



General Insurance Conditions (GIC)

Cyber Insurance Companies

Version 07.2021

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Key points at a glance

This overview provides you with information about the key content of the insurance contract in accordance with Art. 3 of the Federal Act on Insurance Contracts (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 contract terms, and the statutory provisions.

Who is the insurance carrier?

The insurance carrier is AXA Insurance Ltd, General Guisan-Strasse 40, 8401 Winterthur (hereinafter referred to as "AXA"), a stock corporation domiciled in Winterthur and a subsidiary of the AXA Group.

What is insured?

This is property and casualty insurance pursuant to the Insurance Contract Act.

First-party cyber event:

The insurance covers the restoration of your own electronic *data* following a *first-party cyber event*.

The insurance also covers loss of earnings and additional costs arising from a business interruption incurred due to insured loss or damage.

Cyber liability event:

The insurance covers claims for damages due to *financial loss* that are brought against the *policyholder* or an *insured* based on statutory liability provisions. These include claims due to

- destruction of, damage to, modification, non-availability or loss of a *third party's data* which was in the possession of the *policyholder* or of a party to whom the *policyholder* had entrusted such data,
- destruction of, damage to, modification, non-availability or loss of *data on IT systems* of a *third party*,
- *breaches of data protection*,
- breach of the confidentiality of information or loss of confidential information.

Online payment system (optional):

The insurance covers *financial loss* incurred due to the manipulation of online banking or of an online payment system.

Social engineering (optional):

The insurance covers *financial loss* incurred in connection with social engineering attacks.

Phone hacking (optional):

Under phone hacking, the unauthorized use of the telephone system by *third parties* following *first-party cyber damage* is insured.

What does the insurance not cover, inter alia?

The insurance does not cover, among other things, claims arising from:

- loss or damage due to warlike events, civil unrest or terrorism,
- loss or damage in connection with the deliberate use of pirated copies by the *policyholder* or an *insured*,
- *bodily injury and property damage*,
- loss or damage in connection with virtual currencies.

The precise scope of coverage is stated in the policy and these GIC.

What benefits does AXA provide?

In connection with an insured *first-party cyber event*, AXA indemnifies the costs of restoring the insured *data*, the costs of removing *malware* from the *policyholder's IT system*, as well as insured loss of earnings and additional costs.

In connection with an insured *cyber liability event*, AXA indemnifies the amount that the *policyholder* must pay to the injured party as indemnity within the scope of coverage and statutory liability provisions.

The indemnity is limited to the amount of insurance stated in the application and the policy for each group or coverage module.

Any applicable deductible and any indemnity limits are stated in the application and/or the policy.

How much is the premium and when is it due?

The premium and due dates are defined in the application and/or the policy.

What are the policyholder's main obligations?

Among other things, the *policyholder* must:

- perform a full *data* backup at least once a week,
- store data backups, programs and licenses in such a way that they cannot be damaged or destroyed together with the originals,
- use protective systems (e.g. internet protection programs, anti-virus software, firewalls) and keep them updated.

When does the notice of claim need to be filed?

If an insured event occurs, the *policyholder* must file the notice of claim as quickly as possible.

When does coverage begin and end?

Coverage commences on the date specified in the policy. AXA may reject the application up until 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 another year. An insurance contract concluded for less than one year expires on the date specified in the policy.

How to exercise the right of withdrawal

The *policyholder* may withdraw from the contract with AXA within 14 days of accepting it. This deadline will be met if the withdrawal is communicated to AXA in writing or another text form (e.g. by email or letter).

In the event of such withdrawal, any benefits 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 within two weeks of submitting or sending the application.

If AXA breaches the duty to provide information pursuant to the Liechtenstein Insurance Contract Act or the Liechtenstein Insurance Supervision Act, the *policyholder* will have the right to withdraw from the contract within four weeks of receipt 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.”

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

General Conditions of the Insurance Contract

A1 Scope of the insurance contract

The policy stipulates the insurance coverages which have been taken out. The policy, these General Insurance Conditions (GIC) and any Special Insurance Conditions (SIC) provide information about the scope of coverage.

A2 Territorial scope

The insurance covers claims arising from damage or losses occurring anywhere in the world. The insurance does not cover liability claims that are judged in accordance with any state, provincial, or federal law of the USA or Canada. Likewise, the insurance does not cover costs incurred in the USA or Canada, or enforcement orders and settlements in those countries. The territorial scope also applies with respect to coverage for costs.

A3 Trigger

A3.1 First-party cyber event

The insurance covers *first-party cyber events* that are discovered for the first time and reported during the term of the contract.

If it is found that the *first-party cyber event* occurred before the start of the contract, insurance coverage is valid only if the *policyholder* and *insureds* were unaware of this.

A3.2 Cyber liability event

The insurance covers damage and claims brought against the *policyholder*, an *insured* or against AXA as his or her liability insurer while the policy is in force. The policy period is deemed to be

- the term of the contract as stated in the policy
- the term of any contracts with AXA replaced by this policy
- any extended coverage period granted by AXA

A3.2.1 Date of assertion of claim

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

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

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

A3.2.2 Prior acts coverage

The insurance also covers claims arising from loss or serial loss incurred as a result of acts or omissions that took place prior to the date on which this insurance contract was first concluded. The insurance will only cover these, however, if the *policyholder* or the *insured* was unaware of any act or omission that could give rise to liability prior to the date on which this contract was first concluded.

