

Supplementary insurance terms and conditions for data protection insurance for sole traders and small-sized enterprises

Article 1

Introductory provisions

1. These supplementary insurance terms and conditions for data protection insurance (hereinafter referred to as "DPP-SME-DATA") supplement the provisions of the VPP-MZ, the OPP-SME-Z, and form an integral part of the insurance policy, if the insurance policy so provides.
2. Data protection insurance (hereinafter referred to as "insurance") is governed by the relevant provisions of the Civil Code, the VPP-MZ, the OPP-SME-Z, these DPP-SME-DATA and the insurance policy.

Article 2

Subject and scope of the insurance

By way of derogation from Art. 2 of the OPP-SME-Z the following is agreed upon:

1. The insured shall have the right to have the insurer pay on behalf of the insured the damages and related insured costs where the insured is held liable for damage and this damage has been caused in connection with data protection to the extent according to these DPP-SME-DATA.

2. Data protection insurance is agreed in the following scope:

- (a) **Liability insurance of the insured against economic and non-economic damage.**

The insurer is obliged to provide compensation on behalf of the insured for economic damage (loss), non-economic damage, and costs of legal representation if the insured is held liable for economic damage (loss) or is obliged to compensate non-economic damage in cash in accordance with the generally binding legal regulations in connection with:

- aa) personal data breach regarding the data subject,
- ab) data security breach, and
- ac) media action.

- (b) **Insurance of the reaction costs of the insured.**

The insurer shall be obliged to provide compensation on behalf of the insured for the reaction costs incurred by the insured in connection with the reaction to a personal data breach regarding the data subject or data security breach.

- (c) **Insurance against fines imposed on the insured by the regulator.**

The insurer shall pay to the extent laid down by the generally binding legal regulations and according to the insurance policy a fine imposed by the regulator by a final decision in connection with a personal data breach regarding the data subject or data security breach.

The insurer shall not provide payment under this paragraph where the imposed fine is uninsurable in accordance with the generally binding legal regulations.

- (d) **Public relations costs insurance.**

The insurer shall compensate the insured for the public relations costs incurred in order to mitigate the effects of negative publicity, which can reasonably be assumed to have arisen in connection with the event covered by this insurance.

- (e) **Consulting costs insurance.**

The insurer shall reimburse the consulting costs incurred by the insured in order to demonstrate the amount and extent of

economic damage (loss) or non-economic damage covered by this insurance.

3. The insurance in accordance with Article 2 paragraph 2 (a) is agreed with the following claim payment limit:

- (a) **EUR 5 000** provided that the sum insured of the general liability insurance policy is set at a maximum amount of EUR 99 999,
- (b) **EUR 10 000** provided that the sum insured of the general liability insurance policy is set at EUR 100 000 or more.

- The insurance in accordance with Article 2 paragraph 2 points (b), (c), (d), (e) is agreed up to the amount of the sublimit:

- (a) **EUR 1 000** provided that the sum insured of the general liability insurance policy is set at a maximum amount of EUR 99 999,
- (b) **EUR 2 000** provided that the sum insured of the general liability insurance policy is set at EUR 100 000 or more.

4. The insurer is obliged to provide claim payment solely for the damage caused as a result of a "damage-causing event":

- (a) which occurred during the policy period and the "first discovery" of which occurred during the policy period, whereas
- (b) with regard to damage to health and damage to an item, the "claim" against the insured or an external service provider must be asserted for the first time during the policy period or during the extended claim notification period, and at the same time
- (c) the insurance does not cover any damage suffered or costs incurred before the start of the insurance.

5. The franchise is in the amount of EUR 100. The insurer shall not provide claim payment for an individual insured event if the total amount of claim payment does not exceed this value.

6. The extent of damages is limited by the insurer by the claim payment limit and other sublimits agreed in the insurance policy and in these DPP-SME-DATA.

