

## COALITION CYBER POLICY

### SECTION I

#### INTRODUCTION

This Policy is a contract of insurance between the **named insured** and **us**. This Policy includes and must be read together with the Declarations page and any Endorsements.

The insurance provided under this Policy for **claims** made against **you** is on a claims made and reported basis, and applies to **claims** only if they are first made against **you** during the **policy period** and reported to **us** during the **policy period** or any applicable Optional Extended Reporting Period. **Claim expenses** reduce the applicable Limits of Liability and are subject to retentions.

Please note that the terms in bold lower case print are defined terms and have special meaning as set forth in Section IX, DEFINITIONS.

### SECTION II

#### WHAT WE COVER – OUR INSURING AGREEMENTS

In consideration of the **named insured's** payment of the premium, in reliance upon the information provided to **us**, including in and with the **application**, and subject to the Limits of Liability and applicable Retention(s), exclusions, conditions, and other terms of this Policy, **we** agree to provide the following insurance coverage provided that:

1. The **claim** is made against **you** during the **policy period**, and is reported to **us** during the **policy period** or any applicable Optional Extended Reporting Period;
2. The **incident, privacy liability, or multimedia wrongful act** first took place after the **retroactive date** and before the end of the **policy period**; and
3. Notice is provided in accordance with Section IV, YOUR OBLIGATIONS AS AN INSURED.

### THIRD PARTY LIABILITY COVERAGES

- |   |   |
|---|---|
| A. NETWORK AND INFORMATION SECURITY LIABILITY | We will pay on <b>your</b> behalf <b>claim expenses</b> and <b>damages</b> that <b>you</b> become legally obligated to pay resulting from a <b>claim</b> against <b>you</b> for a <b>security failure, data breach, or privacy liability</b> .  |
| B. REGULATORY DEFENSE AND PENALTIES           | We will pay on <b>your</b> behalf <b>claim expenses</b> and <b>regulatory penalties</b> that <b>you</b> become legally obligated to pay resulting from a <b>claim</b> against <b>you</b> in the form of a <b>regulatory proceeding</b> for a <b>security failure or data breach</b> . |
| C. MULTIMEDIA CONTENT LIABILITY               | We will pay on <b>your</b> behalf <b>claim expenses</b> and <b>damages</b> that <b>you</b> become legally obligated to pay resulting from a <b>claim</b> against <b>you</b> for a <b>multimedia wrongful act</b> .  |
| D. PCI FINES AND ASSESSMENTS                  | We will pay on <b>your</b> behalf <b>PCI fines and assessments</b> that <b>you</b> become legally obligated to pay resulting from a <b>claim</b> against <b>you</b> for a <b>security failure or data breach</b> compromising payment card data.                                      |

### FIRST PARTY COVERAGES

- |   |   |
|---|---|
| E. BREACH RESPONSE SERVICES                 | We will pay on <b>your</b> behalf <b>breach response services</b> resulting from an actual or suspected <b>security failure, data breach, cyber extortion, or funds transfer fraud</b> , first discovered by <b>you</b> during the <b>policy period</b> .   |
| F. BREACH RESPONSE COSTS                    | We will pay on <b>your</b> behalf <b>breach response costs</b> resulting from an actual or suspected <b>security failure or data breach</b> first discovered by <b>you</b> during the <b>policy period</b> .  |
| G. CRISIS MANAGEMENT AND PUBLIC RELATIONS   | We will pay on <b>your</b> behalf <b>crisis management costs</b> resulting from a <b>public relations event</b> first discovered by <b>you</b> during the <b>policy period</b> .  |
| H. CYBER EXTORTION                          | We will pay on <b>your</b> behalf <b>cyber extortion expenses</b> resulting from <b>cyber extortion</b> first discovered by <b>you</b> during the <b>policy period</b> .  |
| I. BUSINESS INTERRUPTION AND EXTRA EXPENSES | <p>We will pay <b>business interruption loss</b> and <b>extra expenses</b> that <b>you</b> incur during the <b>indemnity period</b> directly resulting from the partial or complete interruption of <b>computer systems</b> for a period longer than the <b>waiting period</b> caused by a <b>security failure or systems failure</b> first discovered by <b>you</b> during the <b>policy period</b>.</p> <p>The <b>waiting period</b> for any failure of <b>computer systems</b> caused by a <b>denial of service attack</b> will be the period of time set forth in Item 5.I.ii. of the Declarations. The <b>waiting period</b> for all other causes of failure of <b>computer systems</b> will be the period of time set forth in Item 5.I.i. of the Declarations.</p> |
| J. DIGITAL ASSET RESTORATION                | We will pay on <b>your</b> behalf <b>restoration costs</b> that <b>you</b> incur because of the alteration, destruction, damage, theft, loss, or inability to access <b>digital assets</b> directly resulting from a <b>security failure</b> first discovered by <b>you</b> during the <b>policy period</b> .   |

**K. FUNDS TRANSFER  
FRAUD**

We will pay on **your** behalf direct **funds transfer loss** that **you** incur resulting from a **funds transfer fraud** first discovered by **you** during the **policy period**.

**SECTION III**

**EXCLUSIONS – WHAT IS  
NOT COVERED**

This policy does not apply to and **we** will not make any payment for any **claim expenses, damages, loss, regulatory penalties, PCI fines and assessments**, or any other amounts directly or indirectly arising out of, resulting from, based upon, or attributable to:

**A. BODILY INJURY**

Any physical injury, sickness, disease, mental anguish, emotional distress, or death of any person, provided, however, that this exclusion will not apply to any **claim** for mental anguish or emotional distress under Section II.A, NETWORK AND INFORMATION SECURITY LIABILITY.

**B. CONFISCATION**

Confiscation, nationalization, requisition, destruction of, or damage to any property, **computer system**, software, or electronic data by order of any governmental or public authority.

**C. CONTRACTUAL  
LIABILITY**

Any contractual liability or obligation or any breach of contract or agreement either oral or written, provided, however, that this exclusion will not apply:

1. with respect to the coverage provided by Section II.A, NETWORK AND INFORMATION SECURITY LIABILITY, and Section II.F, BREACH RESPONSE COSTS, to **your** obligations to maintain the confidentiality or security of **personally identifiable information** or **third party corporate information**;
2. with respect to the coverage provided by Section II.C, MULTIMEDIA CONTENT LIABILITY, to misappropriation of ideas under implied contract;
3. with respect to the coverage provided by Section II.D, PCI FINES AND ASSESSMENTS; and
4. to the extent **you** would have been liable in the absence of such contract or agreement.