A3.2.3 Extended coverage period

a) During the contract term

If, during the term of the contract, an *insured* leaves the group of *insureds*, or if an insured business or a part of it is excluded or discontinued, coverage will remain in effect. This will only be the case, however, if any 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 will be deemed to be the date of the claim.

b) On expiry of insurance coverage

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 insurance 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.

A3.2.4 Statutory provisions

Mandatory statutory provisions governing the extended coverage period that go beyond A3.2.3 take precedence over these provisions.

A3.2.5 Loss prevention costs

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

A3.2.6 Serial loss

The total of all the claims arising from the same cause and the consequences of several acts or omissions in the same matter are considered to be one event (serial loss). The number of claimants or parties claiming or entitled to compensation is irrelevant.

A4 Term of insurance contract

The insurance contract begins on the date specified in the policy. It is concluded for the term specified in the policy, after which it is automatically renewed for another year. An insurance contract concluded for less than one year expires on the date specified in the policy. Any provisional insurance that may be in place expires once the policy is issued.

AXA may reject the application. Any provisional insurance cover that may be in place expires three days fol-

lowing receipt by the applicant of the notice of rejection. In this case, the applicant will owe the *pro rata* premium for the period of coverage.

A5 Termination of the insurance contract

A5.1 Termination effective as of the end of the insurance year

Either contracting party may terminate the insurance contract in writing or in another text form 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 loss event for which AXA provides indemnity, the insurance contract may be terminated as follows:

- By the *policyholder*, no later than 14 days after they become aware of the payment of the indemnity, with coverage ending 30 days after receipt by AXA of the notice of termination.
- By AXA, at the latest when the indemnity payment is made, with coverage ending 30 days after receipt by the *policyholder* of the notice of termination.

A5.3 Termination in the event of an increase in risk

A13.5 applies.

A6 Premiums

The premium stipulated 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 installment payments, the installments due during the insurance year are deemed to be deferred. AXA may add a surcharge to each installment.

A7 Sum insured and indemnity limits

The sum insured or indemnity limits constitute a single aggregate per insurance year. If the claims, losses and costs per event (including claims and costs in connection with risks to which indemnity limits apply) exceed the sum insured specified in the policy, AXA will pay no more than the sum insured (maximum compensation).

A8 Deductible

The deductible stated in the policy applies. The deductible will be subtracted from the damage calculation. It also applies to costs such as those for defense against unjustified claims or crisis management. If multiple coverages are triggered for the same loss event, the deductible will only be subtracted once. In this case, the highest deductible applicable to the coverages triggered is subtracted.

A9 Cyber insurance takes precedence

In the event of a cyber claim, the present cyber insurance takes precedence over other insurance policies taken out with the AXA Group by the *policyholder* or an *insured*.

A10 Cumulation clause

If a claim affects more than one policy (insurance contract) concluded by the *policyholder* or an *insured* with the AXA Group, the maximum benefit payable by the AXA Group is limited to the highest sum insured specified in any of these policies per insured event and insurance year. If benefits are due from more than one policy, the deductible is deducted separately for each policy.

A11 Duty of care and other obligations

A11.1 Duty of care when handling data

The *policyholder* is obliged to exercise a duty of care. In particular, the *policyholder* must implement measures as required by the circumstances in order to protect insured *data* against the insured risks.

A11.2 Measures

The *policyholder* must implement the following measures:

- A backup of all *data* must be performed at least once a week. By way of an amendment to E5 (Data), operating systems and programs (apart from programs produced within the company) do not fall under the definition of data. This requirement does not apply to operating systems or to programs not produced within the company.
- At least one weekly backup of data must be stored separately from the network of the *policyholder*. In addition, the network-independent data backup 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.

The obligation to perform a backup does not apply to the use of an external *cloud computing system* that is not operated by the *policyholder* or an *insured*, as long as the provider of the *cloud computing system* has agreed by contract to perform the data backup. The data backup must meet the above-mentioned requirements.

A11.3 Protective systems

The *policyholder* must

- use a manufacturer-supported operating system for which regular security updates are provided, and must use protective systems (e.g. internet protection programs, antivirus software and firewalls).
- apply the manufacturer-recommended security updates (patches) to operating systems, protective systems, user programs and software in connection with online shops and websites in a timely manner after the release date (taking due account of compatibility with the existing software environment).

A11.4 Breach of duty of care

If due diligence obligations, security regulations or other obligations are culpably breached, the indemnity can be reduced commensurate with the scope to which the breach has caused or influenced the damage.

If it is discovered in the event of a claim that, for example,

- the last data backup was performed more than one week ago, only the costs that would have been incurred if the data backup had been performed as required will be taken into account for calculation of the compensation.
- no usable data backup is available, only the costs of establishing this fact are covered.

A12 Duty to provide information

A12.1 Communication with AXA

The *policyholder* shall address all communications to the relevant branch office or registered office of AXA.

A12.2 Claims

D1 applies.

A12.3 Termination of the insurance contract

A5 applies.

