



General Insurance Conditions (GIC)

# **Professional Liability Insurance Lawyers, consultants, fiduciaries, auditors and other service providers**

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# Key points at a glance

This overview provides you with information about the material content of the insurance contract, in accordance with Art. 3 of the Insurance Contract Act (ICA). The rights and obligations of the contracting parties arise on conclusion of the insurance contract, in particular on the basis of the application, the policy, the contractual conditions, and the statutory provisions.

## Who is the insurance carrier?

The insurance carrier is AXA Insurance Ltd, General Guisan-Strasse 40, 8400 Winterthur (hereinafter referred to as “AXA”), a stock corporation with registered office in Winterthur and a subsidiary of the AXA Group.

## What is insured?

The insurance covers claims for damages brought against insureds on the basis of statutory liability provisions (B1.1 GIC).

Insurance coverage includes statutory liability arising from

- premises risk: risks arising from owning or keeping (e.g. renting, leasing) real property, buildings, premises, and facilities;
- operational and occupational risk: risk arising from acts or omissions by insureds and through operational processes at and outside of business premises;
- environmental risk: hazards to the environment arising from premises, operational, and occupational risks.

The precise scope of coverage is set out in the General Insurance Conditions and/or the quotation/policy.

This is an indemnity insurance pursuant to the Insurance Contract Act.

## What does the insurance not cover, inter alia?

Among other claims, the insurance does not cover claims

- in connection with locations outside Switzerland and the Principality of Liechtenstein (B1.3 GIC);
- by insureds (own losses, B2.1 GIC);
- arising from services of a technical nature (B2.5 GIC);
- arising from contractually assumed liability that exceeds the liability as defined in the statutory provisions (B2.6 GIC);
- arising from contractual penalties, warranties, fines, bonds, and compensation payments of a punitive nature (B2.6 GIC);
- arising from transactions of a speculative nature or dependent on a contingency (B2.8 GIC);
- arising from cash management shortfalls or with respect to monetary assets or valuables that are destroyed or become lost (B2.9 GIC);
- arising from losses whose occurrence was highly probable or which were accepted in order to reduce costs, speed up work, or prevent pecuniary loss or the loss of earnings (B2.10 GIC);
- arising from unpaid direct and indirect levies, taxes, and social security contributions (B2.15 GIC);
- that are resolved under state, provincial, or federal law of the USA or Canada, as well as costs incurred in these countries (B2.16 GIC);
- in connection with insureds' fees (B2.17 GIC).

The precise scope of coverage and the exclusions are described in the General Insurance Conditions and/or in the quotation/policy.

## What indemnities does AXA provide?

AXA pays the amount of compensation that the *insured* is required to pay to the injured party based on statutory liability (D1.1 GIC). For insured claims, AXA also assumes the costs of defending against unjustified or excessive claims (legal protection coverage in accordance with D1.2 GIC).

Indemnities are limited to the sum insured or the sublimit as defined in the application or the policy – as a single aggregate per insurance year.

## How much is the premium and when is it due?

The premium is set out in the application and in the policy. It is due on the first day of each *insurance year*.

## What are the policyholder's main obligations?

Among other things, the policyholder must

- notify AXA in writing as soon as possible of any change to a circumstance that is of significance for assessing the risk (A10.1 GIC);
- notify AXA as quickly as possible if their permit or license to exercise their profession is lost (A10.1.4 GIC);
- use protective systems (such as internet protection programs, antivirus software, or firewalls) and keep them updated (A8.2 GIC);
- notify AXA as soon as possible of the occurrence of any event whose likely consequences could affect the insurance (D3 GIC);
- refrain from any direct negotiations with the injured party. In addition, the policyholder must not acknowledge any claims and/or enter into any settlement (D5 GIC).

Any additional duties and obligations that may apply are specified in the General Insurance Conditions and/or in the quotation/policy.

## When does the notice of claim need to be submitted?

If an event occurs with consequences that are likely to involve the insurance, the policyholder must inform AXA without delay. This duty to notify also applies if police investigations are initiated against an insured because of an event (D3 GIC).

## When does the insurance begin and end?

The insurance begins on the date specified in the policy. AXA may reject the application up to the date on which it issues the policy or a definitive cover note. The insurance is valid for the period specified in the policy.

Unless the insurance contract is terminated on expiry, it is automatically renewed for one year at a time. An insurance contract concluded for less than one year expires on the date specified in the policy.

## What loss or damage is insured in terms of time?

The insurance covers claims arising from damage that are brought against an insured during the operation of the policy (A3 GIC).

## How to exercise the right of withdrawal

The policyholder can terminate the contract with AXA within 14 days of accepting it. The deadline is met if AXA is notified in writing or another text form (e.g. by email) of the withdrawal by no later than the last day of the withdrawal period.

As a consequence of withdrawal, indemnities already received must be paid back.

**Special information for the Principality of Liechtenstein**

The applicant is bound by the application to conclude an insurance contract for a period of two weeks after submitting or sending the application.

If AXA breaches the duty to provide information pursuant to Insurance Contract Act or the Insurance Supervision Act of the Principality of Liechtenstein, the policyholder shall have the right to withdraw from the contract within four weeks of the issuing of the policy.

The responsible supervisory authority is the Swiss Financial Market Supervisory Authority FINMA, 3000 Bern.

**What definitions apply?**

The key terms are explained in Part E under “Definitions” and are shown in the GIC in *italics*.

**What data does AXA use and how?**

AXA uses data in compliance with the applicable statutory provisions. More information may be found at [AXA.ch/data-protection](https://www.axa.ch/data-protection).

# General Insurance Conditions (GIC)

## Part A Underlying Provisions of the Insurance Contract

### A1 Scope of the contract

The policy specifies what insurance coverage has been concluded. The policy, these General Insurance Conditions (GIC), and any Special Insurance Conditions (SIC) provide information about the scope of insurance.

### A2 Territorial scope

The insurance covers claims arising from losses occurring anywhere in the world. For claims in connection with the *USA or Canada*, the exclusions contained in B2.16 apply.

### A3 Trigger

#### A3.1 Validity of the policy

The insurance covers claims asserted against an *insured* or against AXA as their liability insurer during the period in which the policy is in force. This period is deemed to be:

- the contract term of this policy;
- the contract term of any contract with AXA that was replaced by this policy;
- any extended coverage period granted by AXA.

#### A3.2 Date of assertion of a claim

The date on which the claim is asserted is deemed to be:

- the date on which an *insured* first becomes aware of circumstances pursuant to which it must be assumed that a claim will be asserted against an *insured* or against AXA as their liability insurer. If there are no such circumstances, the date on which the claim is asserted is deemed to be the date of verbal or written notification that a claim for damages falling under this insurance contract will be asserted;
- the date on which an *insured* or AXA as their liability insurer first becomes aware that criminal, administrative, supervisory, or investigative proceedings have been initiated against an *insured* that may lead to an insured claim for damages.

If multiple criteria apply for the same event, the earliest date applies.

#### A3.3 Loss prevention costs

A claim for *loss prevention costs* is deemed to be asserted on the date on which an *insured* first determines that a loss is imminent.

#### A3.4 Serial loss

All claims arising from a *serial loss* are deemed to be made on the date on which the initial claim (A3.2) is asserted. If the initial claim of a *serial loss* is asserted prior to commencement of the contract, none of the claims arising from losses in this series are insured.

#### A3.5 Indemnities and limits

Indemnities and limits are governed by the contractual provisions (such as stipulations relating to sums insured or deductibles) that were in force at the time the claim was first asserted in accordance with A3.2.