**D. DIRECTOR & OFFICERS  
LIABILITY**

Any act, error, omission, or breach of duty by any director or officer in the discharge of his or her duty if the **claim** is brought by or on behalf of the **named insured**, a **subsidiary**, or any principals, directors, officers, stockholders, members, or **employees** of the **named insured** or a **subsidiary**.

**E. DISCRIMINATION**

Any discrimination of any kind.

**F. EMPLOYMENT  
PRACTICES &  
DISCRIMINATION**

Any employer-employee relations, policies, practices, acts, or omissions. However, this exclusion will not apply to a **claim** by a current or former **employee** under Section II.A, NETWORK AND INFORMATION SECURITY LIABILITY, to **breach response services** under Section II.E, BREACH RESPONSE SERVICES, or to **breach response costs** under Section II.F, BREACH RESPONSE COSTS impacting current or former **employees**.

G. FRAUD BY A SENIOR EXECUTIVE

Any dishonest, fraudulent, criminal, or malicious act or omission of any **senior executive**. However, this exclusion does not apply to **claim expenses** incurred in defending any such **claim** until and unless a final and non-appealable adjudication establishes that a **senior executive** committed such dishonest, fraudulent, criminal, or malicious act or omission, at which time the **named insured** will reimburse **us** for all **claim expenses we** incurred or paid in defending such **claim**.

This exclusion will not apply to any **insured** person who did not allegedly or actually participate in or otherwise be involved in the dishonest, fraudulent, criminal, or malicious act or omission.

H. GOVERNMENTAL ORDERS

Any court order or demand requiring **you** to provide **personally identifiable information** to any domestic or foreign law enforcement, administrative, regulatory, or judicial body or other governmental authority.

I. ILLEGAL REMUNERATION

Any profit, remuneration, or advantage to which **you** are not legally entitled. However, this exclusion does not apply to **claim expenses** incurred in defending any such **claim** until and unless a final and non-appealable adjudication establishes the gaining of any profit, remuneration, or advantage to which **you** are not legally entitled, at which time the **named insured** will reimburse **us** for all **claim expenses we** incurred or paid in defending such **claim**.

J. INSURED VERSUS INSURED

Any **claim** made by or on behalf of:

1. an **insured** under this Policy; however, this exclusion will not apply to an otherwise covered **claim** made by an **employee** arising from a **security failure** or **data breach**;
2. any business enterprise in which **you** have greater than a twenty percent (20%) ownership interest; or
3. any parent company or other entity that owns more than twenty percent (20%) of an **insured**.

K. INTELLECTUAL PROPERTY

Violation or infringement of any intellectual property right or obligation, including:

1. infringement of copyright of software, firmware, or hardware;
2. misappropriation, misuse, infringement, or violation of any patent or trade secret;
3. distribution or sale of, or offer to distribute to sell, any goods, products, or services; or
4. other use of any goods, products, or services that infringes or violates any intellectual property law or right relating to the appearance, design, or function of any goods, products, or services;

however, this exclusion will not apply to Section II.C, MULTIMEDIA CONTENT LIABILITY, for an otherwise covered **claim** for a **multimedia wrongful act**, provided that, this exception to exclusion K. INTELLECTUAL PROPERTY will not apply to any violation or infringement of any intellectual property right or obligation described in items 1. and 2. above.

- L. MERCHANT LIABILITY Any charge back, interchange fee, discount fee, service related fee, rate, or charge; or liability or fee incurred by **you** due to a merchant service provider, payment processor, payment card company, or bank reversing or freezing payment transactions, except that this exclusion will not apply to coverage afforded under Section II.D, PCI FINES AND ASSESSMENTS.
- M. NATURAL DISASTER Any physical event or natural disaster, including fire, flood, earthquake, volcanic eruption, explosion, lightning, wind, hail, tidal wave, and landslide.
- N. NUCLEAR Any exposure or threatened exposure to any radioactive matter or any form of radiation or contamination by radioactivity of any kind or from any source. This exclusion applies regardless of whether any other causes, events, materials, or products contributed concurrently or in any sequence to the **claim** or **incident**, or the liability or legal obligation alleged or existing.
- O. POLLUTANTS Any:
1. discharge, dispersal, seepage, migration, release, or escape of **pollutants**, or any threatened discharge, seepage, migration, release, or escape of **pollutants**; or
  2. request, demand, order, or statutory or regulatory requirement that **you** or others detect, report, test for, monitor, clean up, remove, remediate, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects of **pollutants**; including any **claim**, suit, notice, or proceeding by or on behalf of any governmental authority or quasi-governmental authority, a potentially responsible party or any other person or entity for any amounts whatsoever because of detecting, reporting, testing for, monitoring, cleaning up, removing, remediating, containing, treating, detoxifying, or neutralizing, or in any way responding to, or assessing the effects of **pollutants**.
- This exclusion applies regardless of whether any other causes, events, materials, or products contributed concurrently or in any sequence to the **claim** or **incident**, or the liability or legal obligation alleged or existing.
- P. PRIOR KNOWLEDGE
1. any **incident**, act, error, or omission that any **senior executive** on or before the **continuity date** knew or could have reasonably foreseen might be the basis of a **claim** or **loss** under this Policy; or
  2. any **claim**, **incident**, or circumstance which has been the subject of any notice given to the insurer of any other policy in force prior to the inception date of this Policy.
- Q. RECALL Any withdrawal, recall, inspection, adjustment, removal, or disposal of any property, tangible or intangible, including **computer systems** and their component parts, mobile devices, and mechanical equipment.

