



# Fraud and Cyber Defense Coverage

*This endorsement changes the policy. Please read it carefully.*

This endorsement amends **your** High Value Homeowners Policy (“the Policy”) to add Fraud and Cyber Defense Coverage, subject to its own terms, definitions, exclusions, limits and conditions, as set forth herein. The Limits of Insurance shown in the Fraud and Cyber Defense Coverage Schedule (“the Schedule”) are separate from, and in addition to, the coverage limit under the Policy. All amounts paid under this endorsement will reduce and may completely exhaust the Limits of Insurance shown in the Schedule.

## SCHEDULE

1.	Coverage Part A. - First Party Loss Limits of Insurance (event discovered and reported coverage)	
	Data Recovery and System Restoration	\$« »
	Cyber Extortion	\$« »
	Fraud and Cyber Crime	\$« »
	Breach Notification Costs	\$« »
2.	Coverage Part A. Aggregate Limit	\$« »
3.	Coverage Part A. Deductible	\$« » each <b>Insured Event</b>
4.	Coverage Part B. – Privacy and Security Claims Limit of Insurance (claims-made and reported coverage)	\$« »
5.	Coverage Part B. Deductible	\$« » each <b>Privacy and Security Claim</b>
6.	Combined Aggregate Limit of Insurance	\$« »
7.	Endorsement Effective Date	xx/xx/xxxx

## SECTION I - DEFINITIONS

Solely with respect to the coverage provided by this endorsement, the terms that appear in bold are defined as follows. If a term is defined below and in SECTION I – DEFINITIONS of the Policy, the definitions below will apply only to this endorsement and will not otherwise amend, delete or alter SECTION I – DEFINITIONS of the Policy.

1. **Attorney** means any person who is duly licensed to practice law at the time and place the legal services are rendered. **Attorney** does not include any **insured**.
2. **Breach Notification Costs** means:
  - a. reasonable and necessary fees and costs of an **attorney** hired by an **insured** to determine the scope, cause and extent of an actual or suspected **privacy breach** or **security breach**; to determine whether an **insured** has a legal obligation to provide notification of an actual or suspected **privacy breach** or **security breach** to affected individuals; and/or to assist an **insured** in notifying affected individuals of a **privacy breach** or **security breach**;
  - b. reasonable and necessary fees and costs of a professional IT forensic investigation firm or IT security expert hired by an **insured** to investigate and identify the source and scope of a **privacy breach** or **security breach**;
  - c. reasonable and necessary printing costs and mailing and postage expenses to notify affected individuals of a **privacy breach** or **security breach**; and
  - d. reasonable and necessary expenses to provide support activity to individuals affected by a **privacy breach** or **security breach**, including the cost to provide a maximum of

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twenty-four (24) months of credit, identity or healthcare record monitoring services, fraud alert services, and credit or identity repair and restoration services.

3. **Business** means any employment, trade, occupation, profession or enterprise intended to realize a benefit or financial gain, whether engaged in on a full-time, part-time, occasional or temporary basis.
4. **Business Identity Theft** means the theft or unauthorized, unlawful or fraudulent use, access or transfer of a means of identifying a **business**, with the intent to commit, or aid or abet another to commit, a crime, including the theft or fraudulent use of a **business** name, federal or state tax identification number, or other **business** records or information to establish corporate credit accounts, secure loans or enter into contracts.
5. **Computing Device** means a desktop, laptop or tablet computer or wi-fi router or other internet access point. Such device must be owned or leased by an **insured** and operated under an **insured's** control.
6. **Connected Home Device** means any electronic device, other than a **computing device**, that connects to the internet or to other electronic devices. This includes, but is not limited to, networked versions of any of the following:
  - a. smart phones;
  - b. thermostats;
  - c. entertainment systems;
  - d. appliances;
  - e. smoke, fire and home security monitoring systems; or
  - f. cameras.Such device must be owned or leased by an **insured** and operated under an **insured's** control.
7. **Credit Card Fraud** means the loss, theft or unauthorized and fraudulent use of an **insured's** credit, debit or bank card or card number by a **third party**. **Credit Card Fraud** does not include the use of any **insured's** credit, debit or bank card or card number by another **insured** without permission.
8. **Criminal Proceedings** means any governmental action, indictment or investigation for the enforcement of criminal laws, including offenses for which conviction could result in imprisonment and/or criminal fine(s).
9. **Cyber Attack** means any of the following malicious or unauthorized electronic attacks that is initiated by a **third party**, directed at or enacted upon a **computing device** or **connected home device**, and designed to damage, destroy, corrupt, overload or impair the functionality of the **computing device** or **connected home device**:
  - a. unauthorized access or use, meaning the gaining of access to a **computing device** or **connected home device** by an unauthorized **third party**, including any such unauthorized access or use resulting from the theft of a password from an **insured** or from a **computing device** or **connected home device**; or

