

companion

Cyber Insurance Policy Wording



Arranged by
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Definitions

Titles and Headings in this Policy are descriptive only and are used solely for convenience of reference and shall not be deemed in any way to limit or affect the provisions to which they relate.

Any words or expressions in the Policy which have a specific meaning appear in bold print and have the same meaning whenever they appear in the Policy (whether expressed in the singular or in the plural, male, female or neutral) unless expressly stated otherwise.

Business income

means the net income, which would have been earned or accrued by the **Insured** had no **Loss** occurred. This shall be based on an analysis of the revenues generated and costs incurred during each month of the twelve months prior to the

Loss occurring (as recorded in the **Insured's** accounts) and will also take into account the reasonable projection of future profitability or otherwise had no **Loss** occurred and will include material changes in market conditions which would have impacted the future incomes generated.

Circumstance

means any circumstance, incident, occurrence, fact, matter, act, omission state of affairs or event which is likely to give rise to a **Claim** or **Loss**

Claim

a written demand for financial compensation from the **Insured**, or any notice of intention to commence legal proceedings against the **Insured**, or request from the **Insured** for reimbursement following a **Loss**.

Compensatory damages

means compensatory awards or settlements.

Computer system

means any computer, data processing equipment, media or part thereof, or system of data storage and retrieval, or communications system, network, protocol or part thereof, or any computer software (including but not limited to application software, operating systems, runtime environments or compilers), firmware or microcode, or any electronic documents utilised in the ownership, security and management of the **Insured's** electronic communications system, world-wide web site, internet site, intranet site, extranet site or web address(es).

Cyber business interruption event

An event which causes a reduction in **Business income** as a result of the actions of a **Hacker** or contracted **Virus** causing a total or partial interruption, degradation in service, or collapse of the **Insured's Computer systems**.

Data breach law

means the law associated with the confidentiality, access, control and use of **Personal information** including but not limited to the UK Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003, published guidance by the Information Commissions Office or equivalent applicable law governing the protection of personal data

Defence costs and expenses

means all reasonable costs and expenses incurred, with the **Insurer's** prior written consent, in the investigation, defence and settlement of any **Claim** first made against the **Insured** or of any **Circumstance** first notified during the **Period of insurance**. It does not include the **Insured's** own overhead costs and expenses.

Documents

means digitised data, information recorded or stored in a format for use with a computer, microcode, deeds, wills, agreements, maps, plans, records, written or printed books, letters, certificates, written or printed documents or forms of any nature whatsoever (excluding any bearer bonds or coupons, bank or currency notes, share certificates, stamps or other negotiable paper).

Employee

means:

- a. any person employed by the **Insured** under a contract of service, training or apprenticeship; and
- b. any voluntary worker; and
- c. any locum, seasonal or temporary personnel; and
- d. any self-employed person or entity acting as a freelance consultant

but only if such person or entity is working under the **Insured's** direction, control and supervision

Excess

means the first amount as specified in the **Schedule** payable by the **Insured** in respect of each and every **Claim** arising from insured Sections 1, 2, 3 or 5, after the application of all terms and conditions of this policy. The **Indemnity limit** is additional to the **Excess**. The **Excess** is applicable to **Defence costs and expenses** (unless expressly stated otherwise in the **Schedule**)

Extortion loss

means any:

- a. monies paid by the **Insured** to end an **Extortion threat**; or,
- b. Professional fees for independent advisors to conduct an investigation to determine the cause of an **Extortion threat**,

in either case with the **Insurer's** prior written consent

Extortion threat

means any threat or connected series of threats, for the purpose of demanding monies, communicated to the **Insured** relating to an actual or potential unauthorised access to, unauthorised use of, or denial of service attack against the **Insured's Computer system** or **Documents**

Financially associated person or entity

shall mean:

- a. any business controlled or managed by the **Insured** or in which the **Insured** has an executive interest;
- b. any company in which the **Insured** directly or indirectly owns or controls more than 15% of the issued share capital;
- c. any person having an executive or managerial role in the **Insured** or who would be considered to be a shadow director of the **Insured**;
- d. any company that directly or indirectly owns or controls any of the issued share capital of the **Insured** or any of whose issued share capital is directly or indirectly owned or controlled by any other company or person who directly or indirectly owns or controls any of the issued share capital of the **Insured**

Hacker

means anyone who specifically and maliciously targets the Insured and gains unauthorised access to the Insured's Computer system by circumventing electronically the security system in place to protect against such unauthorised access to the Insured's Computer system or who exploits security access which they are granted in-order to do their job. Hacker does not include any principal, director or partner of the Insured but does include Employees.