#### A3.6 Augmentation of indemnities or scope of coverage

If insured indemnities or the scope of insurance are augmented, insurance coverage is provided under the new agreements only if the *insured* was unaware of any acts or omissions that would constitute grounds for liability before the contract change came into effect.

#### A3.7 Prior acts coverage

The insurance also covers claims arising from losses or *serial losses* incurred as a result of acts or omissions that took place prior to the date on which this contract was first concluded. The insurance will only cover these, however, if the *insured* was not aware of any act or omission that could give rise to liability prior to the date on which this contract was first concluded.

#### A3.8 Extended coverage period

##### A3.8.1 During the term of the contract

If, during the term of the contract, an *insured* leaves the group of *insureds*, or if an insured company and/or a part thereof is excluded, or an insured activity or insured third-party mandate is discontinued, coverage will remain in effect. This will only be the case, however, if acts or omissions giving rise to liability occurred prior to this. If this is the case, the day of leaving, of exclusion, or of discontinuation of the activity or third-party mandate is deemed to be the date of the assertion of the claim.

##### A3.8.2 On expiry of the insurance

After expiry of the insurance, coverage also extends to claims made subsequent to the expiry of the insurance within the statutory limitation period, provided that such losses were caused prior to expiry of the insurance. There is no extended coverage if the contract was canceled due to late payment of a premium. Claims which are made during such extended coverage period and which are not part of a *serial loss* are considered to have been asserted on the day on which the contract ended.

##### A3.8.3 Statutory provisions

Mandatory statutory provisions governing extended coverage periods which go beyond A3.8.1 or A 3.8.2 take precedence over said provisions.

##### A3.8.4 Other insurance

The extended coverage period does not apply if the claim asserted is covered in whole or in part by another insurance contract.

## A4 Term of the contract

The insurance contract begins on the date specified in the policy. It is concluded for the period specified in the policy, after which it is automatically renewed for one year at a time. An insurance contract concluded for less than one year expires on the date specified in the policy. Any provisional insurance coverage that may be in place ends when the policy is issued.

AXA may reject the application. Any provisional insurance coverage that may be in place will end three days following receipt of the notice of rejection by the person making the application. In this case, this person will owe the prorated premium for the period of coverage.

If the policyholder declares bankruptcy, the insurance contract remains in force and the bankruptcy administration is obliged to fulfill it.

## A5 Termination of the contract

### A5.1 Ordinary termination

Either contracting party may terminate the contract in writing or another text form (e.g. by email) as of the end of any *insurance year*, subject to compliance with a period of notice of three months (annual right of termination).

### A5.2 Termination in the event of a claim

After a claim for which AXA provides indemnity, the policyholder may terminate the contract not later than 14 days after becoming aware of the payment of the indemnity. Coverage expires 30 days after receipt by AXA of the notice of termination.

AXA waives its right to terminate the contract in the event of a claim.

### A5.3 Termination in the event of increase or decrease in risk

A10.1.5, A10.1.6, and A10.2 apply.

## A6 Premiums

### A6.1 Premium amount and due date

The premium specified in the policy is due on the first day of every *insurance year*; the due date for the first premium is stated on the invoice. In the event of payment in installments, the installments due during the *insurance year* are deemed to be deferred. AXA may add a surcharge to each installment.

### A6.2 Premium calculation

The premium calculation method is stipulated in the policy.

## A7 Deductible

D2 applies.

## A8 Duties of care and other obligations

### A8.1 Elimination of a hazardous condition

The policyholder or the co-insured companies are required to eliminate, at their own expense, any hazardous condition that could result in *bodily injury* or *property damage*. AXA may order that a hazardous condition be eliminated within a reasonable period.

## A8.2 Data backups and protection systems

In addition, the following obligations apply to the extended coverage as defined in C1 (cyber liability) and C3 (loss of *electronic data*):

The policyholder or the co-insured companies must implement the following measures:

- *Electronic data* must be backed up completely at least once a week. By way of an amendment to E4, operating systems or programs not manufactured by the policyholder or co-insured companies themselves do not come under the definition of *electronic data* and are thus exempt from the obligation to make regular backups.
- At least one weekly data backup must be stored separately from the network of the policyholder or the co-insured companies. Furthermore, the network-independent data backups as well as programs and licenses must not be stored in such a way that they could be damaged, destroyed, or lost together with the originals.
- There is no obligation to make a backup when using an external cloud computing system not operated by an insured, provided that the provider of the cloud computing system is contractually committed to performing backups. This must satisfy the above-mentioned requirements.
- The policyholder or co-insured companies must use a manufacturer-supported operating system that comes with security updates, as well as protective systems (such as internet protection programs, antivirus software, and firewalls).
- In the event that critical security vulnerabilities (zero-day exploits) are identified, security patches for software and operating systems must be installed within 30 days of their release.
- The manufacturer-recommended security updates (patches) to operating systems, protective systems, user programs and software in connection with online shops and websites must be installed in a timely manner after the release date.

## A8.3 Breach of obligations or duty to notify

If the *insureds* culpably violate any of their obligations (e.g. A8.1, A8.2, C1.3, C13.3, C14.2, C15.3, D4.2, D5) or duties to notify or provide information (e.g. A10.1.4, D1.7, D3 para. 1), the insurance coverage ceases. However, the insurance coverage does not cease if the *insured* proves that the breach has had no impact on the occurrence of the insured event or the amount of the indemnity to be paid by AXA or if the breach can be considered as having occurred though no fault of their own.

## A8.4 Duties of care and other obligations in the event of a claim

D3, D4.2, D4.3, and D5 apply.

## A9 Duty to provide information

### A9.1 Communication with AXA

The policyholder must address all communications to the responsible branch office or to the registered office of AXA.

### A9.2 Increase or reduction in risk

A10.1.4 and A10.2 apply.

### A9.3 Claims

D3 applies.

## A10 Increase or decrease in risk

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### A10.1 Increase in risk

#### A10.1.1 Newly added persons

If additional persons pursuant to E16.2 to E16.4 and E16.6 are added after conclusion of the contract, they are also insured in relation to their activities for the insured company upon joining (contingent insurance).

#### A10.1.2 Newly added companies

If an *insured* founds or acquires a company in which the insured has a share of 50% or more, this company will likewise be deemed to be an *insured*, from the date of foundation or acquisition. However, this only applies if the company is located in Switzerland or the Principality of Liechtenstein and if it engages in the insured activity (contingent insurance).

#### A10.1.3 Change in material circumstances

In the event of a change in material circumstances for the purposes of assessing risk identified by the contracting partners when replying to the questions in the application, the insurance coverage also covers such change within the scope of the contractual conditions (contingent insurance). The insurance **does not cover** new risks due to new activities not insured under the current policy.

#### A10.1.4 Duty to notify

By the end of the *insurance year* at the latest, the policyholder must notify AXA in writing or another text form (e.g. by email) of the increase in risk, and must include the following information in the notification:

- number of full-time equivalent positions for newly added persons pursuant to E16.2, E16.3, and E16.6;
- name, domicile, legal form, business purpose, extent of participation, and number of full-time equivalent positions pursuant to E16.2, E16.3, and E16.6 with respect to the newly added companies;
- change of circumstances that is material for assessing risk.

If the policyholder's license or permit to exercise their profession is revoked, the policyholder must notify AXA of this in writing as quickly as possible.

#### A10.1.5 Rights of AXA

AXA reserves the following rights in respect of the newly added companies or change in risk:

- to redefine the premium and conditions retroactively;
- to reject the inclusion;
- to terminate the contract within 14 days following receipt of notification.