R. REPAIR	Any repair, replacement, recreation, restoration, or maintenance of any property, tangible or intangible, including <b>computer systems</b> and their component parts, mobile devices, and mechanical equipment. This exclusion does not apply to <b>damages</b> that <b>you</b> are legally obligated to pay resulting from a <b>claim</b> and that are otherwise covered under this Policy, or to coverage afforded under Sections II.I, BUSINESS INTERRUPTION AND EXTRA EXPENSES, and II.J, DIGITAL ASSET RESTORATION.
S. RETROACTIVE DATE	Any <b>incident</b> , act, error, or omission that took place prior to the <b>retroactive date</b> , or any related or continuing acts, errors, omissions, or <b>incidents</b> where the first such act, error, omission, or <b>incident</b> first took place prior to the <b>retroactive date</b> .
T. TANGIBLE PROPERTY	Any injury or damage to, destruction, impairment, or loss of use of any tangible property, including any computer hardware rendered unusable by a <b>security failure</b> .
U. THIRD PARTY MECHANICAL FAILURE	Electrical, mechanical failure, or interruption (including blackouts, brownouts, power surge, or outage) or other utility failure, interruption, or power outage, of a third party, including telecommunications and other communications, internet service, website hosts, server services, satellite, cable, electricity, gas, water, or other utility or power service providers. However, this exclusion will not apply to <b>business interruption loss</b> under Section II.I, BUSINESS INTERRUPTION AND EXTRA EXPENSES, where such loss arises directly from the <b>service provider</b> directly experiencing their own <b>security failure</b> .
V. UNFAIR TRADE PRACTICE	Any false, unlawful, deceptive, or unfair trade practices; however, this exclusion does not apply to a <b>claim</b> under Section II.B, REGULATORY DEFENSE AND PENALTIES arising from a <b>security failure</b> or <b>data breach</b> .
W. VIOLATION OF ACTS/LAWS	<p>Any violation of:</p> <ol style="list-style-type: none"><li>1. the Employee Retirement Income Security Act of 1974 (ERISA);</li><li>2. the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Act of 1940, and any other federal or state securities laws;</li><li>3. the Organized Crime Control Act of 1970 (RICO);</li><li>4. the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM);</li><li>5. Telephone Consumer Protection Act (TCPA);</li><li>6. the Sherman Anti-Trust Act, the Clayton Act, or any price fixing, restraint of trade, or monopolization statute; or</li><li>7. any similar local, state, federal, common, or foreign laws or legislation to the laws described in 1. through 6. above;</li></ol> <p>however, this exclusion will not apply to a <b>claim</b> against <b>you</b> alleging a <b>data breach</b> or <b>privacy liability</b> in violation of regulation S-P (17 C.F.R. § 248).</p>

X. WAR AND TERRORISM

War, invasion, acts of foreign enemies, terrorism, hostilities, civil war, rebellion, revolutions, insurrection, military, or usurped power; however, this exclusion will not apply to **cyber terrorism**.

SECTION IV

**YOUR OBLIGATIONS AS AN INSURED**

**WHEN THERE IS A CLAIM OR INCIDENT**

**You** must provide **us** written notice of a **claim** or **incident** through the persons named in Item 8. of the Declarations as soon as practicable once such **claim** or **incident** is known to a **senior executive**. In no event will such notice to **us** be later than: (i) the end of the **policy period**; (ii) or 60 days after the end of the **policy period** for **claims** made against you or **incidents** discovered by **you** in the last 30 days of the **policy period**.

**WHEN THERE IS A CIRCUMSTANCE**

If during the **policy period**, **you** become aware of any circumstances that could reasonably be expected to give rise to a **claim**, **you** may give written notice to **us** through the persons named in Item 8. of the Declarations as soon as practicable during the **policy period**. Such notice must include:

1. a detailed description of the act, event, **security failure**, or **data breach** that could reasonably be the basis for a **claim**;
2. the details of how **you** first became aware of the act, event, **security failure**, or **data breach**; and
3. the identity of potential claimants.

Any **claim** arising out of a circumstance reported under this Section will be deemed to have been made and reported at the time written notice complying with the above requirements is provided to **us**.

**DUTY TO COOPERATE**

**We** will have the right to make any investigation **we** deem necessary, and **you** will cooperate with **us** in all investigations, respond to reasonable requests for information, and execute all papers and render all assistance as requested by **us**. In addition, **you** will make reasonable efforts to promptly address any **computer systems** vulnerabilities that a **senior executive** becomes aware of during the **policy period**. **You** will also cooperate with counsel in the defense of all **claims** and response to all **incidents** and provide all information necessary for appropriate and effective representation.

With respect to Section II.H, CYBER EXTORTION, **you** must make every reasonable effort not to divulge the existence of this coverage, without first seeking **our** prior consent.

[Insert Agency Branding]

OBLIGATION TO NOT INCUR  
ANY EXPENSE OR ADMIT  
LIABILITY

**You** will not admit liability, make any payment, assume any obligation, incur any expense, enter into any settlement, stipulate to any judgment, or award or dispose of any **claim** without **our** prior written consent, except as specifically provided in Section V, CLAIMS PROCESS. Compliance with **breach notice law** will not be considered as an admission of liability for purposes of this paragraph.

Expenses incurred by **you** in assisting and cooperating with **us** do not constitute **claim expenses** or **loss** under this Policy.

OBLIGATION TO PRESERVE  
OUR RIGHT OF  
SUBROGATION

In the event of any payment by **us** under this Policy, **we** will be subrogated to all of **your** rights of recovery. **You** will do everything necessary to secure and preserve such subrogation rights, including the execution of any documents necessary to enable **us** to bring suit in **your** name. **You** will not do anything after an **incident** or event giving rise to a **claim** or **loss** to prejudice such subrogation rights without first obtaining **our** consent.

AUTHORIZATION OF  
NAMED INSURED TO ACT  
ON BEHALF OF ALL  
INSUREDS

It is agreed that the **named insured** will act on behalf of all **insureds** with respect to the giving of notice of a **claim**, giving and receiving of notice of cancellation and non-renewal, payment of premiums and receipt of any return premiums that may become due under this Policy, receipt and acceptance of any endorsements issued to form a part of this Policy, exercising or declining of the right to tender the defense of a **claim** to **us**, and exercising or declining to exercise of any right to an Optional Extended Reporting Period.

## SECTION V

### CLAIMS PROCESS



DEFENSE

**We** will have the right and duty to defend, subject to the Limits of Liability and applicable Retention(s), exclusions, conditions, and other terms of this Policy:

1. any **claim** against **you** seeking **damages** that are payable under the terms of this Policy; or
2. under Section II.B, REGULATORY DEFENSE AND PENALTIES, any **claim** in the form of a **regulatory proceeding**.

**You** have the right to select defense counsel from **our** Panel Providers. If **you** would like to retain defense counsel that is not on **our** list of Panel Providers, such counsel will be mutually agreed upon between **you** and **us**, which agreement will not be unreasonably withheld.

**We** will pay **claim expenses** incurred with **our** prior written consent with respect to any **claim** seeking **damages** or **regulatory penalties** payable under this Policy. **We** will have no obligation to pay **claim expenses** until **you** have satisfied the applicable Retention.

The Limits of Liability of this Policy will be reduced and may be completely exhausted by payment of **claim expenses**. **Our** duty to defend ends once the applicable Limit of Liability is exhausted, or after deposit of the amount remaining on the applicable Limit of Liability in a court of competent jurisdiction. Upon such payment, **we** will have the right to withdraw from the defense of the **claim**.

RIGHT TO ASSOCIATE

**We** have the right, but not the duty, to associate in the investigation and response to any **incident**, including participation in the formation of strategy and review of forensic investigations and reports.