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- b. a malware attack, meaning damage to a **computing device, connected home device** or an **insured's** data arising from a **virus**.
- 10. **Cyber Bullying** means harassment or intimidation, including embarrassment, humiliation, defamation of character, slander, invasion of privacy or threats of violence, committed using a computer, telephone, mobile device or other electronic device. **Cyber Bullying** methods include, but are not limited to, the use of texting, instant messaging, chat rooms, photos and other content posted on social networking sites to harass and intimidate.
- 11. **Cyber Crime Event** means:
  - a. **wire transfer fraud;**
  - b. a **phishing attack** directed at an **insured**, which fraudulently induces the **insured** to willingly transfer, pay or deliver **money, securities** or cryptocurrency to an unintended party through a traceable means of delivery, including, but not limited to, check, wire transfer or credit or debit card payment; however, cash is not a traceable method of delivery;
  - c. the theft of **money or securities** from an **insured bank account** or an **insured's** credit card as a result of a **cyber attack;** or
  - d. the theft of cryptocurrency from an **insured's** cryptocurrency wallet as a result of a **cyber attack.**
- 12. **Cyber Extortion Event** means any of the following directed at or enacted upon a **computing device or connected home device:**
  - a. a demand for money or other consideration made by a **third party** based on a credible threat to damage, disable, deny access to or disseminate content from a **computing device or connected home device** or an **insured's** data; or
  - b. a demand for money or other consideration made by a **third party** based on an offer to restore access or functionality in connection with an attack on a **computing device, connected home device or an insured's data.**
- 13. **Cyber Extortion Expenses** means reasonable and necessary costs and expenses, other than **cyber extortion payments**, that directly result from a **cyber extortion event**, including the cost of a professional IT firm hired by an **insured** to determine the validity and severity of a **cyber extortion event** and/or provide advice regarding how best to respond to a **cyber extortion event**.
- 14. **Cyber Extortion Payments** means any payment as directed by the **cyber extortion event**, but only when that payment is:
  - a. incurred as a direct result of a **cyber extortion event** directed against an **insured**; and
  - b. approved in advance by **us**. However, **we** will pay **cyber extortion payments** that we did not approve in advance if **we** determine that:
    - (1) it was not practical for the **insured** to obtain **our** prior approval; and
    - (2) if consulted at the time **we** would have approved the payment.
- 15. **Damages** means a monetary judgment, award or settlement that an **insured** is legally obligated to pay because of a **privacy and security claim**. **Damages** does not include punitive, liquidated, exemplary or multiplied damages; fines, penalties, taxes or sanctions;

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the costs to comply with any judgment, award, court order or settlement; liability assumed under a contract; any amount an **insured** is not financially or legally obligated to pay; or any amounts deemed uninsurable under applicable law.

16. **Data Recovery Costs** means the costs of a professional IT firm hired by an **insured** to retrieve, replace or restore the **insured's** electronic data that has been lost, damaged or corrupted in a **cyber attack**. If it is determined that an **insured's** data cannot be retrieved, replaced or restored, we will reimburse only the actual and necessary **data recovery costs** incurred up to such determination. **Data Recovery Costs** does not mean or include costs to research, re-create or replace any of the following:
  - a. software programs or operating systems that are obsolete or not commercially available;
  - or
  - b. data that cannot reasonably be replaced, including, but not limited to, photographs, music, movies or other media or recordings for which no back-up is available.
17. **Defense Costs** means reasonable and necessary **attorney** fees for legal services rendered, and associated costs and expenses, incurred by an **insured** in the defense of a **privacy and security claim**.
18. **Denial of Service Attack** means an event caused by unauthorized or unexpected interference or a malicious attack which is intended by the perpetrator to overwhelm the capacity of a **computing device** or **connected home device** by sending an excessive volume of data to such **computing device** or **connected home device** in order to deny, restrict or hinder access to such **computing device** or **connected home device**.
19. **Endorsement Period** means the period of coverage beginning on the Endorsement Effective Date specified in Item 7 of the Schedule and ending on the earlier of the termination, cancellation or expiration date of the Policy; provided however, that the **endorsement period** will not exceed a period of 12 months.
20. **Family Member** means a person that is a resident of **your** household and is related to **you** by blood, marriage, or domestic partnership registered under state law, or adoption. **Family Member** also includes other persons under the age of twenty-five (25) who are residents of **your** household and are in **your** care or the care of another **family member**.
21. **Financial Fraud Loss** means an **insured's** direct loss of **money**, **securities** or cryptocurrency which is fraudulently taken from the **insured** as a direct of **credit card fraud**, **forgery** or a **cyber crime event**. However, **Financial Fraud Loss** does not mean or include:
  - a. any amounts that have been reimbursed, or are reimbursable, to an **insured** by a credit card company, bank or other financial institution; or
  - b. any interest, time value or potential investment gain on the amount of **money**, **securities** or cryptocurrency fraudulently taken from an **insured**.
22. **Forgery** means the alteration of an **insured's** negotiable instrument, or the imitation of an **insured** on a negotiable instrument, with instructions to pay, including counterfeit items, and with the intent to deceive.

