

INFORMATION AND NETWORK TECHNOLOGY ERRORS OR OMISSIONS LIABILITY

Please read the entire policy carefully. The terms and conditions of this insurance include the various sections of this insurance contract: Coverage; Investigation, Defence And Settlements; Supplementary Payments; Coverage Territory; Who Is An **Insured**; Limits Of Insurance; Exclusions; Extended Reporting Period; Conditions; and Definitions, as well as the Declarations and any Endorsements and Schedules made a part of this insurance.

Throughout this insurance contract the words "you" and "your" refer to the Named **Insured** shown in the Declarations and other persons or organisations qualifying as a named **insured** under this insurance contract. The words "we," "us" and "our" refer to the Company providing this insurance.

In addition to the named **insured**, other persons or organisations may qualify as **insureds**. Those persons or organisations and the conditions under which they qualify are identified in the Who Is An **Insured** section of this insurance contract.

Words and phrases that appear in **bold** print have special meanings and are defined in the Definitions section of this insurance contract.

THIS INSURANCE PROVIDES CLAIMS-MADE COVERAGE. EXCEPT AS OTHERWISE PROVIDED, SUCH COVERAGE APPLIES ONLY TO CLAIMS THAT ARE BOTH FIRST MADE AGAINST THE **INSURED** AND REPORTED TO US IN WRITING DURING THE POLICY PERIOD.

CLAIM ADJUSTMENT EXPENSES, INCLUDING LEGAL FEES AND INVESTIGATION COSTS OR EXPENSES, WILL REDUCE THE LIMITS OF INSURANCE.

Coverage

Information And Network Technology Errors Or Omissions Liability Coverage Claims-Made And Reported

- A. Subject to all of the terms and conditions of this insurance, we will pay **loss** by reason of liability:
- Imposed by law; or
 - Assumed in an **insured contract**;
- for **financial injury**, because of the failure:
- of **your product** to perform the function or to serve the purpose intended, due to a defect, deficiency, inadequacy or dangerous condition in **your product**; or
 - to perform **your service**, in accordance with the terms and conditions of a contract or agreement;
- caused by a **wrongful act** to which this coverage applies.
- B. This coverage applies only if:
1. such **wrongful act** was not first committed before the Retroactive Date shown in the Declarations or after the end of the policy period; and
 2. a claim by a person or organisation for damages for such **financial injury** is both first made against any **insured** and reported to us in writing:
 - a. during:
 - i. the policy period; or
 - ii. any Extended Reporting Period we provide, as described in the Extended Reporting Period section of this insurance contract; or
 - b. in accordance with the provisions of the condition titled Notice Of Circumstances.
- C. This coverage does not apply to any:
1. Injury, **wrongful act**, claim, **suit** or other circumstance:
 - a. reported, in whole or in part, to us or any other insurer before the beginning of the policy period; or
 - b. **deemed known**, before the beginning of the policy period, that could reasonably be expected to result in any payment under this insurance; or
 2. Injury arising out of any
 - a. **wrongful act**; or

- b. continuation or resumption of any **wrongful act**; **deemed known**, before the beginning of the policy period, to have been committed.

D. For the purposes of this coverage:

1. a claim by a person or organisation for damages for the **financial injury** will be deemed to have been made, when:
 - a. notice of such claim is received and recorded by
 - i. any **insured**; or
 - ii. us; or
 - b. we, at our discretion, make a settlement; whichever comes first.
2. Such a claim will be deemed to have been reported to us during the applicable period described in subparagraph B.2. above, only if written notice of the claim is actually received and recorded by us not more than 30 days after the end of such period.
3. all claims made for damages for the **financial injury** to the same person or organisation will be deemed to have been made at the time the first of such claims is made against any **insured**.

We may at any time, at our discretion, pay the applicable Limit Of Insurance that remains available.

The most we will pay hereunder is fixed as set forth in the Limits Of Insurance section of this insurance contract.

Our obligations hereunder end when we have used up the applicable Limits Of Insurance.

Other than as provided in the Investigation, Defence And Settlements and Supplementary Payments sections of this insurance contract, we have no other obligation or liability to pay sums or perform acts or services under this coverage.

Investigation, Defence And Settlements

Subject to all of the terms and conditions of this insurance, we, at our discretion, will have the right, but no obligation, to defend the **insured**. We may, at our discretion, require you to defend the **insured**. If we require you to defend the **insured**, then you must select and retain the lawyer to represent the **insured**:

- from a list of lawyers supplied to you by us; or
- with our prior written consent.

We are entitled to exercise all of the **insured's** rights in the choice of arbitrators and in the conduct of any arbitration proceeding, except when the proceeding is between us and the **insured**.

If a **suit** is brought, we will pay reasonable lawyer fees and necessary litigation expenses, that are **claim adjustment expenses**, to defend:

- the **insured**; and
- if applicable, the party indemnified by the **insured**, provided the obligation to defend, or the cost of the defence of, such party has been assumed by such **insured** in an **insured contract**.

We may, at our discretion, investigate any **wrongful act** and make any settlement, regardless of whether any claim has been made or any **suit** has been brought.

The most we will pay hereunder is fixed as set forth in the Limits Of Insurance section of this insurance contract.

Our obligations hereunder end when we have used up the applicable Limits Of Insurance.