Increased costs of working

means the reasonable additional expenditure incurred in order to minimise the **Insured's** reduction in **Business profit**.

Indemnity limit

means the **Insurer's** total liability to pay **Compensatory damages** or **Losses** and claimant's costs and shall not exceed the sum stated in the **Schedule** inclusive of **Defence costs and expenses** in respect of any one **Claim** and in total for all **Claims** first made during the **Period of insurance**.

Insured

means any person or firm stated in the **Schedule**.

Insurer

means HCC International Insurance Company PLC

Jurisdiction

means the jurisdiction stated in the **Schedule**. Where no jurisdiction is stated in the **Schedule** then the **Jurisdiction**

shall be Worldwide but excluding the United States of America (including its territories and /or possessions) and Canada.

Loss/losses

means a direct financial loss suffered by the **Insured**.

Multimedia activities

means publishing, broadcasting, communications or any other dissemination of data, text, sounds, images or similar content, acts committed in the process of researching, investigating, gathering, acquiring, obtaining, preparing, compiling, or producing data, text, sounds, images or similar content, or the licensing, syndication, serialisation, distribution, sale or lease of data, text, sounds, images or similar content .

Period of insurance

means that as stated in the **Schedule**.

Period of restoration

means a period of 90 days after the **Cyber Business Interruption Event** which caused the **Claim, Circumstance** or **Loss** excluding the first 10 hours following the **Cyber Business Interruption Event**.

Professional business

is the professional services of the **Insured's** business as stated in the **Schedule** including **Multimedia activities**.

Personal information

means any driving license or other government-issued identification number; unpublished telephone number; savings account, current account, credit card or debit card number each when in combination with the security code, access code, password or pin for such account or card number; any personal data as defined under the Data Protection Act 1998; any private personal information as defined under the law of a country other than the United Kingdom, which law is intended to provide for the protection of such private personal information; not including any lawfully available data accessible by the general public.

Regulatory award

means a sum of money which the **Insured** is legally required to pay following a regulators monetary award to a third party. This does not include any criminal fine or penalty

Schedule

means the document titled **Schedule** that includes the name of the **Insured**, the premium and other variables to this Policy (including endorsement clauses) and is incorporated in this Policy. **Schedules** may be reissued from time to time and each successor overrides the earlier **Schedule**

Virus

means any unauthorised executable code uploaded to, or replicated through, a **Computer system** or network whether

termed a virus or known by any other name and whether it is self-replicating or non-replicating which causes damage or loss to data or the **Computer system**.

Insured Section 1 - Data Security and Multimedia Cover

The **Insurer** agrees, in consideration of the premium having been paid to the **Insurer**, to indemnify the **Insured** up to the **Indemnity limit** for any **Claim** first made against the **Insured** during the **Period of insurance** for which the **Insured** is allegedly liable to pay **Compensatory damages** and arising out of the ordinary course of the **Professional business** within the geographical limits stated within the **Schedule**, in consequence of:

1.1 Data Security and multimedia cover

- a. failure to properly handle, manage, store, destroy or otherwise control **Personal information** or third party corporate information including but not limited to breach of confidentiality or other invasion, infringement or interference with rights of privacy or publicity including false light and the public disclosure of private facts including misuse of any information which is either confidential or subject to statutory restrictions;
- b. failure to protect against unauthorised access to, unauthorised use of, or a denial of service attack against the **Insured's Computer system or Documents**;
- c. transmission of a **Virus**;
- d. damage, destruction, alteration, corruption, copying, stealing or misuse by a **Hacker** of the **Insured's Computer system or Documents**;
- e. Defamation or other tort related to disparagement of product or character, reputation or feelings of any person or organisation including libel, slander, arising from **Multimedia activities**;
- f. Infringement of intellectual property rights including copyright, title, slogan, trademark, trade name, trade secret, domain name or metatag, moral rights, misappropriation of formats, characters, trade names, character names, titles, plots, musical compositions, voices, slogans, graphic material or artwork, passing off and plagiarism and commercial appropriation of name or likeness arising from **Multimedia activities**

1.2 Defence costs and expenses

In respect of Insured Section 1.1 the **Insurer** will pay all **Defence costs and expenses**. Such payments are included within the **Indemnity limit**

Extensions Applicable to Insured Section 1

1.3 Public relations, forensic and security specialist services

Following a **Claim, Circumstance** or **Loss** under Insuring Section 1.1 the **Insurer** will pay reasonable costs the **Insured** incurs with the **Insurers** prior written consent for:

- a. a forensic consultant to attempt to establish the cause of the failure, the identity of any **Hacker** or **Employee** involved and whether anything has been taken;
- b. a security specialist to assess the **Insured's** electronic security
- c. reasonable costs incurred with the **Insurers** prior written consent (not to be unreasonably withheld) for a public relations and/or crisis management consultant to avert or mitigate any material damage to the **Insured's** business reputation