A13 Increase or decrease in risk

A13.1 Contingent insurance for new risks and changes in material circumstances

If a new risk presents a significant increase in risk (e.g. changed or new activities) or there is a change in a material circumstance relevant to the assessment of the risk, the scope of which was determined by the contracting partners when replying to the questions in the application, the insurance also covers the new risk or changed circumstance within the scope of the contractual conditions (contingent insurance).

A13.2 Notification obligations

The *policyholder* must, by no later than the end of the insurance year, notify AXA, in writing or in another form that provides textual proof, of the increase in risk in accordance with A13.1, and must include the following information in the notification:

- change of circumstances relevant to the assessment of risk. For example, a risk increase occurs if the revenue via the online shop as specified on conclusion of the contract increases by more than 25%.
-

A13.3 Precautionary inclusion of new companies

Also co-insured provisionally under this insurance policy are new companies (acquired or newly founded) domiciled in Switzerland or the Principality of Liechtenstein, provided the *policyholder* directly or indirectly holds more than 50% of their share capital. The underinsurance clause of the contractual provisions underlying the policy does not apply if the cause of underinsurance can be attributed to the new companies.

For acquired companies, precautionary inclusion applies only if they are not otherwise insured for the same interests or the same risks and their area of activity corresponds to the insured risk listed in the policy.

The *policyholder* must notify AXA of the following no later than three months after the end of the accounting year in which new companies are added:

- Name, domicile, legal form, business purpose, size of shareholding
 - Date on which operations commenced or on which the new company was founded or acquired (= commencement of risk)
 - Sales of the new company or new total sales as a result of these changes
-

A13.4 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 their inclusion
 - to terminate the contract within 14 days after receipt of notification
-

If AXA refuses to accept the new company or the changed risk, or if it terminates the insurance contract, the contingent insurance or the insurance 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 insurance contract ends.

A13.5 Policyholder's right of termination

The *policyholder* can terminate the insurance contract within 14 days if no agreement is reached on the new premium or the new provisions. The insurance contract ends 30 days after receipt of the notice by the other party. 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 insurance contract ends.

A13.6 Risk reduction

In the event of a significant decrease in risk, the *policyholder* is entitled to terminate the insurance contract, in writing or in another form that provides textual proof, by giving four weeks' notice, or to request a reduction in premium.

If the *policyholder* requests a reduction in premium, AXA will reduce the premium correspondingly from the date on which it receives notification from the *policyholder*.

If the *policyholder* is not in agreement with the reduction in premium, it may terminate the insurance contract within four weeks of receipt of notification of the new premium by giving four weeks' notice in writing or in another form that provides textual proof.

A14 Principality of Liechtenstein

If the *policyholder* has their domicile or registered office in the Principality of Liechtenstein, the references to provisions of Swiss law contained in the insurance contract documents will be construed as referring to the corresponding provisions of Liechtenstein law.

A15 Applicable law and place of jurisdiction

A15.1 Applicable law

This insurance contract is governed by Swiss law. For contracts that are subject to Liechtenstein law, the binding provisions of Liechtenstein law take precedence if they differ from these General Insurance Conditions (GIC).

A15.2 Place of jurisdiction

The ordinary courts of Switzerland and, 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 disputes arising out of or in connection with the insurance contract, including lawsuits filed by *insureds* or *third parties* for indemnity for liability claims.

A16 Place of performance

Compensation paid to the *policyholder*, *insureds* or *third parties* under this insurance contract is to be paid exclusively to the registered office of the *policyholder* or to the registered office of AXA.

A17 Sanctions

AXA will not provide insurance cover, claims payments or other benefits to the extent that the provision of such benefits would expose AXA to any sanction, prohibition or restriction under any UN resolution or any trade or economic sanctions, laws or regulations of the European Union, the United Kingdom, the United States of America or Switzerland.

A18 Assignment of claims for compensation

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

Part B

Scope of Coverage

B1 First-party cyber event

B1.1 Restoration costs

B1.1.1 Subject of the insurance

The insurance covers the policyholder's own *data*. The policyholder's own *data* is defined as data created or purchased by the policyholder itself, used for its own purposes and located on the *policyholder's IT system* or on *cloud computing systems*. The insurance also covers *data* from *third parties* that is located on the *policyholder's IT system* and managed by the *policyholder*. The insurance also covers the cost of restoring private *data* of the insureds, provided it was permitted to be available on a device of the *policyholder* according to the internal guidelines. For private *data*, the maximum compensation per device affected is limited to CHF 5,000 per insurance year, in line with the sum insured valid for this insurance contract.

B1.1.2 Insured risks

The insurance covers the destruction, impairment, loss, modification or non-availability of *data* as per B1.1.1. The insurance also covers the costs of restoration in the case of extortion, e.g. via ransomware.

B1.1.3 Compensation

For a maximum of one year after the loss occurrence, AXA covers the costs of restoring *data* to the condition immediately prior to the loss that the *policyholder* suffered as a result of a *first-party cyber event* (exhaustive list):

- costs of restoring the *data* from backup
- reconstruction of the *policyholder's* physical documents for the last seven days prior to the loss assessment
- the costs of removing *malware* from the *policyholder's IT system*
- reinstalling and configuring the *policyholder's* operating systems and user programs
- the costs to the *policyholder* of acquiring new licenses if their acquisition is unavoidable and the obligations as per A11.2 have been met

If the *first-party cyber event* occurred on a *cloud computing system* rather than on the *policyholder's* system, the *policyholder's* restoration costs are covered on a subsidiary basis in amendment of A9.