Supplementary Payments

Subject to all of the terms and conditions of this insurance, we will pay, with respect to a claim or **suit** to which this insurance applies:

- reasonable expenses (other than **claim adjustment expenses**) incurred by the **insured** at our request to assist us in the investigation of or defence against such claim or **suit**, including actual loss of earnings up to Indian Rupees 5000 a day because of time off from work
- interest on the amount of a judgement or award that accrues after entry of the judgement or award and before we have paid, offered to pay or deposited in court the part of the judgement or award that is within the applicable Limit Of

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Insurance.

Supplementary Payments does not include any fine or other penalty.

The most we will pay hereunder is fixed as set forth in the Limits Of Insurance section of this insurance contract.

Our obligations hereunder end when we have used up the applicable Limits Of Insurance.

Coverage Territory

Subject to all of the terms and conditions of this insurance, this insurance:

- applies only to **financial injury** caused by a **wrongful act** committed in **India**.
- does not apply to any damages, loss, cost or expense in connection with any **suit** brought outside India.

Who Is An Insured

Sole Proprietorships

If you are an individual, then you and your spouse are **insureds**; but you and your spouse are **insureds** only with respect to the conduct of a business of which you are the sole owner.

If you die:

- persons or organisations having proper temporary custody of your property are **insureds**; but they are **insureds** only with respect to the maintenance or use of such property and only for acts until your legal representative has been appointed; and
- your legal representatives are **insureds**; but they are **insureds** only with respect to their duties as your legal representatives. Such legal representatives will assume your rights and duties under this insurance.

Partnerships, Joint Ventures Or Unincorporated Organisations

If you are a partnership established in accordance with the laws prevailing in **India**, a joint venture established in accordance with the laws prevailing in India or an unincorporated organisation, including but not limited to an association of persons or a private trust functioning in accordance with the laws prevailing in India, then you are an **insured**. Your partners and their spouses in the case of a partnership; joint venture partners and their spouses in the case of a joint venture; principal office bearers and their spouses in the case of an unincorporated organisation are **insureds**; but they are **insureds** only with respect to the conduct of your business.

Other Organisations

If you are an organisation other than a partnership, joint venture or unincorporated organisation, then you are an **insured**. Your directors and **officers** are **insureds**; but they are **insureds** only with respect to their duties as your directors or **officers**. Your stockholders and their spouses are **insureds**; but they are **insureds** only with respect to their liability as your stockholders.

Employees

Your employees are **insureds**; but they are **insureds** only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

Subsidiary Or Newly Acquired Or Formed Organisations

If there is no other insurance available, the following organisations will qualify as named **insureds**:

- A. an India incorporated or registered subsidiary organisation of the first named **insured** shown in the Declarations of which, at the beginning of the policy period and at the time of **loss**, such first named **insured** controls, either directly or indirectly, more than 50 percent of the interests entitled to vote generally in the election of the governing body of such organisation.

- B. An India incorporated or registered subsidiary organisation of the first named **insured** shown in the Declarations that such first named **insured** acquires or forms during the policy period, if at the time of **loss** such first named **insured** controls, either directly or indirectly, more than 50 percent of the interests entitled to vote generally in the election of the governing body of such organisation. However, unless we agree to extend coverage for an additional period (in accordance with the provisions of paragraph C. under Limitations On Who Is An Insured), coverage under this provision is afforded only for **financial injury** caused by a **wrongful act** that was not first committed later than:
1. 30 days after such acquisition or formation is executed; or
 2. the end of the policy period; whichever comes first.

Limitations On Who Is An Insured

- A. Except to the extent provided under the Subsidiary Or Newly Acquired Or Formed Organisations provision above, no person or organisation is an **insured** with respect to the conduct of any person or organisation that is not shown as a named **insured** in the Declarations.
- B. No person or organisation is an **insured** with respect to the:
1. Ownership, maintenance or use of any assets; or
 2. Conduct of any person or organisation whose assets, business or organisation; you acquire, either directly or indirectly, for any **financial injury** arising out of a **wrongful act** first committed, in whole or in part, before such acquisition is executed.
- C. No person or organisation is an **insured** with respect to the:
1. Ownership, maintenance or use of any assets you acquire;
 2. Conduct of any person or organisation whose assets, business or organisation you acquire; or
 3. Conduct of any organisation you form during the policy period, either directly or indirectly, for any **financial injury** arising out of any **wrongful act** first committed later than:
 - 30 days after such acquisition or formation is executed; or
 - the end of the policy period; whichever comes first, unless:
 - you give us written notice describing the acquisition or formation for which you are requesting an extension of coverage for an additional period;
 - we agree to issue an endorsement to extend coverage for an additional period (up to the end of the policy period) in connection with the acquisition or formation, in accordance with the terms, conditions and additional premiums determined by us; and
 - you accept such terms and conditions and pay such premiums promptly when due.
- D. No person or organisation is an **insured** with respect to the conduct of any organisation:
1. that is incorporated or registered outside **India**; or
 2. if, at the time of loss, the securities of such organisation are, in whole or in part, listed or quoted on any investment or stock exchange outside **India**.

Limits Of Insurance

The Limits Of Insurance shown in the Declarations and the rules below fix the most we will pay, regardless of the number of:

- **insureds**;
- claims made or **suits** brought; or
- persons or organisations making claims or bringing **suits**.

The Limits Of Insurance apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits Of Insurance.

Aggregate Limit

The Aggregate Limit is the most we will pay for the sum of all **loss** for **financial injury**.

Limits Of Insurance (continued)**Payments That Reduce The Limits Of Insurance**

Any **loss** (including **claim adjustment expenses**) we pay will reduce the Limits Of Insurance.

Payments we make under the Supplementary Payments section of this contract will not reduce the Limits Of Insurance.