For newly added persons, AXA has the right to retroactively apply a premium based on the applicable rate from the date on which they joined.

If AXA refuses to accept the new company or the changed risk, or if it terminates the contract, the contingent insurance or the contract will end 30 days after the written rejection or notice of termination is received by the policyholder.

AXA is entitled to the premium corresponding to the risk from the date when coverage started until the date when the contingent insurance or the contract ends.

#### A10.1.6 Policyholder's right of termination

The policyholder can terminate the contract within 14 days if no agreement is reached on the new premium or the new conditions.

AXA is entitled to the premium corresponding to the risk from the date when coverage started until the date when the contingent insurance or the contract ends.

#### A10.1.7 Difference in limits coverage

By way of an amendment to D1.6, if a liability insurer covering the same loss or *serial loss* is also liable for the new risk, AXA's indemnity is limited to the sum insured or sublimit that exceeds the amount covered by the other liability insurer (difference in limits coverage).

### A10.2 Decrease in risk

If there is a significant decrease in risk, the policyholder is entitled to terminate the contract by giving four weeks' notice in writing or another text form (e.g. email), or to request a premium reduction.

If the policyholder requests a premium reduction, AXA reduces the premium correspondingly as of the date on which AXA received the policyholder's notification.

If the policyholder does not agree with the premium reduction, they may terminate the contract within 30 days of receiving notification of the new premium, by giving four weeks' notice in writing or another text form (e.g. email).

## A11 Principality of Liechtenstein

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If the policyholder or a co-insured company has their domicile or registered office in the Principality of Liechtenstein, references to provisions of Swiss law in the insurance contract documents relate to the corresponding provisions of Liechtenstein law.

## A12 Applicable law and place of jurisdiction

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### A12.1 Applicable law

This insurance contract is governed by Swiss substantive law; in the case of policyholders having their domicile or registered office in the Principality of Liechtenstein, the insurance contract is governed by Liechtenstein substantive law.

### A12.2 Place of jurisdiction

The ordinary courts of Switzerland have exclusive jurisdiction over any disputes arising out of or in connection with this insurance contract, including suits for liability claims by *insureds* or *third parties*; in the case of policyholders having their domicile or registered office in the Principality of Liechtenstein, the ordinary courts of Liechtenstein have exclusive jurisdiction over any such disputes.

## A13 Place of performance

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Compensation to *insureds* or *third parties* arising from this contract is provided only at the registered office of the policyholder or the registered office of AXA.

## A14 Sanctions

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Insurance coverage does not apply insofar and as long as applicable legal economic, trade, or financial sanctions inhibit indemnification under this contract.



## **A15 Assignment of rights to indemnification**

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Claims of an *insured* against *third parties* for indemnification devolve to AXA to the extent of the indemnity paid by AXA. The *insured* is liable for all acts or omissions that could negatively affect any rights of recourse. Coverage ceases if *third parties* are released from their liability without the consent of AXA.

## Part B

# Scope of Insurance – General Provisions

### B1 Insured risk and insured liability

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#### B1.1 Insured liability

AXA provides insurance coverage for the insured risk stipulated in the policy, against claims for damages arising from *bodily injury*, *property damage*, and *financial loss* that are brought against *insureds* (or within the scope of a direct claim against AXA as their liability insurer) on the basis of statutory liability provisions.

#### B1.2 Engagement of third parties

The insurance covers claims brought against *insureds* for any loss caused by companies and independent professionals (subcontractors) engaged by the *insureds* in the capacity of auxiliaries.

The insurance **does not cover** the personal liability of these companies and professionals.

#### B1.3 Insured locations

The insurance covers all locations (plants, branch offices, warehouses, etc.) of the insured companies in Switzerland and the Principality of Liechtenstein.

The insurance **does not cover** the locations of the insured companies outside these two countries.

#### B1.4 Staff loaned or hired out

If the policyholder or a co-insured company loans or hires out staff to a *third party* (lease of labor or services) and if any such staff cause a loss during their work for this *third party*, the insurance will cover claims arising from loss or damage brought against the policyholder or the co-insured company.

The insurance **does not cover** the liability of this *third party* as principal for any loss or damage caused by the staff loaned or hired out.

#### B1.5 Violation of personal rights and data protection provisions

The insurance covers claims arising from losses due to

- the unlawful use of confidential information and trademarks;
- the infringement by *insureds* of copyright, trademark, patent, or other industrial property rights, as well as personal rights or data protection provisions.

The insurance **does not cover** claims in connection with unfair competition.

#### B1.6 Consortia and associations

The insurance covers claims arising from losses incurred due to an *insured's* own activities in connection with consortia and associations. Liability arising from membership of consortia and associations is insured only on the basis of special agreements (joint and several liability).

### B2 General exclusions

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#### B2.1 Own loss

The insurance **does not cover** claims arising from

- losses of the *insureds*, with the exception of *bodily injury* and *property damage* sustained by employees and other auxiliaries as defined in E16.3 on the basis of Swiss liability law provisions;
- losses related to the person of the policyholder, such as loss of support;
- losses of persons living in the same household as the liable *insured*.

#### B2.2 Stakeholders

The insurance **does not cover** claims by natural persons and legal entities, trusteeships, and trusts that have a financial holding in the company of an *insured*. The insurance likewise **does not cover** claims of companies under the same management as an insured company (e.g. companies controlled by the same natural person).

This provision does not apply if the direct or indirect holding represents less than 50 % of voting rights.

#### B2.3 Lack of qualifications or authorization to exercise a profession

The insurance **does not cover** claims arising from losses caused by an *insured* in the course of activities undertaken without the special qualifications or authorizations required by law.

#### B2.4 Assumptions or speculations

The insurance **does not cover** claims arising from losses due to asset evaluations, analyses, and expert opinions based principally on assumptions and speculations, for which no method recognized by the relevant profession was applied.

#### B2.5 Services of a technical nature

The insurance **does not cover** claims arising from services of a technical nature (e.g. technical planning and advice, and implementation thereof).

#### B2.6 Contractual liability, contractual penalties, warranties, penalty payments

The insurance **does not cover** claims arising from a contractually assumed liability that goes beyond liability pursuant to statutory provisions. The insurance likewise **does not cover** claims arising from contractual penalties, warranties, penalty payments, bonds, and compensation payments that exceed the indemnity for any loss quantifiable in monetary terms. In particular, these include payments of a punitive nature such as punitive/exemplary damages.

#### B2.7 Insurance

The insurance **does not cover** claims arising from a failure to take out, amend, or continue insurance coverage.

#### B2.8 Speculative business transactions

The insurance **does not cover** claims arising from speculative business transactions or those dependent on chance which take place without customers' written consent.