Provided that:

- d. the **Insurer's** maximum liability will not exceed GBP 250,000 for expenses necessarily incurred in respect of any one **Claim** and in total for all **Claims** first made during the **Period of insurance** (unless stated otherwise in the **Schedule**)
- e. the **Insurer** will be able to appoint the necessary public relations and/or crisis management consultant based on the nature of the **Claim** or **Loss**. Reasonable requests by the **Insured** to use a different consultant will be considered accordingly

1.4 Withdrawal of content

The **Insurer** agrees to indemnify the **Insured** for expenses necessarily incurred, with the prior written consent of the **Insurer**, for the withdrawal or alteration of any data, text, sounds, images or similar content at the request of the **Insurer** or by order of a court as a result of or in mitigation of a **Claim** or potential **Claim** which would otherwise be covered under Insured Section 1.1

Provided that the **Insurer's** maximum liability will not exceed GBP 250,000 inclusive of **Defence costs and expenses** (unless stated otherwise in the **Schedule**) for expenses necessarily incurred in respect of any one **Claim** and in total for all **Claims** first made during the **Period of insurance**

1.5 Regulatory defence and penalties

The **Insurer** agrees to indemnify the **Insured** for **Defence costs and expenses** which the **Insured** incurs as a result of a civil regulatory action, including any **Regulatory award**, civil penalty or fines to the extent insurable by law imposed against the **Insured** by a government or public authority charged with the regulation of the control of **Personal information** as a result of a **Claim** or **Circumstance** which falls for indemnity under **Insuring Clause 1.1**

Provided that the **Insurer's** maximum liability will not exceed GBP 250,000 in respect of any one **Claim** and in total for all **Claims** first made during the **Period of insurance**

Insured Section 2 Notification Costs

2. Notification costs

The **Insurer** agrees that, if during the **Period of insurance** the **Insured** suffers a **Claim, Loss** or notifies of a **Circumstance** under Insuring Section 1.1 or becomes legally obliged to notify in order to comply with **Data breach law**, that the **Insurer** will pay the reasonable and necessary costs incurred by the **Insured** to draft, send and administer notification communications to those whose data, following

forensic investigation has, or beyond reasonable doubt has been stolen, misplaced or compromised

Provided that the **Insurer's** maximum liability will not exceed GBP 250,000 (unless stated otherwise in the **Schedule**) for expenses necessarily incurred in respect of any one **Claim** and in total for all **Claims** first made during the **Period of insurance**

Insured Section 3 – Computer System Rectification Costs

3. Computer system rectification costs

The **Insurer** agrees that if during the **Period of insurance** the **Insured** suffers a **Claim**, **Loss** or notifies of a **Circumstance** under Insured Section 1.1 then **Insurers** will pay the reasonable costs to repair, restore or replace the affected parts of the **Insured's Computer system** to the same equivalent standard, condition, functionality, level of service including content or as near as reasonably possible as immediately before the **Computer system** was damaged, destroyed, altered, corrupted, copied, stolen or misused by a **Hacker**

Insured Section 4 – Cyber Business Interruption Cover

4. Cyber business interruption cover

The **Insurer** agrees that if during the **Period of insurance** the **Insured** suffers a reduction in **Business income** as a result of the actions of a **Hacker** or contracted **Virus** causing a total or partial interruption, degradation in service, or collapse of the **Insured's Computer systems** the **Insurer** will indemnify the **Insured** for said reduction in **Business income** and **Increased costs of working** incurred by the **Insured** during the **Period of restoration**

Provided that **the Insurer's** maximum liability will not exceed GBP 250,000 (unless stated otherwise in the **Schedule**) for expenses necessarily incurred in respect of any one **Claim** and in total for all **Claims** first made during the **Period of insurance**

Exclusion applicable to Insured Section 4:

The **Insurer** shall not be liable to indemnify the **Insured** against any **Loss** arising during the first 8 hours, following notification to the **Insurer** of any total or partial interruption, degradation in service, or collapse of the **Insured's Computer systems**

The **Insurer** shall not be liable to indemnify the **Insured** against any **Loss** arising as a result of the failure of an third party service provider or cloud provider unless they are hosting hardware or software that is owned by the **Insured**

Any payment made under Insured Section 4 will, where applicable, be reduced by the extent to which the **Insured**:

- a. could have and/or does use damaged or undamaged **Computer systems**; or
- b. makes and/or does not make use of available stock, merchandise or other data; or
- c. uses and/or does not use substitute facilities, equipment or personnel

