

COMMERCIAL CYBER INSURANCE POLICY

THE SECURITY BREACH LIABILITY INSURING AGREEMENT CONTAINED IN THIS POLICY PROVIDES COVERAGE FOR DEFENSE EXPENSES WHICH ARE PAYABLE WITHIN, AND NOT IN ADDITION TO, THE LIMIT OF INSURANCE. PAYMENT OF DEFENSE EXPENSES UNDER THIS POLICY WILL REDUCE THE LIMIT OF INSURANCE.

PLEASE READ THE ENTIRE POLICY CAREFULLY.

Various provisions in this Policy restrict coverage. Read the entire Policy carefully to determine rights, duties and what is and is not covered.

Throughout this Policy, the words "you" and "your" refer to the "named insured" shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section I – Insuring Agreements and Section VII – Definitions.

SECTION I – INSURING AGREEMENTS

Coverage under the following Insuring Agreements applies to "loss" (and "defense expenses" under Insuring Agreement 6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties)– resulting directly from a "cyber incident", "extortion threat", "security breach" or "claim" which is "discovered" during the policy period shown in the Declarations or during the period of time provided in the Extended Period To Discover Loss Condition 15.

Any "cyber incident", "extortion threat", "security breach" or "claim" that arises out of the same facts or circumstances and results in "loss" under one or more of the following Insuring Agreements will be deemed to be related and, as such, will be deemed to have been "discovered" during the earliest policy period that any such related "cyber incident", "extortion threat", "security breach" or "claim" was "discovered".

1. Security Breach Expense

We will pay for "loss" resulting directly from a "security breach" or "cyber incident" "discovered" during the policy period.

With respect to this Insuring Agreement:

- a. "Loss" means "security breach expenses".
- b. "Security breach expenses" means:

(1) Forensics

The costs to establish whether a "security breach" or "cyber incident" has occurred or is occurring.

If a "security breach" has occurred, the following costs are also included:

- (a) Costs to investigate the cause, scope and extent of a "security breach" and to identify any affected parties; and
- (b) Costs to determine any action necessary to remediate the conditions that led to or resulted from a "security breach" including, but not limited to, fees paid for legal and other professional advice on how to respond to the "security breach";

(2) Notification

Costs to notify all parties affected by a "security breach" including, but not limited to, notice to be transmitted through media

- (a) As required by "privacy regulations"; or
- (b) Subject to our prior approval, as appropriate on a voluntary basis.

(3) Overtime Salaries

Overtime salaries paid to "employees" assigned to handle inquiries from the parties affected by a "security breach";

(4) Call Center

Fees and costs of a company hired by you for the purpose of operating a call center to handle inquiries from the parties affected by a "security breach";

(5) Post-event Monitoring

Costs to provide credit and identity monitoring services to the affected parties of a "security breach" for up to one year, or longer if required by applicable law, from the date of notification to those affected parties of such "security breach"; and

(6) Other Expenses

Any other reasonable expenses incurred by you with our written consent.

"Security breach expenses" do not include any costs or expenses associated with upgrading or improving a "computer system" as a result of a "security breach".

2. Extortion Threats

We will pay for "loss" resulting directly from an "extortion threat" "discovered" during the policy period.

With respect to this Insuring Agreement:

a. "Loss" means "extortion expenses".

b. "Extortion expenses" means:

(1) Fees and costs of:

(a) A security firm; or

(b) A person or organization;

hired with our consent to determine the validity and severity of an "extortion threat" made against you;

(2) Interest costs paid by you for any loan from a financial institution taken by you to pay a ransom demand;

(3) Reward payments paid by you to an "informant" which lead to the arrest and conviction of parties responsible for "loss";

(4) Any other reasonable expenses incurred by you with our written consent, including:

(a) Fees and costs of independent negotiators; and

(b) Fees and costs of a company hired by you, upon the recommendation of the security firm, to determine how to protect your "electronic data" from further threats; and

(5) Ransom payments made in the form of cash, or virtual currency such as, but not limited to, Bitcoin.

c. "Informant" means a person, other than an "employee", providing information not otherwise obtainable, solely in return for a reward offered by you.

3. Replacement Or Restoration Of Electronic Data

We will pay for "loss" of your "electronic data" or "computer programs" stored within a "computer system" resulting directly from a "cyber incident" "discovered" during the policy period.

With respect to this Insuring Agreement:

a. "Loss" means the cost to replace or restore your "electronic data" or "computer programs" as well as the cost of data entry, reprogramming and computer consultation services.

"Loss" does not include the cost to duplicate research that led to the development of your "electronic data" or "computer programs". To the extent that any of your "electronic data" cannot be replaced or restored, we will pay the cost to replace the media on which such "electronic data" was stored with blank media of substantially identical type.

b. "Computer program" means a set of related electronic instructions, which direct the operation and function of a computer or devices connected to it, which enables the computer or devices to receive, process, store or send your "electronic data".

4. Business Income And Extra Expense

We will pay for "loss" due to an "interruption" resulting directly from a "cyber incident" or an "extortion threat" "discovered" during the policy period.

With respect to this Insuring Agreement:

a. "Loss" means the actual loss of "business income" you sustain and/or "extra expense" you incur.