Exclusions

The use of the words damages, loss, cost or expense in any exclusion does not expand any coverage(s) under this insurance contract.

Adjustment, Inspection, Recall Or Replacement Expenses

This insurance does not apply to any damages, loss, cost or expense incurred by any **insured** or others for any loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- your product;
- any property containing or incorporating your product; or
- any property on which your service is or was performed.

This exclusion does not apply to financial injury, sustained by others, resulting from the loss of use of:

- your product;
- property containing or incorporating your product; or
- property on which your service was performed;

in connection with the ownership, maintenance or use of your product or your service.

Aircraft Products

This insurance does not apply to **financial injury** arising out of any aircraft product or any missile or spacecraft, including any:

- article, equipment, material, part or spare part installed or otherwise incorporated in, on or under any aircraft, missile or spacecraft, or furnished or used in connection therewith;
- air or space communication, guidance or navigation system;
- ground control, handling or support equipment or tools furnished or used in connection therewith;
- equipment or tools furnished or used in connection with manufacturing, repairing or servicing any of the foregoing;
- blueprints, designs, drawings, information, instructions, manuals, maps, opinions, reports, representations, software, specifications, surveys, training aids, warnings or warranties or engineering or other data furnished or used in connection with any of the foregoing; or
- engineering or other advice, instruction, labour or service relating to any of the foregoing.

Asbestos

- A. This insurance does not apply to **financial injury** arising out of the actual, alleged or threatened contaminative, pathogenic, toxic or other hazardous properties of **asbestos**.
- B. This insurance does not apply to any damages, loss, cost or expense arising out of any:
1. Demand, order, request or regulatory or statutory requirement that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **asbestos**; or
 2. Claim or proceeding by or on behalf of a governmental authority or others for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **asbestos**.

Bodily Injury

This insurance does not apply to any actual or alleged **financial injury** arising out of or in any way related to any actual, alleged or threatened:

- physical injury, sickness, disease or death; or

- humiliation, mental anguish, mental injury or shock; sustained by any person at any time, regardless of whether this insurance would otherwise apply to all or part of any such actual or alleged **financial injury** in the absence of any such actual, alleged or threatened:

- physical injury, sickness, disease or death; or
- humiliation, mental anguish, mental injury or shock.

Ceasing Support

This insurance does not apply to **financial injury** arising out of any actual, alleged or threatened decision by any **insured**:

- not to provide or support; or
- to cease to provide or support;

your product or **your service**.

Continuing Wrongful Acts

This insurance does not apply to **financial injury** arising out of that part of a **wrongful act** that continues or resumes after the later of the end of the policy period of:

- A. this insurance; or
- B. a subsequent, continuous renewal or replacement of this insurance, that:
 1. is issued to you by us or by an affiliate of ours; and
 2. would otherwise apply to **financial injury**.

Contracts

This insurance does not apply to **financial injury** for which the **insured** is obligated by reason of assumption of liability in a contract or agreement.

This exclusion does not apply to the liability for **loss**:

- that such **insured** would have in the absence of such contract or agreement; or
- assumed in a contract or agreement that is an **insured contract** (for **financial injury**), provided the injury, to which this insurance applies, is caused by a **wrongful act** first committed by you or on your behalf after the execution of such contract or agreement.

Damage to Property

This insurance does not apply to any actual or alleged **financial injury** arising out of or in any way related to any actual, alleged or threatened:

1. physical injury to; or
2. loss of use of;

any tangible property, regardless of whether this insurance would otherwise apply to all or part of any such actual or alleged **financial injury** in the absence of any such actual, alleged or threatened:

- physical injury; or
- loss of use.

Tangible property does not include software, data or other information that is in electronic form.

Delay In Delivery Of Or Failure To Deliver Your Product

This insurance does not apply to **financial injury** arising out of any actual, alleged or threatened:

- delay in delivery of; or
- failure to deliver;

your product or any part or phase of **your product**.

Delay In Performance Of Or Failure To Begin Your Service

This insurance does not apply to **financial injury** arising out of any actual, alleged or threatened:

- delay in performance of; or
- failure to begin;

your service or any part or phase of **your service**

Dishonesty

This insurance does not apply to **financial injury** arising out of any dishonest, criminal, fraudulent or malicious conduct committed by or with the consent or knowledge of the **insured**.

Employment-Related Practices

- A. This insurance does not apply to any damages, loss, cost or expense sustained at any time by any person, whether or not sustained in the course of employment by any insured, arising out of any employment-related act, omission, policy, practice or representation directed at such person, occurring in whole or in part at any time, including any:
1. Arrest, detention or imprisonment;
 2. Breach of any express or implied covenant;
 3. Coercion, criticism, humiliation, prosecution or retaliation;
 4. Defamation or disparagement;
 5. Demotion, discipline, evaluation or reassignment;
 6. Discrimination, harassment or segregation;
 7.
 - A. eviction; or
 - B. invasion or other violation of any right of occupancy
 8. Failure or refusal to advance, compensate, employ, promote or make statutory payments or other contributions;
 9. Invasion or other violation of any right of privacy or publicity;
 10. Termination of employment or change in terms or conditions of service; or
 11. other employment-related act, omission, policy, practice, representation or relationship in connection with any **insured** at any time.
- B. This insurance does not apply to any damages, loss, cost or expense sustained at any time by the brother, child, parent, sister or spouse of such person at whom any employment-related act, omission, policy, practice or representation is directed, as described in paragraph A. above, as a consequence thereof.