Insured Section 5 – Data Extortion

5. Data extortion

The **Insurer** agrees to indemnify the **Insured** for an **Extortion loss** following a credible **Extortion threat** against the **Insured** by a **Hacker** during the **Period of insurance**

The **Insurer** will only pay such costs and expenses provided that the **Insured** can demonstrate to the **Insurer's** reasonable satisfaction that:

- a. any monies paid by the **Insured** to end an **Extortion threat**, have been surrendered under duress; and
- b. the **Insured** made all reasonable efforts to determine that the **Extortion threat** was genuine and not a hoax and to terminate it through the use of technical or computer forensic means; and
- c. the **Insured** has notified the police of any ransom demand as soon as is practicable and obtained an official crime reference number

Exclusions applicable to Insured Section 5:

The **Insurer** shall not be liable to indemnify the **Insured** against any **Loss** arising from or relating to:

1. **Extortion threats** by or including **Employees** or any past or present principles, partners, or directors of the **Insured**

Insured Section 6 – Telephone Phreaking

6. Telephone phreaking

The **Insurer** agrees that if during the **Period of insurance** the **Insured** suffers a **Loss** as a result of a **Hacker** infiltrating the **Insured's** telephony system and making unauthorised calls which results in the **Insured's** telephone bill becoming inflated, the **Insurer** will indemnify the **Insured** for said inflation of their telephone bill

Provided that **the Insurer's** maximum liability will not exceed GBP 50,000 (unless stated otherwise in the **Schedule**) for expenses necessarily incurred in respect of any one **Claim** and in total for all **Claims** first made during the **Period of insurance**

General Extension to this Insurance:

Compensation for Court Attendance

In the event of any of the persons stated below attending court as a witness at the request of the Underwriters in connection with a claim in respect of which the Policyholder is entitled to indemnity under this Section the Underwriters will provide compensation to the Policyholder at the following rates per day for each day on which attendance is required

- a. any director or partner of the Policyholder £500
- b. any Employee £250

All General Extensions are subject otherwise to the Policy terms Conditions Limitations and Exclusions

General Exclusions

The **Insurer** shall not be liable to indemnify the **Insured** against any **Claim, Loss, liability, costs or Defence costs and expenses**:

Betterment

for repairing, replacing or restoring the **Insured's Computer System** to a level beyond that which existed prior to any **Claim or Loss**;

Bodily injury/property damage

for bodily injury, sickness, disease, psychological injury, emotional distress, nervous shock or death sustained by any person or any loss, damage or destruction of property unless arising directly from any claim covered under 1.1e;

Claims or Circumstances known at inception

arising out of any **Claim or Circumstance** of which the **Insured** was, or ought reasonably to have been, aware at inception of this Policy, whether notified under any other insurance or not;

Contractual liability

arising directly or indirectly from any breach or alleged breach of any contractual duty or duty of care owed or alleged to have been owed by the **Insured** to any third party and which is more onerous than any duty that would otherwise be implied by common law or statute;

Costs and expenses incurred without prior consent

for costs and expenses incurred without the prior consent of the **Insurer**.

Deliberate and reckless acts

arising directly or indirectly from any deliberate or reckless breach, act, omission, or infringement committed, condoned or ignored by the **Insured** unless such **Claim or Loss** emanates from a **Hacker** or as covered under Insuring Clause 1.5;

Dishonesty

Arising from the dishonest or fraudulent acts of any principal, partner or director of the **Insured**;

Excess

any settlement amount less than the **Excess**, unless arising directly from any **Claims, Losses or Circumstances**. However, this exclusion shall not apply to and indemnity provided by **Insured Sections 4 or 6**;

Financially associated persons or entities

made upon the **Insured** by any **Financially associated person or entity** whether alone or jointly with any other person or entity. However, this exclusion shall not apply to

any **Claim** brought against such **Financially associated person or entity** by an independent third party and which would, but for this exclusion, be covered by this Policy;

Financial services

arising directly or indirectly out of any Regulated Activities as defined in the Financial Services and Markets Act 2000 as amended from time to time;

Fines and penalties

arising from any for fines, penalties, multiple, exemplary, or other non-**Compensatory damages** awarded other than those that are covered under Insuring clause 1.5;

Gaming, gambling or lotteries

arising directly or indirectly from the use or provision of any gaming, gambling or lotteries unless these form part of the **Insured's Professional business**;

Government intrusion

which results, directly or indirectly, from access to, confiscation or destruction of the **Insured's Computer system** by any government, governmental agency or sub-agency, public authority or any agents thereof;

Insolvency/bankruptcy of Insured

arising out of or relating directly or indirectly to the insolvency or bankruptcy of the **Insured**;