PRE-CLAIM ASSISTANCE

If **we** are provided with notice of an **incident** or of a circumstance that is not yet a **claim** or **incident** under Section IV, YOUR OBLIGATIONS AS AN INSURED, and **you** request assistance to mitigate against such a **claim** or **incident**, **we** may, in **our** discretion, agree to pay for up to the amount shown in Item 6. of the Declarations for legal, forensic, and IT services provided by a third-party. Any such fees must be incurred with **our** prior consent by an attorney or consultant we have mutually agreed upon. Such attorney's and consultant's fees will be considered **claim expenses** or **loss** and will be subject to the Limits of Liability that would be applicable if a covered **claim** is made, and is also subject to the Policy's Aggregate Limit of Liability.

## SETTLEMENT

If **you** refuse to consent to any settlement or compromise recommended by **us** and acceptable to the claimant, **our** liability for such **claim** will not exceed:

1. the amount for which such **claim** could have been settled, less the retention, plus **claim expenses** incurred up to the time of such refusal; and
2. fifty percent (50%) of **claim expenses** incurred after such settlement was refused by **you**, plus fifty percent (50%) of **damages** and **regulatory penalties** in excess of the amount such **claim** could have settled under such settlement.

In this event, **we** will have the right to withdraw from the further defense of such **claim** or **regulatory proceeding** by tendering control of the defense thereof to **you**. The operation of this paragraph will be subject to the Limits of Liability and Retention provisions of this Policy.

## SETTLEMENT WITHIN RETENTION

**We** agree that **you** may settle any **claim** where the total **loss, damages, regulatory penalties, PCI fines and assessments, and claim expenses** do not exceed the applicable Retention, provided the entire **claim** is resolved and **you** obtain a full release from all claimants.

## PROOF OF LOSS

With respect to **business interruption loss** and **extra expenses**, **you** must complete and sign a written, detailed, and affirmed proof of loss within 90 days after **your** discovery of the **computer systems** failure (unless such period has been extended by the underwriters in writing) which will include, at a minimum, the following information:

1. a full description of the circumstances, including, without limitation, the time, place, and cause of the **loss**;
2. a detailed calculation of any **business interruption loss** and **extra expenses**; and all underlying documents and materials that reasonably relate to or form part of the basis of the proof of such **business interruption loss** and **extra expenses**.

Any costs incurred by **you** in connection with establishing or proving **business interruption loss** or **extra expenses**, including preparing a proof of loss, will be **your** obligation and is not covered under this Policy.

Solely with respect to verification of **business interruption loss**, **you** agree to allow **us** to examine and audit **your** books and records that relate to this Policy at any time during the **policy period** and up to 12 months following a **loss**.

## SECTION VI

### LIMITS OF LIABILITY AND RETENTION

#### LIMITS OF LIABILITY

The Aggregate Limit of Liability set forth in Item 4. of the Declarations is the maximum amount we will be liable to pay for all **damages, loss, PCI fines and assessments, regulatory penalties, claim expenses**, and other amounts under this Policy, regardless of the number of **claims, incidents, or insureds**.

The Limits of Liability set forth in Item 5. of the Declarations is the maximum amount we will be liable to pay for all **damages, loss, PCI fines and assessments, regulatory penalties, claim expenses**, and other amounts under each Insuring Agreement, regardless of the number of **claims, incidents, or insureds**. Such Limits of Liability are part of, and not in addition to, the Aggregate Limit of Liability. The reference to applicable Limits of Liability herein refers to each participating Insurer's individual Quota Share Limit of Liability as stated in Item 7. of the Declarations.

**Our** Limits of Liability for an Optional Extended Reporting Period, if applicable, will be part of, and not in addition to the Aggregate Limit of Liability set forth in Item 4. of the Declarations.

**Breach response services** is in addition to the Aggregate Limit of Liability.

#### RETENTION

**We** will only be liable for those amounts payable under this Policy which are in excess of the applicable Retention(s). Such Retention(s) must be paid by **you** and cannot be insured.

In the event that **damages, PCI fines and assessments, regulatory penalties, claim expenses, breach response costs, business interruption loss, crisis management costs, cyber extortion expenses, extra expenses, funds transfer loss, restoration costs**, or other amounts arising out of a **claim or incident** are subject to more than one Retention, the applicable Retention amount will apply to such **damages, PCI fines and assessments, regulatory penalties, claim expenses, breach response costs, business interruption loss, crisis management costs, cyber extortion expenses, extra expenses, funds transfer loss, restoration costs**, or other amounts, provided that the sum of such Retention amounts will not exceed the largest applicable Retention amount.

#### SECTION VII

##### CANCELLATION AND OPTIONAL EXTENDED REPORTING PERIOD

CANCELLATION AND NON-RENEWAL

**We** may cancel or elect not to renew this Policy by mailing to the **named insured** at the address shown in Item 1. of the Declarations, written notice stating when the cancellation or non-renewal will be effective. Where permitted by applicable law, we may provide such written notice of cancellation or non-renewal by electronic transmission. Such cancellation or non-renewal will not be less than sixty (60) days after such notice is mailed (or ten (10) days thereafter when cancellation is due to non-payment of premium or fraud or material misrepresentation). The mailing of such notice as aforesaid will be sufficient proof of notice and this Policy will terminate at the date and hour specified in such notice.

This Policy may be cancelled by **us** for non-payment of premium, or by fraud or material misrepresentation by **you** in the **application** or other information provided to induce **us** to issue this Policy; or fraud by **you** in connection with the submission of any **claim** or **incident** for coverage under this Policy.

This Policy may be cancelled by the **named insured** by surrender of this Policy to **us** or by giving written notice to **us** stating when thereafter such cancellation will be effective.

If this Policy is cancelled in accordance with the paragraphs above, the earned premium will be computed pro rata, but the premium will be deemed fully earned if any **claim, incident**, or any circumstance that could reasonably be expected to give rise to a **claim**, is reported to **us** on or before the date of cancellation.

If **we** elect not to renew this Policy, **we** will mail to **you** written notice thereof at least sixty (60) days prior to the expiration of the **policy period**.

**We** have no obligation to renew this Policy.

OPTIONAL EXTENDED REPORTING PERIOD

In the event of cancellation or non-renewal of this Policy, by either the **named insured** or **us**, for reasons other than fraud or material misrepresentation in the **application** for this Policy, or non-payment of premium or Retention, the **named insured** will have the right, upon payment in full of an additional premium, to purchase an Optional Extended Reporting Period under this Policy, subject to all terms, conditions, limitations of, and any endorsements to this Policy, for a period of either:

- a. one year for an additional premium of 100% of the total annual premium; or
- b. two years for an additional premium of 150% of the total annual premium; or
- c. three years for an additional premium of 200% of the total annual premium

following the effective date of such cancellation or non-renewal.