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23. **Identity Fraud** means the act of knowingly transferring or using, without lawful authority, a means of identification of an **insured**, with the intent to commit, or to aid or abet another to commit, an unlawful activity that constitutes a violation of federal law or a crime under any applicable state or local law, including the fraudulent use of an **insured's** personal identity to establish credit accounts, secure loans or enter into contracts, or the fraudulent use of an **insured's** health insurance information to file false health insurance claims or to seek medical treatment or prescription drugs. **Identity Fraud** also includes **business identity theft**.

24. **Insured** means:

- a. you;
- b. any **family member**; and
- c. a trust that is established for the ownership of the residence premises including any natural person named as executor, administrator or trustee of that trust, but only;
  - (1) if recognized under applicable state law as a legal entity with the capacity to sue or be sued in a court having jurisdiction; and
  - (2) while acting within the scope of their duties as executor, administrator or trustee of **your** trust.

As used herein, “residence premises” has the same meaning as defined in the DEFINITIONS section of the Policy.

25. **Insured Bank Account** means a personal account at a financial or banking institution which is maintained by an **insured** in the **insured's** name, or in the name of a legal entity established by an **insured** or on an **insured's** behalf to manage the **insured's** personal assets, from which the **insured** may request the transfer, payment or delivery of **money** or **securities**. **Insured Bank Account** includes an **insured's** personal trust, credit, brokerage and investment accounts, but does not include any **business** account.

26. **Insured Event** means:

- a. solely with respect to Data Recovery and System Restoration Coverage, a **cyber attack**;
- b. solely with respect to Cyber Extortion Coverage, a **cyber extortion event**;
- c. solely with respect to Fraud and Cyber Crime Coverage, **credit card fraud**, **forgery** or a **cyber crime event**; and
- d. solely with respect to Breach Notification Costs Coverage, a **security breach** or **privacy breach**.

27. **Loss** means:

- a. solely with respect to Data Recovery and System Restoration Coverage, **data recovery costs** and **system restoration costs**;
- b. solely with respect to Cyber Extortion Coverage, **cyber extortion expenses** and **cyber extortion payments**;
- c. solely with respect to Fraud and Cyber Crime Coverage, **financial fraud loss**; and
- d. solely with respect to Breach Notification Costs Coverage, **breach notification costs**.

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28. **Money** means a medium of exchange in current use and authorized or adopted by a domestic or foreign government, including, but not limited to, currency, coins, bank notes, bullion, travelers' checks, registered checks and **money** orders held for sale to the public.
29. **Named Insured** means any natural person listed as such on the Policy declaration page.
30. **Other Property** means any tangible property, other than **money** or **securities**, which has intrinsic value.
31. **Personally Identifiable Information** means information that can be used to determine, distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual, including, but not limited to, financial account numbers, security codes, personal identification numbers (PINs), credit and debit card numbers, medical or healthcare information, social security numbers, driver's license numbers, addresses, passwords, and any other non-public information.
32. **Phishing Attack** means the use by a **third party** of fraudulent and intentionally deceptive telephone calls, emails, texts, instant messages or other electronic communications or malicious websites to impersonate a legitimate or trustworthy contact, organization or person to solicit **private information**, **money** or cryptocurrency.
33. **Privacy and Security Claim** means a **suit** alleging:
- a. liability for a **privacy breach**;
  - b. liability for the failure to prevent the transmission of a **virus** from a **computing device** or **connected home device** to a **third party's** device;
  - c. liability for the failure to prevent or hinder participation by a **computing device** or **connected home device** in a **denial of service attack** directed against a **third party's** device;
  - d. liability for the failure to prevent a **security breach**, which in turn results in a **privacy breach**;
  - e. liability for the failure to timely disclose a **security breach** or **privacy breach** affecting **private information**; or
  - f. infliction of emotional distress or mental anguish, but only if directly resulting from a peril described in **a.** through **e.** above.
- A **privacy and security claim** will be deemed to be first made against an **insured** when it is first received by the **insured**.
34. **Privacy Breach** means:
- a. the unauthorized collection, disclosure, use, access, destruction or modification of **private information**;
  - b. the theft of **private information**, including the theft of **private information** stored on a **computing device**;
  - c. an **insured's** surrender of **private information** in a **phishing attack**; or
  - d. an infringement or violation of any rights to privacy directly resulting from a peril described in **a.** through **c.** above.