B1.2 Business interruption

B1.2.1 Subject of the insurance

The insurance covers:

- Loss of earnings
Sales are covered as loss of earnings. Sales are defined as:
 - for trading businesses: the revenue from the sale of traded goods
 - for service sector businesses: the revenue from the services provided
 - for manufacturing businesses: the revenue from the sale of goods produced
- Additional costs
AXA covers additional costs actually incurred, i.e. exceptional cost-effective expenditure required due to the circumstances and for operational reasons in order to maintain operations to the expected extent for the duration of the interruption. Additional costs are deemed to include loss minimization costs, i.e. expen-

diture to minimize the loss during the indemnity period which is incurred by the eligible claimant in compliance with the obligation to minimize losses as per D1.4.

B1.2.2 Insured risk

The insurance covers loss or damage due to an interruption that occurs if it is temporarily impossible to continue the operation insured under the policy, or if such operation can only be continued in part.

The interruption must have been caused by a *first-party cyber event*. The *policyholder* must prove that there is an adequate causal connection between the insured damaging event and the loss or damage resulting from the interruption.

B1.2.3 Compensation

AXA is liable for the loss or damage for a maximum of one year calculated from the date of the occurrence of the loss event (indemnity period).

If, in the event of a claim, it is discovered that no functional data backup no more than one week old is available, AXA is liable for the loss or damage resulting from the interruption only to the extent that it would have been liable if a functional backup had been available. The waiting period is twelve hours. Any business interruptions of less than twelve hours are not insured. The waiting period is not deducted from business interruptions lasting more than twelve hours.

Compensation comprises:

• Loss of earnings

AXA compensates the difference between the revenue generated during the indemnity period and the revenue expected without the business interruption, minus the difference between the assumed and the actual costs expended.

AXA indemnifies unproductive expenses if the loss or damage occurs in an associated maintenance facility or in a research or development laboratory. These expenses are calculated on the basis of the costs that are charged to this facility during the interruption, but not past the indemnity period.

• Additional costs

AXA pays compensation for additional costs in accordance with B1.2.1.

Supplements for shift and night work, overtime allowances, or the employment of additional staff (temporary employees) are compensated if AXA provided its agreement in advance. Costs that were saved are deducted.

• Special circumstances

The calculation of the loss must take account of circumstances that would have influenced revenue during the indemnity period even if the interruption had not occurred.

If operations are not resumed after the loss event, AXA will only cover the effective ongoing running costs to the extent that they would have been covered by gross profit had there been no interruption. The calculation is based on the presumed length of the interruption during the indemnity period.

The loss assessment is based on the numbers provided by the companies insured under the policy that are directly and indirectly affected by the loss. Increased earnings or reduced costs in another insured company

that can offset lost gross profit either in full or in part will be taken into account (interdependency losses). Circumstances not insured pursuant to B1.2.3, point six, letters b and c, are disregarded when calculating the loss.

- **Underinsurance**

If the insurance contract is based on revenue that is too low, the loss will be reimbursed only in the ratio of the declared amount to the assessed amount. In this case, the financial year specified in the policy applies.

- **Provisional revenue**

The provisional revenue stated in the policy serves as the basis. The *policyholder* must report the definitive revenue amount no later than six months after the end of the financial year indicated. If this report is not submitted, the provisional revenue taken as the basis shall be deemed definitive.

If this amount proves to be too low, compensation will be reduced in accordance with the aforementioned point four, Underinsurance.

- **AXA shall not be liable for loss or damage:**

- a) that is attributable to circumstances that have no adequate causal connection with the *first-party cyber event*
- b) in connection with public law orders
- c) in connection with changes to, expansions of or upgrades to the *IT system* carried out after the loss event

- **Contingent business interruption**

The insurance does not cover contingent business interruption due to third-party companies. Contingent business interruption is deemed to include, in particular, damage or losses in third-party companies which lead to an interruption of the *policyholder's* own business although none of the *policyholder's* own *data* is affected.

B1.3 Breaches of data protection

B1.3.1 Insured risks and losses

The insurance covers *breaches of data protection* caused by a *first-party cyber event*.

B1.3.2 Subject of the insurance

The insurance covers expenses incurred by the *policyholder* or an *insured* in notifying, as required by law, the authorities, the public and persons who are potentially affected (*first-party losses*). Claims by *third parties* arising from *breaches of data protection* are not covered by the insurance.

The insured costs include (exhaustive list):

- legal advice from an external attorney-at-law specializing in IT/data protection law, if this service cannot be provided by AXA
- identification of the affected persons in the event of *breaches of data protection*. These costs include the cost of their notification by the *policyholder* itself or by means of a notification service. The costs of communicating with the competent authorities are also insured
- setting up a telephone hotline (call center) and an internet portal in order to answer inquiries from persons affected
- credit monitoring services performed as a direct consequence of a *breach of data protection* for a period of up to twelve months following an actual *breach of data protection*, provided these are necessary because of the type of *data* that has fallen into unauthorized hands or because of legal requirements
- the costs (such as attorneys' fees, investigation expenses, court costs, and fees for expert opinions) that

the *policyholder* or the insureds incur in connection with criminal, regulatory, or administrative proceedings brought against the *policyholder* or an *insured* by an authority. If a decision by a court of first or second instance is appealed, AXA can refuse to pay further benefits if the appeal seems unlikely to succeed. AXA will appoint an attorney to represent the *policyholder*, with the latter's agreement. If none of the attorneys proposed by AXA is accepted, the *policyholder* must suggest three attorneys from different law firms, from which AXA will select the attorney to be appointed. Any non-court costs and attorney fees awarded to the *policyholder* must be transferred to AXA to the extent of the benefits it has paid, as long as they are not compensation for personal efforts and expenses of the *policyholder*. The *policyholder* must inform AXA immediately about any information with respect to the legal proceeding and follow AXA's instructions.