Such Optional Extended Reporting Period applies only to a **claim** first made against you during the Optional Extended Reporting Period arising out of any act, error, or omission committed on or after the **retroactive date** and before the end of the **policy period**, subject to the Retention, Limits of Liability, exclusions, conditions, and other terms of this Policy. The offer of renewal terms, conditions, Limits of Liability, and/or premiums different from those of this Policy will not constitute a cancellation or refusal to renew.

The Optional Extended Reporting Period will terminate on the effective date and hour of any other insurance issued to the **named insured** or the **named insured's** successor that replaces in whole or in part the coverage afforded by the Optional Extended Reporting Period.

The **named insured's** right to purchase the Optional Extended Reporting Period must be exercised in writing no later than sixty (60) days following the cancellation or non-renewal date of this Policy, and must include payment of premium for the applicable Optional Extended Reporting Period as well as payment of all premiums due to **us**. If such written notice is not given to **us**, the **named insured** will not, at a later date, be able to exercise such right.

At the commencement of any Optional Extended Reporting Period, the entire premium thereafter will be deemed earned and in the event the **named insured** terminates the Optional Extended Reporting Period before its expiring date, **we** will not be liable to return any portion of the premium for the Optional Extended Reporting Period.

The fact that the time to report **claims** under this Policy may be extended by virtue of an Optional Extended Reporting Period will not in any way increase the Limits of Liability, and any amounts incurred during the Optional Extended Reporting Period will be part of, and not in addition to the Limits of Liability as stated in the Declarations. The Optional Extended Reporting Period will be renewable at **our** sole option.

## SECTION VIII

### OTHER PROVISIONS

#### SANCTIONS

This Policy does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit **us** from providing insurance, including but not limited to payment of **claims**.

#### NON-PERMISSIBLE INSURANCE

Where **we** may not permissibly insure, either on an admitted or non-admitted basis, any entity that falls within the definition of an **insured** under this Policy, by virtue of the entity's domicile (or deemed location of risk for regulatory purposes), **we** will indemnify the **named insured** in respect of any loss to its insurable financial interest in such uninsured entity by way of agreed valuation calculated as the amount that **we** would have been liable to pay such uninsured entity for the applicable loss under the terms and conditions of this Policy had it been permissible to insure such uninsured entity.

## SECTION IX

### DEFINITIONS

Words and phrases that appear in lowercase bold in this Policy have the meanings set forth below:

#### Application

means all applications, including any attachments thereto and supplemental information, submitted by or on behalf of the **named insured** to **us** in connection with the request for or underwriting of this Policy, or any prior policy issued by **us** of which this Policy is a renewal thereof.

#### Breach notice law

means any statute or regulation, including from the United States, European Union, or other country that requires: (i) notice to persons whose **personally identifiable information** was, or reasonably considered likely to have been, accessed or acquired by an unauthorized person; or (ii) notice to regulatory agencies of such incident.

Breach response costs

means the following reasonable and necessary costs **you** incur with **our** prior written consent in response to an actual or suspected **security failure** or **data breach**:

1. computer forensic professional fees and expenses to determine the cause and extent of a **security failure**;
2. costs to notify individuals affected or reasonably believed to be affected by such **security failure** or **data breach**, including printing costs, publishing costs, postage expenses, call center costs, and costs of notification via phone or e-mail;
3. costs to provide government mandated public notices related to such **security failure** or **data breach**;
4. legal fees and expenses to advise **you** in connection with **your** investigation of a **security failure** or **data breach** and to determine whether **you** are legally obligated under a **breach notice law** to notify applicable regulatory agencies or individuals affected or reasonably believed to be affected by such **security failure** or **data breach**;
5. legal fees and expenses to advise **you** in complying with Payment Card Industry ("PCI") operating regulation requirements for responding to a **security failure** or **data breach** compromising payment card data, and the related requirements under a **merchant services agreement** (this clause does not include any fees or expenses incurred in any legal proceeding, arbitration, or mediation, for any advice in complying with any PCI rules or regulations other than for assessment of **PCI fines and assessments** for a covered **security failure** or **data breach**, or to remediate the breached **computer systems**); and
6. costs to provide up to one year (or longer if required by law) of a credit or identity monitoring program to individuals affected by such **security failure** or **data breach**.

**Breach response costs** must be incurred within one year of **your** discovery of an actual or suspected **security failure** or **data breach**. You have **our** prior consent to incur **breach response costs** in the form of computer forensic fees under paragraph 1. and legal fees under paragraphs 4. and 5. with any vendor on **our** list of Panel Providers.

Breach response services advisor

means entity or person named in Item 13. of the Declarations.

Breach response services

means the following services to assist with **your** initial response to a **security failure, data breach, cyber extortion or funds transfer fraud**:

1. access to the 24/7 hotline detailed in Item 8. of the Declarations;
2. consultation and advice by the **breach response services advisor**;
3. preliminary forensics and threat intelligence gathered by and known to the **breach response services advisor**; and
4. remote support and assistance.

**Breach response services** apply only to assistance provided by the **breach response services advisor** with **your** initial response to a **security failure, data breach, cyber extortion, or funds transfer fraud** based upon the information provided by **you** to **us** and/or the **breach response services advisor** at the time **you** first notify **us** of the applicable **security failure, data breach, cyber extortion or funds transfer fraud**. **Breach response services** do not include the costs and expenses of any services which are covered under any other First Party Coverage of this Policy.

Business interruption loss

means:

1. the net profit that would have been earned before income taxes, or net loss that would not have been incurred, directly due to the partial or complete interruption of **computer systems**; and
2. continuing normal operating expenses, including payroll.

Provided, however, that **business interruption loss** will not include net profit that would likely have been earned as a result of an increase in volume due to favorable business conditions caused by the impact of network security failures impacting other businesses, loss of market, or any other consequential loss.

Claim

means:

1. a written demand for money or services, including the service of a suit or institution of arbitration proceedings;
2. with respect to coverage provided under Section II.B, REGULATORY DEFENSE AND PENALTIES, a **regulatory proceeding**; and
3. a written request or agreement to toll or waive a statute of limitations relating to a potential **claim** described in paragraph 1 above.

All **claims** that have a common nexus of fact, circumstance, situation, event, transaction, or cause, or a series of related facts, circumstances, situations, events, transactions, or causes will be considered a single **claim** made against **you** on the date the first such **claim** was made.



Claim expenses

means:

1. reasonable and necessary fees charged by an attorney to which **we** have agreed to defend a **claim**;
2. all other fees, costs, and charges for the investigation, defense, and appeal of a **claim**, if incurred by **us** or by **you** with **our** prior written consent; and
3. premiums on appeal bonds, provided that **we** will not be obligated to apply for or furnish such appeal bonds.

**Claim expenses** do not include salary, charges, wages, or expenses of any **senior executive** or **employee**, or costs to comply with any court or regulatory orders, settlements, or judgments.

