

## Loss Scenarios for Software and IT Service Companies

Technology firms are increasingly challenged to meet their customers' needs on time, on budget and within performance standards. Complex technology products and projects have volatile financial and liability risks that could put you out of business.

Over the past five years, claims severity for technology products and project dispute litigation has soared. Why?

- More and more customers are willing to sue established business partners for performance failure or delay
- Dramatic increases in the average size and length of contract raises the plaintiff's chance that a performance failure "will be worth the fight"
- With companies putting more reliance on technology it increases the likelihood that software solutions will be core business solutions. As a result, much more is at stake if the software fails, can't be accessed or doesn't perform as promised



Consider the following loss scenarios and then ask yourself whether you have adequate insurance protection in place.



### Cloud Migration

**Settlement:** €1.5M

An IT service provider specialises in moving data and systems into the cloud. Despite extensive system and network due diligence, a recent client's data was encrypted during the migration process and due to an incompatibility between systems, the data was damaged. The client provided marketing and advertising services, and claimed that its data was its key asset. They were unable to operate until this data was repaired or recreated.



### Cloud Failure

**Potential Cost:** €2.5M

An analytics company uses cloud-based storage for data sets, to avoid the costs of local storage and allow better access to a global employee and client base. Due to a cyber incident at the cloud provider, the company is unable to access its data, and thus could not carry out core business activities for 6 days. This led to both a loss of income during that period, as well as a loss of key clients, who were able to void contracts with the insured due to the incident.



### Missed Deadlines

**Settlement:** €1M

An IT services company was awarded a contract to be the outsourced vendor for an online retailer. As part of the contract, the IT company was responsible for upgrading its client's inventory management system and provide other customer service solutions. To accomplish this upgrade, the IT company needed to replace customer hardware, software and infrastructure, as well as telecommunications and related services. Due to a high turnover of staff and breakdown in project management, the IT company failed to meet deadlines.



### €900,000 Disappeared With a Few Keystrokes

**Settlement:** €900,000

A chain of regional luxury hotels was expanding its operations worldwide. As part of the process, it upgraded its billing system to accommodate various currencies and tax requirements. After a lengthy process of selection, the chosen vendor upgraded the existing system, meeting all time requirements and milestones. However, during the final phase of installation, one of the software engineers accidentally erased €900,000 of critical data. As a result, the customer sued the software installation company for the losses they incurred.



## Failure of Software Communication System

**Settlement:** €76,000

In the process of improving and upgrading its customer service standards and methodologies, a medium-sized brokerage firm selected a communications software developer to upgrade its communication system. The milestones were met and the new system was completed on time. However, the software did not perform as promised. It wouldn't respond to incoming customer calls, abandoned calls once they were answered, and would not track the number of calls that were sent to the voicemail system.



## Customers Inadvertently Deleted from Billing System

**Settlement:** €380,000

A wireless communications company contracted with a software company to update its billing system. The chosen vendor performed the upgrade, but lost hundreds of billing files during the process. The communications company lost revenues and incurred expenses during the time it took for the files to be recreated or recovered.



## Big Database, Big Damages

**Settlement:** €600,000

A software developer created a customer data base for a client, including indicators for the overall profitability of the customer relationship. The wrong profitability codes were mapped to each class of customer, inadvertently identifying the strongest customer relationships as the least profitable to the client, and vice versa. The error was discovered when a promotional campaign was launched, and the least profitable customers began redeeming offers that should only have been available to the most profitable relationships. The client was obligated to honor the discounted offers provided to the least profitable customers, and incurred additional expense sending amended communications with new offers to its preferred customer.



## User Error Leads to Defense Costs

**Potential cost:** €300,000

A software company was sued by one of its prominent customers after using the company's cost-estimating software. The customer alleged that a defect in the software caused several projects to be underbid. After a lengthy investigation, the software itself was found to have functioned perfectly, and the error was on the part of the user. The customer eventually dropped the case, but only after considerable legal expenses were incurred by the software company.



## Software System Fails to Operate

**Settlement:** €300,000

A software developer was sued in court for failing to deliver an operational version of a software system. The plaintiff alleged that the system sold and installed was not compatible with its mainframe systems, despite assurances to the contrary. The plaintiff sued for recovery of consequential damages.



## Third party data loss

**Settlement:** €1.5M

A software development company providing SaaS suffered a failure of backup drives in a third-party data center, resulting in permanent data loss for several of its clients. The insureds clients claimed losses in excess of €2.5M. After engaging forensic accountants all disputes settled for €1.5M



## Breach of Contract, Express Warranties

**Settlement:** €1.5M

A multinational anti-virus and security software developer is faced with a class action lawsuit, stemming from alleged misleading of customers to purchase the software following the free trial period. Through engagement of the legal counsel, the class action was settled for €1.5M.