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35. **Private Information** means **personally identifiable information** of a **third party** that is in an **insured's** possession or entrusted to an **insured** solely because of the **insured's** activities or responsibilities in connection with volunteer work for a non-profit organization or other non-**business** related activity. **Private Information** does not mean or include information of, or relating to, any **business**, including proprietary information.
36. **Securities** means negotiable or non-negotiable instruments or contracts representing **money** or **other property**. **Securities** does not include **money** or cryptocurrency.
37. **Security breach** means:
- a **cyber attack**, whether a specifically targeted attack or a generally distributed attack; or
  - the theft or loss of a **computing device** containing **private information**.
38. **Suit** means:
- the service of a civil lawsuit or the institution of arbitration or other alternative dispute resolution proceedings against an **insured** seeking **damages** or non-monetary relief; or
  - a written demand made against an **insured** for **damages** or non-monetary relief.
39. **System Restoration Costs** means reasonable and necessary costs of a professional IT firm hired by an **insured** to do the following in order to restore a **computing device** or **connected home device** to the level of functionality it had before the **cyber attack**:
- replace or reinstall computer software programs;
  - remove a **virus**; or
  - configure, or correct the configuration of, the **computing device** or **connected home device**.
- System Restoration Costs** does not mean or include any of the following:
- costs to increase the speed, capacity or utility of a **computing device** or **connected home device**;
  - an **insured's** time or labor; or
  - any costs that exceed the replacement value of a **computing device** or **connected home device**, including applicable hardware and software.
40. **Third Party** means any entity, company, organization or person who does not qualify as an **insured** under this endorsement.
41. **Unauthorized Trading** means trading, which at the time of the trade, exceeds permitted financial limits or is outside of permitted product lines.
42. **Virus** means malicious software intentionally designed to insert itself by a variety of forms into a **computing device** or **connected home device** to damage, destroy, corrupt, overload or otherwise impair the functionality of such **computing device** or **connected home device**. **Virus** includes, but is not limited to, worms, Trojan horses, spyware, keyloggers, dishonest adware and malware.
43. **We, Us** and **Our** mean the Company providing this Fraud and Cyber Defense Coverage.



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44. **Wire Transfer Fraud** means an intentional, unauthorized and fraudulent written, electronic or telephonic instruction transmitted to a financial institution, directing such institution to debit, transfer, withdraw or disburse **money** or **securities** from an **insured bank account**, which instruction purports to have been transmitted by an **insured**, but was in fact fraudulently transmitted by a **third party** without the **insured's** knowledge or consent. **Wire Transfer Fraud** does not mean or include fraud committed against **business**, commercial or non-consumer accounts.

45. **You** or **Your** means the **named insured**.

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## SECTION II – COVERAGE PART A. FIRST PARTY LOSS INSURING AGREEMENTS AND EXCLUSIONS

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### 1. Data Recovery and System Restoration Coverage

Subject to the applicable Deductible and Limit of Insurance, **we** will reimburse an **insured** for **data recovery costs** and **system restoration costs** directly resulting from a **cyber attack**, but only if all of the following conditions are met:

- a. the **insured** first discovers the **cyber attack** during the **endorsement period**;
- b. the **insured** or the **insured's** representatives report the **cyber attack** to **us** during the **endorsement period**, but no later than 60 days after the expiration or termination of the **endorsement period**; and
- c. the **insured** provides clear evidence that the **data recovery costs** and **system restoration costs** directly result from a **cyber attack**.

### 2. Cyber Extortion Coverage

Subject to the applicable Deductible and Limit of Insurance, **we** will reimburse an **insured** for **cyber extortion expenses** and **cyber extortion payments** directly resulting from a **cyber extortion event**, but only if all of the following conditions are met:

- a. the **insured** first discovers the **cyber extortion event** during the **endorsement period**;
- b. the **insured** or the **insured's** representatives report the **cyber extortion event** to **us** during the **endorsement period**, but no later than 60 days after the expiration or termination of the **endorsement period**; and
- c. the **insured** makes every reasonable effort to notify local law enforcement authorities and the Federal Bureau of Investigation before surrendering any **cyber extortion payments** in response to a **cyber extortion event**.

### 3. Fraud and Cyber Crime Coverage

Subject to the applicable Deductible and Limit of Insurance, **we** will reimburse an **insured** for **financial fraud loss** directly resulting from **credit card fraud, forgery or a cyber crime event**, but only if all of the following conditions are met:

- a. the **insured** first discovers the **credit card fraud, forgery or cyber crime event** during the **endorsement period**;



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- b. the **insured** or the **insured's** representatives report the **credit card fraud, forgery or cyber crime event** to **us** during the **endorsement period**, but no later than 60 days after the expiration or termination of the **endorsement period**; and
- c. the **insured** provides written confirmation to **us** that the **insured's** credit card company, bank or other financial institution has refused to reverse or prevent a payment transaction or to indemnify or reimburse the **insured** for the **financial fraud loss**.