B1.3.3 Precondition for the assumption of costs

The insured costs listed under B1.3.2 must be reasonable and should be agreed with AXA in advance (insofar as this is not already a legal requirement) and approved by AXA. When *data* is stored with an external service provider (e.g. cloud provider), the contract must specify that the latter will comply with the applicable data protection laws. A11.4 is applicable.

B1.4 Loss assessment

Both the *policyholder* and AXA can demand to have the loss assessed immediately. The loss must be assessed either by the parties themselves, by a jointly appointed expert, or through a loss adjustment procedure. Each party may request a loss adjustment procedure pursuant to B1.6. The *policyholder* must provide proof of the event and of the amount of damage at its own expense. In the case of insurance on third-party account, AXA reserves the right to assess the damage only with the *policyholder*.

AXA may decide which companies should rectify the damage.

Business interruption loss is determined at the end of the indemnity period. It may be ascertained earlier, however, if both parties agree.

The measures ordered by AXA or by *third parties* engaged by AXA in order to assess, minimize or prevent a loss, or to safeguard or assert rights of recourse, in no way constitute acknowledgment of the obligation to indemnify.

B1.5 Payment of indemnity

The indemnity is due four weeks after all the information necessary for establishing the insurance benefit is available to AXA.

Four weeks after the occurrence of the loss, the *policyholder* may request a first partial payment of an amount derived from the current state of the loss assessment.

AXA's obligation to pay is deferred as long as the indemnity amount cannot be established or paid due to culpable conduct by the *policyholder*.

In particular, no payment will be due as long as

- the lawful recipient of the insurance benefit has not been clearly established
- police or investigating authorities are investigating circumstances in connection with the event
- criminal proceedings against the *policyholder* are still in progress

B1.6 Loss adjustment procedure

The following principles apply to the loss adjustment procedure:

1. Each party must appoint a claims adjuster in writing. Before the loss assessment begins, the claims adjusters elect an umpire in writing. If a party fails to appoint its claims adjuster within 14 days after having been requested to do so in writing, the competent judge will appoint one at the request of the other party; the same judge will also appoint the umpire if the claims adjusters are unable to agree on one.
2. Persons without the necessary expertise or who are related to one of the parties or are otherwise biased can be rejected as claims adjusters. If the reason for the rejection is in dispute, the decision shall rest with the competent judge, who then appoints the claims adjuster or umpire if the objection is upheld.
3. The claims adjusters are responsible for establishing the cause, detailed circumstances and amount of damage. If there are any discrepancies between the assessments, the umpire decides on the remaining points in dispute within the upper and lower limits of both assessments.
4. Within the scope of their authority, the claims adjusters' assessments are binding, unless they are proven by one party to vary significantly from the actual circumstances.
5. Each party pays for its own claims adjuster. Each party pays for half of the costs of the umpire.

B2 Cyber liability event**B2.1 Subject of the insurance**

AXA offers coverage against claims for damages arising from a *cyber liability event* that are brought against the *policyholder*, an *insured*, or AXA as their liability insurer, for *financial loss* on the basis of statutory liability provisions.

The insurance also covers claims brought against the *policyholder* or *insureds* for any loss or damage caused by auxiliaries. Companies and independent professionals (subcontractors) engaged by the *policyholder* or *insureds* are considered to be auxiliaries.

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

The insurance covers claims of *third parties* arising from

- destruction of, damage to, loss, modification or non-availability of *data* of a *third party* that was in the possession of the *policyholder* or of a party to whom the *policyholder* had entrusted such data
- destruction of, damage to, loss, modification or non-availability of *data* on the *IT systems* of a *third party*
- *breach of data protection*
- breach, theft or loss of confidential data. This includes the unauthorized publication or any breach of copyright, rights to a name and trademark rights in connection with data that was in the possession of the *policyholder* or of a party to whom such *data* was entrusted by the *policyholder*.

B2.2 Insured benefits**B2.2.1 Compensation for justified claims**

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

B2.2.2 Defense against unjustified claims

In the case of an insured event, AXA will cover the costs of defending against unjustified or excessive claims for damages that are brought against the *policyholder*, an *insured*, or AXA as their liability insurer.

B2.2.3 Scope of indemnity

In the case of *cyber liability events*, AXA's indemnities for all claims are limited to the sum insured specified in the policy. This includes interest on damages, loss mitigation costs, attorney fees, court costs, costs of expert opinions, arbitration and mediation, loss prevention costs and other costs, such as indemnification of the opposing party's legal expenses. Certain risks included in the insurance may be subject to an indemnity limit specified in the policy (limit within the sum insured).