Computer systems

means:

1. computers and related peripheral components, including Internet of Things (IoT) devices;
2. systems and applications software;
3. terminal devices;
4. related communications networks;
5. mobile devices (handheld and other wireless computing devices); and
6. storage and back-up devices

by which electronic data is collected, transmitted, processed, stored, backed up, retrieved, and operated by **you** on **your** own behalf.

**Computer systems** includes items 1. to 6. above that are operated by a third party vendor, but only for providing hosted computer application services to **you** pursuant to a written contract.

Continuity date

means the date specified in Item 10. of the Declarations. Provided, if a **subsidiary** is acquired during the **policy period**, the **continuity date** for such **subsidiary** will be the date the **named insured** acquired such **subsidiary**.

Crisis management costs

means the following reasonable fees or expenses agreed to in advance by **us**, in **our** discretion to mitigate covered **damages** or **loss** due to a **public relations event**:

1. a public relations or crisis management consultant;
2. media purchasing, or for printing or mailing materials intended to inform the general public about the **public relations event**;
3. providing notifications to individuals where such notifications are not required by **breach notice law**, including notices to **your** non-affected customers, employees, or clients; and
4. other costs approved in advance by **us**.

Cyber extortion

means any threat made by an individual or organization against **you** expressing the intent to:

1. transfer, pay, or deliver any funds or property belonging to **you**, or held by **you** on behalf of others, using a **computer system** without **your** permission, authorization, or consent;
2. access, acquire, sell, or disclose non-public information in **your** care, custody, or control, provided such information is stored in an electronic medium in a **computer system** and is retrievable in a perceivable form;
3. alter, damage, or destroy any computer program, software, or other electronic data that is stored within a **computer system**;
4. maliciously or fraudulently introduce **malicious code** or **ransomware** into a **computer system**; or
5. initiate a **denial of service attack** on a **computer system**;

where such threat is made for the purpose of demanding payment of money, securities, Bitcoin, or other virtual currencies from **you**.

Cyber extortion expenses

means the following reasonable and necessary costs incurred with **our** prior written consent:

1. money, securities, Bitcoin, or other virtual currencies paid at the direction and demand of any person committing **cyber extortion** and costs incurred solely in, and directly from, the process of making or attempting to make such a payment; and
2. reasonable and necessary costs, fees, and expenses to respond to a **cyber extortion**.

The value of **cyber extortion expenses** will be determined as of the date such **cyber extortion expenses** are paid.

Cyber terrorism

means the premeditated use, or threatened use, of disruptive activities against **computer systems** by any person, group, or organization, committed with the intention to harm or intimidate **you** to further social, ideological, religious, or political objectives. However, **cyber terrorism** does not include any activity which is part of or in support of any military action, war, or war-like operation.

Damages	<p>means a monetary judgment, award that <b>you</b> are legally obligated to pay, or settlement agreed to by <b>you</b> and <b>us</b>. <b>Damages</b> does not mean the following:</p> <ol style="list-style-type: none"><li>1. future profits, restitution, disgorgement of profits, or unjust enrichment, or the costs of complying with orders granting injunctive or equitable relief;</li><li>2. return or offset of fees, charges, or commissions charged by or owed to <b>you</b> for goods or services already provided or contracted to be provided;</li><li>3. civil or criminal fines or penalties, civil or criminal sanctions, liquidated damages, payroll or other taxes, or loss of tax benefits, or amounts or relief uninsurable under applicable law;</li><li>4. any damages which are a multiple of compensatory damages, or punitive or exemplary damages, unless insurable by law in any applicable jurisdiction that most favors coverage for such punitive or exemplary damages;</li><li>5. discounts, coupons, prizes, awards, or other incentives offered by <b>you</b>;</li><li>6. fines, costs, assessments, or other amounts <b>you</b> are responsible to pay under a <b>merchant services agreement</b>; or</li><li>7. any amounts for which <b>you</b> are not liable, or for which there is no legal recourse against <b>you</b>.</li></ol>
Data breach	<p>means the acquisition, access, theft, or disclosure of <b>personally identifiable information</b> by a person or entity, or in a manner, that is unauthorized by <b>you</b>.</p>
Denial of service attack	<p>means a deliberate or malicious attack that makes a <b>computer system</b> unavailable to its intended users by temporarily or indefinitely disrupting services of a host that <b>you</b> use.</p>
Digital asset	<p>means any of <b>your</b> electronic data or computer software. <b>Digital assets</b> do not include computer hardware of any kind.</p>
Employee	<p>means any past, present, or future:</p> <ol style="list-style-type: none"><li>1. person employed by the <b>named insured</b> or <b>subsidiary</b> as a permanent, part-time, seasonal, leased, or temporary employee, or any volunteer; and</li><li>2. <b>senior executive</b>;</li></ol> <p>but only while acting on behalf of the <b>named insured</b> or <b>subsidiary</b> and in the scope of the business operations of the <b>named insured</b> or <b>subsidiary</b>.</p>

Extra expenses

means **your** reasonable and necessary extra expenses incurred to avoid or minimize a **business interruption loss**, including:

1. the reasonable and necessary additional costs of sourcing **your** products or services from alternative sources in order to meet contractual obligations to supply **your** customers and clients;
2. the reasonable and necessary additional costs of employing contract staff or overtime costs for **employees**, including **your** internal IT department, in order to continue **your** business operations which would otherwise have been handled in whole or in part by the **computer systems** or **service provider**; and
3. the reasonable and necessary additional costs of employing specialist consultants, including IT forensic consultants, in order to diagnose and fix the **security failure** or **systems failure**.

Provided, however, that such expenses do not exceed the amount of loss that otherwise would have been payable as **business interruption loss**.

**Extra expenses** does not mean and will not include costs for better computer systems or services than **you** had before the **security failure** or **systems failure**, including upgrades, enhancements, and improvements. However, this will not apply if the cost for the most current version of a computer system is substantially equivalent to (or less than) the original cost of the **computer system you** had before the **security failure** or **systems failure** took place.

Funds transfer fraud

means a fraudulent instruction transmitted by electronic means, including through social engineering, to **you** or **your** financial institution directing **you**, or the financial institution, to debit an account of the **named insured** or **subsidiary** and to transfer, pay, or deliver money or securities from such account, which instruction purports to have been transmitted by an **insured** and impersonates **you** or **your** vendors, business partners, or clients, but was transmitted by someone other than **you**, and without **your** knowledge or consent. The financial institution does not include any such entity, institution, or organization that is an **insured**.

Funds transfer loss

means:

1. loss of money or securities directly resulting from **funds transfer fraud**; and
2. reasonable and necessary costs, fees, and expenses to respond to **funds transfer fraud**.

