amount over and above any payment under this **policy** will first be reimbursed up to the amount paid by them; **we** are then to be reimbursed out of any balance remaining up to the amount paid under this **policy**; any residual amount is to be paid to the interested persons (including **you**) to whom cover provided by this **policy** is in excess.

Expenses incurred in the recovery of any such amounts will be apportioned between the interested parties concerned in the ratio of their respective recoveries as finally settled.

#### SUBSCRIBING INSURER

5.17 **Our** obligations under this **policy** are severable and not joint and are limited solely to the extent of **our** individual subscription. **We** are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

#### EXTENDED REPORTING PERIOD

5.18 Where this **policy** is not renewed or replaced with an equivalent insurance and all premiums have been fully paid to **us**, **we** shall provide to each **insured**:

- a) an automatic extended reporting period of sixty (60) days; and
- b) an option for **you** to purchase an optional extended reporting period for a longer period, if:
  - i) **we** receive, no later than thirty (30) days after the end of the **period of insurance**, written notice from **you** of **your** intention to purchase the extended reporting period; and
  - ii) **we** receive, no later than forty-five (45) days after the end of the **period of insurance**, any applicable additional premium required in respect of this optional extended reporting period.

References to the **period of insurance** in this **policy** include the extended reporting period where applicable. Once the additional premium has been paid the extended reporting period shall not be cancellable.

## SECTION 6: HOW TO COMPLAIN

#### COMPLAINTS TO QBE

6.1 **You** can complain about this **policy** by contacting your broker or where your **policy** is insured by QBE Europe SA/NV, QBE UK Limited or where your insurer is or includes a Lloyd's syndicate write to:

Customer Relations, QBE European Operations, 30 Fenchurch Street, London EC3M 3BD

Email: [CustomerRelations@uk.qbe.com](mailto:CustomerRelations@uk.qbe.com)

Telephone: 020 7105 5988

THE UK FINANCIAL  
OMBUDSMAN SERVICE  
(UK FOS)

6.2

If **you** feel that your complaint has not been satisfactorily resolved, **you** may be eligible to contact the UK FOS to review the complaint. Information about the eligibility criteria is available on the UK FOS website: <https://www.financial-ombudsman.org.uk/consumers/how-to-complain>

FINANCIAL SERVICES  
COMPENSATION  
SCHEME (FSCS)

6.3

**You** can contact the UK FOS via its website, or write to Exchange Tower, London E14 9SR, Tel: +44 (0)800 023 4567

**You** may be entitled to compensation from the FSCS if **we** are unable to meet our obligations under the **policy**. Further information is available from [www.fscs.org.uk](http://www.fscs.org.uk), or **you** can write to the Financial Services Compensation Scheme, PO Box 300, Mitcheldean, GL17 1DY

## SECTION 7: PRIVACY

Any personal data provided to **us** will be processed in compliance with all applicable laws and regulations and in accordance with the privacy notice which can be found at <https://qbeeurope.com/privacy-policy/>. Alternatively **you** may contact **our** Data Protection Officer to request a copy of the full privacy notice by email: [dpo@uk.qbe.com](mailto:dpo@uk.qbe.com) or by writing to the: Data Protection Officer, QBE European Operations, 30 Fenchurch Street, London EC3M 3BD.

## SECTION 8: DEFINITIONS

In this **policy** the following words in bold shall have the meanings shown below.

BODILY INJURY

death, disease, illness, physical or mental injury of or to an individual.

BREACH OF NETWORK  
SECURITY

- (i) breach of the security of **computer systems** through:
  - a. failure to protect against or prevent the transmission of a computer virus;
  - b. the unauthorised access of **computer systems**
- (ii) a denial-of-service attack on **computer systems**.
- (iii) the prevention of access to **computer systems** caused by a malicious electronic act.
- (iv) unauthorised use, alteration or deletion of data on **computer systems**.

BREACH OF DATA  
PROTECTION LAW

failure by **you** or **service provider** to comply with **data protection law**.

BREACH OF PRIVACY

a breach of confidentiality in relation to **personally identifiable information** or a third party's corporate confidential information by **you** in breach of duty owed by **you**.

## BUSINESS INCOME

the amount of **your** net profit if any before taxes which would have been earned by **you** adjusted to take account of:

- (i) the trend of the business, reasonable business variations, seasonal influences, prevailing economic conditions and other variations or circumstances that have an influence upon the business;
- (ii) the increased cost of working incurred by **you** for the sole purpose of avoiding or diminishing the loss of net profit; and
- (iii) any costs savings which **you** can reasonably achieve.

The calculation of **your** loss of **business income** shall be based on an analysis of the revenues and costs generated during each of the twelve months prior to the loss occurring (as recorded in **your** accounts) and will also take into account a projection of future profitability as close as practical had no loss occurred.