## 4. Breach Notification Costs Coverage

Subject to the applicable Deductible and Limit of Insurance, **we** will reimburse an **insured** for **breach notification costs** directly resulting from a **security breach** or **privacy breach**, but only if all of the following conditions are met:

- a. the **insured** first discovers the **security breach** or **privacy breach** during the **endorsement period**; and
- b. the **insured** or the **insured's** representatives report the **security breach** or **privacy breach** to **us** during the **endorsement period**, but no later than 60 days after the expiration or termination of the **endorsement period**.



## 5. Free Choice of Attorneys, Professional IT Firms and Service Providers

- a. An **insured** has complete freedom of choice in the selection of **attorneys**, professional IT firms and/or service providers to assist the **insured** in any **insured event**. However, reimbursement of any costs, fees or charges of any **attorney**, professional IT firm or service provider will be limited to a maximum hourly rate of \$400.
- b. An **insured** will have a direct relationship with any **attorney**, professional IT firm or service provider such **insured** hires, whether paid for, in whole or in part, under this endorsement. All **attorneys** and service providers work for the **insured**.

## 6. Exclusions Applicable to Coverage Part A. First Party Loss

The following exclusions apply to all insuring agreements of Coverage Part A. First Party Loss of this endorsement.

**We do not cover:**

- a. **loss** caused by or resulting from any fraudulent act or intentional violation of the law by an **insured**, whether acting alone or in collusion with others; however, this exclusion does not apply to any **insured** who did not commit, participate in or have prior knowledge of any conduct to which this exclusion would otherwise apply.
- b. any **criminal proceedings**.
- c. any physical damage or injury to, or impairment, destruction or corruption of, any tangible property, including the loss of use thereof.
- d. any damage to a motor vehicle, watercraft, aircraft, or other vehicle. As used herein, "watercraft" and "aircraft" have the same meaning as defined in the DEFINITIONS section of the Policy.
- e. any amounts an **insured** is legally obligated to pay to a **third party**, including judgements, award or settlements.

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- f. any fines, penalties, taxes or sanctions imposed by law, or any matters deemed uninsurable under applicable law.
- g. **loss** arising from any activities of, or relating to, any **business** or incidental business owned or operated by any **insured**, or any **insured's** activities as a stockholder, manager, agent, partner, officer, director or paid employee or contractor of any for-profit or non-profit organization. As used herein, "incidental business" has the same meaning as defined in the DEFINITIONS section of the Policy.
- h. except as specifically provided under Data Recovery and System Restoration Coverage, costs to research or correct any deficiency.
- i. any **insured event** first discovered by, or known to, any **insured** prior to the first Fraud and Cyber Defense Coverage Endorsement issued by **us** to **you**.
- j. any amounts incurred by an **insured** in disputes with respect to this insurance, including questions as to whether amounts are payable under this endorsement.
- k. any costs to replace or repair any property, hardware, **computing device** or **connected home device**; however, **we** will pay to replace or repair any property, hardware, **computing device** or **connected home device** if **we** determine that doing so reduces the amount of **loss** payable under this endorsement.
- l. any amounts incurred by an **insured** to institute legal proceedings against any person or organization.
- m. **loss** arising from a false report of an **insured event** made by an **insured**, whether acting alone or in collusion with others.
- n. **loss** caused by or resulting from fire, smoke, explosion, leakage, lightning, wind, water, flood (including waves, tidal waves, or the rising of, breaking out of, or overflow of a body of water, whether natural or manmade), earthquake, volcanic eruption, landslide, hail, extreme weather, force majeure, or any other natural or physical event, however caused.
- o. **loss** caused by or resulting from the seizure, confiscation, commandeering, nationalization, requisition or destruction of, or damage to, any **computing device**, **connected home device**, data, hardware or equipment by or under order of any government or public authority for whatever reason.
- p. **loss** caused by or resulting from a breach of, or liability assumed by an **insured** under, a written or oral contract or agreement.
- q. **loss** arising from an **insured's** civic or public activities, including an **insured's** pursuit or holding of any public office; however, this exclusion does not apply to a **privacy breach**.
- r. **loss** arising from illness, substance abuse or death.
- s. any costs to comply with any order, grant or agreement to provide non-monetary relief.
- t. **loss** caused by or resulting from any **business** use of a credit, debit or bank card.
- u. any **identity fraud** or **cyber bullying**.
- v. **loss** caused by or resulting from any electrical or mechanical surge, failure or interruption, including electrical disturbance, spike, brownout or blackout; or a total,

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partial, temporary or intermittent outage, failure, disruption or reduction in supply of any utility service or infrastructure, including, electricity, gas, water, telephone, cable, internet, satellite or telecommunications, or any failure, outage, disruption, degradation or termination of any critical part of such service or infrastructure.