**Funds transfer loss** does not mean and will not include the loss of personal money or securities of **your employees**.

Incident

means **cyber extortion, data breach, funds transfer fraud, public relations event, security failure, or systems failure**.

All **incidents** that have a common nexus of fact, circumstance, situation, event, transaction, or cause, or series of related facts, circumstances, situations, events, transactions, or causes will be considered a single **incident** occurring on the date the first such **incident** occurred.

Indemnity period	<p>means the time period that:</p> <ol style="list-style-type: none"><li>1. begins on the date and time that the partial or complete interruption of <b>computer systems</b> first occurred; and</li><li>2. ends on the earlier of the date and time that the interruption to <b>your</b> business operations resulting from such interruption of <b>computer systems</b>: (i) ends; or (ii) could have ended if <b>you</b> had acted with due diligence and dispatch.</li></ol> <p>However, in no event will the <b>indemnity period</b> exceed 180 days.</p>
Insured, you, or your	<p>means the <b>named insured</b>, a <b>subsidiary</b>, <b>senior executives</b>, and <b>employees</b>.</p>
Loss	<p>means <b>breach response costs</b>, <b>breach response services</b>, <b>business interruption loss</b>, <b>crisis management costs</b>, <b>cyber extortion expenses</b>, <b>extra expenses</b>, <b>funds transfer loss</b>, and <b>restoration costs</b>.</p>
Malicious code	<p>means any software program, code, or script specifically designed to create system vulnerabilities and destroy, alter, steal, contaminate, or degrade the integrity, quality, or performance of:</p> <ol style="list-style-type: none"><li>1. electronic data used or stored in any computer system or network; or</li><li>2. a computer network, any computer application software, or computer operating system or related network.</li></ol>
Media content	<p>means any data, text, sounds, numbers, images, graphics, videos, streaming content, webcasts, podcasts, or blogs but does not mean computer software or the actual goods, products, or services described, referenced, illustrated, or displayed in such <b>media content</b>.</p>
Merchant service agreement	<p>means any agreement between the <b>you</b> and a financial institution, payment card company, payment card processor, or independent service operator, that enables <b>you</b> to accept credit cards, debit cards, prepaid cards, or other payment cards for payments or donations.</p>

Multimedia wrongful act	<p>means any of the following actually or allegedly committed by <b>you</b> in the ordinary course of <b>your</b> business in gathering, communicating, reproducing, publishing, disseminating, displaying, releasing, transmitting, or disclosing <b>media content</b>, including social media authorized by <b>you</b>:</p> <ol style="list-style-type: none"><li>1. defamation, libel, slander, trade libel, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;</li><li>2. violation of the rights of privacy of an individual, including false light and public disclosure of private facts;</li><li>3. invasion or interference with an individual's right of publicity, including commercial appropriation of name, persona, voice, or likeness;</li><li>4. plagiarism, piracy, or misappropriation of ideas under implied contract;</li><li>5. infringement of copyright, domain name, trademark, trade name, trade dress, logo, title, metatag, slogan, service mark, or service name; or</li><li>6. improper deep-linking or framing within electronic content.</li></ol>
Named insured	<p>means the individual, partnership, entity, or corporation designated as such in Item 1. of the Declarations, or by endorsement to this Policy.</p>
PCI fines and assessments	<p>means the direct monetary fines and assessments for fraud recovery, operational expenses including card reissuance fees and notification of cardholders, and case management fees owed by <b>you</b> under the terms of a <b>merchant services agreement</b>, but only where such fines or assessments result from a <b>security failure</b>. <b>PCI fines and assessments</b> will not include any charge backs, interchange fees, discount fees, or other services related fees, rates, or charges.</p>
Personally identifiable information	<p>means any information about an individual that is required by any local, state, federal, or foreign law or regulation to be protected from unauthorized access, acquisition, or public disclosure.</p>
Policy period	<p>means the period of time between the inception date shown in the Declarations and the effective date of termination, expiration, or cancellation of this Policy and specifically excludes any Optional Extended Reporting Period.</p>
Pollutants	<p>means any solid, liquid, gaseous, or thermal irritant or contaminant exhibiting hazardous characteristics as is or may be identified on any list of hazardous substance issued by the United States Environmental Protection Agency, or any state, local, or foreign counterpart, including gas, acids, alkalis, chemicals, odors, noise, lead, petroleum or petroleum-containing products, heat, smoke, vapor, soot, fumes, radiation, asbestos or asbestos-containing products, waste (including material to be recycled, reconditioned, or reclaimed), electric, magnetic, or electromagnetic field of any frequency, as well as any air emission, wastewater, sewage, infectious medical waste, nuclear materials, nuclear waste, mold, mildew, fungus, bacterial matter, mycotoxins, spores, scents or by-products and any non-fungal micro-organism, or non-fungal colony form organism that causes infection or disease.</p>

Privacy liability

means:

1. **your** actual or alleged failure to timely disclose a **security failure** or **data breach** resulting in a violation of any **breach notice law**;
2. **your** failure to comply with those provisions in **your privacy policy** that:
  - a. mandate procedures to prevent the loss of **personally identifiable information**;
  - b. prohibit or restrict disclosure, sharing, or selling of an individual's **personally identifiable information**; or
  - c. require **you** to give access to **personally identifiable information** or to amend or change **personally identifiable information** after a request is made by the concerning individual;provided that no **senior executive** knew of or had reason to know of any such conduct; or
3. **your** failure to administer an identity theft prevention program or an information disposal program pursuant to 15 U.S.C. 1681, as amended, or any similar state or federal law.

Privacy policy

means any public written statements that set forth **your** policies, standards, and procedures for the collection, use, disclosure, sharing, dissemination, and correction or supplementation of, and access to, **personally identifiable information**.

Public relations event

means:

1. the publication or imminent publication in a newspaper (or other general circulation print publication), on radio or television, or electronic news website (but not including social media) of a covered **claim** under this Policy; or
2. a **security failure** or **data breach** that results in covered **breach response costs** under this Policy or which reasonably may result in a covered **claim** under the Policy.

Ransomware

means any **malicious code** designated to block **your** access to **computer systems** or **digital assets**, delete or otherwise harm the **computer system** or **digital assets**, or cause a **security failure**, until a sum of money is paid.

Regulatory penalties

means monetary fines and penalties imposed in a **regulatory proceeding** to the extent insurable under applicable law.

**Regulatory penalties** will not mean any:

1. costs to comply with injunctive relief;
2. costs to establish or improve privacy or security practices; or
3. audit, reporting, or compliance costs.