<p><b>B2.9 Monetary assets and valuables</b> The insurance <b>does not cover</b> claims arising from cash management shortfalls. The insurance <b>does not cover</b> claims with respect to <i>monetary assets</i> or valuables that are destroyed or become lost. This exclusion does not apply to the liability of the <i>insureds</i> with respect to their customers as a result of consultancy services and representation in connection with <i>monetary assets</i>. Claims and/or proceedings in direct/indirect connection with virtual currencies that are not stored in a decentralized way and/or are not based on blockchain technology are generally excluded (fake cryptocurrency).</p>	<p><b>B2.17 Fees, retrocessions, or commissions</b> The insurance <b>does not cover</b> claims in connection with the fees of <i>insureds</i>. Likewise, the insurance <b>does not cover</b> claims related to retrocessions and commissions. Moreover, <b>no insurance cover</b> is granted insofar as the insurance indemnity would result in an obligation of the insured to reduce or repay fees, existing in the absence of compensation, being no longer applicable.</p>
<p><b>B2.10 High probability and acceptance of losses</b> The insurance <b>does not cover</b> claims for losses</p> <ul style="list-style-type: none"> <li>• that should have been anticipated with a high degree of probability by the <i>insured</i>;</li> <li>• that were accepted in order to reduce costs, speed up the work, or in order to prevent a loss of assets or earnings.</li> </ul>	<p><b>B2.18 Bodily injury and property damage arising from contract performance</b> The insurance <b>does not cover</b> claims arising from <i>bodily injury</i> and <i>property damage</i> in connection with the performance of contracts. Likewise, the insurance <b>does not cover</b> claims in lieu thereof due to non-performance or incorrect performance (business risk). Specifically, the insurance <b>does not cover</b> claims</p> <ul style="list-style-type: none"> <li>• arising from damage and defects in goods and services that were manufactured or delivered by or on behalf of an <i>insured</i>, where such damage and defects arose as the result of a cause in the manufacture, delivery, or work carried out;</li> <li>• for costs incurred in connection with investigating and remedying such damage or defects;</li> <li>• for loss of earnings or pecuniary loss as a result of such damage or defects.</li> </ul> <p>The insurance also <b>does not cover</b> concurrent extra-contractual claims on the basis of the same facts, asserted against an <i>insured</i> with or in lieu of any claim otherwise excluded under this provision.</p>
<p><b>B2.11 Felonies and misdemeanors</b> The insurance <b>does not cover</b> claims in connection with felonies or misdemeanors that were committed intentionally or with wilful recklessness by an <i>insured</i>.</p>	<p><b>B2.19 Care, custody, and control</b> The insurance <b>does not cover</b> claims arising from any loss of or damage to property that an <i>insured</i> has accepted for use, processing, safekeeping, forwarding, or for other reasons such as for consignment or exhibition purposes, or that it rented, leased, or held under a usufructuary lease.</p>
<p><b>B2.12 Intent and wilful recklessness</b> The insurance <b>does not cover</b> claims arising from any loss caused by an <i>insured</i> with intent or with wilful recklessness.</p>	<p><b>B2.20 Product liability, ionizing radiation, nuclear damage, asbestos, genetic engineering</b> The insurance <b>does not cover</b> claims in connection with</p> <ul style="list-style-type: none"> <li>• product liability losses;</li> <li>• the action of electromagnetic fields (EMF) and ionizing radiation;</li> <li>• nuclear losses as defined in the Swiss legislation on nuclear energy liability, and the costs associated with such losses;</li> <li>• asbestos;</li> <li>• genetically modified organisms or assimilated products, and pathogenic organisms.</li> </ul> <p>This exclusion does not apply to <i>financial loss</i> arising from consultancy services and the representation of parties involved in related cases.</p>
<p><b>B2.13 Customer data</b> The insurance <b>does not cover</b> claims arising from losses related to the misappropriation of customer data.</p>	<p><b>B2.21 Patents, licenses, research results, software</b> The insurance <b>does not cover</b> claims arising from the provision of patents, licenses, research findings, formulas, recipes, software as well as construction, manufacturing, or building plans to <i>third parties</i>.</p>
<p><b>B2.14 Role as director or officer</b> The insurance <b>does not cover</b> claims in connection with any role exercised by an <i>insured</i> as a</p> <ul style="list-style-type: none"> <li>• member of the administrative body or management, general manager, or director of a legal entity, or in a comparable role;</li> <li>• trustee/protector of a trust;</li> <li>• de facto officer;</li> <li>• liquidator of a legal entity (outside of bankruptcy proceedings).</li> </ul>	<p><b>B2.22 Keeper or use of motor vehicles, air- or watercraft</b> The insurance <b>does not cover</b> claims arising from liability as keeper of or from the use of motor vehicles, aircraft, and watercraft.</p>
<p><b>B2.15 Levies, taxes, and social security contributions</b> The insurance <b>does not cover</b> claims arising from unpaid direct and indirect levies, taxes (withholding tax, value added tax, etc.) and social security contributions (OASI, InvIA, LECA, UI, OPA, etc.). This exclusion relates to direct claims made against an <i>insured</i> by public authorities or private law entities empowered in their stead. This exclusion does not apply to <i>financial loss</i> arising from consultancy services and the representation of parties involved in related cases.</p>	
<p><b>B2.16 USA/Canada</b> The insurance <b>does not cover</b> claims that are judged under <i>US or Canadian</i> state, provincial or federal law, nor costs incurred in the <i>US or Canada</i> (costs of civil and criminal defense, etc.), enforceable rulings (judgments, arbitral decisions, etc.) and settlements.</p>	

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**B2.23 Hazardous activities**

The insurance **does not cover** claims in connection with hazardous activities as defined in the Federal Act on Accident Insurance (AIA).

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**B2.24 Warlike events, terrorism, and other extraordinary occurrences**

The insurance **does not cover** claims in connection with warlike events, neutrality violations, terrorism, revolution, rebellion, uprising, civil unrest, and measures taken to contain such events. Furthermore, the insurance **does not cover** claims in connection with strikes, kidnapping, blackmail, extortion, and ransom demands.

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**B2.25 Employment contract**

The insurance **does not cover** claims by *insureds* pursuant to E16.2 to E16.4 and E16.6 arising from employment contracts or claims arising from having been denied employment.

# Part C

## Scope of Insurance – Special Provisions

### C1 Cyber liability event

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#### C1.1 Scope of insurance

Within the scope of the other contractual provisions, the insurance covers claims for *damages* arising from a *cyber liability event* that are brought against the *insured* based on statutory liability provisions as a result of *financial loss*. The insurance covers claims for damages arising from a *cyber liability event* as a result of the interruption of a service provided by the *insured*.

Claims for damages arising from a *cyber liability event* in connection with the interruption of the functionality of computer centers as well as cloud and web services are only insured if the continuous outage lasts more than eight hours.

#### C1.2 Exclusions in addition to B2

The insurance **does not cover** claims arising from

- losses in connection with the deliberate use of pirated copies by an *insured*;
- *bodily injury* and *property damage*;
- losses arising from fraudulent use of credit, bank, customer identification, or other cards (card fraud);
- loss in connection with the online banking or online payment system. This includes stock market and securities transactions;
- claims arising from losses related to the failure, interruption, or reduction in services of public utilities and infrastructure or of external service providers (e.g. telecommunications companies). This exclusion does not apply to cyber events affecting cloud computing systems used under contract by the policyholder or insureds;
- loss in connection with cyber operations and comparable acts
  - a) that are carried out as part of a war;
  - b) that cause significant adverse effects on the vital functions, the security or the defense of a sovereign state; or
  - c) that result in or form the basis of a response by a sovereign state that include the following:
    - use of force or
    - a cyber operation that impacts another sovereign state in such a way as to be the equivalent to the use of force.

Insurance coverage is provided if the policyholder can prove that the loss is in no way related to the events described in sub-paragraphs a) to c) above.

Cyber operation means the use of a computer system by, at the direction or under the control of a sovereign state to change, block, compromise, manipulate, publish or destroy information or access to this information on a computer system of another sovereign state.

#### C1.3 Obligations in the event of a claim

The following applies in addition to D3 et seq. and A8.2:

- C1.3.1 If, in the event of a claim, it is ascertained that the IT security measures and safety systems are inadequate, the policyholder or the co-insured company must implement suitable measures at its own expense.