Legal action

in respect of an action for **Compensatory damages**:

- a. brought outside the **Jurisdiction** (including the enforcement within the **Jurisdiction** of a judgment or finding of another court or tribunal that is not within the **Jurisdiction**);
- b. in which it is contended that the governing law is outside the **Jurisdiction**;
- c. brought outside the **Jurisdiction** to enforce a judgment or finding of a court or other tribunal in any other jurisdiction;

Licence payments

arising directly or indirectly from any failure to pay for, or under payment of royalties or licences;

Loss, damage or destruction of bearer bonds or coupons

arising from the loss, damage or destruction of any bearer bonds, coupons, bank or currency notes, share certificates, stamps or other negotiable paper;

Loss of goodwill

any **Claim** for or **Loss** arising from loss of goodwill and reputational harm, other than those **Claims** covered under Insured Section 1.3;

Natural perils

arising directly or indirectly from any physical cause or natural peril, including but not limited to fire, wind, water, flood, subsidence or earthquake that results in physical damage to property including the **Insured's Computer systems** or data stored;

Other insurance

in respect of which the **Insured** is, or but for the existence of this Policy would be, entitled to indemnity under any other insurance except in respect of any excess beyond the amount which is payable under such other insurance;

Patents

notwithstanding Insuring clause 1f), arising directly or indirectly from the infringement of any patent;

Radioactive contamination or explosive nuclear assemblies

directly or indirectly related to, caused by or contributed to, by or arising from:

- a. ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

Seepage and pollution

based upon, arising out of or relating directly or indirectly to, in consequence of or in any way involving seepage, pollution or contamination of any kind;

Takeover or merger

arising directly or indirectly by reason of acts, errors or omissions committed by the **Insured** after the date of its merger with or acquisition by another entity unless otherwise agreed by the **Insurer**;

Third party providers

arising out of the failure of any third party provider including any utility, cloud, internet service provider or telecommunications provider, unless arising from a failure of the **Insured** to protect against unauthorised access to, unauthorised use of, or a denial of service attack or damage, destruction, alteration, corruption, copying, stealing or misuse by a **Hacker** of the **Insured's Computer system**;

Uninsured sections

Arising directly or indirectly under any uninsured section of this policy;

War and terrorism

arising directly or indirectly out of, happening through or in consequence of, war, invasion, acts of foreign or terrorist enemies (including but not limited to political and religious), hostilities (whether war be declared or not), civil war,

rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority;

Wear and tear

Arising directly or indirectly out of the wear and tear of the **Insureds Computer System**.

Notification and Claims Conditions

Legal Helpline: +44 (0)113 251 4943

As a valued customer you have the benefit of having access to the legal helpline provided by DAC Beachcroft Solicitors. The helpline will provide you with up to 30 minutes free advice on any day to day legal issues you may have. This helpline is available during office hours, with any calls received out of hours being returned the next working day.

1. Claim/circumstance notification

As conditions precedent to their right to be indemnified under this Policy the **Insured**:

- 1.1 shall inform the **Insurer** as soon as possible and in any event within 28 days of the receipt, awareness or discovery during the **Period of insurance** of:
 - a. any **Claim** made against them;
 - b. any notice of intention of a **Claim** against them;
 - c. any **Circumstance**;
 - d. the discovery of reasonable cause for suspicion of dishonesty or fraud;

provided always that such notification is received by the **Insurer** before the expiry of the **Period of insurance**, or if the **Insured** renews this Policy with the **Insurer**, within 7 days after its expiry.

Such notice having been given as required in b), c) or d) above, any subsequent **Claim** made shall be deemed to have been made during the **Period of insurance**;

- 1.2 shall not, in the event of a **Claim**, or the discovery of information which may give rise to a **Claim**, admit liability for or settle any **Claim**, or incur any costs or expenses in connection therewith, without the written consent of the **Insurer**
- 1.3 shall, as soon as practicable given the circumstances, give all such information and assistance as the **Insurer** may require and provide their full co-operation in the defence or settlement of any such **Claim** or relating to the recovery or subrogation process of any settled **Claim**
- 1.4 shall not destroy evidence, supporting information or documentation without the **Insurer's** prior consent; nor destroy any **Deliverables** or other property relating to a **Claim** under this Policy

Every letter of **Claim**, writ, summons or process and all documents relating thereto and any other written notification of **Claim** shall be forwarded, unanswered, to the **Insurer** immediately they are received. The **Insured** shall at all times, in addition to their obligations set out above, afford such information to and co-operate with the **Insurer** to allow the **Insurer** to be able to comply with such relevant Practice Directions and Pre-Action Protocols as may be issued

and approved from time to time by the Head of Civil Justice

- 1.5 Any request from the **Insured** for reimbursement following a **Loss** under Insured Section 4 will be supported with a computation of **Loss** as per the definition of **Business income**

2 Notifications

Any and all notifications of **Circumstances** and claims for an indemnity pursuant to the policy of insurance shall be notified to HCC International Insurance Company PLC by either (a) email (b) telephone or (c) first class post.