- b. "Business income" means the:
 - (1) Net income (net profit or loss before income taxes) that would have been earned or incurred; and
 - (2) Continuing normal operating expenses incurred, including payroll.
- c. "Extra expense" means necessary expenses you incur:
 - (1) During an "interruption" that you would not have incurred if there had been no "interruption"; or
 - (2) To avoid or minimize the suspension of your "e-commerce activities".

"Extra expense" does not include:

 - (1) Any costs or expenses associated with upgrading, maintaining, repairing, remediating or improving a "computer system" as a result of a "cyber incident" or "extortion threat"; or
 - (2) "Extortion expenses" covered under Insuring Agreement 2. Extortion Threats.

5. Public Relations Expense

We will pay for "loss" due to "negative publicity" resulting directly from a "cyber incident" or a "security breach" "discovered" during the policy period.

With respect to this Insuring Agreement:

- a. "Loss" means "public relations expenses".
- b. "Public relations expenses" means:
 - (1) Fees and costs of a public relations firm; and
 - (2) Any other reasonable expenses incurred by you with our written consent; to protect or restore your reputation solely in response to "negative publicity".
- c. "Negative publicity" means information which has been made public that has caused, or is reasonably likely to cause, a decline or deterioration in the reputation of the "named insured" or of one or more of its products or services.

6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties.

- a. We will pay for:
 - (1) "Loss" that the "insured" becomes legally obligated to pay and "defense expenses" as a result of a "claim" "discovered" during the policy period for a "wrongful act" or a series of "interrelated wrongful acts" taking place on or after your first date of continuous coverage with us and before the end of the policy period.
 - (2) "Loss" and "defense expenses" as a result of a "claim" in the form of a "regulatory proceeding" "discovered" during the policy period in response to a "wrongful act" or a series of "interrelated wrongful acts" taking place on or after your first date of continuous coverage with us and before the end of the policy period.
 - (3) "Loss" and "defense expenses" as a result of a "claim" in the form of an action by a "card company" for non-compliance with the Payment Card Industry (PCI) Data Security Standards "discovered" during the policy period shown in the Declarations in response to a "wrongful act" or a series of "interrelated wrongful acts" taking place on or after your first date of continuous coverage with us and before the end of the policy period.
- b. With respect to this Insuring Agreement:
 - (1) "Loss" means:
 - (a) Compensatory damages, settlement amounts and costs awarded pursuant to judgments or settlements;
 - (b) Punitive and exemplary damages to the extent such damages are insurable by law; or
 - (c) Fines or penalties assessed against the "insured" to the extent such fines or penalties are insurable by law.

"Loss" does not include:

 - (i) Civil or criminal fines or penalties imposed by law, except civil fines or penalties as provided under Paragraph (c);
 - (ii) The multiplied portion of multiplied damages;
 - (iii) Taxes;

- (iv) Royalties;
 - (v) The amount of any disgorged profits; or
 - (vi) Matters that are uninsurable pursuant to law.
- (2) "Defense expenses" means the reasonable and necessary fees (attorneys' and experts' fees) and expenses incurred in the defense or appeal of a "claim", including the cost of appeal, attachment or similar bonds (without any obligation on our part to obtain such bonds) but excluding wages, salaries, benefits or expenses of your "employees".
- (3) "Wrongful act" means:
- Any actual or alleged:
- (a) "security breach";
 - (b) failure to prevent unauthorized access to, or use of, electronic or non-electronic data containing Identity Information;
 - (c) failure to prevent the transmission of a "virus" through a "computer system" into a computer network, any application software, or a computer operating system or related network that is not rented, owned, leased by, licensed to or under the direct operational control of the "insured"; or
 - (d) failure to provide notification of any actual or potential "security breach" if such notification is required by any security breach notification law,
- by, or asserted against, an "insured".
- (4) "Interrelated wrongful acts" means all "wrongful acts" that have as a common nexus any:
- (a) Fact, circumstance, situation, event, transaction or cause; or
 - (b) Series of causally connected facts, circumstances, situations, events, transactions or causes.
- (5) "Regulatory proceeding" means an investigation, demand or proceeding brought by, or on behalf of, the Federal Trade Commission, Federal Communications Commission, the Department of Health and Human Services or other administrative or regulatory agency, or any federal, state, local or foreign governmental entity in such entity's regulatory or official capacity.

7. Computer And Funds Transfer Fraud

- a. We will pay for:
- (1) "Loss" resulting directly from a fraudulent:
 - (a) Entry of "electronic data" or "computer program" into; or
 - (b) Change of "electronic data" or "computer program" within;
 a "computer system", provided the fraudulent entry or fraudulent change causes, with regard to Paragraphs **7.a.(1)** and **7.a.(2)**:
 - i. Money, securities or other property to be transferred, paid or delivered; or
 - ii. Your account at a financial institution to be debited or deleted.
 - (2) "Loss" resulting directly from a "fraudulent instruction" directing a financial institution to debit your "transfer account" and transfer, pay or deliver money or securities from that account.
- b. As used in Paragraph **7.a.(2)**, fraudulent entry or fraudulent change of "electronic data" or "computer program" shall include such entry or change made by an "employee" acting, in good faith, upon a "fraudulent instruction" received from a computer software contractor who has a written agreement with you to design, implement or service "computer programs" for a "computer system" covered under this Insuring Agreement.
- c. With respect to this insuring agreement:
- (1) "Loss" means:
 - (a) In Paragraph **7.a.(1)**:
 - i. Money, securities or other property to be transferred, paid or delivered; or
 - ii. Your account at a financial institution to be debited or deleted.
 - (b) In Paragraph **7.a.(2)**, transferring, paying or delivering money or securities from your "transfer account".
 - (3) "Fraudulent instruction" means:
 - (a) With regard to Paragraph **7.a.(2)**:
 - i. A computer, telegraphic, cable, teletype, telefacsimile, telephone or other electronic instruction directing a financial institution to debit your "transfer account" and to transfer, pay or deliver

money or securities from that "transfer account", which instruction purports to have been issued by you, but which in fact was fraudulently issued by someone else without your knowledge or consent.