- C1.3.2 In the event of any breach of data protection, the policyholder or the co-insured company is required to immediately notify the police and request an official investigation. It must also take steps, together with the investigating authorities and AXA, to identify the offender.

### C2 Loss of physical documents

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By way of an amendment to B2.19, the insurance covers liability arising from the destruction of, or damage to, or loss of physical documents of *third parties* that were in the possession of the *insured* or a person to whom the *insured* had entrusted such documents. B2.9 and B2.13 remain reserved;

The costs and outlay incurred for restoration or replacement are also insured. If the *insured* itself undertakes the replacement of documents, AXA will only pay the cost price.

### C3 Loss of electronic data

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By way of an amendment to B2.19, the insurance covers liability arising from the destruction of, damage to, or loss of the *electronic data* of *third parties* except for source code. The prerequisite for indemnity is that the destroyed, damaged, or lost *electronic data* must not originally have been entered, programmed, or modified by the *insureds* or any *third parties* commissioned by them.

Insurance coverage is limited to the costs and outlay incurred for restoration or replacement of the *electronic data*. If an *insured* itself undertakes the replacement of electronic data, AXA will only pay the cost price.

In relation to claims for damages arising from a *cyber liability event*, the provisions of C1 apply.

### C4 Reputation costs

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If the public standing or good reputation of an *insured* is demonstrably compromised because of an insured claim, AXA will cover the costs of restoring the standing and good reputation of the insured.

The costs of restoring standing and good reputation include all necessary and reasonable expenditure by an independent PR expert approved in advance by AXA in writing.

### C5 Waiver of the defense of gross negligence

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AXA waives its right pursuant to Art. 14 para. 2, ICA to reduce its indemnities if the event was caused by the *insured* through gross negligence.

## C6 Liability during business travel and while working from home

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The insurance covers the liability of the *insureds* for *bodily injury* and *property damage* during their travel and stays for business purposes, both in the course of their professional activities and in their activities as private individuals. However, this applies only if no other liability coverage is in force.

The insurance also covers claims arising from damage to premises such as hotel rooms or apartments used by *insureds*. The foregoing is in amendment of B2.19.

The insurance covers claims arising from losses that occur anywhere in the world, including the *United States and Canada*. B2.16 is not applicable.

## C7 Ancillary risks

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The insurance covers claims arising from *bodily injury* and *property damage* in connection with the following ancillary risks of business operations:

- participation in trade fairs and exhibitions;
- organizing, preparing, and staging company, sports, and leisure events;
- use by an *insured* of bicycles and motor vehicles with weak motorization or low speeds as defined by the Swiss Vehicles Insurance Ordinance (e.g. pedal electric bicycles with motor assistance up to a maximum of 25 km/h, motor-assisted hand carts). The coverage excludes journeys to and from work. The foregoing is in amendment of B2.22;
- operation of staff restaurants;
- company club activities.

## C8 Real estate

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### C8.1 Scope of insurance

The insurance covers liability arising from *bodily injury* and *property damage* attributable to land, buildings, premises, other types of plants and facilities in Switzerland and the Principality of Liechtenstein, regardless of whether or not they serve the insured operations.

### C8.2 Co-ownership (including condominiums)

In addition, the following applies to land, buildings, and premises as defined in C8.1 that are co-owned or owned as a condominium:

- C8.2.1 The insurance also covers claims arising from losses the causes of which lie in real property and building parts (including related installations and facilities) to which the policyholder or the co-insured company has an exclusive right of use.
- C8.2.2 The insurance **does not cover** claims
- brought by the community of condominium owners as a result of loss or damage to real property and parts of buildings used in common (including related installations and facilities) for that part of the loss that corresponds to the quota share of the *insureds*.
  - brought by another co-owner arising from losses, the cause of which is attributable to real property and parts of buildings used in common (including related installations and facilities) for that part of the loss that corresponds to the quota share of the other co-owners.

### C8.3 Joint ownership

- C8.3.1 If land, buildings, and premises as defined in C8.1 are owned jointly, claims brought against the policyholder or the co-insured company in their capacity as a joint owner are also insured.
- C8.3.2 The insurance **does not cover** claims arising from losses sustained by joint owners.

## C9 Construction owner's liability

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If a structure or parts thereof are constructed, remodeled, or extended, etc., the following applies:

### C9.1 Scope of insurance

The insurance covers claims arising from *bodily injury* and *property damage* incurred as a result of demolition, earthmoving, and construction work that are brought against the *insured* as the party who commissioned the work (construction owner) or against the owner of the real property as defined in E16.4.

### C9.2 Exclusions in addition to B2

The insurance **does not cover** claims in connection with a construction project:

- C9.2.1 whose total cost as defined in the estimate exceeds CHF 1,000,000. Individual properties that form part of the (overall) project or that are to be built in several lots are, taken together, considered to be a single structure;
- C9.2.2 that involves the creation of an excavation pit with a depth of more than one underground story;
- C9.2.3 on a slope with a gradient exceeding 25 %;
- C9.2.4 that involves underpinning or undercrossing a neighboring structure;
- C9.2.5 that involves abutting a structure belonging to a *third party*. This exclusion provision does not apply to civil engineering works in connection with the construction, extension, renovation, or maintenance of roads, squares, sidewalks, pipes, and shafts;
- C9.2.6 that involves lowering the water table;
- C9.2.7 for which work causing strong vibrations (e.g. blasting or pile-driving) is performed;
- C9.2.8 that involves vibratory sheet piling or extraction;
- C9.2.9 for which borehole drilling (e.g. for heat probes, pile foundations) is planned.

- C9.2.10 Likewise, the insurance **does not cover** claims that affect the construction project itself or the real property belonging to it;
- C9.2.11 in connection with the reduced flow or drying-up of sources.

### C9.3 Taking into account costs saved

If measures that would have been required under the standards of construction practice (e.g. surveys of neighboring properties, soil investigations, excavation site protection) were not taken in the realization of the construction project, the part of the indemnity pursuant to liability law corresponding to the saved cost of these omitted measures will not be covered.

## C10 Real property, buildings, and premises that are rented, leased, or held under a usufructuary lease

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### C10.1 Scope of insurance

By way of an amendment to B2.19, the insurance covers liability for claims arising from:

- C10.1.1 damage to real property, buildings, and premises that are rented, leased, or held under a usufructuary lease;
- C10.1.2 damage to parts of buildings and premises (such as lobbies, staircases, or parking areas) that are shared with other tenants, lessees, leaseholders, or with the owner;
- C10.1.3 damage to heating and hot water supply systems, passenger and freight elevators, escalators, as well as air conditioning, ventilation, and plumbing facilities, as well as built-in kitchen equipment exclusively serving the specified buildings and premises.

### C10.2 Lost keys

If keys issued for the buildings and premises specified in C10.1.1 are lost, the cost of the necessary change or replacement of locks and the corresponding keys will be insured (cost of changing locks).

Electronic lock systems and their associated badges are treated in the same way as locks and keys.

### C10.3 Exclusions in addition to B2

The insurance **does not cover** claims arising from

- C10.3.1 damage to stadiums, concert halls, or trade fair and exhibition halls that are rented, leased, or held under a usufructuary lease;
- C10.3.2 damage to residential premises that are rented, leased, or held under a usufructuary lease for the purpose of accommodation for employees;
- C10.3.3 damage that occurs over time (such as damage due to moisture, wear and tear, deterioration of wallpaper and paintwork, and the like);
- C10.3.4 the cost of restoring real property, buildings, or premises to their original condition after they were deliberately modified either by or on the instructions of an *insured*.
- C10.3.5 losses involving furniture, machines, and apparatus, even if they are permanently attached to the real property, buildings, or premises. C10.1.3 remains reserved.