If by email then such must be addressed to PI Claims and sent to mail@tmhcc.com

If by telephone, please dial the following number and ask for a PI claims underwriter:

Telephone- +44 (0)1656 868000

If by post:

PI Claims Tokio Marine HCC International Group 6 Old Field Road Bocam Park Bridgend CF35 5LJ.

3 Conduct of claims

- 3.1 following notification under condition 1 above the **Insurer** shall be entitled at its own expense to take over and within its sole discretion to conduct in the name of the **Insured** the defence and settlement of any such **Claim**; Nevertheless neither the **Insured** nor the **Insurer** shall be required to contest any legal proceedings unless a Queens Counsel (to be mutually agreed upon by the **Insured** and the **Insurer**) shall advise that such proceedings should be contested
- 3.2 the **Insurer** may at any time in connection with any **Claim** made, pay to the **Insured** the **Indemnity limit** (after deduction of any sums already paid) or any lesser sum for which, in the sole opinion of the **Insurer**, the **Claim** can be settled and upon such payment being made the **Insurer** shall relinquish the conduct and control of and have no further liability in connection with the **Claim**
- 3.3 the **Insured** shall pay the relevant **Excess** and **Insurers** shall only make a payment under this Policy after the applicable **Excess** has been fully paid other than in relation to a payment being made under 3.2 above
- 3.4 the **Insured** shall, as a condition precedent to their right to indemnity under this policy have procedures and systems in place for:
 - a. following and complying with The Data Protection Act or similar legislation;
 - b. agreeing and signing written contracts with service providers.

General Conditions

1. Cancellation

This Policy may be cancelled by or on behalf of the **Insurer** by fourteen days notice given in writing to the **Insured**.

2. Dishonest or fraudulent act or omission

In the event of a **Claim** which involves the dishonest, fraudulent or malicious act or omission of any former or present **Employee** the **Insured** shall take all reasonable action (including legal proceedings) to obtain reimbursement from the **Employee** concerned (and from any **Employee** who may have conspired to commit or have condoned such act) or from the estate or legal representatives of such **Employee**. Any monies which but for such dishonest, fraudulent or malicious act or omission would be due to such **Employee** from the **Insured** or any monies held by the **Insured** for such **Employee** shall be deducted from any amount payable under this Policy.

3. Fraudulent claims

If the **Insured** shall make any claim knowing the same to be fraudulent or false as regards the amount or otherwise (including the provision of false or fraudulent documents or statements) then

The **Insurer** will:

- i. refuse to pay the whole of the claim; and
- ii. recover from the **Insured** any sums that it has already paid in respect of the claim.

The **Insurer** may also notify the **Insured** that it will be treating (all sections of) this policy as having terminated with effect from the date of the earliest of any of the fraudulent act. In that event the **Insured** will:

- a. have no cover under the Policy from the date of termination; and
- b. not be entitled to any refund of premium.

4. Invalidity

If any provision of this Policy is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable this will not affect the other provisions of this Policy which will remain in full force and effect.

5. Notices

Notice shall be deemed to be duly received in the course of post if sent by pre-paid letter post properly addressed to:

- a. in the case of the **Insured**, either to the **Insured's** last known address or the last known address of the **Insured's** broker;

- b. in the case of the **Insurer**, to HCC International Insurance Company PLC at 1 Aldgate, London, EC3N 1RE

6. Other parties

The **Insured** and the **Insurer** are the only parties to this contract and no other person has any rights to enforce any term of this Policy. The **Insured** shall not assign or transfer their rights under the Policy without the written agreement of the **Insurer**

7. Policy construction and disputes

Any phrase or word in this Policy and the **Schedule** will be interpreted in accordance with the laws of England and Wales. The Policy and the **Schedule** shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or the **Schedule** shall bear such specific meaning wherever it may appear. Any dispute concerning the interpretation of the terms, conditions or exclusions contained herein is understood and agreed by both the **Insured** and the **Insurer** to be subject to the laws of England and Wales. Each party agrees to refer any such dispute to a mediator to be agreed between the **Insured** and the **Insurer** within 14 working days of any dispute arising under the Policy. If a mediator is not agreed then either party may apply to the Centre for Effective Dispute Resolution ('CEDR') for the appointment of a mediator. The parties agree to share equally the costs of CEDR and of the mediator and that the reference of the dispute to mediation will be conducted in confidence