Paragraphs A. and B. above apply:

- whether the insured may be liable as an employer or in any other capacity; and to any obligation to share damages with or repay someone else who must pay damages because of any of the foregoing.

Enhancement, Maintenance Or Prevention Expenses

This insurance does not apply to any loss, cost or expense incurred by any **insured** or others for any:

- enhancement or maintenance of any property; or
- prevention of any **financial injury** to any person or organisation.

This exclusion does not apply to **financial injury**, sustained by others, resulting from the loss of use of:

- **your product**;
- property containing or incorporating **your product**; or
- property on which **your service** was performed; in connection with the ownership, maintenance or use of **your product** or **your service**.

Expected Or Intended Financial Injury

This insurance does not apply to **financial injury**:

- intended by the **insured**; or
- that would be expected from the standpoint of a reasonable person in the circumstances of the **insured**.

Financial Impairment Of Insureds

This insurance does not apply to **financial injury** arising out of any bankruptcy, insolvency or other financial impairment of any **insured**.

Governmental Claims Or Proceedings

This insurance does not apply to any damages, loss, cost or expense arising out of any claim or proceeding made by or on behalf of any governmental authority.

This exclusion does not apply to **financial injury** sustained by a governmental authority resulting from their ownership, maintenance or use of **your product** or **your service**.

Injury To Insureds Or Affiliates

This insurance does not apply to **financial injury** sustained by any:

- A. **insured**;
- B. person or organisation that controls, either directly or indirectly, interests entitled to vote generally in the election of the governing body of any organisation that is an **insured**;
- C. subsidiary organisation of any **insured**;
- D. member or partner of any partnership or joint venture in which any **insured** has any interest;
- E. director, **officer**, shareholder, employee, custodian of property or legal representative of any organisation described above; or
- F. spouse of any person described above.

This exclusion does not apply to financial injury sustained by a person or organisation described in paragraph A above, who is:

- an additional **insured** under this insurance by an endorsement made a part of this insurance contract;
- otherwise a third party; and
- not a person or organisation described in subparagraphs B., C., D., E. or F. above.

Intellectual Property Laws Or Rights

This insurance does not apply to any actual or alleged **financial injury** arising out of, giving rise to or in any way related to any actual or alleged:

- assertion; or
 - infringement or violation;
- by any person or organisation (including any **insured**) of any **intellectual property law or right**, regardless of whether this insurance would otherwise apply to all or part of any such actual or alleged injury in the absence of any such actual or alleged assertion, infringement or violation.

Maintenance Of Contracts Or Licenses

This insurance does not apply to **financial injury** arising out of any actual, alleged or threatened:

- failure to effect, maintain, procure or secure; or
- cancellation, lapse, modification, nonrenewal, revocation, suspension or other impairment of;

in whole or in part at any time any bond, insurance, lease, license, order, permit or other contract or agreement that any **insured** is obligated to maintain, procure or secure in connection with **your product** or **your service**.

Multiplied Or Punitive Damages, Or Penalties

This insurance does not apply to any:

- exemplary or punitive damages;
- fine or other penalty; or
- multiple portion of any multiplied damages award.

Nuclear Energy

This insurance does not apply to **financial injury** arising out of any:

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

Personal Or Reputational Injuries

This insurance does not apply to any actual or alleged **financial injury** arising out of or in any way related to any actual, alleged or threatened:

- A. arrest, detention or imprisonment of any person;

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- B. defamation or disparagement;
- C. discrimination, harassment or segregation;
- D. 1. Eviction; or
2. invasion or other violation of any right of occupancy;
- E. invasion or other violation of any right of privacy or publicity; or
- F. prosecution of any person or organisation;

committed by any person or organisation (including any insured), regardless of whether this insurance would otherwise apply to all or part of any such actual or alleged injury in the absence of any such actual, alleged or threatened offence described above.

Pollution

- A. This insurance does not apply to **financial injury** arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants**.
- B. This insurance does not apply to any damages, loss, cost or expense arising out of any:
 1. Demand, order, request or regulatory or statutory requirement that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants**; or
 2. claim or proceeding by or on behalf of a governmental authority or others for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **pollutants**.

Paragraphs A. and B. apply regardless of whether or not the pollution was accidental, expected, gradual, intended, preventable or sudden.

Security Breach Or Unauthorised Access

This insurance does not apply to any actual or alleged **financial injury** arising out of or in any way related to any actual, alleged or threatened security breach of, unauthorised access to or unauthorised use of:

- A. **your product**;
- B. any property containing or incorporating **your product**;
- C. any property on which **your service** is or was performed; or
- D. any **information and network technology product**;

by any person or organisation (including any insured), regardless of whether this insurance would otherwise apply to all or part of any such actual or alleged injury in the absence of any such actual, alleged or threatened breach, access or use.

Terrorism

This insurance does not apply to any **financial injury** arising out of any act of terrorism.

For the purpose of this insurance, an act of terrorism means an act, including but not limited to, the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This insurance also excludes any damages, loss, cost or expense arising out of any action in controlling, preventing, suppressing or in any way relating to any act of terrorism.

If we allege that, by reason of this exclusion, any damages, loss, cost or expense is not covered by this insurance, then the burden of proving the contrary shall be upon you.

In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder shall continue to apply.

War

This insurance does not apply to **financial injury** arising, directly or indirectly, out of:

- war, including undeclared or civil war;
- warlike action by a military force, including any action in hindering or defending against any actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- insurrection, rebellion, revolution or usurped power, including any action by any governmental authority in hindering or defending against any of these; regardless of whether this insurance would otherwise apply to all or part of any such damages, loss, cost or expense in the absence of any of the foregoing.