Indemnities and limits are governed by the contractual provisions (such as provisions relating to sums insured or deductibles) that were in effect at the time the claim was first asserted pursuant to A3.2.1.

If the insured indemnities or the scope of insurance are extended, insurance coverage is provided under the new agreements only if the *policyholder* or the *insured* was unaware of any act or omission that could give rise to their liability prior to the date on which the contract amendment entered into effect.

B2.2.4 Management of claims handling

AXA will handle claims asserted if they exceed the deductible, up to the amount of the sum insured. It will conduct negotiations with the injured party at its own expense. In this regard, it acts as representative of the *policyholder* or the insured. AXA's settlement of the injured party's claims is binding on the *policyholder* or the *insured*.

B2.3 Legal action

If no understanding can be reached with the injured party and if this party takes legal action, the following applies:

B2.3.1 Lawsuit against the policyholder or an insured

AXA, in consultation with the *policyholder* or the *insured*, appoints the trial lawyer and determines the trial strategy, the outcome of the proceeding (acknowledgment, settlement or judgment) and all other procedural steps. In this regard, it acts as representative of the *policyholder* or the insured. AXA assumes the procedural and legal costs of the *policyholder* or the *insured*. It is authorized to reach an agreement with the trial lawyer regarding fees. AXA is entitled to any legal expenses awarded to the *policyholder* or the *insured*. However, the *policyholder* or the *insured* may retain any personally awarded compensation for their efforts.

B2.3.2 Lawsuit against AXA

AXA appoints the trial lawyer, determines the trial strategy, the outcome of the proceeding (acknowledgment, settlement or judgment) and all other procedural steps. AXA will assume the costs of litigation and attorney fees incurred as part of the insured benefits. AXA will keep the *policyholder* or the *insured* informed about the proceeding.

B2.3.3 Lawsuit against an insured

AXA decides, as far as possible and in consultation with the *policyholder* or the *insured*, on a trial lawyer to jointly represent the *policyholder* or the *insured* and AXA. B2.3.1 and B2.3.2 apply in all other respects.

B2.4 Arbitration proceedings

Settlement of insured claims in proceedings before an arbitration tribunal will not affect 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.

B2.5 Contractual fidelity

The *policyholder* and the *insured* are required to respect contractual fidelity. They 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. They may not assign coverage claims without the consent of AXA.

B2.6 Lawsuit against the policyholder or the insured

AXA has a right of recourse against the *policyholder* or 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 insurance benefit.

B3 Crisis management

B3.1 Incident response

The insurance covers the costs of *incident response* measures incurred when an insured risk as per B1.1.2 occurs. Reasonable suspicion of such an event is also sufficient. In particular, the insurance covers the cost of experts made available to the *policyholder* by AXA for the purpose of *incident response*.

In the event of an urgent security incident, the *policyholder* may contact the experts made available by AXA and commission them to conduct *incident response* measures, without having to obtain AXA's consent in advance. AXA will pay a maximum of CHF 5,000 per insurance year for this, without the preconditions specified in B3.4 having to be met.

The *incident response* measures are not charged against the deductible or the insured sum for *cyber events*. This also applies if the event does not turn out to be an insured loss event.

B3.2 Crisis consulting

In the case of an insured event, AXA shall pay the costs of

- experts to identify security gaps in the *policyholder's* IT system,
- advice for the *policyholder* on averting further loss events of the same sort.

B3.3 Crisis communication

If the *policyholder* is faced with the risk of critical media reporting due to an event insured under these GIC, AXA will pay the costs of a PR agency to support and assist the *policyholder* in order to promptly prevent or mitigate any potential reputational damage.

B3.4 Precondition for the assumption of costs

According to B3.1 to B3.3, the precondition for the assumption of costs is that the expenses have been agreed with AXA in advance and AXA has issued a confirmation of coverage in text form. This does not apply to an urgent security incident as described in B3.1.

However, in this case a claim notification must be submitted without delay. AXA must agree to any continuation of activities by an expert.

B4 Manipulation of online banking or online payment systems

If specified in the policy, the insurance covers:

B4.1 Subject of the insurance

B4.1.1 Online banking and online shopping orders

Financial loss resulting from a *cyber event*: The *financial loss* must be due to manipulation

- of online banking
- of online payment systems
- of online application programs.

A condition of the insurance coverage is, however, that the *policyholder* follows the recommendations of its financial institution and uses the most secure option for online banking offered by that financial institution. This must, in every case, include two-factor authentication. For online shopping, insurance coverage is only provided if all *data* transmitted to the online shop is in encrypted form.

If the financial institution or the online retailer covers the loss or damage entirely or in part, AXA will bear the loss or damage, within the framework of the indemnity limit, to the extent that this must be borne by the *policyholder*.

C1.13 is not applicable.

B4.1.2 Website, online shop and shipment of goods

Financial loss resulting from a *cyber event*. The *financial loss* must be due to manipulation of the website or of databases and programs linked to it, e.g. the quotation tool, the online shop, or the customer database. The insurance also covers *financial loss* due to manipulation of the online shop as a result of a *cyber event* if, as a result, goods ordered from the *policyholder* were incorrectly delivered or rerouted.

B4.2 Compensation in the event of first-party loss

Indemnification is only provided if the *policyholder* can prove the event occurred and the amount of the loss or damage. The comparison of a current state with an envisioned state without further information about how the differences arose or statistically derived *data* does not constitute adequate proof.