### C10.4 Deductible

In addition to D2.1, the deductible is applied only once for all claims that are brought on termination of the rental, tenancy, or leasing agreement – i.e. at the time of the handover of the building and premises to the landlord or lessor.

## C11 Rented telecommunication systems

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### C11.1 Scope of insurance

By way of an amendment to B2.19, the insurance covers claims arising from damage to rented or leased telecommunication systems and voice-mail servers, and cables belonging directly to these devices, as well as internal switchboards (interior systems).

### C11.2 Exclusion in addition to B2

The insurance **does not cover** claims arising from damage to cellphones, pagers, internal radio systems, mobile and stationary PCs, network and mainframe computer installations, cable networks, software, and data.

## C12 Stored property

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### C12.1 Scope of insurance

By way of an amendment to B2.19, the insurance covers claims arising from the destruction of, damage to, or loss of property that the *insured* has accepted for use or processing, provided that the cause of the loss relates to the storage of the property.

### C12.2 Exclusions in addition to B2

The insurance **does not cover** claims arising from

- C12.2.1 loss or damage to property that an insured has accepted exclusively for storage, safekeeping, forwarding, on consignment, or for exhibition purposes, or that the insured has rented, leased, or held under a usufructuary lease;
- C12.2.2 loss or damage to *monetary assets*, documents, deeds, and plans;
- C12.2.3 loss or damage to vehicles of any kind;
- C12.2.4 loss or damage to animals.

## C13 Property stored in cloakrooms

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### C13.1 Scope of insurance

By way of an amendment to B2.19, the insurance covers claims arising as a result of property that is destroyed, damaged, stolen, or lost while stored in a continuously guarded or locked cloakroom.

### C13.2 Exclusion in addition to B2

The insurance **does not cover** claims arising from loss or damage to *monetary assets*, documents, deeds, and plans.

### C13.3 Obligation

In addition to D3, in the event of a theft, the *insured* must notify the police immediately upon discovery of the theft and, at the request of AXA, press charges against the offender.

## C14 Keys entrusted for safekeeping

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### C14.1 Scope of insurance

By way of an amendment to B2.19, the insurance covers claims by *third parties* for the necessary change or replacement of locks and the corresponding keys (cost of changing locks). This applies in the event of any loss of entrusted keys to real property, buildings, premises or facilities in or on which an *insured* must carry out work, or which are managed by an *insured*. Such costs are deemed to be *property damage*.

Electronic lock systems and their associated badges are treated in the same way as locks and keys.

### C14.2 Obligation

The *insured* must notify the client immediately if keys or badges are lost.



## C15 Environmental impairment

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### C15.1 Scope of insurance

The insurance covers claims arising from *bodily injury* and *property damage* in connection with *environmental impairment* due to the following causes:

- C15.1.1 *Environmental impairment* as a result of a single, sudden, and unforeseen event requiring immediate measures, such as notifying the responsible authorities, alerting the public, or implementing *loss prevention* or loss mitigation measures.
- C15.1.2 *Environmental impairment* as a result of the release of substances that represent a hazard to the soil or water such as liquid fuels, acids, bases, and other chemicals (but not waste water and other waste from operations) because of rust or leaks in a facility permanently connected to the site. This only applies, however, if the release of such substances requires immediate measures in accordance with C15.1.1. This coverage is only available if the policyholder or the co-insured company can prove that the facility involved was built, maintained, or shut down properly and in accordance with applicable regulations.
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### C15.2 Exclusions in addition to B2

The insurance **does not cover** claims:

- C15.2.1 arising from losses where several events with a similar effect (e.g. repeated dripping of noxious substances into the ground, repeated spillage of liquids from mobile containers) jointly trigger measures as described in C15.1.1 that would not have been necessary for single events of this kind;
- C15.2.2 arising from damage in connection with the restoration of protected species or habitats;
- C15.2.3 arising from damage to the air and to water, soil, flora, or fauna not under ownership as defined by civil law;
- C15.2.4 in connection with sites that were already contaminated when the contract was signed,
- on real property owned by or in the possession of an *insured*;
  - on real property of *third parties* caused (or caused in part) by an *insured*.
- C15.2.5 arising in connection with the ownership, possession, or operation of facilities used to store, prepare, route, or eliminate waste, waste water, or material for recycling. This exclusion does not apply to company-owned facilities used for the composting or short-term storage of waste and company-owned facilities for treating or preparing waste water.
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### C15.3 Obligations

- C15.3.1 The *insured* must ensure that the production, processing, collection, storage, cleaning, and removal of environmentally hazardous substances complies with statutory provisions and government regulations.
- C15.3.2 The *insured* must ensure that the systems used for the above activities, including the security and alarm installations, are professionally maintained and kept operational in accordance with all technical standards, statutory provisions, and government regulations.
- C15.3.3 The *insured* must ensure that remediation and similar orders issued by public authorities are complied with within the prescribed deadlines.
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## C16 Loss prevention

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### C16.1 Scope of insurance

*Loss prevention costs* are insured if the occurrence of an insured *bodily injury* or *property damage* is imminent due to a single, sudden, and unforeseeable event.

The insurance **does not cover** measures taken after the hazard was averted, such as the disposal of defective products.

In a case of *environmental impairment* that has occurred or is imminent due to an event as defined in C15.1.1 or C15.1.2, the insurance also covers costs for which the *insured* is liable due to measures ordered by public authorities to avert any immediate, long-term impairment of the soil or water of a third party.

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### C16.2 Exclusions in addition to B2

The insurance **does not cover**

- C16.2.1 loss prevention measures consisting of an activity belonging to the proper performance of the contract, such as remedying defects and damage to goods that have been produced or delivered, or to work that has been completed;
- C16.2.2 the cost of eliminating a hazardous condition in accordance with A8.1;
- C16.2.3 the costs of identifying leaks, malfunctions, and causes of damage, including the necessary emptying of systems, containers, and pipes, as well as the costs of repairs and modifications to these systems, containers, and pipes, such as remediation costs.
- C16.2.4 the cost of loss prevention measures taken on account of snowfall or the accumulation of ice;
- C16.2.5 the costs of measures to prevent *financial loss*.
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## C17 Loading and unloading of vehicles

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The insurance covers claims arising from *property damage* to land vehicles and watercraft (including superstructures and semi-trailers), as well as to aircraft, when loading or unloading them with general cargo. General cargo refers to items that are loaded or unloaded individually: machinery, equipment, construction components such as doors, windows, or girders, pallets, and containers of all types such as boxes, crates, barrels, or canisters.

The insurance **does not cover** claims arising from damage to land vehicles, watercraft, and aircraft that an *insured* has borrowed, rented, or leased.

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## C18 Releases from liability

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If the *insured* has entered into a liability agreement that is more restrictive than liability rules prescribed by law, AXA will waive the enforcement of such an agreement if it cannot be enforced by the *insured* or if the insured does not wish to enforce this agreement due to reasons of business policy, for example.

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# Part D

## Claims

### D1 Indemnities

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#### D1.1 Compensation of justified claims

AXA will pay the amount that the *insured* or AXA as their liability insurer is required to pay the injured party as compensation within the scope of the insurance and the statutory liability provisions. AXA may pay compensation directly to the injured party.

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#### D1.2 Defense against unjustified claims

In the case of an insured event, AXA assumes the defense against unjustified or excessive claims for damages that are asserted against an insured or AXA as their liability insurer.