Workers' Compensation Or Similar Laws

This insurance does not apply to any obligation of the **insured** under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

Extended Reporting Period

When The Extended Reporting Period Applies

We will provide an Extended Reporting Period, provided you purchase it from us, if:

- A. this insurance is canceled or not renewed; or
- B. we renew or replace this insurance with other insurance that:
 1. has a retroactive date later than the Retroactive Date shown in the Declarations for this insurance; or
 2. does not apply on a claims-made basis.

How The Extended Reporting Period Applies

The Extended Reporting Period:

- A. applies only to claims that are both first made against any **insured** and reported to us in writing during such period, for damages for injury caused by a **wrongful act** that was not first committed before the Retroactive Date shown in the Declarations or after the end of the policy period.
- B. does not:
 1. extend the policy period or change the scope of coverage provided;
 2. reinstate or increase the Limits Of Insurance; or
 3. apply to any injury, **wrongful act**, claim, **suit** or other circumstance reported, in whole or in part, to us or any other insurer before the beginning of the Extended Reporting Period.
- C. may not be canceled once in effect.
- D. is available, only by an endorsement and for an additional premium, subject to the following provisions.

If purchased, this period begins with the end of the policy period and lasts no longer than three years.

Claims that are actually both first made and reported to us in writing during this Extended Reporting Period will be deemed to have been made during the policy period.

You must give us a written request to purchase the Extended Reporting Period within 30 days after the end of the policy period. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium for the Extended Reporting Period Endorsement in accordance with our rules and rates. The additional premium will not exceed 200 percent of the annual premium for this insurance.

The Extended Reporting Period Endorsement will set forth the terms and conditions, not inconsistent with this section, applicable to the Extended Reporting Period, including a provision to the effect that the insurance afforded is excess over any other insurance in force after the Extended Reporting Period begins.

Conditions

Arbitration

Any and all disputes or differences which may arise under, out of, in connection with or in relation to this policy, or to its existence, validity or termination, or to the determination of any amounts payable under this policy shall be referred for resolution by binding arbitration at Mumbai, in accordance with the provisions of the Indian Arbitration and Conciliation Act 1996, as amended.

Arbitration shall be conducted as follows:

- a. All proceedings in any arbitration shall be conducted in English and a daily transcript in English of such proceedings shall be prepared.
- b. Within thirty (30) days after either we or you issue notice under this Arbitration condition, the parties shall each appoint an arbitrator. The two arbitrators shall appoint a third arbitrator who shall serve as the presiding arbitrator.

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- c. The arbitration award shall be final and binding on the parties, and the parties agree to be bound thereby and to act accordingly.
- d. The arbitrators shall have the power to give injunctive relief and such other relief to the extent appropriate.
- e. The arbitrators shall have the power to award interest up to the date of payment of any monies due under the award. The arbitrators shall have no authority to award punitive or exemplary damages.
- f. The parties shall each bear their own costs associated with the arbitration and shall share equally in the costs of the arbitration proceedings and presiding arbitrator.
- g. When any dispute is under arbitration, except for the matters under dispute the parties shall continue to exercise their remaining respective rights and fulfill their remaining respective obligations under this policy.
- h. Judgment upon the award rendered may be entered in any court having jurisdiction, or application may be made to such Court for a judicial recognition of the award or an order of enforcement thereof, as the case may be.

Cancellation

The first named **insured** may cancel this insurance or any of its individual coverages at any time by sending us a written request or by returning the policy and stating when thereafter cancellation is to take effect. In the event of such cancellation we shall retain premium for the period that this policy has been in force calculated in accordance with the scale provided in the table below. We may cancel this insurance or any of its individual coverages at any time by sending to the first named **insured** a notice 60 days (10 days in the event of non-payment of premium) in advance of the cancellation date. Our notice of cancellation will be mailed to the first named **insured's** last known address, and will indicate the date on which coverage is terminated. If notice of cancellation is mailed, proof of mailing will be sufficient proof of notice.

The earned premium will be computed on a pro rata basis. Any unearned premium will be returned as soon as practicable.

We shall have no obligation to give notice that the policy is due for renewal or renew this policy upon expiration or cancellation.

Short Period Rate Table

Period of Risk (Not exceeding)	Premium to be retained by us (% of the Annual Rate).
1 week	10%
1 month	25%
2 months	35%
3 months	50%
4 months	60%
6 months	75%
8 months	85%
Exceeding 8 months	Total Annual Premium

Changes

This insurance can only be changed by a written endorsement that becomes part of this insurance. The endorsement must be signed by one of our authorised representatives.

Compliance By Insureds

We have no duty to provide coverage under this insurance unless you and any other involved **insured** have fully complied with all of the terms and conditions of this insurance.

Conformance

In the event any term or condition of this insurance is found to be invalid, illegal or unenforceable, in whole or in part, such term or condition or part thereof shall be deemed not to apply to this insurance. However, the validity, legality and enforceability of all other terms and conditions remains unchanged.

Compliance With Applicable Trade Sanction Laws

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit us from providing insurance.

Currency

All premiums, limits, deductibles, retentions, **loss** and other amounts under this insurance contract are deemed to be expressed and payable in Indian Rupees currency. If judgment is rendered, settlement is denominated or another element of **loss** is expressed in currency other than Indian Rupees, then payment under this insurance shall be made in Indian Rupees at the mid rate of exchange published in the Asian Wall Street Journal (or, if it has ceased to be in publication, a similar business publication) on the date that the final judgment is rendered, the amount of the settlement is agreed upon or the other element of **loss** is due, respectively.