The **Insured** and the **Insurer** agree to perform their respective continuing obligations under this Policy while the dispute is resolved unless the nature of the dispute prevents such continued performance of those obligations. If any such dispute is not resolved by mediation or the **Insured** and the **Insurer** cannot agree upon the appointment of a mediator or the form that the mediation will take the dispute will be submitted to the jurisdiction of any court of competent jurisdiction within England and Wales and each party agrees to comply with all requirements necessary to give such court jurisdiction

8. Reasonable steps to avoid Loss

The **Insured** shall protect its **Computer system** by:

- a. having **Virus** protection software operating, correctly configured and regularly or automatically updated;
- b. updating **Computer systems** with new protection patches issued by the original system or software manufacturer of supplier;
- c. having a fire wall or similar configured device to control access to its **Computer system**;
- d. encrypting and controlling the access to its **Computer system** and external devices including plug-in devices networked to its **Computer system**;
- e. controlling unauthorised access to its **Computer system** by correctly configuring its wireless network;

- f. changing all passwords on information and communication assets at least every 60 days and cancel any username, password or other security protection once an **Employee's** employment has been terminated or after it knew or had reasonable grounds to suspect that it had become available to any unauthorised person;
- g. taking regular back-up copies of any data, file or programme on its **Computer system** are taken and held in a secondary location;
- h. having an operational system for logging and monitoring user activity on its **Computer system**;
- i. remote wipe functionality is installed and enabled on all portable devices where such functionality is available

9. Subscribing insurers

The **Insurers** obligations under this policy are several and not joint and are limited solely to the extent of their individual subscriptions. The **Insurers** are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations

10. Waiver of subrogation against employees

The **Insurer** shall not exercise any right of subrogation against any former or present **Employee**, unless the **Insurer** shall have made a payment brought about or contributed to by any act or omission of the **Employee** or former **Employee** which was dishonest, fraudulent or malicious or the **Employee** or former **Employee** conspired to commit or condoned any such dishonest, fraudulent or malicious act

11. Depositit data storage service additional provision

HCC have negotiated with Depositit to provide a data storage facility as an additional service for all their clients

This service is included as an additional provision within the Cyber Insurance product provided to **Insureds**

The data back-up service is provided by Depositit whilst the Insurance policy is live

Cancellation for any reason of the Cyber Insurance Policy will result in the automatic cancellation of the Depositit Data Storage Service

In utilising the Depositit Data Storage Service the **Insured** signs up to and agrees to be bound by Depositit's contractual terms and conditions as stated on their website www.depositit.com/hcc-cyber.

Any questions that the **Insured** may have in relation to the Depositit Data Storage Service should be directed straight to Depositit who will investigate and advise the **Insured** accordingly on any issues or concerns raised

HCC has no responsibility or liability for the actions of Depositit or in relation to the service provided and are purely an introducer to Depositit who in return for

consideration paid have agreed to provide to the **Insured** as an additional extra service to the Insurance provided up to 50gb of data storage. Any liability for provision of the service and in relation to the service provided is the sole responsibility of Depositit and the **Insured** should contact them directly clearly setting out the problem to be remedied and it is for Depositit solely to provide advice and the resolution

Should any additional data storage capacity be required by the **Insured** then it is the **Insured's** responsibility to contact Depositit directly and to separately contract and reach agreement with Depositit for the provision of this additional data storage requirement and it is down to the **Insured** and Depositit to contract directly and it will be the responsibility of the **Insured** to pay any additional charge raised by Depositit for the provision of this additional storage capacity requirement

Should there be any conflict between the Additional Provision requirements as set out here and Depositit's contractual terms and conditions then the Additional Provision requirements contained here will take precedence

12. International Sanctions

The **Insurer** will not provide cover, be liable to pay any claim or provide any benefit if to do so would expose the **Insurer** (or any parent company, direct or indirect holding company of the **Insurer**) to any penalty or restriction (including extraterritorial penalties or restrictions so far as such do not contradict laws applicable to the **Insurer**), arising out of any trade and economic sanctions laws or regulations which are applicable to it.

13. Assignment

This policy of insurance (including any benefits it confers provides) are not assignable to any third party without the express approval of the **Insurer** confirmed by way of an endorsement. in writing by the **Insurer**.

