

The Declarations along with the completed and signed **application** and the Policy with endorsements will constitute the contract between **you** and **us**. In consideration of the payment of the premium, in reliance upon the **application**, and subject to the Declarations and the terms and conditions of this Policy, **you** and **we** agree as follows:

I. INSURING AGREEMENTS

A. NETWORK SECURITY AND PRIVACY LIABILITY

We will pay on **your** behalf all **damages** and **claims expense**, within the Limit of Liability and in excess of the **deductible**, which **you** become legally obligated to pay as a result of any **claim** arising out of a **wrongful act** committed by **you**, or any person or entity for whose **wrongful act you** are legally responsible, provided that the **claim**:

1. is first made against **you** during the **policy period** or any Extended Reporting Period (if applicable);
2. arises out of a **wrongful act** committed on or after the **retroactive date** and before the end of the **policy period**; and
3. is reported to **us** pursuant to section V.D of this Policy.

B. MULTIMEDIA LIABILITY

We will pay on **your** behalf all **damages** and **claims expense**, within the Limit of Liability and in excess of the **deductible**, which **you** become legally obligated to pay as a result of any **claim** arising out of any **wrongful act** committed in the course of **media activities** by **you**, or any person or entity for whose **wrongful act you** are legally responsible, provided that the **claim**:

1. is first made against **you** during the **policy period** or any Extended Reporting Period (if applicable);
2. arises out of a **wrongful act** committed on or after the **retroactive date** and before the end of the **policy period**; and
3. is reported to **us** pursuant to section V.D of this Policy.

C. INCIDENT RESPONSE EXPENSE

We will pay on behalf of the **named insured** or a **subsidiary** for **incident response expense**, within the Limit of Liability and in excess of the **deductible**, which are incurred by the **named insured** or a **subsidiary** as a result of a:

1. **data breach**;
2. **computer system disruption**;
3. **data loss**;
4. **cyber theft**; or
5. a **cyber extortion and ransomware threat**,

that is first discovered by a member of the **control group** during the **policy period** and reported to **us** pursuant to section V.D of this Policy.

D. BUSINESS INTERRUPTION LOSS AND EXTRA EXPENSE

We will reimburse **you** for **income loss**, **extra expense**, and **special expense**, within the Limit of Liability and in excess of the **deductible**, which are incurred by the **named insured** or a **subsidiary** during the **period of restoration** and **extended interruption period** (if applicable), as a result of a **computer system disruption** from a **covered cause of loss** that is first discovered by a member of the **control group** during the **policy period** and reported to **us** pursuant to section V.D of this Policy.

E. DATA RESTORATION EXPENSE

We will reimburse **you** for **restoration expense** and **special expense**, within the Limit of Liability and in excess of the **deductible**, which are incurred by the **named insured** or a **subsidiary** as a result of **data loss** from a **covered cause of loss** that is first discovered by a member of the **control group** during the **policy period** and reported to **us** pursuant to section V.D of this Policy.

F. CYBER THEFT AND SOCIAL ENGINEERING LOSS

We will reimburse **you** for **financial loss**, within the Limit of Liability and in excess of the **deductible**, which is incurred by the **named insured** or a **subsidiary** as a result of a **cyber theft** that is first discovered by a member of the **control group** during the **policy period** and reported to **us** pursuant to section V.D of this Policy.

G. CYBER EXTORTION AND RANSOMWARE EXPENSE

We will reimburse **you** for **cyber extortion and ransomware expense**, within the Limit of Liability and in excess of the **deductible**, which is incurred by the **named insured** or a **subsidiary** as a result of a **cyber extortion and ransomware threat** that is first discovered by a member of the **control group** during the **policy period** and reported to **us** pursuant to section V.D of this Policy.

II. DEFENSE, INVESTIGATION, AND SETTLEMENT OF CLAIMS AND FIRST-PARTY EVENTS

A. **We** have the right and duty to defend any **claim** against **you** even if such **claim** is groundless or fraudulent; however **our** right and duty to defend **you** under this Policy ends when the applicable Limit of Liability has been exhausted by payments of **damages**, **claims expenses**, and **first-party expense**.

B. Defense counsel will be mutually agreed upon between **you** and **us**, but in the absence of such agreement, **our** decision will be final.

C. **We** have the right to investigate any **claim** or **first-party event** in the manner and to the extent that **we** believe is proper unless the total cost of **damages**, **claims expense**, and **first-party expense** is less than the amount remaining in **your deductible**.

- D. **You** may not make any payment (except at **your** own cost), assume any obligation, or incur any expense in relation to a **claim** without **our** prior written consent, which will not be unreasonably withheld, conditioned or delayed. However, **we** agree that:
1. **our** consent will not be required for **claims expense** incurred within the **deductible**; and
 2. **you** may settle any **claim** where the **damages** and **claims expense** combined do not exceed the **deductible**, but only if the entire **claim** is resolved and **you** obtain a full release from all claimants.
- E. **We** will not settle any **claim** without the prior written consent of the **named insured**. However, if the **named insured** refuses to consent to any settlement or compromise recommended by **us** which is also acceptable to the claimant, where the total cost of **damages** and **claims expense** would be in excess of the **deductible**, if such a settlement were consummated, and then elects to contest the **claim**, **our** liability for any **damages** and **claims expenses** will not exceed
1. the amount for which the **claim** could have been settled, less the **deductible**, plus the **claims expenses** incurred up to the time of such refusal; and
 2. eighty percent (80%) of any **damages** and **claims expenses** incurred after the date such settlement or compromise was refused by the **named insured**,
- or the applicable Limit of Liability, whichever is less.

III. DEFINITIONS

- A. **Application** means all insurance applications, including any attachments thereto, and all other information and materials submitted by or on behalf of the **named insured** to **us** in connection with the underwriting of this Policy.
- B. **Breach advisory services** means any of the following expenses incurred by the **named insured** or a **subsidiary** with **our** prior written consent, which will not be unreasonably withheld, conditioned, or delayed for a lawyer or breach response consultant to:
1. establish attorney-client privilege with **you** and coordinate any applicable **incident investigation and remediation services, public relations services, notification services, or identity theft remediation services**, on **your** behalf;
 2. advise on the applicability and actions necessary to comply with **your** ethical, professional, contractual, and regulatory requirements as well as security and privacy breach notification laws; and
 3. communicate a litigation hold to preserve potential evidence (if applicable),
- following a **data breach** or a **cyber extortion and ransomware threat**.

- C. **Claim** means:
1. a civil, disciplinary, administrative, licensing board, professional, or regulatory proceeding other than an investigation commenced by the filing of a complaint, notice of charges or similar pleading;
 2. an arbitration, mediation, or other alternative dispute resolution proceeding;
 3. a written demand for services or monetary relief;
 4. written notice by **you** to **us** of circumstances that could give rise to a **claim**; or
 5. a request received to toll or waive a statute of limitations,

including, where applicable, any appeal therefrom, and alleging a **wrongful act**. **Claim** will also include an administrative or regulatory investigation, but only if **you** give written notice of such investigation to **us** pursuant to section V.D of this Policy and request that **we** treat such investigation as a **claim** under this Policy, provided further that such **claim** will be deemed to have been made when such notice is given to **us**. Also, with respect to an investigation that constitutes a **claim** pursuant to the foregoing sentence, the term **wrongful act** also means the matter(s) that gave rise to such investigation.

All **claims** arising out of the same **wrongful act** or which have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of connected facts, circumstances, situations, events, transactions, or causes will be considered a single **claim** regardless of the number of events, allegations, claimants, defendants or causes of action, and will be deemed first made on the date the earliest of such **claims** is first made or, in the event of a **claim** that is an investigation, it will be deemed first made on the date **you** first give **us** written notice of such investigation, regardless of whether such date is before or during the **policy period**.

- D. **Claims expense** means reasonable and necessary:
1. fees or disbursements charged by a lawyer to defend any **claim**;
 2. expenses incurred by **you** with **our** prior written consent, which will not be unreasonably withheld, conditioned, or delayed, to respond to a subpoena for documents or witness testimony and attend court, tribunal, arbitration, adjudication, mediation, or other hearings in connection with any **claim** covered by this Policy;
 3. premiums for any appeal bond, attachment bond, or similar bond; however, **we** will have no obligation to apply for or furnish such bond; and
 4. mediation costs, arbitration expenses, expert witness fees, and other fees, costs, and expenses resulting from investigation, adjustment, defense, and appeal of a **claim** arising in connection therewith, if incurred by **us**, or by **you** with **our** written consent, which will not be unreasonably withheld, conditioned or delayed.

Claims expense does not include any salaries, overheads or other charges **you** incur for any time **you** spend in cooperating in the defense and investigation of any **claim** or circumstance which could give rise to a **claim** under this Policy, except as provided in section III.D.2 of this Policy. **Claims expenses** are part of, not in addition to, the Limit of Liability.

- E. **Computer system disruption** means total or partial interruption, degradation in service or failure of **your computer system** caused by a **covered cause of loss**. A **computer system disruption** will be deemed to occur that such event is first discovered by a member of the **control group**. All **computer system disruptions** which have as a common nexus any fact, circumstance, situation, event, transaction,

cause or series of connected facts, circumstances, situations, events, transactions, or causes will be considered a single **computer system disruption** and will be deemed to have occurred on the date the earliest of such **computer system disruption** is deemed to have occurred.

F. **Confidential information** means any proprietary or private information transmitted, disseminated or stored in any manner or medium including:

1. business data, legal data, commercial financial data, FEIN numbers, tax data, employment data, account numbers, account histories, passwords, security codes, competitive data, marketing data, strategies and planning data, research and development data, product data, vendor data, contractor data, and customer data;
2. trade secrets, patent applications, data, designs, forecasts, formulas, methods, practices, processes, records, reports or other items of information; and
3. data subject to a non-disclosure agreement or contractual provisions that stipulate the confidentiality of data,

which is in care, custody, or control of the **named insured** or a **subsidiary** or in the care, custody, or control of any person or entity holding, hosting, storing, maintaining, managing, processing, disposing of, or transmitting such information on behalf of the **named insured** or a **subsidiary** and is not available to the general public.

G. **Control group** means the individuals that previously held or currently holds any of the following positions at the **named insured**: Chief Executive Officer, Chief Financial Officer, General Counsel, Director of Risk Management, or any other position that has substantially similar responsibilities as those referenced above, irrespective of the exact title of such position.

H. **Covered cause of loss** means:

1. any of the following computer attacks on **your computer system** committed by anyone other than members of the **control group**:
 - a. hacker attacks intended to result in unauthorized access to, unauthorized use of, or malicious damage to **your computer system** by any means including techniques for bypassing technical security or social engineering techniques;
 - b. denial of service attacks intended to deliberately overload bandwidth connections, web sites or web servers by sending substantial quantities of repeat or irrelevant communications, packets, or data with the intent of degrading or blocking access to **your computer system**;
 - c. **cyber extortion or ransomware threats**; or
 - d. malicious code designed to erase or corrupt data or damage or disrupt **your computer system**;
2. any act, error, or omission resulting in:
 - a. physical damage to or destruction of electronic storage media on **your computer system** resulting in **data loss**;
 - b. physical damage to or destruction of computer hardware resulting in **data loss**;
 - c. electrostatic build-up and static electricity resulting in **data loss**;
 - d. under voltage, over voltage, or failure of power supplies under the operational control of the **named insured** or a **subsidiary** resulting in **data loss**;
 - e. data creation, entry, or modification errors; or
 - f. failures in the on-going operation, administration, upgrading, and maintenance of **your computer system**, excluding the design, architecture, or configuration of **your computer system**.

A **covered cause of loss** will be deemed to occur at the time such event is first discovered by a member of the **control group**. All **covered causes of loss** which have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of connected facts, circumstances, situations, events, transactions, or causes will be considered a single **covered cause of loss** and will be deemed to have occurred on the date the earliest of such **covered cause of loss** is deemed to have occurred.

I. **Cyber extortion and ransomware expense** means expenses incurred by the **named insured** or a **subsidiary** with our prior written consent, which will not be unreasonably withheld, conditioned, or delayed, to terminate a **cyber extortion and ransomware threat**, including:

1. **money** or other consideration paid to satisfy a demand by an extortionist in conjunction with a **cyber extortion and ransomware threat**; and
2. a third-party extortion consultant retained to investigate, respond to, and assist with terminating a **cyber extortion and ransomware threat**.

J. **Cyber extortion and ransomware threat** means a credible threat made by anyone other than a member of the **control group** to perpetrate or continue a **data breach** or a **covered cause of loss** unless an extortion demand for **money, securities, or other property** is satisfied by the **named insured** or a **subsidiary**. A **cyber extortion and ransomware threat** will be deemed to occur at the time such event is first discovered by a member of the **control group**. All **cyber extortion and ransomware threats** which have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of related or connected facts, circumstances, situations, events, transactions, or causes will be considered a single **cyber extortion and ransomware threat** and will be deemed to have occurred on the date the earliest of such **cyber extortion and ransomware threat** is deemed to have occurred.

K. **Cyber theft** means **financial loss** incurred by the **named insured** or any **subsidiary** as a direct result of:

1. the transfer of funds by **you**, in good faith, from the **named insured's** or **subsidiary's** bank, escrow, or **securities** accounts, or from a **named insured's** or **subsidiary's** client's bank, escrow, or **securities** accounts to a third party in reasonable reliance on fraudulent or deceptive communications directing **you** to transfer or pay the funds to a third party under false pretenses, but only where **you** verbally confirm and verify wire instructions prior to transferring the funds;
2. the theft of funds from the **named insured's** or **subsidiary's** bank, escrow, or **securities** accounts, or from a **named insured's** or **subsidiary's** client's bank, escrow, or **securities** accounts as a result of fraudulent or deceptive communications from a third party directing the bank or **securities** broker to transfer or pay the funds to a third party under false pretenses without **your** knowledge or consent; or

3. fraudulent or dishonest use of **your computer system** or telephone system to steal service, bandwidth, **money, securities, or other property**.

A **cyber theft** will be deemed to occur at the time such event is first discovered by a member of the **control group**. All **cyber theft** which have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of connected facts, circumstances, situations, events, transactions, or causes will be considered a single **cyber theft** and will be deemed to have occurred on the date the earliest of such **cyber theft** is deemed to have occurred.

- L. **Damages** means any amount **you** become legally obligated to pay because of a judgment, award, settlement, fine, penalty, or the like rendered against **you** including, but not limited to:
1. pre-judgment interest and post-judgment interest;
 2. punitive or exemplary damages or any damages which are a multiple of compensatory damages, where insurable by law. For purposes of this provision, the law of the applicable jurisdiction most favorable to insurability of such damages will be applied;
 3. fines, penalties or sanctions **you** are legally obligated to pay due to an adverse judgement or settlement arising out of a disciplinary, administrative, or regulatory proceeding, where insurable by law. For the purposes of this provision, the law of the applicable jurisdiction most favorable to insurability of such damages will be applied;
 4. sums of **money you** are legally obligated to pay as an award or fund for affected individuals for the payment of consumer or client **claims** due to an adverse judgment or settlement arising out of regulatory, administrative, or disciplinary proceeding, where insurable by law. For the purposes of this provision, the law of the applicable jurisdiction most favorable to insurability of such damages will be applied;
 5. attorney's fees and attorney's expense included as part of a judgment, award, or settlement;
 6. fees, costs, and expenses to implement a Corrective Action Plan, which **you** are required to implement by the Federal Trade Commission or the Office for Civil Rights as part of a Resolution Agreement, but only where such Corrective Action Plan is the result of a violation of privacy rules due to a **wrongful act**;
 7. fines, assessments, or penalties that **you** are obligated to pay under the terms of a Card Brand or merchant services agreement, but only where such fines, assessments, or penalties result from noncompliance with PCI-DSS or similar standards due to a **wrongful act**; and
 8. fees, costs, and expenses allocated to that **you** are obligated to pay under the terms of a Card Brand or merchant services agreement including, but not limited to chargebacks, reimbursements, card reissuance costs, service fees, and fraud recoveries, but only where such fees, costs, and expenses result from noncompliance with PCI-DSS or similar standards due to a **wrongful act**.

If the **named insured** presents a good faith argument in writing including, but not limited to a written opinion of counsel, that any such damages, fines, penalties, sanctions or other amounts are insurable under applicable law, **we** shall not challenge that determination.

Damages does not mean or include:

- a. **your** future royalties or future profits, restitution, disgorgement of profits by **you**, or the costs of complying with orders granting injunctive relief;
- b. return or offset of fees, charges, or commissions for goods or services already provided or contracted to be provided; or
- c. any amounts for which **you** are not liable, or for which there is no legal recourse against **you**.

However, for purpose of exceptions a, b, and c above, the terms "**your**" and "**you**" do not include any person or entity added to this Policy as an additional insured as defined in section III.QQ.7 of this Policy.

- M. **Data breach** means theft, mysterious disappearance, unintentional, or accidental disclosure of, or unauthorized access to, **your** data including, but not limited to, **personally identifiable non-public information** or **confidential information** that is in care, custody, or control of the **named insured** or a **subsidiary**, or in the care, custody, or control of any person or entity that is holding, hosting, storing, maintaining, processing, disposing of, or transmitting such information on behalf of the **named insured** or a **subsidiary**. A **data breach** will be deemed to occur at the time such event is first discovered by a member of the **control group**. All **data breaches** which have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of connected facts, circumstances, situations, events, transactions, or causes will be considered a single **data breach** and will be deemed to have occurred on the date the earliest of such **data breach** is deemed to have occurred.

- N. **Data loss** means:

1. damage, alteration, corruption, distortion, theft, misuse or destruction of electronic information, software and firmware on **your computer system**; and
2. inability to access electronic information, software and firmware on **your computer system**,

which is caused by a **covered cause of loss**. **Data loss** will be deemed to occur at the time such event is first discovered by a member of the **control group**. All **data losses** which have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of connected facts, circumstances, situations, events, transactions, or causes will be considered a single **data loss** and will be deemed to have occurred on the date the earliest of such **data loss** is deemed to have occurred.

- O. **Deductible** means the applicable amounts for each **claim** or **first-party event** set forth in Item 5 of the Declarations.
- P. **Extra expense** means any additional the fees, costs, and expenses over and above normal operating expense incurred by the **named insured** or a **subsidiary** during the **period of restoration** to avoid or minimize the partial or total suspension of the **named insured's** or **subsidiary's** operations resulting from a **computer system disruption**.
- Q. **Extended interruption period** means the period of time that:
1. begins on the date and time that the **period of restoration** ends; and

2. terminates on the date and time that **you** restore, or **you** would have restored by exercising due diligence and dispatch, the **named insured's** or **subsidiary's** net profit before income taxes that would have been earned through business operations had the **computer system disruption** not occurred.

However, in no event will the **extended interruption period** mean more than or exceed three hundred and sixty-five (365) days.

R. **Financial loss** means loss of **money, securities, services, or other property** which is directly caused by **cyber theft**; however, **financial loss** does not mean or include:

1. any amounts reimbursed by a financial institution; or
2. funds transferred by **you** pursuant to e-mail or faxed wire instructions if **you** failed to verbally confirm and verify wire instructions prior to transferring the funds.

S. **First-party event** means any:

1. **data breach**;
2. **computer system disruption**;
3. **data loss**;
4. **cyber theft**; or
5. **cyber extortion and ransomware threat**.

A **first party event** will be deemed to occur at the time such event is first discovered by a member of the **control group**. All **first-party events** which have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of connected facts, circumstances, situations, events, transactions, or causes will be considered a single **first-party event** and will be deemed to have occurred on the date the earliest of such **first-party event** is deemed to have occurred.

T. **First-party expense** means all:

1. **incident response expense**;
2. **income loss**;
3. **extra expense**;
4. **special expense**;
5. **restoration expense**;
6. **financial loss**; and
7. **cyber extortion and ransomware expense**.

U. **Identify theft remediation services** means any of the following expenses incurred by the **named insured** or a **subsidiary** with **our** prior written consent, which will not be unreasonably withheld, conditioned, or delayed, that the **named insured** or a **subsidiary** are either legally obligated to pay, or not legally obligated to pay, but elect to incur to remediate reputational damage or to mitigate or avoid a **claim**:

1. costs to hire breach response specialists to establish credit monitoring, healthcare record monitoring, identity monitoring, identity theft assistance, and an incident help line, for a period of up to twenty-four (24) months from the date of enrollment in such services for individuals or organizations impacted by a **data breach**, but only where such individual or organization actually enrolls for, and redeems, such services. This Policy does not cover any costs arising out of credit monitoring, healthcare record monitoring, identity monitoring, or identity theft assistance for individuals or organizations that have not enrolled for and redeemed such services; and
2. costs to procure identity restoration services or identity theft insurance for individuals or organizations impacted by a **data breach**.

V. **Incident investigation and remediation services** means any of the following expenses incurred by the **named insured** or a **subsidiary** with **our** prior written consent, which will not be unreasonably withheld, conditioned or delayed, for forensics and information security consultants to:

1. conduct a forensic investigation **your computer system**:
 - a. to determine the existence, source, and scope of a **data breach, computer system disruption, data loss, cyber theft, or cyber extortion and ransomware threat**; or
 - b. as required by a regulatory body, client contract, or under the terms of a Card Brand or merchant services agreement including, but not limited to a requirement for an independent forensic investigation conducted by a Payment Card Industry Forensic Investigator (PFI);
2. provide initial advice to remediate the impact of a **data breach, computer system disruption, data loss, cyber theft, or cyber extortion and ransomware threat**;
3. preserve relevant data for potential electronic discovery and electronic evidence purposes;
4. contain and remove any malware discovered on **your computer system**;
5. mitigate any such **data breach, computer system disruption, data loss, cyber theft, or cyber extortion and ransomware threat**;
6. recertify that **your computer system** meets PCI-DSS or similar standards following a **data breach**, but only when required by a regulatory body, client contract, or under the terms of a Card Brand or merchant services agreement;
7. provide expert witness testimony at any trial or hearing arising from the **data breach, computer system disruption, data loss, cyber theft, or cyber extortion and ransomware threat**; and
8. provide post breach remediation and breach prevention services to **you** including an information security risk assessment, information security gap analysis, an information security document set, and an information security awareness training session.

W. **Incident response expense** means:

1. With respect to a **data breach, incident response expense** means **breach advisory services, incident investigation and remediation services, public relations services, notification services, and identity theft remediation services**;
2. With respect to a **computer system disruption, data loss, and cyber theft, incident response expense** means **incident investigation and remediation services, and public relations services**; and

3. With respect to a **cyber extortion and ransomware threat, incident response expense** means **breach advisory services, incident investigation and remediation services, public relations services, and notification services.**

X. **Income loss** means:

1. the net profit before income taxes the **named insured** and any **subsidiary** are prevented from earning during the **period of restoration** and **extended interruption period** due to a loss of revenue (including the loss of clients, loss of fees, contractual penalties, loss of sales, loss of billable hours, and loss of revenue from other sources) caused by a **computer system disruption**; or
2. the net loss before income taxes the **named insured** and any **subsidiary** are unable to avoid during the **period of restoration** and **extended interruption period** due to a loss of revenue (including loss of clients, loss of fees, contractual penalties, loss of sales, loss of billable hours, and loss of revenue from other sources) caused by a **computer system disruption**; and
3. fixed operating expenses incurred by the **named insured** or any **subsidiary**, but only to the extent that such fixed operating expenses:
 - a. must necessarily continue during the **period of restoration** and **extended interruption period**; and
 - b. would have been incurred had the **computer system disruption** not occurred.

The amount of **income loss** will be determined in accordance with section V.F of this Policy.

- Y. **Media activities** means the gathering, collection, broadcast, creation, distribution, exhibition, performance, preparation, printing, production, publication, release, display, research, or serialization of **media material** by **you** or any person or entity on **your** behalf.

- Z. **Media Material** means the content of any publication in any form including written, printed, video, electronic, digital, or digitized communication of language, data, facts, fiction, music, photographs, images, advertisements, artistic expression, or visual or graphical materials.

- AA. **Money** means a medium of exchange in current use recognized, authorized, or adopted by a domestic or foreign government, including but not limited to:

1. currency (including crypto currency), coins, and bank notes in current use and having a face value;
2. traveler's checks;
3. registered checks and money orders held for sale to the public; and
4. electronic cash equivalents.

Money does not mean or include **securities** or **other property**.

- BB. **Named insured** means the legal entity(ies) shown in Item 2 of the Declarations.

- CC. **Notification services** means any of the following expenses incurred by **you** with **our** prior written consent, which will not be unreasonably withheld, conditioned, or delayed, that **you** are either legally obligated to pay, or not legally obligated to pay, but elect to incur to mitigate damage to **your** reputation or mitigate or avoid a **claim** in the event of a **data breach** or **cyber extortion and ransomware threat**, to:

1. notify individuals, organizations, any State Attorney General, the Office for Civil Rights (OCR) or any other appropriate governmental, regulatory, law enforcement, professional or statutory body of an actual or suspected **data breach** or **cyber extortion and ransomware threat**;
2. draft, print, and mail letters to affected individuals including cost of address verification, email notice, media notice, mailing services, and postage;
3. set up a call center to manage inbound and outbound calls in direct relation to the event; and
4. provide translation services to manage communications with affected individuals.

- DD. **Other Property** means any tangible property other than **money** or **securities** that has intrinsic value.

- EE. **Period of restoration** means the time period that:

1. begins on the specific date and time the **computer system disruption** first occurred; and
2. ends on the specific date and time the **computer system disruption** ends, or would have ended had **you** or a third party hosting, storing, maintaining, managing or processing on **your** behalf (if applicable) acted with due diligence and dispatch,

however, in no event will the **period of restoration** mean more than one hundred and eighty (180) days. The restoration of **your computer system** will not end the **period of restoration** if another **computer system disruption** occurs within seventy-two (72) hours of such restoration due to the same cause as the original **computer system disruption**.

- FF. **Personally identifiable non-public information** means information transmitted, disseminated, or stored in any manner or medium that allows an individual to be uniquely identified including, but not limited to an individual's name, social security number, medical or healthcare data, other protected health information, driver's license number, state identification number, credit card number, debit card number, other financial account numbers, address, telephone number, IP address, email address, account number, account histories, passwords, security codes, and other nonpublic personal information as defined in local, state, federal, foreign, or international law relating to:

1. the collection, control, security, use or disposal of private information;
2. identity theft protection; and/or
3. notification of actual or possible privacy breaches.

- GG. **Policy period** means the period of insurance stated in Item 4 of the Declarations.

- HH. **Public relations services** mean any of the following expenses incurred by **you** with **our** prior written consent, which will not be unreasonably withheld, conditioned or delayed, to hire public relations consultants to:

1. advise on, design, implement, and execute a public relations campaign;
2. formulate a crisis communications plan in order to reduce damage to **your** brand;

3. coordinate media relations; and
4. provide media communications training to **your** spokespeople,

in response to a **data breach, computer system disruption, data loss, cyber theft, or cyber extortion and ransomware threat** covered by this Policy.

- II. **Restoration expense** means expenses **you** incur through the use of **your** employees or external consultants, contractors or advisors to repair, replace, retrieve, recreate, or restore, information, software, or firmware on **your computer system** to the same state and with the same contents immediately before the **data loss** from a **covered cause of loss** occurred.

Restoration expense does not mean or include:

1. repairing, replacing, retrieving, recreating, restoring, upgrading, or updating information, software, or firmware on **your computer system** to a level beyond that which existed prior to the **data loss**;
2. identifying, patching, or remediating errors or vulnerabilities in information, software, or firmware on **your computer system**;
3. economic or market value of information, software, or firmware on **your computer system**; or
4. repairing or replacing any tangible property including computer hardware of any kind.

- JJ. **Retroactive date** means the date specified in Item 6 of the Declarations.

- KK. **Securities** means all negotiable or non-negotiable instruments or contracts representing **money** or **other property**. **Securities** does not mean or include **money** or **other property**.

- LL. **Special expense** means the costs and expenses incurred by **you** or on **your** behalf in establishing that **you** have sustained **restoration expense, income loss, or extra expense** and the quantum of such **restoration expense, income loss, or extra expense** pursuant to section V.F of this Policy.

- MM. **Subsidiary** means any entity:

1. which, on or prior to the inception date of this Policy, the **named insured** either:
 - a. owns, directly or through one or more **subsidiaries**, more than fifty percent (50%) of the outstanding voting securities; or
 - b. has the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of a **subsidiary**, to elect, appoint or designate a majority of the Board of Directors of a corporation, the management committee of a joint venture, or the management board of a limited liability company ("Management Control"); and
2. Of which the **named insured** acquires, directly or through one or more **subsidiaries**, Management Control after the inception date of this Policy, provided that:
 - a. the revenues of such entity do not exceed thirty percent (30%) of the **named insured's** annual revenues; or
 - b. if the revenues of such entity exceed thirty percent (30%) of the **named insured's** annual revenues, then coverage under this Policy will be afforded for a period of ninety (90) days, but only for any **data breach, data loss, computer system disruption, cybercrime, cyber extortion and ransomware threat, wrongful act, claim**, or potential **claim** first occurring after the entity became a **subsidiary**. Coverage beyond such ninety (90) day period will only be available if the **named insured** gives **us** written notice of the acquisition, obtains **our** written consent to extend coverage to the entity beyond such ninety (90) day period and agrees to pay any additional premium required by **us**.

A **subsidiary** ceases to be a **subsidiary** at such time when the **named insured** ceases to have Management Control of the **subsidiary**. This Policy only provides coverage for **subsidiaries** while the **named insured** has Management Control.

- NN. **Waiting period** means the period of time beginning when the **period of restoration** begins and expiring after the elapse of the number of hours set forth in Item 5 of the Declarations. A separate **waiting period** will apply to each **period of restoration**.

- OO. **We, us, or our** means the Underwriters providing this insurance.

- PP. **Wrongful act** means:

1. With respect to Insuring Agreement A - Network Security and Privacy Liability, any actual or alleged act, error, omission, misstatement, misleading statement, neglect, or breach of duty committed during the course of business activities by **you** or by any person or entity for whose **wrongful act you** are legally responsible resulting in:
 - a. failure to prevent a **data breach**;
 - b. breach of any rights of confidentiality, including a breach of any provisions of a non-disclosure agreement or breach of a contractual warranty relating to the confidentiality of data as a result of a **data breach**;
 - c. breach of a merchant credit card services agreement due to the **named insured's** or a **subsidiary's** noncompliance with published PCI-DSS or similar standards and caused by a **data breach**;
 - d. failure to prevent a **cyber extortion and ransomware threat**;
 - e. failure to prevent **cyber theft**;
 - f. failure to prevent damage to, loss of, or spoilage of data;
 - g. failure to destroy **personally identifiable non-public information** or **confidential information**;
 - h. failure to notify or warn any person or entity of the actual or possible loss, disclosure, or theft of **personally identifiable non-public information** or **confidential information**;
 - i. wrongful or unauthorized collection of **personally identifiable non-public information** or **confidential information**;
 - j. failure to comply with the **named insured's** or a **subsidiary's** written privacy policy;
 - k. failure to prevent the transmission of a computer virus, denial of service attack, or any other computer attack from **your computer systems** to a third party's computers systems; or
 - l. violation of any federal, state, local, foreign, or international law establishing legal liability for:

- i. the collection, retention, security, control, handling, use, sharing, transmission, or disposal of **personally identifiable non-public information** or **confidential information**;
 - ii. identity and identity theft protection, remediation, or prevention; and
 - iii. notification of potential or actual **data breaches**.
2. With respect to Insuring Agreement B - Multimedia Liability, any actual or alleged act, error, omission, misstatement, misleading statement, neglect, or breach of duty committed during the course of **media activities** by **you** or by any person or entity for whose **wrongful act you** are legally responsible, including but not limited to:
 - a. libel, slander, product disparagement, trade libel, or any other form of defamation or other tort related to disparagement or harm to the reputation, character or feelings of any person or entity;
 - b. any form of invasion, infringement, or interference with the right to privacy or publicity, including false light, breach of confidence or confidentiality, public disclosure of private facts, intrusion or commercial appropriation of name, persona or likeness;
 - c. wrongful entry or eviction, trespass, eavesdropping, wireless signal interception, or other invasion of the right of private occupancy;
 - d. outrage, outrageous conduct, mental anguish, infliction of emotional distress, or prima facie torts;
 - e. false attribution of authorship, passing off, plagiarism, piracy, or misappropriation of property rights, ideas, or information; and
 - f. infringement of copyright, mask works, domain name, trade dress, title, or slogan, or the dilution or infringement of trademark, service mark, service name, or trade name.

All **wrongful acts** which have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of connected facts, circumstances, situations, events, transactions, or causes will be considered a single **wrongful act** and will be deemed to have occurred on the date the earliest of such **wrongful acts** is deemed to have occurred. It is agreed, however, that only the portion of such **wrongful acts** that occur after the inception of this Policy, or the inception of any policy sold by **us** to **you** of which this Policy is a direct or indirect renewal, whichever is earlier, will be subject to the foregoing sentence. Furthermore, with respect to a **subsidiary**, only the portion of such **wrongful acts** that occur after the date the **named insured** has Management Control of such **subsidiary** will be subject to the foregoing sentence.

QQ. **You, your, or yours** means:

1. the **named insured** and any **subsidiary**;
2. any past, present, or future officer, director, trustee, partner, member, principal, stockholder, owner, employee, or independent contractor of the **named insured** or any **subsidiary**, but only while acting within the scope of their duties as such;
3. a principal if **you** are a sole proprietorship, but only while acting within the scope of their duties as such;
4. any person who previously qualified as **you** under section III.QQ.2 of this Policy prior to the termination of the required relationship with the **named insured** or any **subsidiary**, but only with respect to the performance of their duties as such;
5. the estate, heirs, executors, administrators, assignees, and legal representatives of any of **you** in the event of **your** death, incapacity, insolvency, or bankruptcy, but only to the extent that **you** would otherwise be provided coverage under this Policy;
6. the lawful spouse of any of **you**, including any natural person qualifying as a domestic partner under the provisions of any applicable federal, state, or local law in the United States, but only for **wrongful acts** committed by of any of **you** defined in sections III.QQ.2 through III.QQ.4 of this Policy; and
7. any person or entity the **named insured** or a **subsidiary** are required by contract to add as an additional insured under this Policy, but only for **wrongful acts** covered by this Policy, which are committed by of any of **you** defined in section III.QQ.1 through section III.QQ.4 of this Policy.

RR. **Your computer system** means any computer hardware, software or firmware and componentry thereof, and including data stored thereon that is:

1. operated by and either owned, rented, or leased by the **named insured** or any **subsidiary**; or
2. operated by third parties and used for information technology or telecommunication services, including transmitting, hosting, storing, maintaining, managing, or processing software, data, or other information on behalf of the **named insured** or any **subsidiary**.

IV. EXCLUSIONS

This Policy does not cover any **damages, claims expenses, incident response expense, income loss, extra expense, special expense, restoration expense, financial loss, or cyber extortion and ransomware expense**:

- A. arising out of or resulting from any malicious, deliberately fraudulent, deliberately dishonest, or deliberately criminal act committed by **you**; however, notwithstanding the foregoing, the insurance afforded by this Policy will apply to **claims expense** incurred in defending any such **claim** or circumstance which could lead to a **claim** and to **damages** resulting from such **claim** until and unless a final, non-appealable adjudication in the underlying action establishes that **you** committed such a malicious, fraudulent, dishonest, or criminal act, in which event **we** will have the right to recover those **claims expenses** incurred from those parties found to have committed such malicious, fraudulent, dishonest, or criminal act. However, this exclusion will not apply to any of **you** who did not personally commit or personally participate in committing or personally acquiesce in such conduct, except that this exclusion will apply if such final, non-appealable adjudication establishes that a current member of **your control group** engaged in such conduct;
- B. arising out of or resulting from any **claim** made by one of **you** against another one of **you**; however, this exclusion will not apply to **claims** brought by:
 1. **your** employees for actual or alleged **data breaches**; or
 2. any person or entity added to this Policy as an additional insured as defined in section III.QQ.7 of this Policy;
- C. for bodily injury, sickness, disease, or death of any person; however, this exclusion will not apply to **claims** for mental anguish or emotional distress arising out of a **wrongful act**;

- D. for injury to, impairment, destruction, corruption, or distortion of any tangible property, including the loss of use thereof or loss of use of tangible property which has not itself been physically impaired, injured, or destroyed; however, this exclusion will not apply to **income loss, extra expense, restoration expense, or claims** arising out of injury to, impairment, destruction, corruption, or distortion of software or data arising out of a **covered cause of loss** or a **wrongful act**;
- E. arising out of or resulting from **your** activities as a trustee, partner, officer, director, or employee of any employee trust, charitable organization, corporation, company, or business other than that of the **named insured** or **subsidiary**;
- F. arising out of or resulting from any circumstance, **wrongful act, data breach, computer system disruption, data loss, cyber extortion and ransomware threat, or cyber theft** first occurring prior to the **retroactive date**;
- G. arising out of or resulting from any circumstance, **wrongful act, data breach, computer system disruption, data loss, cyber extortion and ransomware threat, or cyber theft**, if prior to the inception date of this Policy or prior to the inception date of a policy issued by **us** of which this Policy is a direct or indirect renewal, a member of the **control group** knew that such circumstance, **wrongful act, data breach, computer system disruption, data loss, cyber extortion and ransomware threat, or cyber theft** may be the basis of a **claim, data breach, computer system disruption, data loss, cyber theft, or cyber extortion and ransomware threat**;
- H. arising out of or resulting from any circumstance, **wrongful act, data breach, computer system disruption, data loss, cyber extortion and ransomware threat, or cyber theft**, notified prior to the inception of this Policy to the insurer of any other policy of which this Policy is a direct or indirect renewal or replacement. However, this exclusion will apply only to the extent the insurer of the prior policy accepts such notice as proper notice of circumstances under its policy;
- I. arising out of or resulting from any liability assumed under any contract or agreement including any breach of express warranty or guarantee. However, this exclusion will not apply to:
1. any liability or obligation **you** would have in the absence of such contract or agreement;
 2. any indemnity by **you** in a written contract agreement with **your** client regarding any **data breach** suffered by **you** which results in the failure to preserve privacy or confidentiality of customers or employees of **your** client; or
 3. a breach of **your** written privacy policy; or
 4. a breach of a Card Brand merchant services agreement due to a **data breach**;
- J. arising out of or resulting from **your** actual or alleged infringement of any patent or misappropriation of a **trade secret**; however, this exclusion will not apply to any **claim** alleging infringement or misappropriation of a trade secret due to an actual or alleged **data breach**;
- K. arising out of or resulting from **your** actual or alleged violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced And Corrupt Organizations Act, or RICO), as amended, or any regulation promulgated thereunder or any similar federal, state, or local law similar to the foregoing, whether such law is statutory, regulatory, or common law;
- L. arising out of or resulting from any action brought by or on behalf of ASCAP, SESAC, BMI, or other licensing organizations in such entity's regulatory, quasi-regulatory, or official capacity, function, or duty, unless such action arises out of a **data breach**.
- M. arising out of or resulting from **your** actual or alleged violation of the Securities Act of 1933, the Securities Exchange Act of 1934, the rules and regulations of the Securities Exchange Commission, the securities laws or regulations of any state, or any common law claim relating to any transaction arising out of, involving, or relating to **your** purchase or sale or **your** offer to purchase or sell securities;
- N. arising out of or resulting from work place practices, including **claims** arising under workers compensation laws or **claims** in respect of alleged discrimination, harassment, or inappropriate employment conduct of any sort. However, this exclusion will not apply to **claims** brought by employees arising out of an actual or alleged **data breach**;
- O. arising out of or resulting from:
1. antitrust, restraint of trade, unfair competition, deceptive or unfair business practices, violation of consumer protection laws; or
 2. deliberately false or deceptive advertising;
- however, this exclusion will not apply to **claims** for an otherwise covered **wrongful act**;
- P. arising out of or resulting from any **claim** bought by any entity which:
1. **you** own, operate, manage, or control either directly or indirectly in whole or in part or in which **you** have an ownership interest in excess of twenty percent (20%); or in which **you** are an officer or director; or
 2. wholly or partly owns, operates, controls or manages **you**;
- however, this exclusion will not apply to **claims** brought by any person or entity added to this Policy as an additional insured as defined in section III.QQ.7 of this Policy.
- Q. arising out of or resulting from any kinetic war or kinetic warlike actions;
- R. arising out of or resulting from **your** manufacturing, mining, use, sale, installation, removal, distribution of, or exposure to asbestos, materials or products containing asbestos, asbestos fibers, or asbestos dust;
- S. directly or indirectly arising out of or resulting from the presence or actual, alleged, or threatened discharge, seepage, dispersal, migration, release, escape, generation, transportation, storage, or disposal of pollutants at any time, including any request, demand, or order that **you** or others test for, monitor, clean up, remove, assess, or respond to the effects of pollutants; pollutants means any solid, liquid, gaseous, or thermal irritant or contaminant, including but not limited to smoke, vapor, soot, fumes, odors, acids, alkalis, chemicals, and waste; waste includes materials to be recycled, reconditioned, or reclaimed;
- T. arising out of or resulting from ionizing radiations from, or contamination by, radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel, the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear

installation, reactor or other nuclear assembly or nuclear component thereof, or any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;

- U. arising out of or resulting from the existence, emission, or discharge of any electromagnetic field, electromagnetic radiation, or electromagnetism that actually or allegedly affects the health, safety, or condition of any person or the environment, or that affects the value, marketability, condition, or use of any property; or
- V. arising out of or resulting from any failure or outage in, or disruption of, power, utility services, satellites, or external telecommunications services not under **your** direct operational control; however, this exclusion will not apply to failure or outage in, or disruption of, information technology and telecommunication services provided by third parties to the **named insured** or any **subsidiary**, including transmitting, hosting, storing, maintaining, managing, or processing software, data, or other information on behalf of the **named insured** or any **subsidiary**.

V. GENERAL POLICY CONDITIONS

A. Limits of Liability

1. Policy Aggregate Limit of Liability

Our maximum liability under all Insuring Agreements for the sum of all **damages, claims expense, and first-party expense**, on account of all **claims** and **first-party events** covered by this Policy is the Policy Aggregate Limit of Liability set forth in Item 5 of the Declarations. Our liability under this Policy is limited to a single Policy Aggregate Limit of Liability regardless of the number of Insuring Agreements purchased under this Policy, the number of **claims** or **first-party events** made under this policy, or the number of **you** covered by this Policy. In the event the Policy Aggregate Limit of Liability is exhausted, **we** will have no further liability whatsoever.

2. Limit of Liability For Each Insuring Agreement

Our maximum liability under each Insuring Agreement for all **damages, claims expense, and first-party expense**, on account of all **claims** and **first-party events** covered by this Policy is the applicable Insuring Agreement Aggregate Limit of Liability set forth in Item 5 of the Declarations. In the event that an Insuring Agreement Aggregate Limit of Liability is exhausted, **we** will have no further liability under the Policy for that Insuring Agreement. The Insuring Agreement Limit of Liability is part of, not in addition to, the Policy Aggregate Limit of Liability.

3. Limit of Liability For Each Claim or First-Party Event

Our maximum liability for all **damages, claims expense, and first-party expense** for each **claim** or **first-party event** covered by this Policy is the applicable Each Claim or First-Party Event Limit of Liability set forth in Item 5 of the Declarations. The Each Claim or First-Party Event Limit of Liability is part of, not in addition to, the Insuring Agreement Aggregate Limits of Liability and the Policy Aggregate Limit of Liability. In the event the Each Claim or First-Party Event Limit of Liability are exhausted by a **claim** or **first-party event**, **we** will have no further liability under the Policy for that **claim** or **first-party event**.

4. Extended Reporting Periods Limit of Liability

The Limit of Liability for any Extended Reporting Period will be part of, not in addition to, the Policy Aggregate Limit of Liability for the **policy period**.

B. Deductibles and Waiting Period for Each Claim and First-Party Event

1. With respect to Insuring Agreement A - NETWORK SECURITY AND PRIVACY LIABILITY:

- a. the **deductible** stated in Item 5 of the Declarations will apply separately to each **claim**; and
- b. the **deductible** must be satisfied by payments by **you** of covered **damages, claims expenses**, or any combination thereof resulting from **claims** notified pursuant to section V.D of this Policy.

2. With respect to Insuring Agreement B - MULTIMEDIA LIABILITY:

- a. the **deductible** stated in Item 5 of the Declarations will apply separately to each **claim**; and
- b. the **deductible** must be satisfied by payments by **you** of covered **damages, claims expenses**, or any combination thereof resulting from **claims** notified pursuant to section V.D of this Policy.

3. With respect to Insuring Agreement C - INCIDENT RESPONSE EXPENSE:

- a. the **deductible** stated in Item 5 of the Declarations will apply separately to each **data breach**; and
- b. the **deductible** applicable to **incident response expense** must be satisfied by payments by **you** of covered **incident response expense** resulting from a **first-party event**, notified pursuant to section V.D of this Policy.

4. With respect to Insuring Agreement D - BUSINESS INTERRUPTION LOSS AND EXTRA EXPENSE:

- a. The **deductible** stated in Item 5 of the Declarations will apply separately to each **computer system disruption**.
- b. The duration of the **computer system disruption** must exceed the **waiting period** specified in Item 5 of the Declarations. **We** will not reimburse **you** for **income loss, extra expense, or special expense** incurred during the **waiting period**.
- c. The **deductible** applicable to **income loss, extra expense, and special expense** must be satisfied by:
 - i. payments by **you** of covered **extra expense** or **special expense** resulting from a **computer system disruption** notified pursuant to section V.D of this Policy;
 - ii. the amount of **income loss** covered by this Policy that **you** sustain during the **period of restoration** or **extended interruption period** from a **computer system disruption** notified pursuant to section V.D of this Policy; or
 - iii. any combination thereof.
- d. The **deductible** applicable to **income loss, extra expense, and special expense** will be reduced by the amount of **income loss, extra expense, and special expense** covered by this Policy that **you** sustain during **waiting period** stated in Item 5 of the Declarations resulting from a **computer system disruption** notified pursuant to section V.D of this Policy.

- e. If the **deductible** is less than the amount of **income loss, extra expense, and special expense** covered by this Policy that **you** sustain during **waiting period** stated in Item 5 of the Declarations resulting from a **computer system disruption** notified pursuant to section V.D of this Policy, the **deductible** applicable to covered **income loss, extra expense, and special expense** incurred after the **waiting period** will be \$0.
 5. With respect to Insuring Agreement E - DATA RESTORATION EXPENSE:
 - a. the **deductible** stated in Item 5 of the Declarations will apply separately to each **data loss**; and
 - b. the **deductible** applicable to **restoration expense or special expense** must be satisfied by payments by **you** of covered **restoration expense or special expenses** from **data loss** notified pursuant to section V.D of this Policy.
 6. With respect to Insuring Agreement F - CYBER THEFT AND SOCIAL ENGINEERING LOSS:
 - a. the **deductible** stated in Item 5 of the Declarations will apply separately to each **cyber theft**; and
 - b. the **deductible** applicable to **financial loss** must be satisfied by covered **financial loss** from **cyber theft** notified pursuant to section V.D of this Policy.
 7. With respect to Insuring Agreement G - CYBER EXTORTION AND RANSOMWARE EXPENSE:
 - a. the **deductible** stated in Item 5 of the Declarations will apply separately to each **cyber extortion and ransomware threat**; and
 - b. the **deductible** applicable to **cyber extortion and ransomware threats** must be satisfied by payments by **you** of covered **cyber extortion and ransomware expense** notified pursuant to section V.D of this Policy.
 8. **We** will only be liable for amounts excess of the applicable **deductible** and not exceeding the Limit of Liability as stated in Item 5 of the Declarations.
 9. If a **claim, wrongful act, data breach, computer system disruption, data loss, cyber theft, cyber extortion and ransomware threat**, or circumstance covered by this Policy attaches to more than one Insuring Agreement only the highest applicable **deductible** will apply.
 10. If a **claim, wrongful act, data breach, computer system disruption, data loss, cyber theft, or cyber extortion and ransomware threat**, arises out of the same, related or continuing acts, facts, or circumstances and attaches to more than one Insuring Agreement only the highest **deductible** will apply.
 11. The **deductibles** stated in Item 5 of the Declarations apply to each **claim** first made against **you** during any Extended Reporting Period.
- C. Extended Reporting Periods
1. Automatic Extended Reporting Period
If either the **named insured** or **we** cancel or choose to non-renew this Policy, the **named insured** will have the right following the effective date of such cancellation or non-renewal, to an Automatic Extended Reporting Period of sixty (60) days in which to give written notice to **us** of **claims** first made against **you** for any **wrongful act** actually or allegedly committed on or after the **retroactive date** and prior to the end of the **policy period** and otherwise covered by this Policy.
 2. Optional Extended Reporting Period
 - a. If either the **named insured** or **we** cancel or choose to non-renew this Policy, the **named insured** will have the right, upon payment of an additional premium, to purchase an Optional Extended Reporting Period. The Optional Extended Reporting Period lengths and the respective percentages of the Annual Premium listed in Item 7 of the Declarations that the **named insured** must pay to purchase an Optional Extended Reporting Period are:
 - i. twelve (12) month Optional Extended Reporting Period for seventy-five percent (75%) of the Annual Premium;
 - ii. twenty-four (24) month Optional Extended Reporting Period for one hundred and twenty-five percent (125%) of the Annual Premium; or
 - iii. thirty-six (36) month Optional Extended Reporting Period for one hundred and fifty percent (150%) of the Annual Premium.
 - b. The Optional Extended Reporting Period only applies to **claims** first made against **you** and notified to **us** during the Optional Extended Reporting Period and arising out of any **wrongful acts** otherwise covered by this Policy that are committed on or after the **retroactive date** and before the end of the **policy period**, subject to the conditions set forth herein.
 - c. In order for the **named insured** to invoke the Optional Extended Reporting Period, **you** must notify **us** and pay **us** within sixty (60) days of the end of the **policy period** or from the effective date of the cancellation.
 - d. All notices and premium payments with respect to the Optional Extended Reporting Period must be directed to **us** through the entity and address set forth in Item 8 of the Declarations.
 - e. At the commencement of the Optional Extended Reporting Period the entire premium will be deemed earned. In the event that **you** terminate the Optional Extended Reporting Period for any reason prior to its natural expiration, **we** will not be liable to return any premium paid for the Optional Extended Reporting Period.
 3. The Limit of Liability for any Extended Reporting Period will be part of, not in addition to, the Policy Aggregate Limit of Liability for the **policy period**.
 4. The **deductibles** stated in Item 5 of the Declarations apply to each **claim** first made against **you** during any Extended Reporting Period.
 5. **Your** rights to any Extended Reporting Period will not be available where cancellation or non-renewal by **us** is due to non-payment of premium or **your** failure to pay such amounts in excess of the applicable Limit of Liability or within the amount of the applicable **deductible**.
- D. Reporting of First-Party Events, Claims, and Circumstances
1. When a member of the **control group** first becomes aware of a **claim** made against **you** or discovers a **first-party event**, **you** must notify **us** through the persons named in Item 9 of the Declarations as soon as practicable, but in no event later than:

- a. ninety (90) days after the expiration, cancellation or termination date of this Policy, or one hundred eighty (180) days after the renewal of this Policy if this Policy is renewed by **us**; or
- b. the expiration of any Extended Reporting Period, if applicable.

However, if the Policy is cancelled for nonpayment of premium, **you** must give us written notice of any such **claim** or **first-party event** prior to the effective date of such cancellation. It is agreed that if **you** give notice of a **claim** or **first-party event** to **us**, but not in accordance with the above requirements, **we** will not be entitled to deny coverage solely on the basis of late notice unless, and then only to the extent that, **we** prove by final, non-appealable adjudication in any action or proceeding that **we** were materially prejudiced by the late notice.

2. If a member of the **control group** becomes aware of any circumstance that could give rise to a **claim** and **you** give us through persons named in Item 9 of the Declarations during the **policy period** or any Extended Reporting Period notice of:
 - a. the circumstance and a description of the **wrongful act** allegations that could be made;
 - b. the injury or damage which may result or has resulted from the circumstance; and
 - c. the facts by which **you** first became aware of this,

then any subsequent **claim** arising out of such circumstance made against **you** which is the subject of the written notice will be deemed to have been made at the time written notice complying with the above requirements was first given to **us**.

3. A **claim**, circumstance which could give rise to a **claim**, or a **first-party event** will be considered to be notified to **us** when written notice is first given to **us** through persons named in Item 9 of the Declarations in accordance with sections V.D.1 through V.D.2 of this Policy.
4. If any false or fraudulent **claim**, circumstance, or **first-party event** is reported by, consented to, acquiesced to or made with the knowledge of a member of the **control group**, as regards amount or otherwise, this Policy will become void and all **claims** hereunder will be forfeited.

E. Claim Avoidance Extension

We will, at our sole discretion, reimburse **you** for expenses incurred in order to mitigate or avoid a **claim** under this Policy arising from circumstances that could reasonably be a basis of a **claim** that **you** report in accordance with section V.D of this Policy. Such expenses are part of, not in addition to the Limit of Liability, subject to the **deductible**, and must not exceed the amount of loss that would have been covered under this Policy had the **claim** not been avoided. Loss payable under this extension does not include any expenses that **you** can recover from others.

F. Proof and Appraisal of Loss

1. With respect to Insuring Agreements D and E, before coverage will apply, **you** must prepare and submit to the persons named in Item 9 of the Declarations a proof of loss statement sworn by a member of the **control group** within one hundred and twenty (120) days after a member of the **control group** discovers a **data loss** or **computer system disruption** (as applicable) or, if applicable, one hundred and twenty (120) days after the end of the **extended interruption period**, whichever is later. Such proof of loss must include a narrative with full particulars of such **data loss** or **computer system disruption**, including:
 - a. the time and place of the **data loss** or **computer system disruption**;
 - b. a detailed calculation of any **restoration expense**, **extra expense**, or **income loss**; and
 - c. **your** interest and the interest of all others in the property, the sound value thereof, the amount of **restoration expense**, **extra expense**, or **income loss** and all other insurance thereon.
2. Upon **our** request, **you** must submit to an examination under oath with respect to coverage sought under Insuring Agreements D and E and provide copies of the underlying documents, data, and materials that reasonably relate to or are a part of the basis of the claim for such **restoration expense**, **extra expense**, or **income loss**.
3. **Income loss** will be calculated on an hourly basis based on **your** net profit (or loss) and fixed operating expenses as set forth in section III.X of this Policy. For purposes of determining **income loss**, due consideration will be given to the following:
 - a. the **named insured's** and **subsidiary's** net profit or loss for the twelve (12) month period prior to the **computer system disruption**;
 - b. the probable business operations the **named insured** and **subsidiaries** could have performed had a **computer system disruption** not occurred;
 - c. income derived from substitute methods, facilities, or personnel used by the **named insured** and **subsidiaries** to maintain their revenue stream; and
 - d. trends in the **named insured's** and **subsidiary's** business, and variations in or other circumstances affecting the business, including seasonable influences and economic conditions, before and after the **computer system disruption** that would have affected the **named insured's** and **subsidiary's** business had the **computer system disruption** not occurred.

G. Your Duties

In the event of a **claim** or **first-party event**:

1. **You** must co-operate with **us** and provide **us** with the information and material that **we** reasonably request.
2. **You** must not admit liability, enter into any settlement except as provided in section II.D of this Policy, stipulate to any judgment or award, or otherwise dispose of any **claim** without **our** consent. Such consent will not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, compliance with a breach notice law will not be considered as an admission of liability for the purposes of this provision.

H. Other Insurance

The coverage provided by this Policy is excess over and above any valid and collectible insurance (including any deductible portion) available to **you** whether such insurance is stated to be primary, excess, contributory, contingent, or otherwise, unless such other insurance is specifically written as excess insurance over the Limit of Liability provided by this Policy. However, the coverage under this Policy is primary to and will not seek contribution from any other insurance available to additional insureds as defined in section III.QQ.7 of this Policy if **you** are required to agree in a written contract that coverage provided by this Policy will be primary and non-contributory with respect to other insurance available to the additional insured.

I. Coverage Territory

This insurance applies to **wrongful acts, claims, or first-party events** occurring anywhere in the world.

J. Innocent Insured

1. Whenever coverage under this Policy would be excluded, suspended or lost because of any exclusion relating to criminal, dishonest, fraudulent, or malicious acts, errors, or omissions by any of **you**, then such coverage otherwise afforded by this Policy will apply to all of **you** that did not personally commit, personally participate in committing, personally acquiesce, or remain passive after having personal knowledge of such criminal, dishonest, fraudulent, or malicious acts, errors or omissions.
2. Whenever coverage under this Policy would be excluded, suspended or lost because of failure to give notice to **us** as required by section of V.D. this Policy, such coverage otherwise afforded by this Policy will apply to all of **you** that did not personally commit, personally participate in committing, or personally acquiesce to such failure to give notice, provided that any of **you** entitled to this provision complies with section V.D promptly after obtaining knowledge of failure by any of **you** to comply therewith.

K. Bankruptcy

Your bankruptcy or insolvency will neither relieve **us** of our obligations, nor deprive **us** of our rights or defenses under this Policy.

L. Legal Action Against Us

1. No person or entity has a right under this Policy to join **us** as a party or otherwise bring **us** into a suit asking for **damages** from **you** or sue **us** under this Policy in the absence of compliance with all of the terms and conditions of this Policy by **you**.
2. A person or entity may sue **us** to recover on an agreed settlement or on a final judgment against **you** obtained after an actual trial, but **we** will not be liable for damages that are not payable under the terms of this Policy or that are in excess of the applicable Limit of Liability. An agreed settlement means a settlement and release of liability signed by **us**, by **you**, and by the claimant or the claimant's legal representative.

M. Subrogation

1. **Our** payment under this Policy is without prejudice to **our** right to recover sums paid under this Policy from the Insurers of **your** other insurance policies or from any entity or person from which **you** are entitled to indemnification.
2. In the event **we** make any form of payment under this Policy, **we** must be subrogated to all **your** rights of recovery against any person or entity. **You** must execute and deliver all instruments and papers and do whatever else is reasonably necessary to secure such rights. **You** must not do anything to prejudice such rights. Notwithstanding the foregoing, if **you** are required by contract to waive **your** and/or **our** right to recover all or part of a **claim** or a loss from any entity from which **you** would otherwise be able to recover, **we** will also waive **our** right of recovery for any such **claim** or loss from such entity. However, **you** cannot waive **your** right to such recovery after **you** have received notice of any such **claim** or loss.
3. Any subrogation recoveries will first be applied to subrogation expenses, second to **damages, claims expense, and first-party expense**, paid by **you** (other than with respect to **deductible** stated in Item 5 of the Declarations), third to **damages, claims expense, and first-party expense** paid by **us**, and fourth to the **deductible** stated in Item 5 of the Declarations.

N. Recovered Property

If **you** or **we** recover any **money, securities or other property** after a loss payment is made, the party making the recovery must give prompt notice of the recovery to the other party. If the recovered property is **money** or other funds, the recovery will be applied first to any costs incurred by **you** or **us** in recovering the property, second to any **first-party expense** paid by **you** (other than with respect to the including payment of any **deductible** stated in Item 5 of the Declarations), and third to any **first-party expense**, paid by **us**.

If property other than **money** or funds is recovered, then **you** may keep the recovered property and return the loss payment, less any costs of recovery incurred by **you**, or keep the loss payment and transfer all rights in the property to **us**.

O. Mergers and Acquisitions

If, during the **policy period**, the **named insured** merges into or is acquired by another entity such that the **named insured** is not the surviving entity, then **you** must report the event to **us** as soon as practicable. Coverage under this Policy will continue until the end of the **policy period** with respect to **claims** made and **first-party events** occurring before the date of such merger or acquisition, but coverage will terminate with respect to **claims** for **wrongful acts** committed and **data breaches** and **covered causes of loss** occurring after the event. After any such event, this Policy may not be cancelled, and the entire premium for the Policy will be deemed fully earned.

P. Cancellation

1. This Policy may be cancelled by **you** by surrender thereof to **us** or by mailing to **us** through the entity and address set forth in Item 8 of the Declarations written notice stating when thereafter the cancellation will be effective.
2. **We** may cancel this Policy by mailing to **you** via the broker written notice stating when not less than ninety (90) days thereafter such cancellation will be effective. However, if **we** cancel this Policy because **you** have failed to pay a premium when due, this Policy may be cancelled by **us** by mailing a written notice of cancellation to **you** at the address shown in the Declarations stating when not less than 10 days thereafter such cancellation will be effective.

3. If **you** cancel this Policy, twenty five percent (25%) of the Annual Premium listed in Item 7 of the Declarations will be deemed earned upon inception of this Policy, and the remaining earned premium will be computed in accordance with the standard short rate table and procedure. However, the premium will be deemed fully earned if any **claim** under this Policy is notified to **us** on or before the date of cancellation.
4. If **we** cancel this Policy, earned premium will be computed pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

Q. Entire Agreement and Changes

By acceptance of this Policy, **you** agree that this Policy, together with the Declarations, **application** and endorsements, embodies all agreements between **you** and **us**. Notice to any agent or knowledge possessed by any agent or by any other person will not affect a waiver or a change in any part of this Policy or stop **us** from asserting any right under the terms of this Policy, nor will the terms of this Policy be waived or changed, except by endorsement issued to form a part of this Policy, signed by **us**.

R. Assignment

This Policy may not be assigned to any party without **our** prior written consent.

S. Named Insured as Agent

The **named insured** will be considered the agent for all of **you** and will act on behalf of all of **you** with respect to the giving of or receipt of all notices pertaining to this Policy, the agreement and acceptance of any endorsements to this Policy, and the payment of all premiums and **deductibles** that come due under this Policy. By acceptance of this Policy, **you** agree that the **named insured** will act on **your** behalf with respect to the giving and receiving of any notice pertaining to this Policy, the acceptance of any endorsements to this Policy, and payment of premiums and **deductibles** that may become due under this Policy. If two or more **named insureds** are covered under this Policy, the first **named insured** shall act for all of **you**. If the first **named insured** ceases to be covered under this Policy, the next **named insured** next shall thereafter be considered as the first **named insured**.

T. Conflicts

If any term or condition of this Policy and/or any endorsement attached thereto conflicts with a State Amendatory Endorsement added to this Policy, **we** shall apply the term or condition that is most favorable to coverage for the **named insured** to the fullest extent permitted by law.

U. Liberalization

If one or more terms or conditions of this Policy and/or any endorsement attached thereto are in conflict, **we** shall apply the term or condition that is most favorable to coverage for the **named insured** to the fullest extent permitted by law.

V. Singular Form of a Word

Whenever the singular form of a word is used herein, the same will include the plural when required by context.

W. Headings

The titles of paragraphs, sections, provisions, or endorsements of or to this Policy are intended solely for convenience and reference and are not deemed in any way to limit or expand the provisions to which they relate and are not part of the Policy.

X. Dispute Resolution

It is hereby understood and agreed that all disputes or differences which may arise under or in connection with this Policy, whether arising before or after termination of this Policy, including any determination of the amount of loss, shall be submitted to the alternative dispute resolution ("ADR") process set forth in this clause.

We and each and every one of **you** agrees that such dispute first shall be submitted to non-binding mediation administered by the American Arbitration Association, in which **we** and **you** shall try in good faith to settle the dispute by mediation under or in accordance with its then-prevailing Commercial Mediation Rules. The mediator shall have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. Either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until the mediation has been terminated and at least thirty (30) days have elapsed from the date of the termination of the mediation. In all events, each party shall share equally the expenses of the ADR process.

The ADR process may be commenced, at the choice of the **named insured**, in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state indicated in Item 3 of the Declarations as the mailing address for the **named insured**. The **named insured** shall act on behalf of each and every one of **you** in deciding to proceed with an ADR process under this clause.