

Third Party Technology Professional Liability

Claim Scenarios

The Hartford offers a total insurance solution for technology companies, including our robust suite of FailSafe® Technology Professional Liability products. The following claim scenarios provide a variety of examples of “glitches” that can occur for technology companies and demonstrate the resulting claim/indemnity expenses that your technology clients face. More importantly, these scenarios emphasize the importance of ensuring that your technology clients are adequately protected through a third party professional liability product that addresses these exposures – specifically, The Hartford’s FailSafe GIGA™ and FailSafe TERA™.

Scenario 1

Type of Claim: E&O
Policy Type: FailSafe GIGA or FailSafe TERA
Cause of Action: Negligence/Failure to Perform
Type of Insured: Software Company

Facts:

A software company sells and installs a computerized fare system for a transportation authority. It also has the responsibility to regularly maintain and support the system. An overnight software upgrade results in erratic behavior of the fare system, including failure of the fare system equipment to operate. This failure results in fare system outages throughout the majority of stations that comprise the authority’s network. As a result of the system failure, many stations allow passengers transportation without proof of paying the fare. The transit authority services thousands of passengers each day, and the event causes harm to the transit authority’s reputation. The transit authority sues the software company for negligence in the performance of services, specifying damages that include:

- Lost revenues
- Extra expenses associated with the need to pay for additional staff to manage the crisis, including overtime pay to personnel
- Lost revenues associated with reputational damages caused by the event

Resolution: Claim expenses: \$25,000+ Indemnity: Settled for \$300,000

Continued

Scenario 2

Type of Claim:	E&O
Policy Type:	FailSafe GIGA or FailSafe TERA
Cause of Action:	Negligence/Failure to Perform
Type of Insured:	Software Developer

Facts:

A software company manufactures and distributes workforce management software that allows third parties to track employee hours, overtime, vacation time and compiles information for payroll processing. The software company enters into an agreement to provide the software to a customer, including implementation, installation, customization, training and support services. Six months after installation, the customer is not happy with the performance of the software program, specifically alleging a functionality failure. The customer agrees to allow the software company a six-week period to cure the default. After this time period elapses without a satisfactory resolution, the customer terminates the contract due to negligence and failure of the product to perform as intended. Damage allegations were in excess of \$700,000.

Resolution: Claim expenses: \$50,000 Indemnity: Settled for \$250,000

Scenario 3

Type of Claim:	Intellectual Property Infringement
Policy Type:	FailSafe GIGA with Intellectual Property Coverage Endorsement or FailSafe TERA
Cause of Action:	Copyright Infringement of Software Code
Type of Insured:	Software Developer

Facts:

A software development company builds and services enterprise infrastructure software tools used by other equipment manufacturers, as well as network and software companies. A competitor alleges that the software company's products infringe upon the copyright of the competitor's own products. The specific allegation is for copyright infringement of software code, and the alleged damages were in excess of \$100 million.

Resolution: Claim expenses alone: in excess of \$5 million

Scenario 4

Type of Claim:	Security Breach/Unauthorized Access
Policy Type:	FailSafe GIGA with Security Coverage Endorsement or FailSafe TERA
Cause of Action:	Failure to Prevent Disclosure of Personally Identifiable Information
Type of Insured:	Web Site Developer

Facts:

While conducting maintenance on a customer Web site, a Web site development and maintenance company disables security elements to apply customer-requested modifications to the Web site. Upon completion of these modifications, the Web site is put back in service but the security elements are left disabled, and the secure sections of the Web site are accessible to the public. Three months later, the error is discovered and the customer alleges damages that include:

- Lost customers due to adverse publicity related to the failure to protect sensitive information contained in the secure section of the Web site
- Costs to notify affected parties of the possibility that their personal information was exposed to unauthorized individuals
- Credit monitoring expenses for individuals impacted by the possible disclosure of personal information
- Regulatory proceeding expenses, etc.

Resolution: Claim expenses: \$85,000 Indemnity: \$80,000

Continued

Scenario 5

Type of Claim: E&O
Policy Type: FailSafe GIGA or FailSafe TERA
Cause of Action: Negligence/Failure to Perform
Type of Insured: Software Developer

Facts:

A software company manufactures and distributes software used by businesses to conduct risk modeling. A customer purchases the software and relies on it in making financial decisions. Following the customer's financial collapse and bankruptcy, they sue the software developer for providing inadequate software that they relied on in making decisions that led to their collapse.