- ii. A written instruction issued to a financial institution directing the financial institution to debit your "transfer account" and to transfer, pay or deliver money or securities from that "transfer account", through an electronic funds transfer system at specified times or under specified conditions, which instruction purports to have been issued by you, but which in fact was issued, forged or altered by someone else without your knowledge or consent.
- iii. A computer, telegraphic, cable, teletype, telefacsimile, telephone or other electronic or written instruction initially received by you, which instruction purports to have been issued by an "employee", but which in fact was fraudulently issued by someone else without your or the "employee's" knowledge or consent.

(b) With regard to Paragraph 7.b.:

A computer, telegraphic, cable, teletype, telefacsimile, telephone or other electronic, written or voice instruction directing an "employee" to enter or change "electronic data" or "computer programs" within a "computer system" covered under this Insuring Agreement, which instruction in fact was fraudulently issued by your computer software contractor.

(4) "Transfer account" means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of "money" and "securities":

(a) By means of computer, telegraphic, cable, teletype, telefacsimile, telephone or other electronic instructions; or

(b) By means of written instructions establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic funds transfer system.

SECTION II – LIMITS OF INSURANCE

1. **Policy Aggregate Limit Of Insurance** The most we will pay for all "loss", and "defense expenses" if covered, under this Policy is the Policy Aggregate Limit Of Insurance shown in the Declarations. The Policy Aggregate Limit of Insurance shall be reduced by the amount of any payment made under the terms of this Policy. Upon exhaustion of the Policy Aggregate Limit of Insurance by such payments, we will have no further obligations or liability of any kind under this Policy.
2. **Aggregate Sublimit(s) Of Insurance** Subject to the Policy Aggregate Limit of Insurance, the most we will pay for all "loss" covered under:
 - a. Paragraph **b.(5)** of Insuring Agreement 2. Extortion Threats is the Ransom Payments Aggregate Sublimit Of Insurance, if any, shown in the Declarations; and
 - b. Insuring Agreement 4. Business Income and Extra Expense is the Business Income and Extra Expense Aggregate Sublimit Of Insurance, if any, shown in the Declarations; and
 - b. Insuring Agreement 5. Public Relations Expense is the Public Relations Expense Aggregate Sublimit Of Insurance, if any, shown in the Declarations.

The Aggregate Sublimit(s) of Insurance in Paragraphs **2.a.**, **2.b.** and **2.c.** are part of, not in addition to, the Policy Aggregate Limit of Insurance. Any such Aggregate Sublimit(s) of Insurance shall be reduced by the amount of any payment for "loss" under the Insuring Agreement to which such Aggregate Sublimit of Insurance applies. Upon exhaustion of any Aggregate Sublimit of Insurance by such payments, we will have no further obligations or liability of any kind with respect to "loss" subject to such Sublimit of Insurance.

SECTION III – DEDUCTIBLE

Subject to Section II – Limits Of Insurance:

1. Under Insuring Agreements 1. Security Breach Expense, 2. Extortion Threats, 3. Replacement Or Restoration Of Electronic Data, 5. Public Relations Expense and 7. Computer And Funds Transfer Fraud:

We will pay only the amount of "loss" which is in excess of the Policy Deductible Amount shown in the Declarations.

2. Under Insuring Agreement 4. Business Income And Extra Expense:

We will pay only the amount of "loss" which exceeds the greater of the following deductible amounts:

- a. The Policy Deductible Amount shown in the Declarations; or

- b. The amount of "loss" incurred during the Time Deductible shown in the Declarations.
3. Under Insuring Agreement **6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties**:
- We will pay only the amount of "loss" and "defense expenses" which is in excess of the Policy Deductible Amount shown in the Declarations resulting from the same "wrongful act" or "interrelated wrongful acts". Such Policy Deductible Amount will be borne by you, self-insured, and at your own risk.
4. In the event a "loss" is covered under more than one Insuring Agreement, only the highest deductible amount applicable to the "loss" shall be applied.

SECTION IV – DEFENSE AND SETTLEMENT

The provisions contained within this section apply only to Insuring Agreement **6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties**:

We shall have the right and duty to select counsel and defend the "insured" against any "claim" covered under Insuring Agreement **6.a.(1) Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties**, even if the allegations of such

1. "claim" are groundless, false or fraudulent. However, we shall have the right but not the duty to defend the "insured" against a "claim" covered under Insuring Agreement **6.a.(2) Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties**, and we shall have no duty to defend the "insured" against any "claim" which is not covered under this Insuring Agreement.