Duties In The Event Of Wrongful Act, Claim Or Suit

- A. As a condition precedent to our obligations under this insurance, there must be strict conformance with all of the requirements specified below, regardless of whether or not we are prejudiced by failure of those requirements to be met.
- B. You must see to it that we and any other insurers are notified as soon as practicable of any wrongful act that may result in a claim, if the claim may involve us or such other insurers. To the extent possible, notice should include:
 - 1. how, when and where the **wrongful act** happened;
 - 2. the names and addresses of any injured persons and organisations and any witnesses; and
 - 3. the nature of any injury arising out of the **wrongful act**.

Notice of a **wrongful act** is not notice of a claim.

- C. If a claim is made or suit is brought against any **insured**, you must:
 - 1. immediately record the specifics of the claim or **suit** and the date received;
 - 2. notify us and other insurers as soon as practicable; and
 - 3. see to it that we receive written notice of the claim or **suit** as soon as practicable.
- D. You and any other involved **insured** must:
 - 1. immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or **suit**;
 - 2. authorise us to obtain records and other information;
 - 3. co-operate with us and other insurers in the:
 - a. investigation or settlement of the claim; or
 - b. defence against the **suit**;
 - 4. allow us all reasonable access to your premises, records and other information; and
 - 5. assist us, upon our request, in the enforcement of any right against any person or organisation that may be liable to the **insured** because of loss to which this insurance may also apply.
- E. No **insured** may make any admission in respect of, nor offer to settle, any claim or **suit** without our prior written consent.
- F. No **insured** will, except at that **insured's** own cost, make any payment, assume any obligation or incur any expense without our prior written consent.

- G. Notice to us under this insurance shall be given in writing addressed to:

Notice of Claim
Claim Department Manager
At the address of the Company shown in the Declarations

All other Notices
Underwriting Manager
At the address of the Company shown in the Declarations

First Named Insured

The person or organisation first named in the Declarations is primarily responsible for payment of all premiums. The first named **insured** will act on behalf of all other **insureds** for the giving and receiving of notice of cancellation or nonrenewal and the receiving of any return premiums that become payable under this insurance.

Grievances

Any person who has a grievance against us, may himself or through his legal heirs make a complaint in writing to the Insurance Ombudsman in accordance with the procedure contained in The Indian Redressal of Public Grievance Rules, 1998 (Ombudsman Rules). Proviso to Rule 16(2) of the Ombudsman Rules, however, limits compensation that may be awarded by the Ombudsman, to the lower of

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compensation necessary to cover the loss or damage suffered by you as a direct consequence of the insured peril or Rs. 20 lakhs (Indian Rupees Twenty Lakhs Only) inclusive of ex-gratia and other expenses. A copy of the said Rules shall be made available by us upon prior written request by you.

Inspections And Surveys

We have the right but are not obligated to:

- make inspections and surveys at any time;
- give you reports on the conditions we find; and
- recommend changes

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organisation to provide for the health or safety of workers or the public. We also do not warrant that conditions

- are safe or healthful; or
- comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organisations which make insurance inspections, surveys, reports or recommendations that are used by us to determine insurability and the premiums to be charged

Legal Action Against Us

No person or organisation has a right under this insurance to:

- join us as a party or otherwise bring us into a **suit** seeking damages from an **insured**; or
- sue us on this insurance unless all of the terms and conditions of this insurance have been fully complied with.

A person or organisation may sue us to recover on an **agreed settlement** or on a final judgement against an insured obtained after an actual:

- trial in a civil proceeding; or
- arbitration or other alternative dispute resolution proceeding;

but we will not be liable for any damages, loss, cost or expense not payable under the terms and conditions of this insurance or in excess of the applicable Limits Of Insurance.

The terms and conditions of this insurance shall be governed by and construed in accordance with the laws of **India**. If any person or organisation sues us on this insurance or as a result of a dispute arising out of, in connection with or relating to this insurance, then such legal proceeding against us must be brought in and determined exclusively in the courts of **India**.

Notice Of Circumstances

- A. If, prior to the end of the policy period, you become aware of a circumstance that has resulted or could result in injury to which this insurance applies, a claim for damages for such injury will be deemed to have been made during the policy period, provided:
1. you see to it that we receive written notice of such circumstance as soon as practicable and during the policy period; and
 2. such claim is actually both first made against any **insured** and reported to us in writing before the later of the end of:
 - a. the policy period of this insurance;
 - b. the policy period of a subsequent, continuous renewal or replacement of this insurance, that is issued to you by us or by an affiliate of ours;
 - c. any extended reporting period exercised under the insurance described in subparagraph A.2.a. or A.2.b. above.

Notification must be in accordance with paragraphs A. and B. of the condition titled Duties In The Event Of Wrongful Act, Claim Or Suit.

B. Coverage hereunder:

1. Applies only to claims that are both first made against any insured and reported to us in writing during the applicable period described in subparagraph A.2. above for damages for financial injury caused by a wrongful act that was not first committed before the Retroactive Date shown in the Declarations or after the end of the policy period.
2. does not:
 - a. extend the policy period or increase the scope of coverage provided;
 - b. reinstate or increase the Limits Of Insurance; or

c. apply to any:

- i. injury, wrongful act, claim, suit or other circumstance reported, in whole or in part, to us or any other insurer before the beginning of the policy period; or
- ii. claim that is covered under any other insurance (including any subsequent insurance you purchase), or that would be covered, but for exhaustion of the amount of insurance otherwise applicable to such claim.