Resolution: Claim expenses: \$1 million+ Indemnity: nearly \$4 million

Scenario 6

Type of Claim: E&O
Policy Type: FailSafe GIGA or FailSafe TERA
Cause of Action: Negligence
Type of Insured: Telecommunications Equipment Manufacturer

Facts:

Company Z is a telecommunications equipment manufacturer that designs and distributes connectivity hardware that is used to enhance communications within a wireless, local loop telephone system. After the installation of more than 10,000 of these units for a large telecommunications customer, an installation problem that causes the units to fail is traced back to Company Z's schematics. As a result, the customer seeks financial damages from Company Z.

Resolution: Claim expenses: \$5,000 Indemnity: \$225,000

Scenario 7

Type of Claim: Introduction of Malicious Code
Policy Type: FailSafe GIGA with Security Coverage Endorsement or FailSafe TERA
Cause of Action: Failure to Prevent the Introduction of Malicious Code
Type of Insured: Systems Integrator

Facts:

A systems integration company provides hardware and software integration services. When uploading a new software program for a customer, a malicious code is inadvertently transferred to the customer's network, causing widespread loss of data and disruption to the customer's operations. In the download process, the virus spreads to the client's computer system, resulting in widespread loss of data and a computer network shutdown. The customer seeks damages for the costs to reconstruct the data, as well as the financial impact associated with the disruption of business operations.

Resolution: Claim expenses: \$35,000 Indemnity: in excess of \$400,000

Continued

Scenario 8

Type of Claim:	Intellectual Property Infringement
Policy Type:	FailSafe GIGA with Intellectual Property Coverage Endorsement or FailSafe TERA
Cause of Action:	Copyright Infringement
Type of Insured:	Web Site Developer

Facts:

A Web site development company provides creative and maintenance services for their customers' Internet, Intranet, and Extranet activities. In the process of developing a Web site for a customer, the company uses an image owned by a third party without the appropriate permissions. The company and their customer are both sued by this third party for infringement of copyrighted materials.

Resolution: Claim expenses: \$5,000 Indemnity: \$30,000

Scenario 9

Type of Claim:	Intellectual Property Infringement
Policy Type:	FailSafe GIGA with Intellectual Property Coverage Endorsement or FailSafe TERA
Cause of Action:	Trademark Infringement
Type of Insured:	Web Site Developer

Facts:

A Web site development company provides creative and maintenance services for their customers' Internet, Intranet, and Extranet activities. In the process of creating a customer's Web site, the company develops a new corporate logo for the Web site. A third party later alleges that this corporate logo infringes upon their own trademark and misleads consumers, creating market confusion. A suit is filed by this third party for infringement of trademark.

Resolution: Claim expenses: \$50,000 Indemnity: \$175,000

Scenario 10

Type of Claim:	E&O
Policy Type:	FailSafe GIGA or FailSafe TERA
Cause of Action:	Negligence/Failure to Perform
Type of Insured:	Software Reseller

Facts:

A software reseller installs and provides maintenance services for accounting software applications that are specifically focused for retailers. A customer's audit reveals that several journal entries were misclassified as a result of an error in the software program. While the problem is corrected, the customer incurs significant fees due to the misclassifications, and sues the software reseller for damages associated with the additional work, including:

- Audit fees
- Costs to restate prior quarter financial statements
- Accounting fees
- Legal fees

Resolution: Claim expenses: \$35,000 Indemnity: \$120,000

For More Information

To learn more about The Hartford's products and services for technology companies, contact your Technology Practice Group Underwriter or Small Commercial Sales Representative.

The scenarios summarized herein are offered only as examples. Coverage depends on the actual facts of each case and the terms, conditions, and exclusions of each individual policy. Please refer to the policy to determine all terms, conditions, exclusions and limitations of coverage. Coverage is provided by the property and casualty companies of The Hartford Financial Services Group, Inc. and may not be available in all states. All information and representations herein are as of February 2009.