- w. retainers or any advanced costs.
- x. any amounts an **insured** has paid, or agree to pay, as part of any service or maintenance contract.
- y. **loss** caused by or resulting from errors or shortcomings in legitimate electronic code or code installed on a **computing device** or **connected home device** during the manufacturing process.
- z. **loss** caused by or resulting from a **computing device** or **connected home device** that has had its software altered from the original manufactured state (also known as “jailbroken”).
- aa. any amounts to retrieve, replace, recreate or restore any **business** records or **business**-related data, including any such data or records that is stored on a **computing device**;
- bb. income loss caused by or resulting from **unauthorized trading**.
- cc. **loss** caused by or resulting from an outage, interruption, failure, suspension or degradation of service of a computer system owned, controlled, leased or operated by an **insured's** cryptocurrency wallet provider or any cryptocurrency or digital currency exchange; the theft of cryptocurrency in a network attack against a computer system owned, controlled, leased or operated by an **insured's** cryptocurrency wallet provider or any cryptocurrency or digital currency exchange, including a **denial of service attack** or infection of such computer system by a **virus**; or the insolvency or bankruptcy of any cryptocurrency wallet provider or cryptocurrency or digital currency exchange.
- dd. any amounts that have been wholly or partially reversed by a credit card company or financial institution.
- ee. **loss** caused by or resulting from the use of a credit, debit or bank card, card number or account number associated with a bank account, credit account, brokerage account, investment account, digital currency account or other financial institution account:
  - (1) by a person who has ever received any authorization from an **insured** to use such card, card number or account number, unless such authorization was obtained through a criminal deception of the **insured**; or
  - (2) if an **insured** has not complied with all terms and conditions under which such card, card number or account number was issued.
- ff. indirect costs, such as lost time, lost wages or damaged reputation.
- gg. any amounts paid or payable under Coverage Part B of this endorsement.
- hh. any matter paid, or deemed payable, by **us** under any other insuring agreement or coverage section of the Policy.

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## SECTION III – COVERAGE PART B. PRIVACY AND SECURITY CLAIMS INSURING AGREEMENT AND EXCLUSIONS

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### 1. Privacy and Security Claims Coverage

Subject to the applicable Deductible and Limit of Insurance, **we** will reimburse an **insured** for **damages** and reasonable and necessary **defense costs** that the **insured** becomes legally obligated to pay as a result of a **privacy and security claim**, but only if all of the following conditions are met:

- a. the **privacy and security claim** is first made against the **insured** during the **endorsement period**;
- b. the **insured** or the **insured's** representatives report the **privacy and security claim** to **us** during the **endorsement period**, but no later than 60 days after expiration or termination of the **endorsement period**; and
- c. the actual or alleged acts, events or incidents giving rise to the **privacy and security claim** first occur on or after the inception date of the first Fraud and Cyber Defense Coverage endorsement issued by **us** to **you**.

### 2. No Duty to Defend; Free Choice of Counsel

- a. **We** will have no duty to defend any **privacy and security claim**, but only to reimburse an **insured** for **defense costs** and **damages** to which this endorsement applies. The obligation to defend any **privacy and security claim** resides solely with an **insured**, and an **insured's** reasonable and good faith defense of any **privacy and security claim** is a condition of coverage under Coverage Part B of this endorsement.
- b. **We** will reimburse an **insured** only for **defense costs** incurred for actual services rendered and/or **damages** sustained against the **insured** in a **privacy and security claim**, up to the applicable Limit of Insurance. However, actual payment by an **insured** of **defense costs** or **damages** will not be a condition of reimbursement.
- c. An **insured** has complete freedom of choice in the selection of an **attorney** to represent the **insured** in any **privacy and security claim**. However, reimbursement of **defense costs** will be limited to a maximum hourly **attorney** rate of \$400. The **insured** will have a direct relationship with any **attorney** retained by the **insured**.
- d. There shall be no infringement upon the professional judgment of any **attorney**, and no **attorney** providing legal services in respect of which **defense costs** are reimbursable under this endorsement shall be required to act in derogation of such **attorney's** professional responsibilities.

### 3. Exclusions Applicable to Coverage Part B. Privacy and Security Claims

The following exclusions apply to Coverage Part B. Privacy and Security Claims of this endorsement.

**We** do not cover:

- a. any amounts incurred by an **insured** in disputes with respect to this insurance, including questions as to whether amounts are reimbursable under this endorsement.