Other Insurance

If other valid and collectible insurance or any bond is available to the insured for loss we would otherwise cover under this insurance, our obligations are limited as follows.

Excess Insurance

This insurance is excess over any other insurance and any bond, whether primary, excess, contingent or on any other basis:

- provided to you by any person or organisation working under contract or agreement for you.
- under which you are included as an insured.
- that has a policy period which continues after the Retroactive Date shown in the Declarations of this insurance.

This insurance is also excess over any insurance whose policy period begins or continues after the Extended Reporting Period begins.

We will pay only our share of the amount of loss, if any, that exceeds the sum of the total:

- amount that all other insurance and all bonds would pay for loss in the absence of this insurance; and
- of all deductible and self-insured amounts under all other insurance and all bonds.

We will share the remaining loss, if any, with any other insurance or any bond that is not described in this Excess Insurance provision and was not negotiated specifically to apply in excess of the Limits Of Insurance shown in the Declarations of this insurance.

Method of Sharing

If all of the other insurance and all bonds permit contribution by equal shares, we will follow this method also. Under this method each contributes equal amounts until it has paid its applicable limits or none of the loss remains, whichever comes first.

If any of the other insurance or any bonds do not permit contribution by equal shares, we will contribute by limits. Under this method, each party's share is based on the ratio of its applicable limits to the total applicable limits of all.

Non Accumulation Of Limits Of Insurance

If this insurance contract is one of several insurance contracts issued by us or other member companies of the ERGO Group of Insurance Companies to you, and/or your subsidiary organisations, any claim or **suit** which could be covered under two or more insurance contracts will be subject to the limits of insurance under the insurance contract with the highest applicable limit of insurance or, if the limits are the same, under the limits of insurance of one insurance contract.

Premium

Premiums shown in the Premium Summary as a deposit premium shall be credited to the amount of the earned premium due at the end of the policy period. At the end of the policy period, or any part of the policy period which ends with the termination of the policy, the earned premium shall be calculated for such period and, upon notice to the named **insured**, shall become due and payable. If the total earned premium is less than the premium previously paid we will return to you the difference, provided that the adjusted premium is not less than the minimum premium indicated in the Premium Summary.

You shall keep records of such information as is necessary for premium calculation and shall send copies of such records to us at the end of the policy period or during the policy period as we may request.

Representations

By accepting this insurance, you agree that:

A. the representations and statements contained in any **application**:

1. are accurate and complete;
2. were made to induce our reliance upon them;
3. were made on behalf of all **insureds**;
4. are material to our decision to provide coverage; and
5. are considered as incorporated in and constituting part of this insurance.

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B. we have issued this insurance in reliance upon such representations and statements. In the event any **application** or any part thereof contains misrepresentations or fails to state facts which affect:

1. our acceptance of the risk;
2. the risk assumed by us;
3. the terms or conditions of the insurance we offered; or
4. the premium we charged;

we will not pay any damages, loss, cost or expense in connection therewith.

C. this insurance shall be void:

1. if you have misrepresented or failed to disclose any material fact or circumstance whether fraudulently or otherwise; or
2. in case of any fraud, attempted fraud or false swearing on your part concerning this insurance or its subject matter; whether before or after loss.

Separation Of Insureds

Except with respect to the Limits Of Insurance, and any rights or duties specifically assigned in this insurance to the first named **insured**, this insurance applies:

- as if each named **insured** were the only named **insured**; and
- separately to each **insured** against whom claim is made or **suit** is brought.

Titles Of Paragraphs

The titles of the various paragraphs of this policy and endorsements, if any, attached to this policy are inserted solely for convenience or reference and are not to be deemed in any way to limit or affect the provisions to which they relate.

Transfer Of Rights And Duties

Your rights and duties under this insurance may not be transferred without our written consent

Transfer Of Rights Of Recovery Against Others

The **insured's** rights to recover all or part of any payment made under this insurance are transferred to us. The **insured** must do nothing after loss to impair them. At our request, the **insured** will bring suit or transfer those rights to us and help us enforce them.

Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS INSURANCE CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

Agreed Settlement

Agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

Application

Application means any application for coverage and other information submitted to us by you or by any person or organisation on behalf of any **insured** or any other party to this insurance contract in applying for this insurance.

Asbestos

Asbestos means asbestos in any form, including its presence or use in any alloy, by-product, compound or other material or waste. Waste includes material to be recycled, reconditioned or reclaimed.

Claim Adjustment Expenses

Claim adjustment expenses means:

- A.
 1. reasonable legal and paralegal fees and salaries (including those of lawyers and paralegals who are our **employees**).

2. Reasonable expenses relating to a **suit** to which this insurance applies, including the cost of expert witnesses, transcripts, court reporters, research reports and depositions.

3. the cost of:

- a. bail bonds; or
- b. amounts that may be ordered to be deposited to:
 - i. appeal judgements; or
 - ii. release attachments;

but only for:

- amounts that may be ordered to be deposited in connection with a **suit** to which this insurance applies; and
- amounts that may be ordered to be deposited that fall within the available Limits Of Insurance.

We do not have to furnish or deposit these amounts that may be required to be deposited by the **insured**.

