

HDFC ERGO Professional Indemnity Policy

Technology Endorsement Wordings

It is agreed that:

- I. The Policy is amended as follows:
  1. Section 4. Definitions is amended as follows:
    - A. Definition 4.15 Employee is replaced with the following:
 

**4.15 Employee**

**Employee** means a natural person who, during the **Period of Insurance** or after the **Retroactive Date**,:

4.15.1 performs **Professional Services** in the regular service of the **Company**, in the ordinary course of the **Company's** business and whom the **Company** compensates by salary, wages and/ or commissions and has the right to govern, instruct and direct in the performance of such **Professional Services**; or

4.15.2 is seconded to the **Company**, or guest student pursuing studies or duties or any person engaged in work experience or on a training scheme with the **Company** while working under their direct control and supervision.

The definition of **Employee** shall not include any:

- (i) **Director or Officer** of a **Company**, unless when
    - a) performing acts within the scope of the usual duties of an employee (other than a **Director or Officer**) providing **Professional Services** to or for the **Company** under a contract of employment and direct control and supervision; or
    - b) while acting as a member of a committee duly elected or appointed by resolution of the board of directors of the **Company** to perform specific **Professional Services**, as distinguished from general directorial acts, on behalf of the **Company** and working under the direct control and supervision of the **Company**;
  - (ii) **Service Provider**;
  - (iii) independent contractor;
  - (iv) any independent representative remunerated on sales or commission basis; or
  - (v) external lawyers or solicitors or employees of independent valuation firms.
- B. The definitions of **Wrongful Act** and **Wrongful Professional Act** are replaced with the following:

**4.47 Wrongful Act**

**Wrongful Act** means a **Wrongful Professional Act** in connection with rendering or failure to render **Professional Services** to **Third-Party Clients**.

**4.49 Wrongful Professional Act**

**Wrongful Professional Act** means

- 4.49.1 any act, error, omission, misrepresentation, misstatement, misleading statement, neglect, or breach of duty;
  - 4.49.2 a **Wrongful Security Act**;
  - 4.49.3 a **Wrongful Privacy Act**;
  - 4.49.4 a **Wrongful Media Act**;
- actually or allegedly committed or attempted by an **Insured**, or by someone for whom the **Insured** is legally responsible, in connection with rendering or failure to render **Technology Services** to **Third-Party Clients**; or
- 4.49.5 a design or manufacturing error or omission actually or allegedly committed or attempted by an **Insured**, or by someone for whom the **Insured** is legally responsible that results in the failure of **Technology Products** to perform the function or serve the purpose intended by the **Insured**.

If any other endorsement attached to the Policy deletes either **Wrongful Security Act** or **Wrongful Privacy Act** or both from the definition of **Wrongful Professional Act**, then such deletion shall apply to this definition accordingly.

C. The following definitions are added:

**Content**

**Content** means words, numbers, images, graphics, ideas, data, text, sounds, images, or similar forms of expression, of the following types, in whole or excerpt form:

- (i) books, poetry, lyrics, papers, essays, correspondence, newsletters, newspapers, magazines, scripts, plays, documentation and manuals, encyclopaedias, dictionaries, or research materials;
- (ii) recorded music, film, television and radio excerpts, commercials, voiceovers, sound effects, or speeches;
- (iii) television broadcasts, sports footage, professional videos, or animated and motion pictures; or

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- (iv) pictures, graphics, charts, diagrams, photographs, posters, maps, drawings, cartoons, cartoon characters, advertisements, or architectural drawings.

**Internet Services**

**Internet Services** means:

- (i) the provision of:
  - (a) internet access;
  - (b) application services;
  - (c) cloud computing services;
  - (d) domain name registration services;
  - (e) web portal services;
  - (f) web browser services;
  - (g) managed and network security services;
  - (h) search engine services; or
  - (i) electronic mail services;
- (ii) website design, programming, hosting, managing, or maintenance; or
- (iii) the development, design, and maintenance of chat rooms, e-mail services or bulletin boards.

**Media Services**

**Media Services** means creating, publishing, disseminating, releasing, gathering, transmitting, producing, or other distributing of **Content** by the **Insured** on behalf of **Third-Party Clients**, by any means, including but not limited to the following forms: print; music; film; directories; broadcasting; webcasting; or telecasting;

**Nuclear Facility**

**Nuclear Facility** means:

- (i) any **Nuclear Reactor**; or
- (ii) any equipment or device designed or used for:
  - (a) separating the isotopes of uranium or plutonium;
  - (b) processing or utilizing spent fuel; or
  - (c) handling, processing or packaging nuclear waste;
  - (d) the processing, fabricating or alloying of nuclear material.

**Nuclear Reactor**

**Nuclear Reactor** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

**Professional Services**

**Professional Services** means:

- (i) **Technology Services** and **Media Services** provided by or on behalf of the **Insured** to a **Third-Party Client** pursuant to a written contract or agreement with such **Third-Party Client** for compensation, or in conjunction with services for compensation including any related service or operation of the **Insured** to support the provision of such services; and
- (ii) **Technology Products** designed, manufactured, or assembled of by or on behalf of the **Insured** and sold to a third-party.