B4.3 Compensation for liability claims

Compensation is governed by B2.

B5 Phone hacking

If specified in the policy, the insurance covers the following:

Under phone hacking, the unauthorized use of the telephone system by *third parties* following *first-party cyber damage* is insured. The resulting *financial loss* due to the increased telephone bill is compensated.

C1.15 is not applicable.

B6 Social engineering

If specified in the policy, the insurance covers

financial loss incurred in connection with social engineering attacks. Social engineering occurs when *third parties* make personal contact with the *policyholder* or an *insured* (by telephone or electronically, for example) in order to exploit, under false pretenses, their willingness to help, good faith or uncertainty, and to induce them to disclose confidential *data* such as user names or passwords orally or in writing to the *third parties*, or to perform certain actions (such as a transfer of monetary assets or making a delivery of goods).

This supplementary coverage does not extend to expenses and costs incurred as a result of acts that predated the social engineering attack and represent a *cyber event*. No coverage exists if the social engineering attack was carried out in cooperation with an *insured*.

Part C

General Exclusions

C1 General exclusions

The insurance does not cover:

- | | |
|---|---|
| <p>C1.1 loss or damage in connection with warlike events, violations of neutrality, revolution, rebellion, uprising, civil unrest and measures to counter such acts, unless the <i>policyholder</i> can prove that the damage has no connection to such events.</p> <hr/> <p>C1.2 loss or damage of any type that can be traced directly or indirectly to terrorism, regardless of any contributory causes. Terrorism is defined as any act of violence or threat of violence to achieve political, religious, ethnic, ideological or similar objectives designed to spread fear and terror among the population or parts of it, or to influence a government or state institution.</p> <hr/> <p>C1.3 loss or damage in connection with the deliberate use of pirated copies by the <i>policyholder</i> or an <i>insured</i>.</p> <hr/> <p>C1.4 loss or damage in connection with contractual penalties, fines and financial penalties or compensation of a punitive nature.</p> <hr/> <p>C1.5 <i>bodily injury and property damage</i> including the resulting loss of assets, loss of earnings, and compensation for pain and suffering.</p> <hr/> <p>C1.6 loss or damage arising from a contractually assumed liability that goes beyond liability in law.</p> <hr/> <p>C1.7 loss or damage in connection with nuclear losses as defined in the Swiss legislation on nuclear energy liability, and the associated costs, or in connection with asbestos and with the action of ionizing and non-ionizing radiation and of electromagnetic fields (EMF).</p> | <hr/> <p>C1.8 loss or damage due to further actions by employees after persons charged with managing or supervising the insured companies became aware of an intentional or deliberate act already perpetrated by the same employees.</p> <hr/> <p>C1.9 loss or damage in connection with virtual currencies such as Bitcoin</p> <hr/> <p>C1.10 losses arising from fraudulent use of credit, bank, customer identification, or other cards (card fraud).</p> <hr/> <p>C1.11 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 <i>cyber events</i> affecting <i>cloud computing systems</i> used under contract by the <i>policyholder</i> or <i>insureds</i>.</p> <hr/> <p>C1.12 payments made in response to blackmail</p> <hr/> <p>C1.13 losses in connection with the online banking or online payment system</p> <hr/> <p>C1.14 losses in connection with stock exchange and securities transactions</p> <hr/> <p>C1.15 losses in connection with phone hacking</p> <hr/> <p>C1.16</p> <ul style="list-style-type: none"> • claims of <i>insureds</i> against other <i>insureds</i> or the <i>policyholder</i> • claims of <i>subsidiaries</i> (as defined in E15) against co-insured <i>subsidiaries</i> • claims of <i>subsidiaries</i> against the <i>policyholder</i> and • claims of the <i>policyholder</i> against <i>insureds</i> or co-insured <i>subsidiaries</i> <p>This exclusion does not apply to claims of an <i>insured</i> as a result of an event according to B2.1, third point, that leads to unauthorized disclosure of personal data.</p> |
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Part D

Claims

D1 Obligations

D1.1 If an insured event occurs, the policyholder must:

- inform AXA as quickly as possible
- provide information about the cause, amount and detailed circumstances of the loss or damage. Unless otherwise agreed, this information must be provided in writing
- allow investigations by AXA and provide assistance with its investigations; in particular, the policyholder must allow AXA and the experts to carry out all investigations of the cause, amount and detailed circumstances of the loss or damage and the extent of the obligation to indemnify; to this end, the policyholder must, at AXA's request, produce the business accounts, inventories, balance sheets and income statements, statistics, receipts and other information about the course of business in the year before the contract was concluded, those for the current financial year and for the three previous years, as well as statements regarding payments from other insurance policies
- at the policyholder's own expense, provide the information required to substantiate the claim for compensation and establish the scope of the indemnity, and submit the relevant documents, for which AXA may set appropriate deadlines
- make every effort during and after the event in order to mitigate the loss, and follow instructions from AXA or AXA's authorized representative in doing so
- report any offense at its own expense in consultation with AXA

D1.2 Assessment in the event of a claim

If, in the event of a claim, it is discovered that the IT security precautions or protective systems are inadequate, appropriate measures must be implemented immediately at the *policyholder's* expense.