We may, upon the written consent of the "insured", make any settlement of a "claim" which we deem reasonable. If the "insured" withholds consent to such settlement, our liability for all "loss" resulting from such "claim" will not exceed the amount for which we could have settled such "claim", plus

2. "defense expenses" incurred, as of the date we proposed such settlement in writing to the "insured". Upon refusing to consent to a settlement we deem reasonable, the "insured" shall, at its sole expense, assume all further responsibility for its defense, including all additional costs associated with the investigation, defense and/or settlement of such "claim".

SECTION V – EXCLUSIONS

We will not be liable for "loss" or "defense expenses" based upon, attributable to or arising out of:

1. Lightning, earthquake, hail, volcanic action or any other act of nature. However, this exclusion shall not apply to "loss" under Insuring Agreement **1. Security Breach Expense**, **5. Public Relations Expense** or **6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties**.
2. Any of the following:
 - a. War, including undeclared or civil war or civil unrest;
 - b. Warlike action by military force, including action hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
 - c. Insurrection, rebellion, revolution, usurped power or action taken by government authority in hindering or defending against any of these.
3. The dispersal or application of pathogenic or poisonous biological or chemical materials, nuclear reaction, nuclear radiation or radioactive contamination, or any related act or incident, however caused.
4. Bodily injury or physical damage to or destruction of tangible property, including loss of use thereof.

Bodily injury means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. It also means mental injury, mental anguish, mental tension, emotional distress, pain or suffering or shock sustained by any person.

However, "bodily injury" does not mean mental anguish or emotional distress resulting directly from a "security breach."
5. Any disruption in normal computer function or network service or function due to insufficient capacity to process transactions or due to an overload of activity on a "computer system" or network. However, this exclusion shall not apply if such disruption is caused by a "cyber incident".
6. Any disruption of:

- a. Internet service; or
 - b. Any external telecommunication network; regardless of the cause. However, this exclusion shall not apply if such disruption is caused by a denial of service attack under Paragraph **b.** of Definition **4.** "Cyber incident".
7. Any failure of, reduction in or surge of power, regardless of the cause.
 8. Any actual or alleged violation of the Racketeer Influenced and Corrupt Organizations Act (RICO) and its amendments, or similar provisions of any federal, state or local statutory or common law.
 9. Any malfunction or failure of any satellite.
 10. Any oral or written publication of material, if done by an "insured" or at an "insured's" direction with knowledge of its falsity.
 11. An "insured's" assumption of liability by contract or agreement, whether oral or written. However, this exclusion shall not apply to any liability that an "insured" would have incurred in the absence of such contract or agreement.
 12. Any actual or alleged patent or trade secret violation, including any actual or alleged violation of the Patent Act, the Economic Espionage Act of 1996 or the Uniform Trade Secrets Act and their amendments.
 13. Any of the following:
 - a. The actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;
 - b. Any request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - c. Any "claim" or "suit" brought by, or on behalf of, any governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".
 14. Any "claim", "suit" or other proceeding against an "insured" which was pending or existed prior to the policy period or arising out of the same or substantially the same facts, circumstances or allegations which are the subject of, or the basis for, such "claim", "suit" or other proceeding.
 15. Any actions or activities related to an "insured's" practices as an employer including, but not limited to, refusal to employ, termination of employment, coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution. This exclusion applies:
 - a. Whether the injury-causing event described above occurs before employment, during employment or after employment of that person;
 - b. Whether the insured may be liable as an employer or in any other capacity; and
 - c. To any obligation to share damages with or repay someone else who must pay damages because of the injury.

However, this exclusion will not apply to any "claim" resulting directly from a "privacy breach" related to the "personal information" of an "employee."

16. Any "cyber incident", "extortion threat", "security breach", "wrongful act" or "interrelated wrongful acts" that any "insured" became aware of prior to the effective date of the Policy.
17. The same facts, "cyber incident", "extortion threat", "security breach", "wrongful act" or "interrelated wrongful acts" alleged or contained in any "claim" which has been reported, or in any circumstances of which notice has been given, under any insurance policy of which this Policy is a renewal or replacement.
18. Any criminal, dishonest, malicious or fraudulent act or any willful violation of any statute or regulation committed by an "insured", acting alone or in collusion with others. However, with the exception of "claims" excluded under Exclusion **12.**, this exclusion shall not apply to dishonest, malicious or fraudulent acts committed by an "employee" which give rise to a "claim" or "loss" covered under Insuring Agreements **1.** Security Breach Expense and **6.** Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties.

With the exception of "claims" excluded under Exclusion **11.**, we will defend the "insured" against any "claim" alleging such acts or violations until final adjudication is rendered against that "insured". Final adjudication rendered against one "insured" shall not be imputed to any other "insured".

We will not provide indemnification for any "claim" to which any "insured" enters a guilty plea or pleads no contest and we will not provide a defense from the time we become aware that any "insured" intends to so plead.