Article 3 Exclusions

1. In addition to the exclusions specified in the VPP-MZ and the OPP-SME-Z, the data protection insurance does not apply to:

- (a) any damage to health,
- (b) any damage to an item; this exclusion does not apply to claims resulting from loss or theft of components of the computer system of the insured,
- (c) any damage resulting from events or facts of which the insured knew or should have known before the start of the policy period as circumstances that may lead to the assertion of a claim resulting from a personal data breach regarding the data subject, a claim resulting from an unlawful breach of data security or a claim resulting from media action,
- (d) any damage caused by any plagiarism, violation of trade secrets, or intellectual property; however, this exclusion does not apply to economic or non-economic damage in cash within the meaning of the generally binding legal regulations in connection with media action,
- (e) any damage caused by any war events, rebellion, uprising, strike, civil war, revolution, labour unrest, looting, sabotage,

state of emergency, confiscation, state intervention or bureaucratic interference, terrorist acts, or any other acts related to the above irrespective of whether war has been declared or not,

- (f) any damage caused by the insured parties to each other, i.e., any claim made by one insured against another insured; however, this exclusion does not apply to claims made by any employee of the insured under the liability insurance of the insured for economic and non-economic damage in connection with a data security breach,
- (g) any damage caused by unsolicited communication, i.e., by any dissemination of unsolicited correspondence or communications (in paper or electronic form), wiretapping, audio or video recordings, or telemarketing,
- (h) any damage caused by unlawful or unauthorized acquisition or collection of data, personal data, or client information; this exclusion does not apply where this data, personal data, or client information was obtained by an employee of the insured without the knowledge or consent of a member of the board of directors, executive, statutory officer or any person responsible for the financial, information technology, human resources, and salary matters or a responsible person within the meaning of the Personal Data Protection Act,
- (i) any damage resulting from an actual or alleged violation of the generally binding legal regulations relating to securities,
- (j) any claims related to license fees or royalties, including the obligation to pay such fees and royalties,
- (k) any damage caused or resulting from any actual or alleged violation of competition law,
- (l) any damage caused by or resulting from:
 - la) any failure of the insured to take adequate measures according to the general state of scientific and technical knowledge (taking into account the size of the insured) to adequately protect the insured's computer system against a security incident or to adequately protect the computer program or data against their loss,
 - lb) computer programs that are not ready for operation or have not been successfully tested or the insured is not authorized to use them,
- (m) damage caused by:
 - ma) any actual or alleged insufficient, inaccurate, or incomplete description of the price of an article, product, or service; or description of price guarantees, price representations, price estimates; or by a description of the authenticity of an article, product, service; or by failure to inform about the fact that an article, product, service fails to meet the declared quality or performance, or
 - mb) any actual or alleged errors in financial data or information published by the insured, or
 - mc) any gambling games, lotteries, competitions, promotional games;
- (n) any damage caused by any interruption or fluctuations in the supply of electricity, internet connection, any cable, satellite, or telecommunication infrastructure; or by any outage or drop in voltage of power source,
- (o) any damage caused or resulting from hacker theft suffered by the insured; hacker theft means any targeted intrusion by a third party into the insured's computer system, which resulted in fraudulent and unauthorized deletion or alteration of data contained in the insured's computer system; damage caused by hacker theft means cash funds belonging to the insured, which as a result of hacker theft have been unlawfully paid out,

- (p) any damage caused by the interruption of the insured's business operation, which occurred to the insured as a direct result of the inoperability of the insured's computer system as a result of a security incident, personal data breach regarding the data subject, or data security breach,
- (q) any damage caused by incurring recovery costs by the insured as a result of a security incident,
- (r) any damage caused by cyber extortion; for the purposes of this insurance, damage caused by cyber extortion means any costs, expenses, or amounts paid by the insured in connection with the extorter's threat to carry out a security incident, personal data breach regarding the data subject or data security breach,
- (s) any damage resulting from a claim made against the insured by the provider of electronic payments in connection with the violation of any issued PCI DSS, which the insured is obliged to observe.

Article 4 Definitions

1. **Security incident** is
 - (a) any unauthorized access to or unauthorized use of the computer system of the insured, or
 - (b) any cyber-attack, or
 - (c) any unauthorized appropriation of the network or access security code from the computer system of the insured.
2. **Data** is any electronic data in a form usable by a computer program.
3. **Digital media** is any media that uses data.
4. **Data subject** is any natural person whose personal data has been lawfully processed by the insured or any external service provider.
5. **Extended claim notification period** is the period that begins immediately after the end of the policy period, during which the policyholder and/or the insured can notify the insurer that a claim has been made against them resulting from a data security breach that occurred before the expiry of the policy period.