D1.3 Breaches of data protection

In the case of *breaches of data protection*, the *policyholder* must also

- notify the police immediately and request an official investigation
- collaborate with the investigating authorities and AXA in taking steps to identify the perpetrators

D1.4 Business interruption

In cases of business interruption, the *policyholder* must also

- ensure that the loss/damage is minimized during the indemnity period. During the indemnity period, AXA has the right to request that all precautions that it considers suitable be implemented, and to examine the measures taken
- inform AXA when full operations are resumed, if this occurs during the indemnity period
- at AXA's request, provide an interim report at the beginning and end of the interruption or indemnity period. AXA or its claims adjuster are authorized to participate in taking the inventory

D2 Replacement of IT systems

If it is found that replacing an *IT system* or a part thereof is less expensive than the expected compensation, AXA may, in amendment of C1.5, decide to replace the *IT system* (or parts thereof) affected by the *cyber event*.

D3 Limitation period under this insurance contract

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

Part E

Definitions

E1 Cloud computing systems

Cloud computing systems make IT infrastructures such as computing capacity, data storage, network capacities or ready-made software available via a network, without the requirement for the installation of such infrastructures on the local *IT system*.

E2 First-party cyber event

A first-party cyber event is an intentional and damaging attack by *third parties* or *insureds* on the *policyholder's IT system* or on *cloud computing systems* used by the *policyholder*. A first-party cyber event must be caused by *malware*, *hacker attacks* or *denial of service* attacks via networks. An attack by means of a digital data carrier that is connected with the *policyholder's IT system* is also considered to be a first-party cyber event.

E3 Cyber liability event

A cyber liability event is an intentional attack by *third parties* on the *policyholder's IT system* whereby *IT systems* or *data* of other *third parties* are damaged. An intentional attack by *insureds* on the *IT system* of a *third party* also counts as a cyber liability event, provided that the *policyholder's IT system* is misused or the attack occurs via a digital data carrier linked with the *IT system* of the *third party*. A cyber liability event must be caused by *malware*, a *hacker attack*, or a *denial-of-service* attack via networks or via digital data carriers.

E4 Cyber event

Both *first-party cyber events* and *cyber liability events* are deemed to be cyber events.

E5 Data

Data is information stored electronically on data carriers such as operating systems, programs and user data. Data is not considered to be property.

E6 Breach of data protection

A breach of data protection is the unauthorized acquisition of, access to and use or disclosure of personal data that was in the possession of the *policyholder* or of another party to whom the *policyholder* had entrusted said *data*. A breach of data protection occurs only if the confidentiality or security of the *data* is impaired such that the parties affected may incur *financial loss*, or if the *policyholder* becomes legally obliged thereby to make this breach known to the affected parties and/or to make it publicly known. In the event of any breaches of data protection, *insureds* are deemed to be *third parties*.

E7 Denial of service (DoS)

Denial of service is the non-availability of a service due, for example, to overloading of infrastructure systems. This denial of service must have been caused by an intentional attack on an *IT system*.

E8 Third parties

Third parties are deemed to be all parties who are neither *policyholders* nor *insureds*.

E9 Hacker attacks

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

E10 IT system

An IT system comprises computer hardware and networks (including software) of any sort which process and store *data*: server systems, storage systems, personal computers, notebooks, tablet computers, smartphones, remote data transmission devices, etc. IT systems also include computer controls for technical devices, machines and equipment that are integrated into networks.

E11 Bodily injury

Bodily injury is deemed to be death, physical injury or other damage to the health of individuals.

E12 Property damage

Property damage is deemed to be the destruction, damage or loss of movable and immovable property. The death or loss of animals, injury to them or other damage to their health are deemed to be equivalent to property damage.

E13 Malware

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 which includes computer viruses, computer worms, Trojan horses, ransomware and the like. Incorrectly programmed software which can cause damage is not regarded as malware.

E14 Incident response

Incident response measures encompass the costs of identifying and containing a *cyber event*, including the work undertaken by an expert made available by AXA.

E15 Subsidiaries

Companies domiciled in Switzerland or the Principality of Liechtenstein, provided the *policyholder* directly or indirectly holds more than 50% of their share capital.

E16 Financial loss

Financial loss is a loss quantifiable in monetary terms which is not attributable to any *bodily injury or property damage*.

E17 Insureds

Insureds are deemed to be:

- representatives of the *policyholder* and the persons entrusted with the management or supervision of the company, in respect of their activities for the insured company
- the employees and other auxiliaries of the *policyholder* (except sub-contractors, etc.), in connection with their activities for the insured company. Members of the Board of Directors or the Board of Trustees are not regarded as employees
- spouses, registered partners, heirs and legal representatives of insured persons, to the extent that claims are asserted against them instead of against the insured persons in respect of the insured activities of the latter

E18 Policyholder

The policyholder is deemed to be the natural person or legal entity, partnership, corporation or institution designated as the “policyholder” in the policy. Companies named in the policy as co-insured companies are likewise deemed to be policyholders.

If the policyholder is a partnership or jointly liable community, the partners or jointly liable members are treated in the same way as the policyholder with regard to rights and obligations.



Need to file a claim?

It's easy and fast – report your claim online at:

[AXA.ch/report-claim](https://www.axa.ch/report-claim)

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