4. costs taxed against the **insured** in a suit to which this insurance applies.
5. the reasonable cost and expense of any investigation that we undertake at our discretion after receiving notice from you or any other person or organisation, regardless of whether such notice constitutes a claim or **suit**.
6. other reasonable expenses that we allocate to a specific claim or **suit**.

B. does not include:

- 1.a any legal fees or litigation expenses; or
- 1.b any other loss, cost or expense; in connection with any injunction or other equitable relief.
2. any fine or other penalty.
3. the salaries or expenses of our employees (other than those described in subparagraph A.1. above) or any salaries or expenses of any **insured's** employees or directors, members, **officers**, partners or workers (whether or not an employee).

Deemed Known

Deemed known means known by, or that should have been known from the standpoint of a reasonable person in the circumstances of:

- you; or
- any of your directors, members, **officers** or partners (whether or not an employee). **Officer** will be deemed to include an **officer's** designee.

Such injury, **wrongful act**, claim, suit or circumstance, as applicable, will be deemed known at the earliest time when any such person described above:

- A. reports all, or any part, of the injury, wrongful act, claim, suit or circumstance to us or any other insurer;
- B. receives a claim for damages in connection with the injury, wrongful act or circumstance; or
- C. becomes aware:
 1. that the injury has occurred or has begun to occur;
 2. that the wrongful act has been committed or has begun; or
 3. of any actual, alleged or threatened injury, wrongful act, claim or suit in connection with the circumstance.

Financial Injury

Financial injury:

- A. means economic injury sustained by a person or organisation because their property, including software, data and other information that is in electronic form:
 1. cannot be used; or
 2. is less useful.
- B. includes only that part of economic injury, described in subparagraph A. above, which results from **your product** or **your service**, or a part or phase of **your product** or **your service**, that has been accepted.

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Your product or **your service**, or a part or phase of **your product** or **your service**, will be deemed accepted only when and only to the extent that such product or service (or such part or phase) has been accepted pursuant to the acceptance criteria in effect at the time of acceptance.

But, in no event will such:

- product be deemed accepted unless and until possession of the product has been relinquished to perform the function or serve the purpose intended.
- service be deemed accepted unless and until the service has begun.

India

India means the Republic of India.

Information And Network Technology Product

Information and network technology product means:

- A. communication, computer, electronic, Internet, information, network or website:
1. equipment or parts; or
 2. programs or systems; and
- B. software, data or other information that is in electronic form.

Information And Network Technology Service

Information and network technology service means analysis, design, integration, management, maintenance, processing, programming, repair or support services in connection with an **information and network technology product**.

Insured

Insured means a person or an organisation qualifying as an insured in the Who Is An Insured section of this insurance contract.

Insured Contract

Insured contract means a contract or agreement pertaining to your business in which you assume the liability of another person or organisation for **financial injury** sustained by a third person or organisation, that is caused by a **wrongful act**, to which this insurance applies, committed by you or on your behalf.

Intellectual Property Law Or Right

Intellectual property law or right means any:

- certification mark, copyright, patent, design right or trademark (including collective or service marks);
- right to, or judicial or statutory law recognising an interest in, any trade secret or confidential or proprietary non-personal information;
- other right to, or judicial or statutory law recognising an interest in, any expression, idea, likeness, name, slogan, style of doing business, design, symbol, title, trade dress or other intellectual property; or
- other judicial or statutory law concerning piracy, unfair competition or other similar practices.

Loss

Loss:

- A. means:
1. damages that the **insured** becomes legally obligated to pay; and
 2. **claim adjustment expenses** related to a claim or suit, to which this insurance applies, that seeks such damages
- B. does not include any:
1. consideration owed or paid to any **insured** in connection with your **product** or **your service**, including any restitution or return of any charges or fees;
 2. damages, loss, cost or expense to perform any obligation assumed by or on behalf of any **insured**; or
 3. other damages, loss, cost or expense incurred, or agreed to, by or on behalf of any **insured**, except in an **agreed settlement**.

Officer

Officer means a person holding any of the officer positions created by an organisation's charter, constitution, articles of association, by-laws or any other similar governing document or any similar positions within an organisation.

Pollutants

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, odours, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed. Pollutants shall also mean a hazardous substance as defined under the Indian Public Liability Insurance Act, 1991 or any statutory amendments made thereto or modification thereof, or any other similar law for the time being in force.

Suit

Suit means a civil proceeding in which damages, to which this insurance applies, are sought. **Suit** includes an arbitration or other dispute resolution proceeding in which such damages are sought and to which the **insured** must submit or does submit with our consent.

Wrongful Act

Wrongful act:

- means an error, unintentional omission or negligent act.
- includes all related **wrongful acts** and all series of continuous, repeated or related **wrongful acts**.

Your Product

Your product:

- A. means any:
1. goods or products, including information and network technology products, created, developed, installed, leased or licensed (to others) or otherwise manufactured, sold, handled or distributed by:
 - a. you;
 - b. others trading under your name; or
 - c. a person or organisation whose assets or business you have acquired; and
 2. containers (other than vehicles), materials, parts or equipment furnished in connection with:
 - a. such goods or products; or
 - b. your service.
- B. includes:
1. representations or warranties made with respect to the fitness, performance, quality or use of your product;
 2. the providing of or failure to provide instructions or warnings in connection with your product; and
 3. your service performed in connection with your product.

Your Service

Your service:

- A. means information and network technology services performed by you or on your behalf (including related consulting, staffing, training and other support services).
- B. includes:
1. representations or warranties made with respect to the fitness, performance, quality or use of your service; and
 2. the providing of or failure to provide instructions or warnings in connection with your service.