If the policyholder does not take out data protection insurance with the insurer or another insurer immediately following the next insurance period, and at the same time the insurance has not been canceled due to non-payment of the premium in the correct and timely manner, the insurer will automatically grant an extended claim notification period of 30 days, unless otherwise stipulated in the insurance policy, without the payment of any additional premium.
6. **Intellectual property** includes industrial property rights and copyright and related rights.
7. **External service provider** is any third party that processes personal data of the data subject or client information on the basis of a written contract with the insured, however, provided that these personal data or client information are processed on an external data storage site or by a system built, set up or designated exclusively for the purpose of processing of this personal data or client information exclusively for the insured.
8. **Client information** is:
 - (a) any non-public information belonging to the client, which the client provided to the insured, who processes such information in connection with the performance of its normal business activity; and
 - (b) any information provided by the client to the insured, which the insured processes or treats as confidential on the basis of a written agreement (contract) with the client.
9. **Client** is any third party to whom the insured provides services or goods based on a written contract.

10. **Cyber-attack** means any targeted intrusion into the computer system of the insured resulting in unauthorized transfer of data:
- into the computer system of the insured,
 - from the computer system of the insured to the computer system of a third party the purpose of which is with no authority whatsoever to change, modify, damage, destroy, erase, record, or transfer information, including data that replicates or overwrites itself or is intended to contaminate other computer programs or to legalize computer data, destroy computer resources or to forcibly intervene in the normal operation of the computer system; this also includes any (cyber) attack to prevent service; for insurance purposes, a targeted intrusion means any intrusion specifically directed against one company or a certain number of companies.
11. **Claim** means:
- any written request made against the insured or any motion to initiate civil court proceedings or arbitration proceedings against the insured or any decision based on which charges are brought against the insured; the claim shall be deemed to have been asserted on the date of delivery of the written request to the insured, on the date of delivery of the motion to the court or arbitration court, or on the date of delivery of the decision based on which charges are brought against the insured, or
 - in connection with the insurance against fines imposed on the insured by the regulator only and exclusively any motion to initiate any administrative action, administrative proceedings, or inspection conducted against the insured by the regulator as a result of any alleged or actual violation of generally binding legal regulations.
12. **Public relations costs** are necessary and reasonable costs incurred by the insured in connection with ordering a professionally qualified person for communication with the public in the event of material or non-material damage covered by this insurance. All such costs must be agreed in advance in writing by the insurer, otherwise the incurred costs are not covered by this insurance.
13. **Consulting costs** are the costs reasonably incurred by the insured and fees of external professionally qualified persons for the purpose of determining the amount and extent of damage covered by the insurance. All such costs must be agreed in advance in writing by the insurer, otherwise the incurred costs are not covered by this insurance.
- However, consulting costs do not include any costs or expenses related to the investigation or determination of whether any event covered by this insurance has occurred or not, nor the costs related to the determination of whether the damage suffered or the claim made, is covered by this insurance.
- If the damage is covered by this insurance only partially, the consulting costs shall be proportionally allocated to both the insured and the insurer.
14. **Recovery costs** mean any costs incurred by the insured for IT experts as a result of a security incident for:
- restoration of the insured computer system to the same level of functionality that existed immediately before the security incident; and/or
 - technical recovery, rescue, or reinstallation of data or a computer program, including the costs of purchasing a software license necessary to reproduce such data or a computer system; and/or
 - the costs of designing, improving, maintaining, or any improvement of the computer system or computer program, including the removal, and correction of any errors or deficiencies in the computer program; and/or
 - the own internal costs of the insured related to the above.
15. **Data security breach** means:
- any accidental and unintentional disclosure of any client information by the insured or any external service provider of the insured,
 - any unauthorized access to the computer system of the insured or any unauthorized use of client information stored in the computer system of the insured.
16. **Personal data breach** is any unauthorized intervention in the private life of the data subject:
- as a result of any unauthorized disclosure of any personal data of the data subject by the insured or any external service provider; or,
 - as a result of any unauthorized access or use of personal data of the data subject stored in the computer system of the insured.
17. **PCI DSS** is a set of international security standards for preventing the leakage of sensitive data of payment card holders.
18. **Computer system** means a computer and all input, output, processing, storage (including off-line libraries), intranet, and communication equipment, including related communication or open system networks and extranets, directly or indirectly connected to such equipment. The computer system does not include any information technology for management or controlling of technical processes, built-in SCADA systems (supervisory control and data acquisition system), or other industrial IT.
19. **Computer program** is a set of instructions that describe a task or series of tasks to be performed by a computer system, including application software, operating systems, firmware, and compilers.
20. **Unlawful breach of data security** is any actual or alleged act, error, or failure to act on the part of the insured that led to a security incident.
21. **Media action** means, in connection with the publishing or publication of any digital media content by the insured, any alleged or actual:
- slander, unintentional infringement of intellectual property rights, plagiarism, false accusation,
 - unauthorized interference with the right to protection of personality, unauthorized interference with the good reputation of a legal entity, false advertising,
 - negligent conduct of the insured in connection with the contents of digital media.
22. **Reaction costs** are external costs or fees of the insured necessary and reasonably spent in connection with an alleged or actual personal data breach regarding the data subject or data security breach for:
- analysis of the computer system of the insured in order to determine whether there has been any personal data breach regarding the data subject or data security breach, to determine their cause and scope as well as a way to mitigate their consequences,
 - identification and storage of relevant data in the computer system of the insured,
 - notification on the personal data breach regarding the data subject or data security breach to each relevant data subject, the client, and the regulator in accordance with the generally binding legal regulations.
- All reaction costs must be agreed in advance in writing by the insurer, otherwise, the costs incurred are not covered by this insurance.
23. **Regulator** is a competent state administration body that supervises compliance with personal data protection laws.
24. **Damage to health** is any economic or non-economic damage (compensation for pain and suffering and compensation for social harm) caused by damage to health, including illness or death of a natural person.
25. **Damage to an item** is economic damage caused by physical damage or loss of a tangible item, including other related economic damage or lost profits resulting from this damage or loss, or from the loss of the ability to use a damaged or lost tangible item. For