Regulatory proceeding	<p>means a request for information, civil investigative demand, or civil proceeding commenced by service of a complaint or similar proceeding brought by or on behalf of the Federal Trade Commission, Federal Communications Commission, Security and Exchange Commission (SEC) arising only from S-P (17 C.F.R. § 248), or any federal, state, local, or foreign governmental entity in such entity's regulatory or official capacity in connection with such proceeding.</p> <p>Other than the foregoing, <b>regulatory proceeding</b> does not include the Security and Exchange Commission (SEC) and similar federal, state, local, or foreign governmental entity.</p>
Restoration costs	<p>means the reasonable and necessary costs <b>you</b> incur to replace, restore, or recreate <b>digital assets</b> to the level or condition at which they existed prior to a <b>security failure</b>. If such <b>digital assets</b> cannot be replaced, restored, or recreated, then <b>restoration costs</b> will be limited to the actual, reasonable, and necessary costs <b>you</b> incur to reach this determination. <b>Restoration costs</b> do not include:</p> <ol style="list-style-type: none"><li>1. any costs or expenses incurred to update, upgrade, replace, restore, repair, recall, or otherwise improve the <b>digital assets</b> to a level beyond that which existed prior to the <b>security failure</b>;</li><li>2. any costs or expenses incurred to identify, remove, or remediate computer program errors or vulnerabilities, or costs to update, upgrade, replace, restore, maintain, or otherwise improve any <b>computer system</b>; or</li><li>3. the economic or market value of any <b>digital assets</b>, including trade secrets, or the costs to re-perform any work product contained within any <b>digital assets</b>.</li></ol> <p><b>Restoration costs</b> does not mean and will not include costs for better computer systems or services than <b>you</b> had before the <b>security failure</b>, including upgrades, enhancements, and improvements. However, this will not apply if the cost for the most current version of a computer system is substantially equivalent to (or less than) the original cost of the <b>computer system</b> you had before the <b>security failure</b> took place.</p>
Retroactive date	<p>means the date specified in Item 9. of the Declarations.</p>



Security failure

means the failure of security of **computer systems** which results in:

1. acquisition, access, theft, or disclosure of **personally identifiable information** or **third party corporate information** in **your** care, custody, or control and for which **you** are legally liable;
2. loss, alteration, corruption, or damage to software, applications, or electronic data existing in **computer systems**;
3. transmission of **malicious code** from **computer systems** to third party computer systems that are not owned, operated, or controlled by the **named insured** or **subsidiary**; or
4. a **denial of service attack** on the **named insured's** or **subsidiary's computer systems**; or
5. access to or use of **computer systems** in a manner that is not authorized by **you**, including when resulting from the theft of a password.

**Security failure** does not mean and will not include any failure of computers, related peripheral components, or mobile devices that are owned or leased by an **employee** and not used for the business operations of the **named insured** or **subsidiary**.

Senior executive

means any partner, principal, director, executive board member, in-house counsel, risk manager, chief information officer, chief information security officer, chief privacy officer, chief financial officer, chief executive officer, chief operating officer, or functional equivalent, but only while acting on **your** behalf in the scope of **your** business operations.

Service provider

means any third party that is responsible for the processing, maintenance, protection, or storage of **digital assets** pursuant to a written contract.

Subsidiary

means any organization in which the **named insured**:

1. owns either directly or indirectly 50% or more of the outstanding voting stock; or
2. has recognized the revenues in the **application**.

An organization ceases to be a **subsidiary** on the date, during the **policy period**, that the **named insured's** ownership, either directly or indirectly, ceases to be 50% of the outstanding voting stock.

The **named insured** will give written notice to **us** of any acquisition or creation of an organization with ownership interest greater than 50%, no later than sixty (60) days after the effective date of such acquisition or creation. Automatic coverage of such organization is granted until the end of the **policy period** or for 90 days, whichever is the earlier, subject to the following criteria:

1. the newly created or acquired **subsidiary** has substantially similar business operations;
2. the new **subsidiary's** gross revenue is equal to or less than 10% of the total gross revenue the **named insured** has listed on the **application**; and
3. prior to the effective date of such acquisition or creation, no **senior executive** of the **named insured** or of the acquired or created organization, knew or could have reasonably expected that a **claim** would be made or coverage triggered under any Insuring Agreement in Section II, WHAT WE COVER.

Upon receipt of such acquisition or creation, **we** may, at **our** sole option, agree to appropriately endorse this Policy subject to additional premium and/or change terms and conditions. If the **named insured** does not agree to the additional premium and/or changed terms and conditions, if any, coverage otherwise afforded under this provision for such acquired or created organization will terminate ninety (90) days after the effective date of such acquisition or creation, or at the end of the **policy period**, whichever is the earlier.

Systems failure

means any:

1. unintentional, unplanned, or unexpected **computer system** disruption, damage, or failure where the proximate cause is not a **security failure**, loss of or damage to any physical equipment or property, or planned or scheduled outage or maintenance of **computer systems** or a third party's computer systems (including downtime that is the result of a planned outage lasting longer than initially expected); or
2. disruption of **computer systems** by **you**, with **our** written prior consent, in order to mitigate covered **loss** under this Policy.

**Systems failure** does not include any:

1. failure of a third party technology or cloud service provider that results in an outage that extends beyond **your computer systems**;
2. failure or termination of any core element of internet, telecommunications, or GPS infrastructure that results in a regional, countrywide, or global outage of such infrastructure;
3. suspension, cancellation, revocation, or failure to renew any domain names or uniform resource locators;
4. failure of power supply and other utilities unless the provision of power and other utility services is under the **named insured's** direct control;
5. failure to adequately anticipate or capacity plan for normal and above operational demand for **computer systems** except where this demand is a **denial of service attack**;
6. government shutdown of systems or services;
7. ordinary wear and tear or gradual deterioration of the physical components of **computer systems**; or
8. failure or defect in the design, architecture, or configuration of **computer systems**.

Third party corporate information

means any information of a third party held by **you** which is not available to the general public and is provided to **you** subject to a mutually executed written confidentiality agreement between **you** and the third party or which you are legally required to maintain in confidence. However, **third party corporate information** does not include **personally identifiable information**.

Waiting period

means the number of hours set forth in Item 5. of the Declarations

We, us, or our

means the Company providing this Policy.

**SECTION X**

**OTHER PROVISIONS**

**OTHER INSURANCE**

This Policy will apply excess of any other valid and collectible insurance available to **you**, including the self-insured retention or deductible portion of that insurance, unless such is written only as specific excess insurance to this Policy, without contribution by this Policy.

[Insert Agency Branding]

CHOICE OF LAW

Any disputes involving this Policy will be resolved applying the law designated in Item 12. of the Declarations, without reference to that jurisdiction's choice of law principles.

NO ASSIGNMENT

No change in, modification of, or assignment of interest under this Policy will be effective except when made by written endorsement signed by **us**.