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#### D1.3 Provisional assumption of defense costs in civil proceedings

In civil proceedings, AXA will advance defense costs for claims

- relating to the alleged intentional commission of a felony or a misdemeanor by an *insured* (B2.11);
- arising from losses allegedly caused by an *insured* with intent or with wilful recklessness (B2.12)

until such time as the infractions referred to above

- are determined by a final and binding court decision, or in judicial, administrative, or arbitration proceedings, or by means of a settlement, or
- are acknowledged by an *insured*.

In the event of such a determination or acknowledgment, the provisionally granted insurance coverage ceases to apply with retroactive effect. AXA must be reimbursed for all costs expended up to this point.

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#### D1.4 Limit of indemnity

##### D1.4.1 Scope of indemnity

Any indemnity payable by AXA for all claims asserted against an *insured* and/or AXA as their liability insurer and any additional insurance payments is limited to the sum insured specified in the policy. This includes interest on damages, recourse interest, costs of loss mitigation, costs of expert opinions, attorney fees, court costs, costs of arbitration and mediation, *loss prevention costs* and other costs (such as indemnification of the legal expenses of the opposing party).

Some risks covered by the insurance may be subject to a sublimit (limit within the sum insured) specified in the policy or the present GIC.

If the claims and costs (including the claims and costs in connection with risks to which sublimits apply) per event or *serial loss* exceed the sum insured specified in the policy, the maximum indemnity payable by AXA is limited to the sum insured (maximum compensation). The sum insured or sublimit is reduced by the agreed deductible in each case.

##### D1.4.2 Single aggregate

The sum insured or sublimit constitutes a single aggregate for each *insurance year*: It is paid out as a maximum once for losses and costs of all claims made during the same *insurance year*. D1.5 remains reserved.

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#### D1.5 Reinstatement for additional sums insured

The policyholder may purchase an additional sum insured from AXA, equal to the original sum insured for the remaining period of the current *insurance year*, for a premium to be agreed. Sublimits may not be purchased separately.

The right to purchase additional sums insured is subject to the following conditions:

- The *insured* has reported a loss event covered by this contract or circumstances as defined in A3.2.
- The policyholder makes a request in writing to AXA for an additional sum insured by no later than the expiry of the *insurance year*.

The additional sum insured purchased does not apply to claims arising from losses in respect of which an *insured* was aware, at the time the additional sum was purchased, of an act or omission that could give rise to liability on the part of the insured.

The additional insured sum may not be cumulated with other sums insured for previously reported loss events. Only one additional sum insured may be purchased per loss event.

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#### D1.6 Other insurance

If another insurer is liable to indemnify for the same loss or *serial loss*, the indemnity payable by AXA will be limited to that part of the compensation

- that exceeds the sums insured or sublimits of the other insurance (difference in limits coverage); or
- that exceeds the scope of coverage of the other insurance (difference in conditions coverage).

Any indemnity paid under another policy will be deducted from the sum insured and sublimits under this contract.

The provisions of A3.8.4 are reserved.

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#### D1.7 Emergency costs

If, in an emergency, it can be demonstrated that prior written consent from AXA to cover the costs of defending against a claim could not reasonably be obtained, AXA will provide its consent to cover such costs retroactively. The *insured* must, however, inform AXA immediately and delegate all further handling of the claim to AXA.

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#### D1.8 Threat of claim

If the *insured* or AXA as their liability insurer is faced with the serious threat of an insured claim, AXA will also make preparations to defend against the claim if this makes sense and is appropriate.

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#### D1.9 Internal claims settlement costs

AXA's internal claims settlement costs are not deducted from the sum insured, nor are they included when determining the deductible. Internal costs are defined exclusively as the costs to be paid by AXA for its employees.

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## D2 Deductible

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**D2.1 Per event**  
The policyholder or the co-insured company will pay the deductible specified in the policy per loss event. A special deductible applies for individual risks if this is specified in the policy. The deductible also applies to costs, e.g. for defending against unjustified claims. This applies irrespective of whether the claims are asserted against an insured and/or AXA as their liability insurer.

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**D2.2 For multiple coverages**  
If multiple coverages with identical deductibles are triggered for the same loss event, the policyholder or the co-insured company will be required to pay the deductible only once.  
If deductibles with different amounts were agreed for these coverages, the policyholder or the co-insured company will pay at most the highest agreed deductible.

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**D2.3 Reimbursement**  
The deductible is primarily charged to the policyholder or the co-insured company. If AXA indemnifies the injured party without first applying the deductible, the policyholder or the co-insured company will reimburse AXA for the amount of this deductible, waiving any objections. The same applies if AXA pays the costs of engaging *third parties* (e.g. experts, lawyers, or courts) directly.

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**D2.4 Statutory requirements**  
If the law prescribes a lower deductible for an insured activity than the deductible specified in the policy, the statutory deductible will apply in relation to the injured party for any loss or damage arising from this activity.

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## D3 Notice of claim and duty to provide information

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**D3.1 Notice of claim**  
The *insured* must notify AXA as quickly as possible of any event that could affect the insurance. This duty to provide information also applies if police, criminal, regulatory, or administrative proceedings, or proceedings before a professional or trade organization, are initiated against an *insured* as a result of such an event. If an injured party contacts AXA directly, the latter will inform the policyholder or the co-insured company.

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**D3.2 Duty to provide information**  
The *insured* must at all times issue AXA with all information relating to the loss event as quickly as possible and at their own expense. This includes correspondence, data, documents, evidence, official and court documents such as summonses, rulings, notifications, judgments, etc. In addition, the policyholder or the co-insured company must forward to AXA, of its/their own accord, any additional information about the claim.

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## D4 Claims handling

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**D4.1 Assumption of claims handling**  
AXA will handle claims if the claims exceed the deductible and if the sum insured is not exhausted. AXA is also entitled to handle claims if the claims do not exceed the deductible.  
AXA conducts negotiations with the injured party at its own expense. In doing so, AXA acts as representative of the *insured*. The manner in which AXA settles the claims of the injured party is binding on the *insured*.  
AXA has the right to refrain from handling claims itself. In this case, AXA will advise the *insured* in writing that the latter may appoint a lawyer in agreement with AXA. The other duties and obligations in the event of a claim continue to apply without change.

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**D4.2 Duties of the insured**  
The *insured* must, at their own expense, assist AXA in handling the claim. This applies, in particular, to establishing the facts and the loss, as well as to defending against claims. The duty to assist also exists in the event of litigation and if the claims are asserted against AXA as the liability insurer.

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**D4.3 Litigation**  
If no agreement is reached with the injured party and this party takes legal action, the following applies:  
**D4.3.1 Lawsuit against an insured**  
AXA will, after consulting with the insured, appoint a trial lawyer and define the trial strategy and outcome (acknowledgment, settlement, or judgment), and all other steps relating to the proceedings. In this regard, AXA acts as representative of the insured. AXA will assume the litigation costs and attorney fees incurred by the insured. It is entitled to enter into a fee agreement with the trial lawyer. AXA is entitled to any costs awarded to the insured. However, the *insured* may retain any compensation awarded for their personal efforts.

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**D4.3.2 Lawsuit against AXA**  
AXA appoints a trial lawyer and defines the trial strategy and outcome (acknowledgment, settlement, or judgment), and all other steps relating to the proceedings. AXA assumes the litigation costs and attorney fees within the scope of the insurance indemnity. AXA keeps the insured informed about the proceedings.  
**D4.3.3 Lawsuit against an *insured* and against AXA**  
After consulting the insured, AXA will, if possible, appoint a trial lawyer to represent the insured and AXA jointly. D4.3.1 and D4.3.2 apply in all other respects.