the purposes of this insurance data and computer programs shall not be considered as tangible items.

26. **Economic damage** and **non-economic damage** means:

- (a) any monetary performance that the insured is obliged to pay to a third party in accordance with the generally binding legal regulations on the basis of a lawful court decision or a lawful arbitration award,
- (b) any monetary payment that the insured is obliged to pay to a third party on the basis of a settlement agreement and with the prior written consent of the insurer with the wording of the settlement agreement.

As economic and non-economic damage shall not be considered:

- a) any loss, settlement, or return of royalties, commissions, bonuses, or profit of the insured or the costs of re-performance or re-provision of any services,
- b) any costs of design, improvement, maintenance, or any enhancement of the computer system or the computer program, including removal, correction of any errors or deficiencies in the computer program,
- c) any taxes, or fines, unless their insurance is negotiated as part of the insurance of fines imposed on the insured by the regulator or contractual fines.

27. **Discovery** means the time when a member of the board of directors, an executive, a statutory body, or a person responsible for the financial, information technology, human resources, or salary matters or a responsible person within the meaning of the Act on the Protection of Personal Data and on Amendments to Certain Acts as amended (hereinafter referred to as the "Personal Data Protection Act") of the insured first becomes aware of the occurrence of any event or circumstances that could result in damage covered by this insurance.

Article 5 Obligations of the insured

In addition to the obligations stated in the VPP-MZ, the insured is also obliged:

- (a) to notify the insurer without undue delay in writing of all facts that may affect the increase of the risk resulting from the activity of the insured as well as any and all changes in the facts that the policyholder stated when negotiating the insurance,
- (b) to appeal against any decision imposing a fine by the regulator, unless the insurer determines otherwise,
- (c) to notify the insurer of court annulment of any decision imposing a fine by the regulator on the insured, where the insured has filed an administrative action against the decision imposing a fine by the regulator.

Article 6 Closing provisions

- 1. The provisions of these OPP-SME-DATA applicable to the insured shall apply mutatis mutandis also to the policyholder (where the policyholder is a person other than the insured) and/or any other beneficiary.
- 2. These OPP-SME-DATA shall enter into force on 01.07.2024.