**Technology Products**

**Technology Products** means:

- (i) computer or telecommunications hardware, including components and peripherals, **Software**, or firmware; and
- (ii) other electronic equipment or devices specifically designed or intended for use in connection with the **Insured's Technology Services**; which are designed, developed, manufactured, or assembled by the **Insured** and are sold or licensed to others, including:
  - (a) materials, parts or equipment furnished in connection with;
  - (b) installation of, training in the use of, support of, servicing of, maintenance of, and repair of;
  - (c) warranties or representations made at any time, with respect to the fitness, quality, durability, performance or use of; and
  - (d) the providing of or failure to provide warnings or instructions regarding the use of;

such **Technology Products**.

**Technology Services**

**Technology Services** means:

- (i) analysis, design, development, integration, installation, programming,

- (i) conversion, service, support, maintenance, repair, sale, or resale of computer hardware, computer networks, electronic systems, **Software**, computer hardware, or computer firmware;
- (ii) database design and the collection, compilation, processing, warehousing, mining, storage, management, or analysis of **Electronic Data**;
- (iii) managing, operating, administering or hosting computer facilities for others;
- (iv) **Electronic Data** destruction services;
- (v) **Internet Services**;
- (vi) **Telecommunication Services**;
- (vii) information technology consulting, education, or training; or
- (viii) any other consulting, training, management, education or information systems services substantially similar to or related to the services described items (i) to (vii) of this definition.

**Telecommunication Services**

**Telecommunication Services** means:

- (i) local, regional and long-distance wireline and wireless dial tone access and switched services, including value added services such as directory assistance, toll free services, voice mail, call forwarding, call waiting and caller ID;
- (ii) ground based satellite communication services;
- (iii) Broadband and VoIP services;
- (iv) video conferencing services;
- (v) paging services;
- (vi) emergency network service infrastructure including call routing and location data transmission services;
- (vii) analysis, design, integration, conversion, and maintenance of telecommunication systems;
- (viii) directory services, including directory publishing, and operator assistance; or
- (ix) project management or consulting services related to items (i) to (viii) of this definition.

**Third-Party Client**

**Third-Party Client** means, collectively, a third party who:

- (i) procures **Technology Services** or **Media Services** from the **Company** pursuant to a written contract; and/or
- (ii) purchases **Technology Products** directly from the **Company**.

**Wrongful Media Act**

**Wrongful Media Act** means:

- (i) libel, slander, defamation or other tort related to the disparagement or harm to the reputation or character of any person or organization;
- (ii) invasion, infringement, or interference with the right to privacy or publicity;
- (iii) plagiarism, piracy, or the misappropriation or unauthorized use of advertising ideas, advertising material, titles, literary or artistic formats, styles, performances, names or likenesses;
- (iv) the infringement of any copyright, domain name, trademark, trade name, trade dress, title or slogan, service mark, or service name; or
- (v) negligence with respect to the Insured's creation or dissemination of **Content**;

actually or allegedly committed or attempted by an **Insured**, or a **Service Provider** in connection with the rendering or failure to render **Media Services** in conjunction with **Professional Services**.

2. Section 5. Exclusions is amended as follows:

- A. Exclusion 5.3 Bodily Injury and Property Damage is replaced with the following:

**Bodily Injury and Property Damage**

arising from, based upon, in connection with, attributable to or as a consequence of **Bodily Injury, Mental Anguish, or Property Damage**; provided, that this exclusion shall not apply to:

- 5.3.1 Loss of **Documents** or Data, in accordance with Extension 2.6 or

- 5.3.2 **Mental Anguish** resulting from a **Wrongful Media Act** or **Wrongful Privacy Act**

- B. Exclusion 5.12 Intellectual Property is replaced with the following:

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5.12 Intellectual Property

arising out of, based upon, in connection with, attributable to or as a consequence of the:

- 5.12.1 invalidity, infringement, violation, breach or misappropriation of any patent; or
  - 5.12.2 misappropriation of trade secret.
- C. The following exclusions are added:

**Ceasing Support**

based upon, arising out of, or attributable to any actual, alleged, or threatened decision by any **Insured** to not provide or support, or to cease to provide or support, any **Technology Product** or **Technology Service**;

**Cost Guarantees**

arising from, based upon, in connection with, attributable to or as a consequence of any failure to meet a cost guarantee or estimate of probable costs.

**Product Recall**

arising out of, based upon, in connection with, attributable to or as a consequence of the recall, repair, replacement, upgrade, supplement or removal of **Technology Products** or **Software**, including products which incorporate **Technology Products** or **Software**,

from the marketplace; provided, however, this exclusion shall not apply to any **Claim** solely for the resulting loss of use of any property by a **Third-Party Client**, provided as used herein, loss of use means the inability to use or access such property.

**Services, Goods, or Equipment for Nuclear Facility**

arising out of, based upon, in connection with, attributable to or as a consequence of the furnishing of **Technology Products** or **Technology Services** in connection with the planning, construction, maintenance, operation, or use of any **Nuclear Facility**.

**Specific Services**

arising out of, based upon, in connection with, attributable to or as a consequence of the rendering or failure to render **Professional Services** by or on behalf of any **Insured** in the capacity of an accountant, architect, attorney, health care professional, insurance agent, real estate agent, or chemical, civil, structural, or mechanical engineer.

ALL OTHER TERMS, CONDITIONS AND LIMITATIONS OF THIS POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.