Requests made by **you** for indemnity by **us** shall be accompanied by a computation of the loss of **business income**. This shall set out in detail how the loss of **business income** has been calculated and what assumptions have been made.

Any payment for loss of **business income** will, where applicable, be reduced by the extent to which **you** could have used or did use:

- (i) damaged or undamaged **computer systems**
- (ii) available stock, merchandise or data; or
- (iii) substitute facilities, equipment or personnel

## BUSINESS SERVICES

**your** business as specified in the **schedule**.

## CIRCUMSTANCE

an incident, occurrence, dispute, fact, matter, act or omission that are likely to give rise to a **claim**.

## CLAIM

- (i) the receipt by **you** of any written notice of demand for compensation made against the **you**;
- (ii) any notice of intention in writing to commence legal proceedings against **you**.

Where the word claim is used as an undefined term (i.e. not in bold) it refers to a claim by **you** under the **policy**, unless the context otherwise requires.

## COMPUTER SYSTEMS

**your** computer and telecommunication system software and hardware, including but not limited to **your** email system, encrypted electronic signature, encrypted electronic certificate, website, intranet, network, internet- connected telephone system, program or any other data held electronically, interconnecting wiring, fixed disks, telecommunications equipment and all components thereof used for storage, processing or communication of electronically processed data, including where provided by a **service provider**.

## CYBER AND DATA SECURITY REPRESENTATIVE

Clyde & Co, whose contact details are:

+44 (0)207 523 5333 / [CyberResponseLine.UK@clydeco.com](mailto:CyberResponseLine.UK@clydeco.com)

CYBER EXTORTION EXPENSES	reasonable and necessary expenses incurred by <b>you</b> including the value of any <b>ransom</b> paid by <b>you</b> for the purpose of terminating a <b>cyber extortion threat</b> .
CYBER EXTORTION THREAT	a threat from a <b>hacker</b> to bring about a <b>breach of network security</b> or <b>breach of privacy</b> against <b>your computer systems</b> .
CYBER OPERATION	the use of <b>computer systems</b> by, at the direction, or under the control of a sovereign state to disrupt, deny, degrade, manipulate or destroy information in <b>computer systems</b> of or in another sovereign state.
CYBER RISK	<ul style="list-style-type: none"> <li>(i) <b>breach of network security</b></li> <li>(ii) <b>breach of privacy</b></li> </ul>
DATA BREACH NOTIFICATION COSTS	<p>reasonable and necessary expenses incurred by <b>you</b> or which <b>you</b> become legally obliged to pay for the provision of notifications to comply with <b>data protection law</b> or voluntary notification if recommended by a law firm chosen by the <b>cyber and data security representative</b> following a <b>breach of privacy</b> limited to:</p> <ul style="list-style-type: none"> <li>(i) the legal fees incurred to identify notification communication obligations and draft notification communications;</li> <li>(ii) the costs to draft, send and administer notification communications;</li> <li>(iii) the costs of call centre services to respond to enquiries following a notification communication.</li> </ul>
DATA PROTECTION LAW	all applicable data protection and privacy legislation, regulations and guidance in any country, province, state, territory or jurisdiction which govern the use, confidentiality, security and protection of <b>personally identifiable information</b> and any guidance or codes of practice issued by any applicable <b>data protection regulator</b> or governmental entity from time to time including Regulation (EU) 2016/679 (the " <b>General Data Protection Regulation</b> " or the " <b>GDPR</b> ") and Data Protection Act 2018 (or, in the event that the UK leaves the European Union, all legislation enacted in the UK in respect of the protection of personal data) and the Privacy and Electronic Communications (EC Directive) Regulations 2003; and any guidance or codes of practice issued by any <b>data protection regulator</b> from time to time (all as amended, updated or re-enacted from time to time).
DATA PROTECTION REGULATOR	the Information Commissioner's Office, the Article 29 Working Party and the European Data Protection Board and any other supervisory authority with jurisdiction over <b>you</b> , and in each case any successor body from time to time

## DEFENCE COSTS

- (i) costs incurred at **your** request with **our** prior consent in the investigation, adjustment, appraisal, defence or settlement of an insured event, including expert, legal, appeal and defence costs;
- (ii) costs and expenses incurred by **you** in pre-trial and case reviews;
- (iii) the cost of attendance in court as a witness at **our** request, payable at the following rates per day on which attendance is required:
  - a. **your director or officer**, partner or member – GBP750;
  - b. any **employee** – GBP350;
  - c. any other relevant party – GBP250 (subject to **our** prior agreement); or
- (iv) claimants costs recoverable from **you** arising out of a **claim** insured by this **policy**.

**Defence costs** do not include **your** own internal costs and expenses, the salary or expenses of **your employee, director or officer**, partner or member or any adjuster's fees.