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**D4.4 Arbitration proceedings**  
The resolution of insured claims in proceedings before an arbitral tribunal has no impact on the insurance coverage, provided that the proceedings are conducted in accordance with the rules of the Swiss Civil Procedure Code and the Federal Act on International Private Law.

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## D5 Contractual fidelity

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The *insured* is required to maintain contractual fidelity. The insured may not, without the consent of AXA, conduct any direct negotiations with the injured party, acknowledge any liability or claims, enter into any settlement, or pay any compensation. The insured may not assign coverage claims without the consent of AXA.

## **D6 Recourse to the insured**

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AXA has a right of recourse against the *insured*, provided that it would be entitled, pursuant to the provisions of the insurance contract or the Federal Act on Insurance Contracts (ICA), to refuse or reduce its indemnity. This is subject to C5 GIC pursuant to which there is no reduction and therefore no recourse due to gross negligence.

## **D7 Limitation period under this insurance contract**

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Claims under this insurance contract become time-barred five years after the event on which the obligation of AXA to indemnify is based.

## Part E

### Definitions

#### E1 Cyber liability event

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A cyber liability event is a deliberate attack by *third parties* on the *IT system* of the policyholder or the co-insured business or on cloud computing systems used by the policyholder or the co-insured business which causes damage to other *third parties*.  
A cyber liability event must be caused by *malware*, a *hacker attack* or a *denial-of-service attack* either via networks or via digital data carriers.

#### E2 Denial of service (DoS)

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Denial of service is the impairment of a service as a result of an overloading of infrastructure systems, for example. This denial of service must have been caused by a deliberate attack on an *IT system*.

#### E3 Third parties

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Third parties are deemed to be all parties who are not *insureds*.

#### E4 Electronic data

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Electronic data is information stored on data carriers such as operating systems, programs, and user data. Electronic data is deemed not to be property.

#### E5 Monetary assets

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Monetary assets are defined as cash, credit and debit cards of all types, plastic money such as cash cards, tax cards, etc., checks, virtual currencies such as Bitcoin and other means of payment, vouchers, subscriptions of all kinds, and tickets.

#### E6 Hacker attacks

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Hacker attacks are deliberate changes to programs and data made with the intention of causing damage. In an attack of this sort, hackers obtain unauthorized access via networks, specifically the internet. Changes to programs and data by *malware* are not classified as *hacker attacks*.

#### E7 IT system

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An IT system comprises computer hardware and networks (including software) of any sort which process and store *electronic data*: server systems, storage systems, personal computers, notebooks, tablets, smartphones, remote data transmission devices, etc.  
Computer controls for technical devices as well as machinery and equipment that are integrated into networks are likewise considered as IT systems.

#### E8 Bodily injury

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Bodily injury is deemed to mean and include death, physical injury, or other impairment of the health of individuals (including any resulting pecuniary loss, loss of earnings, and claims for pain and suffering).

#### E9 Property damage

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Property damage is deemed to mean and include the destruction, damage, or loss of movable and immovable property (including any subsequent pecuniary loss or loss of earnings that the injured party suffers as a result). Death, injury, other impairment of the health of animals and loss of animals are deemed to be equivalent to property damage. The impairment of a property's functions, without any impairment of the property's physical substance, is deemed not to constitute property damage.

#### E10 Loss prevention costs

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Loss prevention costs are costs incurred through measures to prevent a loss. Loss prevention measures are deemed to mean and include any appropriate measures taken immediately to prevent the occurrence of an imminent insured loss. Costs incurred in connection with recalling or taking back goods, together with the necessary preparatory work associated with these activities (as well as the costs of measures taken instead of recalling a product or taking back goods [product recall] are not deemed to be loss prevention costs.

#### E11 Malware

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Malware, evilware, and junkware are terms used to describe computer programs developed in order to perform undesired and damaging functions. Malware is therefore a generic term that includes computer viruses, computer worms, Trojan horses, ransomware, and the like.  
Incorrectly programmed software that can cause a loss is not considered to be malware.

#### E12 Serial loss

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The total of all claims arising from all losses and loss prevention measures with the same cause as well as the consequences of several acts or omissions in the same matter are considered to be one event. This is referred to as a serial loss. The number of injured parties or parties claiming or eligible to claim is irrelevant.  
The cause will be deemed to be the same if several losses are attributable to the same act or omission (e.g. violations of a duty of care or mistakes).  
The matter will be deemed to be the same if several related situations occur, that in context must be considered as self-contained and therefore can be understood as unity.

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## E13 Environmental impairment

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Environmental impairment is deemed to be any long-term disturbance of the state of air, water, groundwater, soil, flora, or fauna caused by any influence, as well as any situation defined by applicable law as environmental impairment.

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## E14 USA/Canada

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USA and Canada include all states, federal territories, and provinces belonging to the United States of America or Canada, as well as all other territories that fall under the jurisdiction of these countries.

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## E15 Financial loss

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Financial loss is loss measurable in monetary terms that is not attributable to any *bodily injury* or *property damage* suffered by the injured party. Financial loss also includes damage to and defects in software or damage to and defects in *electronic data* as well as their consequential losses or damage. This applies if the consequential losses or damage do not constitute *bodily injury* as defined in E8.

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## E16 Insureds

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### E16.1 Policyholder

Policyholder is deemed to mean and include any natural person or legal entity, partnership, corporation, or institution specified in the policy as “policyholder”. If the policyholder is a partnership or community of joint owners, the members of the partnership or the community of joint owners will be treated in the same manner as the policyholder with respect to rights and obligations.

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### E16.2 Agents of the policyholder

The representatives of the policyholder and the persons entrusted with managing or supervising the company are deemed to be insureds in respect of their activities for the insured company.

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### E16.3 Employees and auxiliaries

The employees and other auxiliaries of the policyholder (except sub-contractors, etc. as defined in B1.2) are deemed to be insureds in connection with their activities for the insured company.

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### E16.4 Third parties as owners of real property

Owners of real property are deemed to be insureds if the policyholder is only owner of the building but not of the land (building lease).

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### E16.5 Co-insured persons and companies

Any other companies specified in the policy as “co-insured companies”, including the group of persons pursuant to E16.2 to E16.4, are deemed to be insureds.

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### E16.6 Persons loaned or hired

Persons loaned or hired by the policyholder or the co-insured company (lease of labor or services) are deemed to be insureds within the scope of their activities for the insured company.

Persons loaned or hired out by the policyholder or the co-insured company to a third party are not insureds (lease of labor or services) within the scope of their activities for the *third party*.

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### E16.7 Continuation of mandate in place of an insured

Insureds are deemed to include persons and their employees who act in the place of the insureds in case of the death or incapacity to act of the authorized representative, on the basis of Art. 405, para. 2 of the Swiss Code of Obligations (CO).

The insurance **does not cover** natural persons and legal entities or partnerships which engage in business similar to that of the original authorized representative on an independent and commercial basis.

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### E16.8 Spouses, heirs, and legal representatives

Insureds are deemed to include spouses, registered partners, heirs, and legal representatives of insureds, to the extent that claims are asserted against them instead of against the insureds in respect of the insured activities of the latter.

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### E16.9 New companies and persons

Insureds are deemed to include new companies and persons added during the *insurance year*, under the contingent coverage pursuant to A10.1.1 and A10.1.2.

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## E17 Insurance year

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The insurance year is defined as the period for which the annual premium is calculated. It begins on the day on which the annual premium is due and ends on the day before the annual premium for the next insurance year is due.



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