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- b. any amounts incurred by an **insured** to institute legal proceedings against any person or organization.
- c. any **privacy and security claim** based upon, arising from or involving any acts, events or incidents which were known to any **insured** prior to the inception date of the first Fraud and Cyber Defense Coverage Endorsement issued by **us** to **you**.
- d. any matter brought against an **insured** for physical damage or injury to, or impairment, destruction or corruption of, any tangible property, including the loss of use thereof.
- e. any matter brought against an **insured** for physical injury, sickness, disease or death sustained by any person, and where resulting from such physical injury only, mental anguish, mental injury, shock, humiliation or emotional distress.
- f. any **privacy and security claim** for, based upon, arising from or involving any breach of, or liability assumed by, an **insured** under a written or oral contract or agreement; however, this exclusion does not apply to any liability an **insured** would have had in the absence of such contract or agreement and which would have been insured under Coverage Part B of this endorsement.
- g. any **privacy and security claim** based upon, arising from or involving any **insured's** activities as a stockholder, owner, manager, agent, partner, officer, director or employee of any **business**, organization, corporation or company.
- h. any **privacy and security claim** based upon, arising from or involving an **insured's** civic or public activities, including an **insured's** pursuit or holding of any public office; however, this exclusion does not apply to a **privacy and security claim** arising from a **privacy breach**.
- i. any **privacy and security claim** for, based upon, arising from or involving any fraudulent act, intentional violation of law or intentional **privacy breach** committed by an **insured**; however, this exclusion does not apply to any **insured** who did not commit, participate in or have prior knowledge of any conduct to which this exclusion would otherwise apply.
- j. any costs to comply with any order, grant or agreement to provide non-monetary relief.
- k. fines, penalties, taxes or sanctions, or any matters deemed uninsurable under applicable law.
- l. punitive, exemplary, liquidated, or multiplied damages; however, if a **privacy and security claim** is made against an **insured** seeking both compensatory and punitive or exemplary **damages**, then **we** will reimburse **defense costs** incurred in such **privacy and security claim** without liability for punitive or exemplary **damages**.
- m. any **privacy and security claim** made by or on behalf of an **insured** against another **insured**.
- n. **criminal proceedings**.
- o. retainers or any advanced costs.
- p. any amounts an **insured** has paid or agree to pay, as part of any service or maintenance contract.
- q. any amounts paid or payable under Coverage Part A of this endorsement.

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- r. any matter paid, or deemed payable, by **us** under any other insuring agreement or coverage section of the Policy.

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## SECTION IV –LIMITS OF INSURANCE AND DEDUCTIBLES

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### 1. Coverage Part A. First Party Loss Limits of Insurance and Deductible

- a. The Coverage Part A. First Party Loss Limits of Insurance shown in Item 1 of the Schedule are the most **we** will reimburse under each insuring agreement of Coverage Part A of this endorsement for **loss** arising from any one **insured event** first discovered during the **endorsement period**, and in the aggregate for all **insured events** first discovered during the **endorsement period**, regardless of the number of **insured events** or **insureds**. If any Limit of Insurance shown in Item 1 of the Schedule is exhausted, **our** obligations under the applicable insuring agreement will end.
- b. The Coverage Part A Aggregate Limit of Insurance shown in Item 2 of the Schedule is the most **we** will reimburse under Coverage Part A of this endorsement for all **insured events** first discovered during the **endorsement period**, regardless of the number of **insured events**, **insureds** or insuring agreements of Coverage Part A. All **loss** paid under Coverage Part A of this endorsement will reduce and may completely exhaust the Coverage Part A Aggregate Limit of Insurance shown in Item 2 of the Schedule.
- c. The Coverage Part A Deductible shown in Item 3 of the Schedule applies to any one **insured event**. If the amount of **loss** from any one **insured event** is less than or equal to the Deductible, **we** will not reimburse an **insured** for that **loss**. If the amount of **loss** resulting from any one **insured event** exceeds the Deductible, **we** will subtract the Deductible from the amount of **loss** incurred, and **we** will reimburse an **insured** for the remaining amount of such **loss**, up to the applicable Limit of Insurance.

### 2. Coverage Part B. Privacy and Security Claims Limit of Insurance and Deductible

- a. The Coverage Part B. Privacy and Security Claims Limit of Insurance shown in Item 4 of the Schedule is the most **we** will reimburse under Coverage Part B of this endorsement for **defense costs** and/or **damages** arising from any one **privacy and security claim** first made during the **endorsement period**, and in the aggregate for all **privacy and security claims** first made during the **endorsement period**, regardless of the number of **privacy and security claims**, **insureds** or claimants. If the Limit of Insurance shown in Item 4 of the Schedule is exhausted, **our** obligations under Coverage Part B of this endorsement will end.
- b. The Coverage Part B Deductible shown in Item 5 of the Schedule applies to any one **privacy and security claim**. If the amount of **defense costs** and/or **damages** resulting from any one **privacy and security claim** is less than or equal to the Deductible, **we** will not reimburse an **insured** for those **defense costs** and/or **damages**. If the amount of **defense costs** and/or **damages** resulting from any one **privacy and security claim** exceeds the Deductible, **we** will subtract the Deductible from the amount of **defense costs** and/or **damages** incurred, and **we** will reimburse an **insured** for the remaining amount of such **defense costs** and/or **damages**, up to the applicable Limit of Insurance.

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## 3. Combined Aggregate Limit of Insurance

The Combined Aggregate Limit of Insurance shown in Item 6 of the Schedule is the most **we** will reimburse under this endorsement for all **loss** under Coverage Part A and all **defense costs** and **damages** under Coverage Part B. If the Combined Aggregate Limit of Insurance is paid, **our** obligations under this endorsement will end.