19. Any action or proceeding brought by, or on behalf of, any governmental authority or regulatory agency including, but not limited to:
 - a. The seizure or destruction of property by order of a governmental authority; or
 - b. Regulatory actions or proceedings brought by, or on behalf of, the Federal Trade Commission, Federal Communications Commission or other regulatory agency, except when covered under Paragraph **a.(2)** of Insuring Agreement **6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties**

However, this exclusion shall not apply to actions or proceedings brought by a governmental authority or a regulatory agency acting solely in its capacity as a customer of the "named insured" or of a "subsidiary".
20. Any costs or expenses associated with upgrading or improving a "computer system" regardless of the reason.
21. Any "claim" brought or alleged by one "insured" against another, except for a "claim" brought or alleged by an "employee" against an "insured" as a result of a "security breach".
22. Fines, penalties or assessments imposed pursuant to contract or agreement, whether oral or written, including, but not limited to, Payment Card Industry (PCI) fines, penalties or assessments. This exclusion shall not apply to the coverage provided under Paragraph **(a) 3. Of Insuring Agreement 6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties**
23. Any costs related to loss of any virtual currency.
24. **Exclusions Applicable to Computer and Funds Transfer Fraud**
 - a. We will not be liable for "loss" resulting from:
 - (1) A fraudulent:
 - (a) Entry of "electronic data" or "computer program" into; or
 - (b) Change of "electronic data" or "computer program" within;

a "computer system", by a person or organization with authorized access to such "computer system", except when covered under Paragraph A.2.b.
 - (2) The use or purported use of credit, debit, charge, access, convenience, identification, stored-value or other cards or the information contained on such cards.
 - (3) The giving or surrendering of property in any exchange or purchase.
 - (4) An "employee" or financial institution acting upon any instruction to:
 - (a) Transfer, pay or deliver money, securities or other property; or
 - (b) Debit or delete your account;

which instruction proves to be fraudulent, except when covered under Paragraph **7.b.**
 - b. We will not be liable for "loss", or that part of any "loss", the proof of which as to its existence or amount is dependent upon:
 - (1) An inventory computation; or
 - (2) A profit and loss computation.

SECTION VI – CONDITIONS

1. Cancellation

- a. The first "named insured" shown in the Declarations may cancel this Policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this Policy by mailing or delivering to the first "named insured" written notice of cancellation at least:
 - (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- c. We will mail or deliver our notice to the first "named insured's" last mailing address known to us.
- d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- e. If this Policy is canceled, we will send the first "named insured" any premium refund due. If we cancel, the refund will be prorated. If the first "named insured" cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

2. Changes

This Policy contains all the agreements between you and us concerning the insurance afforded. The first "named insured" shown in the Declarations is authorized to make changes in the terms of this Policy with our consent. This Policy's terms can be amended or waived only by endorsement issued by us and made a part of

this Policy.

3. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this Policy at any time during the policy period shown in the Declarations and up to three years afterward.

4. Inspections And Surveys

- a. We have the right to:
 - (1) Make inspections and surveys at any time;
 - (2) Give you reports on the conditions we find; and
 - (3) Recommend changes.
- b. We are not obligated to make any inspections, surveys, reports or recommendations, and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - (1) Are safe or healthful; or
 - (2) Comply with laws, regulations, codes or standards.
- c. Paragraphs **4.a.** and **4.b.** of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

5. Premiums

The first "named insured" shown in the Declarations:

- a. Is responsible for the payment of all premiums; and
- b. Will be the payee for any return premiums we pay.

6. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this Policy may not be transferred without our written consent, except in the case of death of an individual "named insured".

If you are a sole proprietor and you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

7. Subrogation

With respect to any payment made under this Policy, we shall be subrogated to the "insured's" rights of recovery to the extent of such payment. The "insured" shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable us to bring suit in the "insured's" name. Any recoveries, less the cost of obtaining them, will be distributed as follows:

- a. To you, until you are reimbursed for any "loss" you sustain that exceeds the sum of the Policy Limit of Insurance and the Deductible Amount, if any;
- b. Then to us, until we are reimbursed for the payment made under this Policy; and
- c. Then to you, until you are reimbursed for that part of the payment equal to the Deductible Amount, if any.

8. Bankruptcy

Your bankruptcy, or the bankruptcy of your estate if you are a sole proprietor, will not relieve us of our obligations under this Policy.

9. Representations

You represent that all information and statements contained in the "application" are true, accurate and complete. All such information and statements are the basis for our issuing this Policy. Misrepresentation of any material fact may be grounds for the rescission of this Policy.

10. Changes In Exposure

a. Acquisition Or Creation Of Another Organization

If before or during the policy period:

- (1) You acquire securities or voting rights in another organization or create another organization which, as a result of such acquisition or creation, becomes a "subsidiary"; or
- (2) You acquire any organization through merger or consolidation;

then such organization will be covered under this Policy but only with respect to "wrongful acts" or "loss" which occurred after the effective date of such acquisition or creation provided, with regard to Paragraphs **10.a.(1)** and **10.a.(2)**, you:

- (a) Give us written notice of the acquisition or creation of such organization within 90 days after the effective date of such action;
- (b) Obtain our written consent to extend the coverage provided by this Policy to such organization; and
- (c) Upon obtaining our consent, pay us an additional premium.

b. Acquisition Of Named Insured

If during the policy period:

- (1) The "named insured" merges into or consolidates with another organization, such that the "named insured" is not the surviving organization; or
- (2) Another organization, or person or group of organizations and/or persons acting in concert, acquires securities or voting rights which result in ownership or voting control by the other organization(s) or person(s) of more than 50% of the outstanding securities or voting rights representing the present right to vote for the election of directors, trustees or managers (if a limited liability company) of the "named insured";

then the coverage afforded under this Policy will continue until the end of the policy period, but only with respect to "claims" arising out of "wrongful acts" or "loss" which occurred prior to the effective date of such merger, consolidation or acquisition.