## DIRECTOR OR OFFICER

any natural person who is, was or during the **policy period** becomes **your** director or officer (as determined by the applicable law of the jurisdiction in which **you** are domiciled) including the functional equivalents such as members of the executive or supervisory board of directors.

## DOCUMENTS

deeds, wills, written agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature whatsoever, whether written, printed or reproduced by any method, including electronic data, but shall not include bearer bonds or coupons, stamps, bank or currency notes or any other negotiable instrument.

## EMPLOYEE

any person including trainees and freelance consultants acting under a contract of service with **you** in respect of the conduct of **business services** by **you**. **Employee** does not include **your** principal, shareholder, partner, director or member in their capacity as such.

## ESSENTIAL SERVICE

a service that is essential for the maintenance of vital functions of a sovereign state including but not limited to financial institutions and associated financial market infrastructure, health services or utility services.

## EXCESS

the amount as specified in the **schedule**.

## HACKER

a third party who gains unauthorised access to, or makes unauthorised use of, **computer systems** by circumventing electronically or otherwise **your** security system in place to protect against such unauthorised access for **ransom**.

## IMPACTED STATE

a sovereign state where a **cyber operation** has had a major detrimental impact on:

- (i) the functioning of that sovereign state due to disruption to the availability, integrity or delivery of an **essential service** in that sovereign state; and/or
- (ii) the security or defense of that sovereign state.

## INSOLVENCY EVENT

- (i) an application being made for an administration order or the purported appointment of, or the filing at court or issue of any notice of intention to appoint, an administrator in relation to **you** or any **subsidiary**;

- (ii) a petition being presented, a meeting being convened or an effective resolution being passed otherwise than with **our** prior written consent as part of a solvent reconstruction or amalgamation for the winding up of **you** or any **subsidiary**;
- (iii) possession being taken of, or a receiver, sequestrator or similar officer being appointed in respect of, the whole or any part of the assets or undertaking of **you** or any **subsidiary**;
- (iv) **you** or any **subsidiary** suspending or threatening to suspend payment of its debts as they fall due or being, or unlikely to become, unable to pay its debts, whether within the meaning of Section 123 Insolvency Act 1986 or otherwise;
- (v) **your directors or officers**, partners or members or of any **subsidiary** making a proposal that it enter into a voluntary arrangement (within the meaning of Section 1 Insolvency Act 1986) or taking any steps to obtain a moratorium under Section 1A of that Act or its taking or being subject to any proceedings under the law for the readjustment, rescheduling or deferment of all or any of its debts, or proposing or entering into any general assignment or composition with or for the benefit of its creditors;
- (vi) **you** or any **subsidiary** ceasing or threatening to cease to carry on all or a substantial part of its business or operations, or selling, transferring or otherwise disposing of the whole or a substantial part of its undertaking or assets, either by a single transaction or by a number of transactions; or
- (vii) the occurrence in respect of **you** or any **subsidiary** of any event in any jurisdiction to which it is subject having an effect similar to that of any of the events referred to in paragraphs (i) to (vi) above.

#### INSURED/YOU/YOUR

- (i) the company or other organisation shown as **insured** in the **schedule** including any **subsidiary** or any company created or acquired by **you** as set out in the Acquisition and Creations clause of the General Conditions **section** until such time as they may be sold or otherwise disposed of (but not excluding any liabilities incurred prior to disposal), and
- (ii) **your** partners and/or **directors or officers** members or **employees** during the **period of insurance** or thereafter;
- (iii) **your** former partners and/or former directors and/or former members and/or former **employees**;
- (iv) the estate, heirs and executors and/or legal personal representatives of those parties mentioned above in the event of their death, incapacity, insolvency or bankruptcy for legal liabilities incurred due to any act, error or omission of such deceased, incompetent or bankrupt person.

For claims notification purposes **insured** shall mean **your** partners, **directors or officers** and/or members.

#### INSURER/WE/US/OUR

the insurer as specified in the **schedule**.

#### LIMIT OF LIABILITY/SUB-LIMIT

the limit of liability or sub-limit of liability identified in the **schedule**

#### MEDIA CLAIM

a **claim** against **you** for defamation, breach of copyright, invasion of privacy or misappropriation of ideas which arises from **your media content**.