14. Change of control

In the event that the **Insured** merges into or consolidates with or sells all or substantially all of its assets or shares to a third party (whether a company, corporation or any other legal entity or person) or there is any acquisition of more than fifty percent (50%) of the voting share capital of the **Insured** by a third party (whether a company, corporation or any other legal entity or person) the **Insured** shall give written notice of such event prior to its execution. Upon receipt of such notice, the **Insurers** may at their absolute discretion agree to continuation of the policy of insurance, to be confirmed by way of a written endorsement to the policy. In the absence of such agreement and/or if notice is not forthcoming as required under this General Condition 14 – Change of control, the cover provided by this policy of insurance shall cease with immediate effect at the date of the change of control.

For the avoidance of doubt, the **Insured** shall not be entitled to an indemnity in respect of any claims made under this policy of insurance where notification of the claim occurs after a change in control (as referred to in this General Condition 14 – Change of control) where the change of control was not reported to **Insurers** and approved in accordance with this General Condition 14.

15. Complaints

We are dedicated to providing you with a high quality service and we want to ensure that we maintain this at all times. If you feel that we have not offered you a first class service please write and tell us and we will do our best to resolve the problem. If you have any questions or concerns about your policy or the handling of a claim you should in the first instance contact

Compliance Officer
Tokio Marine HCC
1 Aldgate
London
EC3N 1RE

The Financial Ombudsman Service (FOS)

Should you be dissatisfied with the outcome of your complaint, you may have the right to refer your complaint to the Financial Ombudsman Service. The FOS is an independent service in the UK for settling disputes between consumers and businesses providing financial services. Contacting the FOS does not affect your right to take legal action.

The FOS's contact details are as follows:

Financial Ombudsman Service
Exchange Tower
London E14 9SR
Email: complaint.info@financial-ombudsman.org.uk
Telephone: +44 (0)30 0123 9123
Website: www.financial-ombudsman.org.uk

The European Commission Online Dispute Resolution Platform (ODR)

If you were sold this product online or by other electronic means and within the European Union (EU) you may refer your complaint to the EU Online Dispute Resolution (ODR) platform. Upon receipt of your complaint the ODR will escalate your complaint to your local dispute resolution service – this process is free and conducted entirely online. You can access the ODR platform on <http://ec.europa.eu/odr>. This platform will direct insurance complaints to the Financial Ombudsman Service. However, you may contact the FOS directly if you prefer, using the details as shown above.

Data protection notice

Tokio Marine HCC respects your right to privacy. In our Privacy Notice (available at <https://www.tmhcc.com/en/legal/privacy-policy>) we explain who we are, how we collect, share and use personal information about you, and how you can exercise your privacy rights. If you have any questions or concerns about our use of your personal information, then please contact DPO@tmhcc.com.

We may collect your personal information such as name, email address, postal address, telephone number, gender and date of birth. We need the personal information to enter into and perform a contract with you. We retain personal information we collect from you where we have an ongoing legitimate business need to do so.

We may disclose your personal information to:

- our group companies;
- third party services providers and partners who provide data processing services to us or who otherwise process personal information for purposes that are described in our Privacy Notice or notified to you when we collect your personal information;
- any competent law enforcement body, regulatory, government agency, court or other third party where we believe disclosure is necessary (i) as a matter of applicable law or regulation, (ii) to exercise, establish or defend our legal rights, or (iii) to protect your interests or those of any other person;
- a potential buyer (and its agents and advisers) in connection with any proposed purchase, merger or acquisition of any part of our business, provided that we inform the buyer it must use your personal information only for the purposes disclosed in our Privacy Notice; or
- any other person with your consent to the disclosure.

Your personal information may be transferred to, and processed in, countries other than the country in which you are resident. These countries may have data protection laws that are different to the laws of your country. We transfer data within the Tokio Marine group of companies by virtue of our Intra Group Data Transfer Agreement, which includes the EU Standard Contractual Clauses.

We use appropriate technical and organisational measures to protect the personal information that we collect and process about you. The measures we use are designed to provide a level of security appropriate to the risk of processing your personal information.

You are entitled to know what data is held on you and to make what is referred to as a **Data Subject Access Request ('DSAR')**. You are also entitled to request that your data be **corrected** in order that we hold accurate records. In certain circumstances, you have other data protection rights such as that of **requesting deletion, objecting to processing, restricting processing** and in some cases **requesting portability**. Further information on your rights is included in our Privacy Notice.

You can **opt-out of marketing communications** we send you at any time. You can exercise this right by clicking on the "unsubscribe" or "opt-out" link in the marketing e-mails we send you. Similarly, if we have collected and processed your personal information with your consent, then you can **withdraw your consent** at any time. Withdrawing your consent will not affect the lawfulness of any processing we conducted prior to your withdrawal, nor will it affect processing of your personal information conducted in reliance on lawful processing grounds other than consent. You have the **right to complain to a data protection authority** about our collection and use of your personal information.