The full annual premium for the policy period will be deemed to be fully earned immediately upon the occurrence of such merger, consolidation or acquisition of the "named insured".

The "named insured" must give written notice of such merger, consolidation or acquisition to us as soon as practicable, together with such information as we may reasonably require.

c. Cessation Of Subsidiaries

If, before or during the policy period, an organization ceases to be a "subsidiary", the coverage afforded under this Policy with respect to such "subsidiary" will continue until the end of the policy period but only with respect to "claims" arising out of "wrongful acts" or "loss" which occurred prior to the date such organization ceased to be a "subsidiary".

11. Other Insurance

Under Insuring Agreements **1. Security Breach Expense, 2. Extortion Threats, 3. Replacement Or Restoration Of Electronic Data, 5. Public Relations Expense:**

- a. If any covered "claim" or "loss" is insured by any other valid policy, then this Policy shall apply as primary only in excess of the amount of any deductible, whether such other policy is stated to be primary, contributory, excess, contingent or otherwise, unless such other policy is written specifically excess of this Policy by reference in such other policy to this Policy's policy number.
- b. When this Policy is excess, we shall have no duty under Insuring Agreement **6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties** to defend the "insured" against any "suit" if any other insurer has a duty to defend the "insured" against that "suit".

12. Legal Action Against Us

- a. No person or organization has a right:
 - (1) To join us as a party or otherwise bring us into a "suit" asking for damages from an "insured"; or
 - (2) To sue us under this Policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an "insured", but we will not be liable for damages that are not payable under Insuring Agreement **6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties**, or that are in excess of the Policy Aggregate Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the first "named insured" and the claimant or the claimant's legal representative.

- b. You may not bring any legal action against us involving "loss":
 - (1) Unless you have complied with all the terms of this Policy;
 - (2) Until 90 days after you have filed proof of loss with us; and
 - (3) Unless brought within two years from the date you reported the "loss" to us.

If any limitation in this condition is prohibited by law, such limitation is amended so as to equal the minimum period of limitation provided by such law.

13. Separation Of Insureds

Except with respect to the Policy Aggregate Limit of Insurance, and any rights or duties specifically assigned in

Insuring Agreement **6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties** to the first "named insured", this Policy applies separately to each "insured" against whom "claim" is made.

14. Duties In The Event Of Claim Or Loss

After a situation that results in, or may result in, a "loss" covered under this Policy is "discovered", you must notify us in writing as soon as practicable, but not to exceed 30 days from the date "discovered", and cooperate with us in the investigation and settlement of the "claim" or "loss". Additionally:

- a. Under Insuring Agreements **2. Extortion Threats**, **3. Replacement Or Restoration Of Electronic Data** and **7. Computer And Funds Transfer Fraud**, you must:
 - (1) Notify local law enforcement officials;
 - (2) Submit to examination under oath at our request and give us a signed statement of your answers; and
 - (3) Give us a detailed, sworn proof of loss within 120 days.
- (4) In addition, under Insuring Agreement **2. Extortion Threats**, you must:
 - (a) Determine that the "extortion threat" has actually occurred;
 - (b) With respect to "ransomware", make every reasonable effort to access your "electronic data" from backup, if any, and to remediate the cause of the "ransomware";
 - (c) Make every reasonable effort to immediately notify us before making any ransom payment based upon the "extortion threat"; and
 - (d) Approve any ransom payment based upon the "extortion threat".
- b. Under Insuring Agreement **6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties**, you must:
 - (1) Immediately record the specifics of the "claim" and the date "discovered";
 - (2) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
 - (3) Authorize us to obtain records and other information; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to you because of a "loss" to which this Policy may also apply.

You will not, except at your own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

15. Extended Period To Discover Loss

We will pay for "loss" (and "defense expenses" under Insuring Agreement **6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties Or Penalties**) resulting directly from any "cyber incident", "extortion threat", "security breach" or "claim" taking place prior to the effective date of cancellation of this Policy, which is "discovered" no later than 60 days from the date of that cancellation. However, this extended period to "discover" such "loss" terminates immediately upon the effective date of any other insurance obtained by you, whether from us or another insurer, replacing in whole or in part the coverage afforded under this Policy, whether or not such other insurance provides coverage for "loss" resulting directly from any "cyber incident", "extortion threat", "security breach" or "claim" taking place prior to its effective date.

16. Valuation – Settlement

- a. All premiums, limit(s) of insurance, deductible amounts, "loss" and any other monetary amounts under this Policy are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is agreed to or another component of "loss" under this Policy is expressed in any currency other than United States of America dollars, payment under this Policy shall be made in United States dollars at the rate of exchange published in The Wall Street Journal on the date the final judgment is entered, settlement amount is agreed upon or the other component of "loss" is due, respectively.
- b. With respect to "loss" covered under Insuring Agreement **4. Business Income And Extra Expense**:
 - (1) The amount of "business income" will be determined based on consideration of:
 - (a) The net income generated from your "e-commerce activities" before the "interruption" occurred;
 - (b) The likely net income generated by your "e-commerce activities" if no "interruption" had occurred, but not including any net income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the "cyber incident" on customers or on other businesses;
 - (c) The operating expenses, including payroll, necessary to resume your "e-commerce activities" with the same quality of service that existed before the "interruption"; and
 - (d) Other relevant sources of information, including your financial records and accounting procedures, bills, invoices and other vouchers, and debts, liens and contracts.

However, the amount of "business income" will be reduced to the extent that the reduction in the volume of business from the affected "e-commerce activities" is offset by an increase in the volume of business from other channels of commerce such as via telephone, mail or other sources.

(2) The amount of "extra expense" will be determined based on:

- (a) Necessary expenses that exceed the normal operating expenses that would have been incurred in the course of your "e-commerce activities" during the period of coverage if no "interruption" had occurred. We will deduct from the total of such expenses the salvage value that remains of any property bought for temporary use during the period of coverage once your "e-commerce activities" are resumed; and
- (b) Necessary expenses that reduce the "business income" "loss" that otherwise would have been incurred during the period of coverage.

17. Confidentiality

Under Insuring Agreement 2. Extortion Threats, "insureds" must make every reasonable effort not to divulge the existence of this coverage.

18. Territory

This Policy covers "wrongful acts" which occurred anywhere in the world. However, "suits" must be brought in the United States of America (including its territories and possessions), Puerto Rico or Canada.

19. Policy Bridge – Discovery Replacing Loss Sustained

- a. If this Policy replaces insurance that provided you with an extended period of time after cancellation in which to "discover" "loss" resulting directly from any "cyber incident", "extortion threat", "security breach" or "claim" and which did not terminate at the time this Policy became effective:
 - (1) We will not pay for any "loss" resulting directly from any "cyber incident", "extortion threat", "security breach" or "claim" that occurred during the policy period of that prior insurance which is "discovered" during such extended period of time, unless the amount of that "loss" exceeds the Limit of Insurance and Deductible Amount of that prior insurance. In that case, we will pay for the excess "loss" subject to the terms and conditions of this Policy.
 - (2) However, any payment we make for the excess "loss" will not be greater than the difference between the Limit of Insurance and Deductible Amount of that prior insurance and the Limit Of Insurance shown in the Declarations. We will not apply the Deductible Amount shown in the Declarations to this excess "loss".
- b. Condition 11. Other Insurance does not apply to this condition.

SECTION VII – DEFINITIONS

- 1. "Application" means the signed application for this Policy, including any attachments and other materials submitted in conjunction with the signed application.
- 2. "Card company" means American Express, Discover Financial Services, JCB International, MasterCard Worldwide, Visa Inc. or any other credit card company that requires its merchants to adhere to the Payment Card Industry (PCI) Data Security Standards.
- 3. "Claim" means:
 - a. A written demand for monetary or nonmonetary damages, including injunctive relief;
 - b. A civil proceeding commenced by the service of a complaint or similar proceeding;
 - c. Under Paragraph a.(2) of Insuring Agreement 6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties, a "regulatory proceeding" commenced by the filing of a notice of charges, formal investigative order, service of summons or similar document; or
 - d. Under Paragraph a) 3. Of Insuring Agreement 6. Security Breach Liability Including Payment Card Industry (PCI) Fines and Penalties an action brought by a "card company" of the Payment Card Industry (PCI), against any "insured" for a "wrongful act", including any appeal therefrom.
- 4. "Computer system" means any computer, including transportable or handheld devices, electronic storage devices and related peripheral components; any systems and applications software, or any related telecommunications networks connected to or used in connection with such computer or devices:
 - a. Which collects, transmits, processes, stores or retrieves your "electronic data"; and
 - b. Which is:
 - (1) Owned by you;
 - (2) Leased by you and operated by any "insured";

- (3) Owned and operated by an "employee" who has agreed in writing to your personal device use policy;
or
 - (4) Operated by an authorized "third party", but only with respect to your "electronic data".
5. "Cyber incident" means:
- a. Any:
 - (1) "Hacker" attack;
 - (2) Malicious code; or
 - (3) "Virus";

that is directed at, enacted upon or introduced into a "computer system" (including your "electronic data") and is designed to access, alter, corrupt, damage, delete, destroy, disrupt, encrypt, use or prevent or restrict access to or the use of any part of a "computer system" (including your "electronic data") or otherwise disrupt its normal functioning or operation.

Recurrence of the same "virus" after a "computer system" has been restored shall constitute a separate "cyber incident".
 - b. Any denial of service attack specifically directed at you which disrupts, prevents or restricts access to or use of a "computer system", as defined in Paragraph 3.b.(1), (2) or (3), or otherwise disrupts its normal functioning or operation.
6. "Discover" or "discovered" means the time when any "insured" first becomes aware of facts which would cause a reasonable person to assume that a "loss" covered by this Policy has been or will be incurred, regardless of when the act or acts causing or contributing to such "loss" occurred, even though the exact amount or details of "loss" may not then be known.
- "Discover" or "discovered" also means the time when any "insured" first receives notice of an actual or potential "claim" in which it is alleged that you are liable to a third party under circumstances which, if true, would constitute a "loss" under this Policy.
7. "E-commerce activities" means those activities conducted by you in the normal conduct of your business via your web site or your e-mail system.
8. "Electronic data" means information, facts, images or sounds stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software) on electronic storage devices including, but not limited to, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment. "Electronic data" is not tangible property.
- "Electronic data" does not include your "electronic data" that is licensed, leased, rented or loaned to others.
9. "Employee" means any natural person who was, now is or will be:
- a. Employed on a full- or part-time basis;
 - b. Furnished temporarily to you to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions;
 - c. Leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph 8.b.;
 - d. An officer;
 - e. A director, trustee or manager (if a limited liability company);
 - f. A volunteer worker; or
 - g. A partner or member (if a limited liability company);
- of the "named insured" and those of any organization qualifying as a "subsidiary" under the terms of this Policy, but only while acting within the scope of their duties as determined by the "named insured" or such "subsidiary".
10. "Extortion threat" means a threat or series of related threats:
- a. To perpetrate a "cyber incident";
 - b. To disseminate, divulge or utilize:
 - (1) Your proprietary information; or
 - (2) Weaknesses in the source code;

within a "computer system" by gaining unauthorized access to such "computer system";
 - c. To destroy, corrupt or prevent normal access to a "computer system" (including your "electronic data") by gaining or having gained unauthorized access to a "computer system";
 - d. To inflict "ransomware" on a "computer system"; or

e. To publish your client's or "employee's" "personal information".

"Extortion threat" does not include a threat or series of threats to any "third party".

11. "Hacker" means a person who accesses a "computer system" (including your "electronic data") who is:

- a. Not authorized to have such access; or
- b. Authorized to have such access but who uses such access in an unauthorized manner.

12. "Insured" means any "named insured" and its "employees".

13. "Interrelated wrongful acts" means the definition set forth in Insuring Agreement 6. of Section I – Insuring Agreements.

14. "Interruption" means:

a. With respect to a "cyber incident":

- (1) An unanticipated cessation or slowdown of your "e-commerce activities"; or
- (2) Your suspension of your "e-commerce activities" for the purpose of avoiding or mitigating the possibility of transmitting a "virus" or malicious code to another person or organization;

and, with regard to Paragraphs 13.a.(1) and 13.a.(2), shall be deemed to begin when your "e-commerce activities" are interrupted and ends at the earliest of:

- (a) 90 days after the "interruption" begins;
- (b) The time when your "e-commerce activities" are resumed; or
- (c) The time when service is restored to you.

b. With respect to an "extortion threat", your voluntary suspension of your "e-commerce activities":

- (1) Based upon clear evidence of a credible threat; or
- (2) Based upon the recommendation of a security firm, if any;

and, with regard to Paragraphs 13.b.(1) and 13.b.(2), shall be deemed to begin when your "e-commerce activities" are interrupted and ends at the earliest of:

- (a) 14 days after the "interruption" begins;
- (b) The time when your "e-commerce activities" are resumed; or
- (c) The time when service is restored to you.

15. "Loss" means the definitions set forth in each of the respective Insuring Agreements 1. through 7. of Section I – Insuring Agreements.

16. "Named insured" means the entity or entities shown in the Declarations and any "subsidiary".

17. "Personal information" means any information not available to the general public for any reason through which an individual may be identified including, but not limited to, an individual's:

- a. Social security number, driver's license number or state identification number;
- b. Protected health information;
- c. Financial account numbers;
- d. Security codes, passwords, PINs associated with credit, debit or charge card numbers which would permit access to financial accounts; or
- e. Any other nonpublic information as defined in "privacy regulations".

18. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

19. "Privacy regulations" means any of the following statutes and regulations, and their amendments, associated with the control and use of personally identifiable financial, health or other sensitive information including, but not limited to:

- a. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191);
- b. The Health Information Technology for Economic and Clinical Health Act (HITECH) (American Recovery and Reinvestment Act of 2009);
- c. The Gramm-Leach-Bliley Act of 1999;
- d. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)), but solely for alleged unfair or deceptive acts or practices in or affecting commerce;
- e. The Identity Theft Red Flags Rules under the Fair and Accurate Credit Transactions Act of 2003; or
- f. Any other similar state, federal or foreign identity theft or privacy protection statute or regulation.

20. "Ransomware" means any software that is used to demand a ransom payment by:

- a. Restricting access to a "computer system"; or
- b. Encrypting your "electronic data" held within a "computer system".

21. "Security breach" means a privacy breach that includes the acquisition of "personal information" held within a

"computer system" or in non-electronic form at while in the care, custody or control of the "insured" or authorized "third party" by a person:

- a. Not authorized to have access to such information; or
- b. Authorized to have access to such information but whose access results in the unauthorized disclosure of such information.

22. "Subsidiary" means any organization in which more than 50% of the outstanding securities or voting rights representing the present right to vote for the election of directors, trustees, managers (if a limited liability company) or persons serving in a similar capacity is owned, in any combination, by one or more "named insured(s)".

23. "Suit" means a civil proceeding in which damages to which this Policy applies are claimed against the "insured". "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the "insured" submits with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the "insured" submits with our consent.

"Suit" does not include a civil proceeding seeking recognition and/ or enforcement of a foreign money judgment.

24. "Third party" means any entity that you engage under the terms of a written contract to perform services for you.

25. "Virus" means any kind of malicious code designed to damage or destroy any part of a "computer system" (including your "electronic data") or disrupt its normal functioning.

26. "Wrongful act" means the definition set forth in Insuring Agreement 6. of Section I – Insuring Agreements.