#### MEDIA CONTENT

content on your website, intranet or social media pages. Media content does not include

	any product packaging or labelling, design or ideas in relation to tangible products or property.
NORTH AMERICA	The United States of America or its territories or possessions or Canada.
NORTH AMERICAN JURISDICTION	Any judgment, award, payment, <b>defence costs</b> or settlement delivered, made or incurred within countries which form part of <b>North America</b> , or which operates under or applies the laws of such countries or any states, provinces or territories forming part of them, including arbitration or regulatory proceedings, and any order made anywhere in the world to enforce such judgment, award, payment, <b>defence costs</b> or settlement either in whole or in part.
PAYMENT CARD ENTITY	American Express, Discover, JCB, Mastercard, Visa or any entity that is the subject of a duty to enforce the obligations of the <b>insured</b> in respect of <b>PCI DSS</b> .
PCI DSS	Payment Card Industry Data Security Standard.
PCI FORENSIC CONSULTANT	a forensic consultant who is approved by PCI Security Standards Council.
PERIOD OF INSURANCE	the period as specified in the <b>schedule</b> .
PERIOD OF REINSTATEMENT	<p>the period after the <b>waiting period</b> commencing on the total or partial interruption, degradation in service, or failure of <b>computer systems</b>, and ending on either:</p> <ul style="list-style-type: none"> <li>(i) the date on which the <b>business income</b> loss ends (or could have been, had <b>you</b> acted reasonably expeditiously to restore the business), up to a maximum of 30 days after from the time when <b>we</b> are satisfied that <b>computer systems</b> are repaired, restored and/or replaced (or could have been) to the same equivalent standard, condition, functionality, level of service and/or with the same content, or as near as reasonably possible as immediately before the total or partial interruption, material degradation in service, or failure of <b>computer systems</b> began; or</li> <li>(ii) one hundred and twenty (120) days;</li> </ul> <p>whichever is sooner.</p>
PERSONALLY IDENTIFIABLE INFORMATION	any information from which an individual may be uniquely and reliably, either directly or indirectly, identified or contacted and to the extent more broadly defined, has the meaning given to 'Personal Data' under <b>data protection law</b> .
POLICY	this document, its <b>schedule</b> and any endorsements amending either or both which together set out this insurance.
POLLUTION	discharge, seepage, migration, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, dust, fumes, acids, alkalis, chemicals or waste. Waste is deemed to include materials to be recycled, reconditioned or reclaimed.
PROFESSIONAL SERVICES	services performed by or on behalf of the <b>Insured</b>
PROPOSAL	any information or materials submitted to <b>us</b> by or on <b>your</b> behalf prior to inception, variation or renewal of this <b>policy</b> .
RANSOM	<b>your</b> money, products, goods, services or property.

REGULATORY COMPENSATORY AWARD	a sum of money which <b>you</b> are legally obliged to pay as an award or fund for the those affected following a <b>data protection regulator's</b> investigation of a <b>breach of data protection law</b> . This does not include any criminal penalty or fine.
RETROACTIVE DATE	the date (if any) as specified in the <b>policy</b> (including the <b>schedule</b> ).
SCHEDULE	the schedule to this <b>policy</b> .
SECTION	a section of this policy.
SERVICE PROVIDER	a business you do not own, operate, or control, but that you hire for a fee under contract to perform information technology or payment processing services for or on your behalf.
SOCIAL ENGINEERING FRAUD COMMUNICATION	A communication designed to mislead an <b>employee</b> into transferring <b>your</b> money, property, products, goods, services or other financial benefit to an incorrect recipient from which <b>you</b> cannot recover such money, property, products, goods, services or other financial benefit.
SUBSIDIARY	<p>any entity during any time in which you, directly or through one or more subsidiary(ies):</p> <ul style="list-style-type: none"> <li>(i) owns more than fifty percent (50%) of the issued and outstanding share capital,</li> <li>(ii) controls more than fifty percent (50%) of the voting rights, or</li> <li>(iii) controls the right to vote for the election or removal of such entity's directors.</li> </ul> <p>Any such entity shall only be covered by this policy for that part of the period of insurance when it was a subsidiary.</p>
SYSTEM ERROR	Unintentional, accidental or negligent act, error or omission by an <b>employee</b> authorised by <b>you</b> in the creation, handling, development, entry, modification or maintenance of <b>computer systems</b> or in the ongoing operation, maintenance (including installation, upgrading or patching) and development of <b>computer systems</b> .
TERRITORIAL LIMIT	The territory(ies) specified in the <b>schedule</b> .
TERRORISM	<p>an activity that involves a violent act or the unlawful use of force or an unlawful act dangerous to human life, tangible or intangible property or infrastructure or a threat thereof and appears to be intended to:</p> <ul style="list-style-type: none"> <li>(i) intimidate or coerce a civilian population;</li> <li>(ii) disrupt any segment of the economy of a government de jure or de facto, state or country;</li> <li>(iii) overthrow, influence, or affect the conduct or policy of any government de jure or de facto by intimidation or coercion; or</li> </ul> <p>affect the conduct or policy of any government de jure or de facto by mass destruction assassination, kidnapping or hostage-taking.</p>
WAITING PERIOD	the period as specified in the schedule.
WAR	means the use of physical force by a sovereign state against another sovereign state, or as part of a civil war, rebellion, revolution, insurrection, or military or usurped power, whether war be declared or not.

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