## 4. Related Claims

- a. If one **insured event** causes **loss** in more than one **endorsement period**, all such **loss** will be subject to the Limits of Insurance of the **endorsement period** in effect when the **insured event** was first discovered by an **insured**.
- b. **Loss** resulting from a series of related, repeated or continuing **insured events** will be considered one **insured event**, even if such series of **insured events** continue into a subsequent **endorsement period**. Such **insured event** will be deemed to have been discovered by an **insured** on the date the first **insured event** in that series was first discovered by an **insured** and will be deemed to have been reported to **us** on the date the first **insured event** in that series was reported to **us**.
- c. All **privacy and security claims** arising from the same event, incident, act or circumstance, or a series of related, repeated or continuing events, incidents, acts or circumstances, will be deemed to be a single **privacy and security claim**; will be deemed to have been first made against an **insured** on the date the earliest of such **privacy and security claims** was first made against an **insured**; and will be deemed to have been first reported to **us** on the date the earliest of such **privacy and security claims** was first reported to **us** in writing. Appeals and any post-trial proceedings or consolidated proceedings approved by **us** will be part of the original **privacy and security claim**.
- d. If a **privacy breach** or **security breach** under Coverage Part A results in a **privacy and security claim** under Coverage Part B, such matters will be deemed to be related, even if the **privacy and security claim** is made against an **insured** in a subsequent **endorsement period**. Such **privacy and security claim** will be subject to the Limits of Insurance of the **endorsement period** in effect when the **privacy breach** or **security breach** was first discovered by an **insured**.

## 5. Non-Stacking of Limits

If an **insured event** or **privacy and security claim** is covered, in whole or in part, under this endorsement and any Fraud and Cyber Defense Coverage Endorsement attaching to another insurance policy issued by **us**, then the amount **we** will be obligated to reimburse with respect to such **insured event** or **privacy and security claim** will not exceed the single largest applicable Limit of Insurance under any such Fraud and Cyber Defense Coverage Endorsement. Such largest applicable Limit of Insurance will apply only once to such **insured event** or **privacy and security claim**. The applicable Deductible under each Fraud and Cyber Defense Coverage Endorsement will be applied to the portion of the **insured event** or **privacy and security claim** that is allocated to the respective **insured**.



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## SECTION V – CONDITIONS

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The following conditions apply only to this endorsement.

### 1. Duties in the Event of an Insured Event or Privacy and Security Claim

- a. The **insured** must notify us of an **insured event** or **privacy and security claim** during the **endorsement period**, but no later than 60 days after expiration or termination of the **endorsement period**.
- b. The **insured** must notify law enforcement authorities of any **insured event** as soon as possible.
- c. The **insured** must immediately send us copies of any demands, notices, summonses or legal papers that an **insured receives** in a connection with a **privacy and security claim**.
- d. In the event of **credit card fraud**, the **insured** must notify the issuing credit card company or bank of the facts and circumstances surrounding such **credit card fraud** as soon as possible.
- e. The **insured** must submit to **us** any supporting receipts, bills, records or other documents within 90 days of **our** request. **We** may also request a signed and notarized description of any **privacy and security claim**, **insured event** or proof of **loss**.
- f. The **insured** must cooperate with **us** fully and authorize **us** to obtain records and other information.

### 2. Confidentiality

As respects Cyber Extortion Coverage, all **insureds** must make every reasonable effort not to divulge the existence of this coverage.

### 3. Due Diligence

All **insureds** agree to use due diligence to prevent and mitigate costs covered under this endorsement. This includes, but is not limited to, complying with reasonable and widely-practiced steps for:

- a. providing and maintaining appropriate system and data security; and
- b. maintaining and updating at appropriate intervals backups of electronic data.

### 4. Legal Advice

**We** are not any **insured's** legal advisor. **Our** determination of what is or is not insured under this endorsement does not represent advice or counsel from **us** about what an **insured** should or should not do.

### 5. Other Insurance

The coverage provided by this endorsement is excess insurance over any other valid and collectible insurance available to an **insured**, including any self-insured retention or deductible portion thereof, unless such insurance specifically applies as excess insurance over the insurance provided under this endorsement.

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## 6. Bankruptcy

An **insured's** bankruptcy or insolvency will not relieve **us** of our **obligations** under this endorsement.

## 7. Office of Foreign Assets Control

Payment under this endorsement will only be made in full compliance with all United States of America economic or trade sanctions, laws or regulations, including, but not limited to, sanctions, laws and regulations administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").

This endorsement is issued as part of Policy [XXXXXXX]. Except as it expressly states, it does not (i) modify any of the terms and provisions of the Policy, (ii) modify any prior endorsements, (iii) extend the Policy Expiration Date, or (iv) increase the Amount of Insurance. To the extent a provision of the Policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls.