

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S)

#6 e

Date: 6-4-15

Weekly Agenda Date: 6-9-15

DEPARTMENT HEAD / CITIZEN: Ed Gilliland

SUBJECT: Addition of Cyber Security Coverage Discussion & Action

ACTION REQUIRED:

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

WORDING FOR AGENDA ITEM: Addition of Cyber Security Coverage to the Liability Coverage, Discussion & Action

EXECUTIVE SUMMARY:

BACKGROUND:

FINANCIAL IMPACT: \$7,500 per year

RECOMMENDATION:

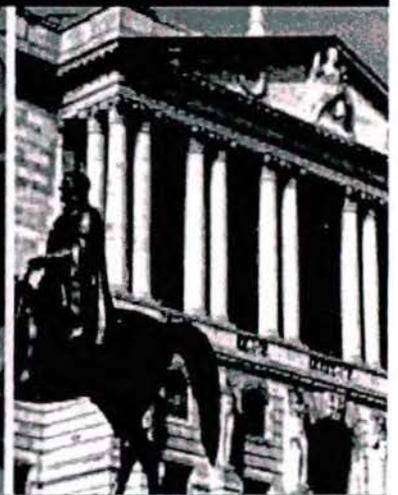
ACTION REQUIRED/PROPOSED MOTION: Motion to approve the addition of Cyber Security Coverage to the Liability Coverage.

Approved by Board of Supervisors March 3, 2015.



Arthur J. Gallagher & Co.
BUSINESS WITHOUT BARRIERS™

Cyber Insurance Quotation



Frequently Asked Questions

Do you have any questions about your insurance? The frequently asked questions below are here to help you make an informed decision.

What is Cyber Liability Insurance?

"Cyber" Liability is insurance coverage specifically designed to protect a business or organization from:

- Liability claims involving the unauthorized release of information for which the organization has a legal obligation to keep private
- Liability claims alleging personal injury and/or intellectual property violations in a digital, online or social media environment
- Liability claims alleging failures of computer security that result in deletion/alteration of data, transmission of malicious code, denial of service, etc.
- Defense costs in State or Federal regulatory proceedings that involve violations of privacy law; and
- The provision of expert resources and monetary reimbursement to the Insured for the out-of-pocket (1st Party) expenses associated with the appropriate handling of the types of incidents listed above

The term "Cyber" implies coverage only for incidents that involve electronic hacking or online activities, when in fact this product is much broader, covering private data and communications in many different formats – paper, digital or otherwise.

What does Privacy Liability cover?

The Privacy Liability insuring agreement in our policy goes beyond providing liability protection for the Insured against the unauthorized release of Personally Identifiable Information (PII), Protected Health Information (PHI), and corporate confidential information like most popular "Data Breach" policies. Rather, our policy provides true "Privacy" protection in that the definition of **Privacy Breach** includes violations of a person's right to privacy, publicity, etc. Because information lost in every data breach may not fit State or Federal- specific definitions of PII or PHI, our policy broadens coverage to help fill these potentially costly gaps. This is a key provision that truly sets the AJG Micro policy apart from others.

What does Privacy Regulatory Claims Coverage cover?

The Privacy Regulatory Claims Coverage insuring agreement provides coverage for both legal defense and the resulting fines/penalties emanating from a regulatory claim made against the Insured, alleging a privacy breach or a violation of a Federal, State, local or foreign statute or regulation with respect to privacy regulations.

What does Security Breach Response Coverage cover?

This 1st Party coverage reimburses an Insured for costs incurred in the event of a security breach of personal, non-public information of their customers or employees. Examples include:

- The hiring of a public relations consultant to help avert or mitigate damage to the Insured's brand
- IT forensics, customer notification and 1st Party legal expenses to determine the Insured's obligations under applicable Privacy Regulations
- Credit monitoring expenses for affected customers

Our policy can extend coverage even in instances where there is no legal duty to notify if the Insured feels that doing so will mitigate potential brand damage (such voluntary notification requires prior written consent).

What does Security Liability cover?

The Security Liability insuring agreement provides coverage for the Insured for allegations of a "Security Wrongful Act", including:

- The inability of a third-party, who is authorized to do so, to gain access to the Insured's computer systems
- The failure to prevent unauthorized access to or use of a computer system, and/or the failure to prevent false communications such as "phishing" that results in corruption, deletion of or damage to electronic data, theft of data and denial of service attacks against websites or computer systems of a third party
- Protects against liability associated with the Insured's failure to prevent transmission of malicious code from their computer system to a third party's computer system

What does Multimedia Liability cover?

The Multimedia Liability insuring agreement provides broad coverage against allegations that include:

- Defamation, libel, slander, emotional distress, invasion of the right to privacy, copyright and other forms of intellectual property infringement (patent excluded) in the course of the Insured's communication of media content in electronic (website, social media, etc.) or non-electronic forms

Other "Cyber" insurance policies often limit this coverage to content posted to the Insured's website. Our policy extends what types of media are covered as well as the locations where this information resides.

What does Cyber Extortion cover?

The Cyber Extortion insuring agreement provides:

- Expense and payments to a harmful third party to avert potential damage threatened against the Insured such as the introduction of malicious code, system interruption, data corruption or destruction or dissemination of personal or confidential corporate information.

What does Business Income and Digital Asset Restoration cover?

The Business Income and Digital Asset Restoration insuring agreement provides for lost earnings and expenses incurred because of a security compromise that leads to the failure or disruption of a computer system, or, an authorized third-party's inability to access a computer system. Restoration costs to restore or recreate digital (not hardware) assets to their pre-loss state are provided for as well. What's more, the definition of **Computer System** is broadened to include not only systems under the Insured's direct control, but also systems under the control of a **Service Provider** with whom the Insured contracts to hold or process their digital assets.

What is "PCI-DSS Assessment" coverage?

The Payment Card Industry Data Security Standard (PCI-DSS) was established in 2006 through a collaboration of the major credit card brands as a means of bringing standardized security best practices for the secure processing of credit card transactions. There are six stated goals and 12 requirements that merchants and service providers must adhere to in order to be "PCI Compliant". The AJG Micro Cyber Policy can help offset the cost of damages and claim expenses that the Insured becomes legally obligated to pay for when there are violations of this agreement in the wake of a breach involving cardholder data.

How is this policy better than other options in the marketplace?

As with any insurance policy, what sets our coverage apart lies in the definitions and exclusions in the policy. The AJG Micro Cyber Policy offers broader definitions of critical terms such as Privacy Breach, Computer System, and Media Content. These definitions, along with the absence of some industry-standard exclusions and a drastically streamlined application process, make this policy more comprehensive and easier to access than the typical cyber policy available from traditional sources.

Isn't this already covered under most business insurance plans?

The short answer is "No". While liability coverage for data breach and privacy claims has been found in limited instances through General Liability, Commercial Crime and some D&O policies, these forms were not intended to respond to the modern threats posed in today's 24/7 information environment. Where coverage has been afforded in the past, carriers (and the ISO) are taking great measures to include exclusionary language in form updates that make clear their intentions of not covering these threats. Additionally, even if coverage can be found in rare instances through other policies, they lack the expert resources and critical 1st Party coverages that help mitigate the financial, operational and reputational damages a data breach can inflict on an organization.

Are businesses required to carry this coverage?

While there is presently no law that requires a business or organization to carry Cyber Liability, there is a national trend in business contracts for proof of this coverage. In addition, the SEC is encouraging disclosure of this coverage as a way of demonstrating sound information security risk management. Laws such as HIPAA-HITECH and Gramm-Leach-Bliley and state-specific data breach laws are continually driving demand as requirements for notification in the wake of a data breach become more expensive.

Do small businesses need this coverage?

The Symantec 2014 Internet Security Threat Report reports that small businesses accounted for 30% of targeted spear-phishing attacks in 2013. In 2012, Verizon reported that approximately 40% of all data breaches that year occurred among companies with fewer than 100 employees. Even more alarming is the fact that 60% of companies that have been a victim of cyber-attacks are out of business within six months. While breaches involving public corporations and government entities garner the vast majority of headlines, it is the small business that can be most at risk. With lower information security budgets, limited personnel and greater system vulnerabilities, small businesses are increasingly at risk for a data breach.

If e-commerce functions such as payment processing or data storage are outsourced, do I still need this coverage?

The responsibility to notify customers of a data breach or legal liabilities associated with protecting customer data, remain the responsibility of the Insured. Generally speaking, business relationships exist between Insureds and their customers, not their customers and the back-office vendors the Insured uses to assist them in their operations. Outsourcing business critical functions such as payment processing, data storage, website hosting, etc. can help insulate Insureds from risk, however, the contractual agreement wording between Insureds, their customers and the vendors with whom they do business will govern the extent to which liability is assigned in specific incidents.

What is the cost of not buying the coverage and self-insuring a data breach?

The Ponemon Institute, a well-known research firm, publishes an annual "Cost of a Data Breach" report. In partnership with IBM, the 2014 report indicated that the average cost paid for each lost or stolen record is \$201. These numbers are reflective of both the indirect expenses associated with a breach (time, effort and other organizational resources spent during the data breach resolution, customer churn, etc.), as well as direct expenses (customer notification, credit monitoring, forensics, hiring a law firm, etc.).

Because every breach is different, and the per-capita cost of a breach depends largely on the number of records compromised, it is helpful for small to mid-sized organizations to start with a lower number of \$65/record, (the average direct costs associated with a breach in the Ponemon study) – multiply this number by the estimated number of records containing PII, PHI or financial account information in the Insured's control. By engaging in this simple exercise, businesses quickly understand the financial value of implementing cyber insurance as a risk transfer vehicle. More information can be found at www.ponemon.org.

Who is the insurance carrier?

The AJG Micro Cyber Policy is written on an excess and surplus lines (non-admitted) basis on Lloyd's, London paper. The policy is secured equally through Barbican Consortium 9354, Brit Syndicate 2987 and Aegis Consortium 9937. The coverage has received AM Best's "A" (Excellent) rating and has the claims-paying stability of Lloyd's.

Are taxes and fees in addition to the stated premium shown in the quote?

Yes. The Insured will be responsible for paying state-specific surplus lines taxes and fees. These fees will be detailed specifically in the bill you receive from your broker. **The premium indicated in the quotation is not inclusive of these taxes and fees**, and the precise premium (inclusive of all taxes and fees) will be sent to you from your broker.

What is the claims-handling process?

Insureds have available a 24-hour data breach hotline to report incidents or even suspected incidents. Clyde & Co. is the designated legal firm in the US that has been contracted to triage initial notices in this regard. Your representative will receive notification of the incident as well. It is critical that you immediately report any and all incidents that you believe could give rise to a claim of any kind on this policy.



Lloyd's Certificate

This Insurance is effected with certain Underwriters at Lloyd's, London.

This Certificate is issued in accordance with the limited authorization granted to the Correspondent by certain Underwriters at Lloyd's, London whose syndicate numbers and the proportions underwritten by them can be ascertained from the office of the said Correspondent (such Underwriters being hereinafter called "Underwriters") and in consideration of the premium specified herein, Underwriters hereby bind themselves severally and not jointly, each for his own part and not one for another, their Executors and Administrators.

The Insured is requested to read this Certificate, and if it is not correct, return it immediately to the Correspondent for appropriate alteration.

All inquiries regarding this Certificate should be addressed to the following Correspondent:

Tom Draper
The Walbrook Building
25 Walbrook
London
EC4N 8AW

US SURPLUS LINES NOTICE

This contract is subject to US state surplus lines requirements. It is the responsibility of the surplus lines broker to affix a surplus lines notice to the contract document before it is provided to the insured. In the event that the surplus lines notice is not affixed to the contract document the insured should contact the surplus lines broker.

SLC-3 (USA) NMA2868 (24/08/00) amended.
Form approved by Lloyd's Market Association

CERTIFICATE PROVISIONS

1. **Signature Required.** This Certificate shall not be valid unless signed by the Correspondent on the attached Declaration Page.
2. **Correspondent Not Insurer.** The Correspondent is not an Insurer hereunder and neither is nor shall be liable for any loss or claim whatsoever. The Insurers hereunder are those Underwriters at Lloyd's, London whose syndicate numbers can be ascertained as hereinbefore set forth. As used in this Certificate "Underwriters" shall be deemed to include incorporated as well as unincorporated persons or entities that are Underwriters at Lloyd's, London.
3. **Cancellation.** If this Certificate provides for cancellation and this Certificate is cancelled after the inception date, earned premium must be paid for the time the insurance has been in force.
4. **Service of Suit.** It is agreed that in the event of the failure of Underwriters to pay any amount claimed to be due hereunder, Underwriters, at the request of the Insured, will submit to the jurisdiction of a Court of competent jurisdiction within the United States. Nothing in this Clause constitutes or should be understood to constitute a waiver of Underwriters' rights to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any State in the United States. It is further agreed that service of process in such suit may be made upon the designee named in the schedule and that in any suit instituted against any one of them upon this contract, Underwriters will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

The above-named are authorized and directed to accept service of process on behalf of Underwriters in any such suit and/or upon request of the Insured to give a written undertaking to the Insured that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefore, Underwriters hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Insured or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the above-mentioned as the person to whom the said officer is authorized to mail such process or a true copy thereof.

5. **Assignment.** This Certificate shall not be assigned either in whole or in part without the written consent of the Correspondent endorsed hereon.
6. **Attached Conditions Incorporated.** This Certificate is made and accepted subject to all the provisions, conditions and warranties set forth herein, attached or endorsed, all of which are to be considered as incorporated herein.

Declaration Page

This policy has been issued in consideration of the information provided by the insured and documented in Statement of Fact number S-50006615/1.

SECURITY: Barbican Consortium 9354 33.34%
(BAR 1955 82.5% / ANV 1861 17.5%)
Brit Syndicate 2987 33.33%
Aegis Consortium 9937 33.33%
(AES 1225 55.00% / AUL 1274 18.75% / AUW 609 12.50% / CNP 4444
7.40% / CNP 958 1.85% / ARG 2121 4.50%)

CERTIFICATE NUMBER: Quotation Number RPS-Q-50006615/1

AUTHORITY REFERENCE NUMBER: B1262FI0655714

INSURED: Woodbury County

ADDRESS: 620 Douglas Street, Suite #701
Sioux City Iowa 51101

INSURED BUSINESS: Government

POLICY PERIOD: FROM: May 18, 2015
TO: May 18, 2016
Both Days at 12:01am at Local Standard Time at the address of Insured as shown above

LIMIT OF LIABILITY: A. \$1,000,000 - in the Each and Every Claim (including Claims Expenses)
B. \$1,000,000 - in the Aggregate (including Claims Expenses)
and sublimited as follows:

Coverage A - Privacy Liability (Including Employee Privacy)
\$1,000,000 in the aggregate including claims expenses Coverage

Coverage B - Privacy Regulatory Claims Coverage
\$1,000,000 in the aggregate including claims expenses

Coverage C - Security breach Response Coverage
\$1,000,000 in the aggregate including claims expenses

Coverage D - Security liability
\$1,000,000 in the aggregate including claims expenses

Coverage E - Multimedia Liability
\$1,000,000 in the aggregate including claims expenses

Coverage F - Cyber Extortion
\$1,000,000 in the aggregate including claims expenses

Coverage G - Business Income and Digital Asset Restoration
G1. \$1,000,000 in the aggregate including claims expenses
G2. \$1,000,000 in the aggregate including claims expenses

Coverage H - PCI DSS Assessment
\$100,000 in the aggregate including claims expenses

**RETENTION
(including claims expenses):**

Coverage A - Privacy Liability (Including Employee Privacy)
\$10,000 each claim

Coverage B - Privacy Regulatory Claims Coverage
\$10,000 each regulatory claim

Coverage C - Security breach Response Coverage
\$10,000 each security breach

Coverage D - Security liability
\$10,000 each claim

Coverage E - Multimedia Liability
\$10,000 each claim

Coverage F - Cyber Extortion
\$10,000 each claim

Coverage G - Business Income and Digital Asset Restoration
G1. \$10,000 each claim / 12 hrs waiting period
G2. \$10,000 each claim / 12 hrs waiting period

Coverage H - PCI DSS Assessment
\$10,000 each claim

PREMIUM:

\$7,439
Does not include applicable surplus lines taxes, fees and/or policy fee

TERRITORIAL LIMITS:

Worldwide

RETROACTIVE DATE:

05/18/2015

NOTICE OF CLAIM:

Clyde & Co. US LLP
101 Second Street, 24th Floor
San Francisco CA 94105
USA
joan.dambrosio@clydeco.us
24 Hour Security Breach Hotline: 1-855-217-5204

NOTICE OF ELECTION:

RPS Executive Lines
550 W. Van Buren
Suite 1200
Chicago, IL 60607
USA

SERVICE OF SUIT:

Risk Situated in California:
Eileen Ridley
FLWA Service Corp.
c/o Foley & Lardner LLP
555 California Street, Suite 1700, San Francisco, CA 94104-1520

Risks Situated in All Other States:
Mendes & Mount
750 Seventh Avenue, New York, NY 10019

CHOICE OF LAW:

New York

ENDORSEMENTS EFFECTIVE AT INCEPTION: NMA 45 Short Rate Cancellation Endorsement (USA)
NMA 1256 Nuclear Incident Exclusion
NMA 1477 Radioactive Contamination Exclusion
LSW 1001 Several Liability Clause
LSW 3001 Premium Payment Clause
LMA 3100 Sanction Limitation and Exclusion Clause

It is understood and agreed that any reference to 'Policy' in the attached wording shall be deemed to read 'Certificate'.

Dated: 18 May 2015



Authorised Signatory

This is not a valid policy
Quotation
Open 90 days

AJG Micro Cyber Wording

Edition: 1 July 2014

NOTICE: THIS POLICY IS LIMITED TO LIABILITY FOR CLAIMS THAT ARE FIRST MADE AGAINST YOU AND NOTIFIED TO US DURING THE POLICY PERIOD AS REQUIRED. CLAIM EXPENSES SHALL REDUCE THE APPLICABLE LIMITS OF LIABILITY AND ARE SUBJECT TO THE APPLICABLE RETENTION(S). TERMS THAT APPEAR IN BOLD FACE TYPE HAVE SPECIAL MEANINGS. SEE THE DEFINITIONS FOR MORE INFORMATION. PLEASE READ THIS POLICY CAREFULLY.

POLICY FORM

In consideration of the payment of the premium and reliance upon the statements made by You in the **Application** and subject to the Limit of Liability, exclusions, conditions and other terms of this Policy, it is agreed as follows:

I. COVERAGES

A. PRIVACY LIABILITY (INCLUDING EMPLOYEE PRIVACY)

We shall pay on **Your** behalf **damages** and **claim expenses** that **You** become legally obligated to pay in excess of the applicable retention resulting from a **claim** first made against **You** and reported to **Us** during the **policy period** or **extended reporting period** arising out of a **privacy wrongful act** on or after the **Retroactive Date** and before the end of the **policy period**, harming any third party or **employee**.

B. PRIVACY REGULATORY CLAIMS COVERAGE

We shall pay on **Your** behalf **regulatory fines**, **consumer redress funds** and **claim expenses** that **You** become legally obligated to pay in excess of the applicable retention resulting from a regulatory **claim** first made against **You** and reported to **Us** during the **policy period** or **extended reporting period** arising out of a **privacy wrongful act** on or after the **Retroactive Date** and before the end of the **policy period**.

C. SECURITY BREACH RESPONSE COVERAGE

We shall reimburse **Your Organization** for **Crisis Management Costs** and **Breach response costs** in excess of the applicable retention that **Your Organization** incurs in the event of a **security breach** with respect to personal, non-public information of **Your** customers or **employees**.

We will not make any payment under this Coverage unless the **security breach** first occurs on or after the **Retroactive Date** and before the end of the **policy period** and **You** first learn of the **security breach** within the **policy period** and report the **security breach** to **Us** as soon as practicable within the **policy period**.

D. SECURITY LIABILITY

We shall pay on **Your** behalf **damages** and **claim expenses** that **You** become legally obligated to pay in excess of the applicable retention resulting from a **claim** first made against **You** and reported to **Us** during the **policy period** or **extended reporting period** arising out of a **security wrongful act** on or after the **Retroactive Date** and before the end of the **policy period**.

E. **MULTIMEDIA LIABILITY**

We shall pay on **Your** behalf **damages** and **claim expenses** that **You** become legally obligated to pay in excess of the applicable retention resulting from a **claim** first made against **You** and reported to **Us** during the **policy period** or **extended reporting period** arising out of a **multimedia wrongful act** on or after the **Retroactive Date** and before the end of the **policy period**.

F. **CYBER EXTORTION**

We shall reimburse **Your Organization** for the **Cyber-extortion expenses** and **Cyber-extortion payments** that **Your Organizations** actually pays directly resulting from a **Cyber-extortion threat** that **Your Organization** first receives and reports to **Us** during the **Policy period**.

G. **BUSINESS INCOME AND DIGITAL ASSET RESTORATION**

1. We shall pay the **Business Income Loss** that **Your Organization** sustains during a **Period of Restoration** resulting directly from a **Network Disruption** that commences during the **Policy period**, but only if the duration of such **Period of Restoration** exceeds the waiting period set forth in the Policy and such **Network Disruption** results solely and directly from a **Security Compromise** that commenced on or after the **Retroactive Date**.
2. We shall reimburse **Your Organization** for the **Restoration Costs** that **Your Organization** incurs because of the alteration, destruction, damage or **Loss of Digital Assets** that commences during the **Policy period** resulting solely and directly from a **Security Compromise**, but only if such **Security Compromise** commenced on or after the **Retroactive Date**.

H. **PCI DSS ASSESSMENT**

We shall pay on **Your** behalf **damages** and **claim expenses** that **You** become legally obligated to pay in excess of the applicable retention resulting from a **PCI DSS Assessment** first made against **You** and reported to **Us** during the **policy period** or **extended reporting period** arising out of a **wrongful act** on or after the **Retroactive Date** and before the end of the **policy period**

II. **DEFENSE, SETTLEMENT, AND INVESTIGATION OF CLAIMS**

- A. We shall have the right and duty to defend, subject to the applicable **policy aggregate limit** and applicable **sublimits of liability**, exclusions and other terms and conditions of this Policy, any **claim** against **You** seeking **damages** which are payable under the terms of this Policy, even if any of the allegations of the **claim** are groundless, false, or fraudulent and **We** shall have the right to appoint defense counsel.

We agree that **You** may settle any **claim** where the **damages** and **claim expenses** do not exceed 50% of the Retention, provided the entire **claim** is resolved and **You** receive a full release from all claimants.

We shall have the right to make any investigation **We** deem necessary, including, without limitation, any investigation with respect to the **Application** and statements made in the **Application** and with respect to coverage.

The applicable **policy aggregate limit** and **sublimits of liability** available to pay **damages** and **losses** shall be reduced and may be completely **exhausted** by payment of **claim expenses**. **Damages, losses** and **claim expenses** shall be applied against the applicable retention **You** pay.

B. If **You** refuse to consent to a settlement or compromise **We** recommend and acceptable to the claimant and elect to contest the **claim**, then:

1. Subject to the applicable limit of liability, our liability for any **damages** and **claim expenses** shall not exceed:
 - a. the amount for which the **claim** could have been settled, plus the **claim expenses** incurred prior to the date of such refusal; and
 - b. fifty percent (50%) of the **damages** and **claim expenses** in excess of the amount in a. above incurred in such **Claim**; provided that **You** bear the remaining 50% of the **damages** and **claim expenses** in excess of the amount in a. above incurred in such **Claim** uninsured and at **Your** own risk; and
2. **We** shall have the right to withdraw from the further defense of such **Claim** by tendering control of the defense to **You**.

This clause shall not apply to any settlement where the total of the proposed settlement and incurred **claim expenses** do not exceed all applicable retentions.

C. **We** shall not be obligated to pay any **damages, losses** or **claim expenses**, or to undertake or continue defense of any **claim**, after the applicable **policy aggregate limit** or applicable **sublimits of liability** has been exhausted by payment of **damages, losses** and/or **claim expenses** or after deposit of the applicable limit of liability in a court of competent jurisdiction, and that upon such payment or deposit, **We** shall have the right to withdraw from the further defense thereof by tendering control of said defense to **You**.

III. TERRITORY

This insurance applies to claims made and acts, errors or omissions committed or alleged to have been committed anywhere in the world.

IV. EXCLUSIONS

The coverage under this Policy shall not apply to any **Damages, Claim expenses** or **Loss** incurred with respect to any **Claim**, or any **Crisis Management Costs, Breach response costs** or other amounts, arising out of or resulting, directly or indirectly, from:

- A. **Bodily injury** or **property damage**;
- B. **Your** employment practices or any alleged or actual discrimination against any person or entity on any basis, including without limitation, race, creed, color, religion, ethnic background, national origin, age, handicap, disability, sex, sexual orientation, or pregnancy;
- C. The failure, malfunction or inadequacy of any satellite; any electrical or mechanical failure and/or interruption, including but not limited to electrical disturbance, spike, brownout or blackout; or any outage to gas, water, telephone, cable, telecommunications or other infrastructure, unless such infrastructure is under **Your** operational control; however this exclusion shall not apply to any **Privacy Wrongful Act** that is caused by such electrical or mechanical failure or that is caused by such failure of telephone lines, data transmission lines or other infrastructure comprising or supporting the Internet;
- D. Fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, an act of God or any other physical event, however caused;

- E. Breach of any express, implied, actual or constructive contract, agreement, warranty, guarantee or promise, provided, however, this exclusion shall not apply to:
1. any liability or obligation **You** would have in the absence of such contract or agreement;
 2. any breach of **Your** privacy statement; or
 3. any indemnity by **You** in a written contract or agreement with **Your** client regarding any **Privacy wrongful act** or **Security wrongful act** by **You** in failing to preserve the confidentiality or privacy of personal information of customers of **Your** client;
- F. Any of the following:
1. Any presence of pollutants or contamination of any kind;
 2. Any actual, alleged or threatened discharge, dispersal, release, or escape of pollutants or contamination of any kind;
 3. Any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize pollutants or in any way respond to or assess the effects of pollutants or contamination of any kind; or
 4. Manufacturing, mining, use, sale, installation, removal, distribution of or exposure to asbestos, materials, or products containing asbestos, asbestos fibers or dust;
 5. Ionizing radiation or contamination by radioactivity from any nuclear fuel or any nuclear waste from the combustion of nuclear fuel;
 6. Actual, potential or alleged presence of mold, mildew or fungi of any kind;
 7. The radioactive, toxic, or explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; or
 8. 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;
- G. Any of the following:
1. Purchase, sale, offer of or solicitation of an offer to purchase or sell securities, or alleged or actual violation of any securities law, including but not limited to the provisions of the Securities Act of 1933, or the Securities Exchange Act of 1934, as amended, the Sarbanes-Oxley Act of 2002, or any regulation promulgated under the foregoing statutes, or any federal, state, local or foreign laws similar to the foregoing statutes (including "Blue Sky" laws), whether such law is statutory, regulatory or common law;
 2. Alleged or actual 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 federal, state, local or foreign law similar to the foregoing statute, whether such law is statutory, regulatory or common law;
 3. Alleged or actual violation of the responsibilities, obligations or duties imposed upon fiduciaries by the **Employee Retirement Income Security Act of 1974**, as amended;
 4. Alleged or actual anti-trust violations, restraint of trade or unfair competition, including without limitation, violations of the Sherman Act, the Clayton Act or the Robinson-Patman Act, or any other federal, state, local, or foreign laws regulating the same or similar conduct; provided, however, this exclusion H.4 shall not apply to a **claim** for a **multimedia wrongful act** or **regulatory claim**;
- H. Any **Act of terrorism**; strike or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against these actions; including all amounts, **damages**, or **claim expenses** of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing, or in any way relating to the above; however, if **We** allege that by reason of this exclusion any **Damages** or **Claim expenses** are not covered by this

Policy, the burden of proving the contrary shall be upon **You**. However this exclusion does not apply to acts perpetuated electronically.

- I. Any of the following:
1. Any circumstance occurring, or act, error, or omission committed, prior to the inception date of this policy, or if this is a renewal to the first date of coverage granted by insurers, that **you** knew, or could have reasonably foreseen that such circumstance or **Wrongful Act** would be the basis of a **Claim**;
 2. Any **claim** or circumstance previously notified to a prior insurer that could reasonably be expected to be the type of **claim** or **loss** covered by this Policy; or
 3. Any circumstance occurring, or act, error, or omission committed prior to the **Retroactive date**;
- J. Any criminal, dishonest, intentional violation of the law, unfair or deceptive business practice, fraudulent or malicious act, error or omission committed by **You** with actual criminal, dishonest, fraudulent or malicious purpose or intent; provided, however, this exclusion shall not apply to:
1. **claim expenses** incurred in defending any such **claim** until there is a final adjudication, judgment, binding arbitration decision or conviction against **You** in such **Claim** or an admission by **You** establishing such conduct, or a plea of nolo contendere or no contest by **You** regarding such conduct, in which event **You** shall reimburse **Us** for all claim expenses that **We** have paid and **We** shall have no further liability for **claim expenses** from such **Claim**; and
 2. any of **You** who did not personally commit or personally participate in committing or personally acquiesce in such conduct, except that the exclusion shall apply with respect to **Your Organization** if an admission, final adjudication, or finding in a proceeding separate or collateral to the **claim** establishes that a current principal, partner, director, or officer of **Your Organization** in fact engaged in such conduct;
- K. Any **claim** made by or on behalf of:
1. any person or entity within the definition of **You** against any other Insured person or entity within the definition of **You** provided this exclusion shall not apply to an otherwise covered **Claim** under Coverage A made by a current or former **employee of Your Organization**; or
 2. Any entity which:
 - a. Is operated, managed, or controlled by **You** or in which **You** have an ownership interest in excess of 15% or in which **You** are an officer or director; or
 - b. Operates, controls, or manages **Your Organization**, or has an ownership interest of more than 15% in **Your Organization**;
- L. **Your** activities as a trustee, partner, officer, director, or **employee** of any **employee** trust, charitable organization, corporation, company or business other than **Your Organization**;
- M. Any alleged or actual infringement or violation of patent rights or misappropriation, theft, copying, display or publication of any trade secret by, or with active cooperation, participation, or assistance of, **You**, any of **Your** former **employees, subsidiaries, directors, officers, partners, trustees, or any of Your** successors or assignees; or
- N. Any trading losses or trading liabilities; the monetary value of any electronic fund transfers or transactions by or on behalf of **You** which is lost, diminished, or damaged during transfer from, into or between accounts; or the face value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount.

With respect to Insuring Coverage G only this Policy does not apply to any **Loss** arising out of, or resulting, directly or indirectly, from:

- O. Any costs of updating, upgrading or remediation of **Your Computer systems** or **Your Digital Assets**; provided, however, this exclusion shall not apply to **Restoration Costs** otherwise covered under Coverage G.2.;
- P. Any failure of:
 - 1. Telephone lines;
 - 2. Data transmission lines or wireless communications connection; or
 - 3. Other telecommunications equipment, facilities or electronic infrastructure, including equipment, facilities or infrastructure that supports the operation of computer networks, including the internet, which are Used to transmit or receive voice or data communications and which are not under **Your** direct operational control or, if applicable, not under the direct operational control of **Your Service Provider**;
- Q. Any seizure, confiscation, nationalization, or destruction of, or damage to or **Loss of Use** of any digital asset or **Your Computer systems** by order of any governmental authority;
- R. Ordinary wear and tear, gradual deterioration of or failure to maintain **Digital Assets** or **Computer systems** on which **Digital Assets** are processed or stored, whether owned by **You** or others;
- S. The physical **Loss** of, damage to or destruction of tangible property, including the **Loss** of use thereof; provided, however, "tangible property" does not include **Digital Assets**, but does include all computer hardware;
- T. Any form of third party liability or other legal liability, including but not limited to, any lawsuits, claims or demands by any third party, employee, officer, director or partner;

V. DEFINITIONS

- A. **Act of terrorism** means:
 - 1. any act certified an Act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002 or otherwise declared an Act of terrorism by any government;
 - 2. any act committed by any person or group of persons designated by any government as a terrorist or terrorist group or any act committed by any person or group of persons acting on behalf of or in connection with any organization designated by any government as a terrorist organization; or
 - 3. the **Use** of force or violence and/or the threat thereof by any person or group of persons, whether acting alone or on behalf of or in connection with any organization or government, committed for political, religious, ideological, or similar purposes, including the intention to influence any government and/or put the public, or any section of the public, in fear.
- B. **Application** means all applications, including any attachments thereto, and all other information and materials submitted by **You** or on **Your** behalf to **Us** in connection with the underwriting of this Policy. All such applications, attachments, information and materials are deemed attached to and incorporated into this Policy.
- C. **Bodily injury** means injury to the body, sickness, or disease sustained by any person, and where resulting from such injuries, mental anguish, mental injury, shock, humiliation, emotional distress, loss of consortium, or death.
- D. **Breach response costs** means the following fees, costs, charges or expenses, if reasonable and necessary, that **You** incur in responding to a **security breach** during the period of twelve (12) months after **You** first learn of such **security breach**:

1. computer forensic professional fees and expenses to determine the cause and extent of such **security breach**;
2. costs to notify customers or **employees** affected or reasonably believed to be affected by such **security breach**, including printing costs, publishing costs, postage expenses, call center costs or costs of notification via phone or e-mail;
3. legal fees and expenses to determine whether **You** are obligated under applicable **Privacy Regulations** to notify applicable regulatory agencies or customers or **employees** affected or reasonably believed to be affected by such **security breach**, effect compliance with any applicable **Privacy Regulations**, draft the text of privacy notifications to customers or **employees** affected or reasonably believed to be affected by such **security breach**, and coordinate the investigation of such **security breach**; or
4. **credit monitoring expenses**

Provided, however, **We** shall have no obligation to reimburse **You** for such **Breach response costs** unless:

- (a) **You** provide an opinion from legal counsel that **You** were obligated under applicable **Privacy Regulations** to notify applicable regulatory agencies or customers or **employees** affected or reasonably believed to be affected by such **security breach** of such **security breach**; or
- (b) **You** voluntarily incur with **Our** prior written consent such **Breach response costs** (including **credit monitoring expenses**), such as in a jurisdiction where **You** have no obligation to notify applicable regulatory agencies or customers or **employees** affected or reasonably believed to be affected by such **security breach** of such **security breach**.

Breach response costs do not include **Your** overhead expenses or any salaries, wages, fees, or benefits of **Your employees**.

E. **Business Income Loss** means:

1. Earnings **Loss**; and/or
2. Expenses **Loss**.

Business Income Loss does not include:

- 1) any contractual penalties;
- 2) any costs or expenses incurred to update, upgrade, replace, restore or otherwise improve any **Computer system** to a level beyond that which existed prior to a **Network Disruption**;
- 3) any costs or expenses incurred to identify, remove or remediate computer program errors or vulnerabilities, or costs to update, upgrade, replace, restore, maintain or otherwise improve any **Computer system**; or
- 4) any legal costs or expenses or **Loss** arising out liability to any third party;
- 5) any **Loss** incurred as a result of unfavorable business conditions; or
- 6) any other consequential **Loss** or damage.

F. **Claim** means:

1. A written demand received by **You** for money or services, including the service of a civil suit or institution of arbitration proceedings;
2. Initiation of a civil suit against **You** seeking injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction); or
3. Solely with respect to Coverage B., a **regulatory claim** made against **You**.
4. **A PCI DSS Assessment**

Multiple **claims** arising from the same or a series of related or repeated acts, errors, or omissions or from any continuing acts, errors, or omissions shall be considered a single **claim** for the purposes of this policy.

irrespective of the number of claimants or **You** involved in the **claim**. All such **claims** shall be deemed to have been made at the time of the first such claim was made or deemed made under Section IX.A.

G. **Claim expenses** means:

1. reasonable and necessary fees charged in the defense or settlement of a **Claim** by an attorney whom **We** designate or whom **You** designate with our prior written consent, such consent not to be unreasonably withheld; and
2. all other legal costs and expenses resulting from the investigation, adjustment, defense and appeal of a **claim**, if incurred by **Us** or by **You** with **Our** prior written consent; however, **claim expenses** do not include **Your** overhead expenses or any salaries, wages, fees, or benefits of **Your employees** for any time spent in cooperating in the defense or investigation of any claim or circumstance that might lead to a **claim**.

H. **Computer system** means electronic, wireless, web or similar systems (including all hardware and software) used to process data or information in an analog, digital, electronic or wireless format, including computer programs, electronic data, operating systems, and components thereof, including but not limited to laptops, personal digital assistants, cellular phones, media storage and peripheral devices, media libraries, associated input and output devices, networking equipment, and electronic backup equipment. With respect to Insuring Coverage G only **Computer System** means a **Computer System**, over which **You** have direct operational control or that is under the direct operational control of a **Service Provider**, used to process, maintain or store **Your Digital Assets**.

I. **Consumer redress funds** means any sums of money **You** are legally required to deposit in a fund for the payment of consumer **claims** due to a settlement of, or an adverse judgment in, a **Regulatory Claim**.

J. **Credit monitoring expenses** means the reasonable and necessary expense of providing free credit report, identity theft protection services, credit monitoring services, credit freezes, healthcare fraud monitoring services, fraud alerts or call center services for customers affected or reasonably believed to be affected by a **security breach**; provided, however, **We** shall not be obligated to reimburse **You** for more than one (1) year of credit monitoring services or identity theft protection services for customers who are at least eighteen (18) years old unless there is a rule, regulation, court ruling, requirement by a regulator or statutory requirement requiring otherwise.

K. **Crisis Management Costs** means any reasonable and necessary fees and expenses **You** incur with **Our** prior written consent to employ a public relations consultant to avert or mitigate any material damage to any of **Your** brands due to a **newsworthy event** that has arisen due to a **security breach** or a **claim** or **regulatory claim** for a **privacy wrongful act**, regardless of whether the expenses are incurred prior or subsequent to any such **claim** or **regulatory claim** being made against **You**.

L. **Cyber-extortion threat** means a credible threat or connected series of threats made by someone other than a director, trustee or partner of **Your Organization**:

1. to introduce **Malicious Code** into **Your Computer system**;
2. to interrupt **Your Computer system** or interrupt access to **Your Computer system**, such as through a denial of service attack;
3. to corrupt, damage or destroy **Your Computer system**; or
4. to disseminate, divulge, or improperly utilize any personal or confidential corporate information residing on **Your Computer systems** taken as a result of a **Network Disruption**.

M. **Cyber-extortion payment** means any sum paid to or at the direction of any third party that **You** reasonably believe to be responsible for a **Cyber-extortion threat**; provided that:

1. **You** obtain **Our** written consent prior to making such **Cyber-extortion payment**;
2. **You** make such **Cyber-extortion payment** to terminate the **Cyber-extortion threat**; and

3. the **Cyber-extortion payment** does not exceed the amount **We** reasonably believe would have been incurred had such **Cyber-extortion payment** not been made.

N. **Cyber-extortion expenses** means the reasonable and necessary expenses **You** incur with Our approval in evaluating and responding to a **Cyber-extortion threat**. However, **Cyber-extortion expenses** do not include **Your** overhead expenses or any salaries, wages, fees, or benefits of **Your employees**.

O. **Damages** means:

1. Solely with respect to Coverages A, D and E, a monetary judgment, award or settlement, including:
 - a. Pre-judgment interest;
 - b. Post-judgment interest that accrues after entry of the judgment or award and before **We** have paid, offered to pay or deposited in court that part of the judgment or award within the applicable limit of liability; and
 - c. subject to this Policy's terms, conditions, and exclusions, punitive or exemplary **damages** (where insurable by the applicable law that most favors coverage for such **damages**); and
2. Solely with respect to Coverage B, **regulatory fines** and **Consumer redress funds**.
3. Solely with respect to Coverage H **PCI DSS Assessments**

Damages shall not include or mean:

1. **Your** future profits, restitution, or disgorgement of profits; or **Your** cost to comply with any order granting injunctive or non-monetary relief, including specific performance, or any agreement to provide such relief;
2. **Your** return or offset of fees, charges, royalties, or commissions for goods or services already provided or contracted to be provided;
3. Fines or penalties of any nature, except **Regulatory fines**, **Consumer redress funds** and **PCI DSS Assessments** as identified above;
4. Any amount **You** are not financially or legally obligated to pay;
5. Multiple **damages**;
6. Any donations or contributions to any charitable organization; or
7. Matters that may be deemed uninsurable under the law pursuant to which this Policy may be construed.

P. **Denial of Service Attack** means inability of a third party to gain access to **Your Computer systems** through the Internet due to unauthorized attacks or deliberate overloading of bandwidth connections and/or web servers by means of the sending of substantial quantities of repeat or irrelevant communication or data with the intent of blocking access to the **Computer system** by third parties

Q. **Digital Assets** means any electronic data, including personally identifiable, non-public information, or computer software over which **You** have direct control or for which such control has been contractually assigned by **Your Organization** to a **Service Provider**. **Digital Assets** do not include computer hardware of any kind.

R. **Earnings Loss** means the difference between the revenue that **Your Organization** would have earned, based on reasonable projections and the variable costs that would have been incurred, but which **Your Organization** would have saved as a result of not earning that revenue.

S. **Employee** means any individual in **Your Organization's** service, including any part-time, seasonal, and temporary **employee**, who is compensated by salary, wages, fees or commissions and over whom **You** have the right to direct and control, but excluding any partner or director of **Your Organization**.

- T. **Expenses Loss** means the additional expenses **Your Organization** incurred to minimize the suspension of business and to continue operations during the **Period of Restoration** that are over and above the cost that **Your Organization** reasonably and necessarily would have incurred to conduct **Your** business had no **Network Disruption** occurred. These additional expenses do not include any **Restoration Costs** or any actual, reasonable and necessary expenses **You** incur in response to a **Network Disruption** in order to prevent, minimize or mitigate any further damage to **Your Digital Assets**, minimize the duration of a **Network Disruption** or preserve critical evidence of any wrongdoing.
- U. **Extended reporting period** means the period of time after the end of the **policy period** for reporting **claims** as provided in Section VIII. of this Policy.
- V. **Intranet** means a private computer network inside a company or organization that Uses the same kinds of software found on the **Internet**, but only for internal Use.
- W. **Internet** means the worldwide public network of computer networks which enables the transmission of electronic data between different Users, commonly referred to as the **internet**, including a private communications network existing within a shared or public network platform.
- X. **Loss(es)** means:
1. **Business Income Loss;**
 2. **Restoration Costs;** and
 3. **Cyber-extortion payments and Cyber-extortion expenses.**

All **Losses** arising from the same or related underlying facts, circumstances, situations, transactions or events or related **Security Compromises** shall be deemed a single **Loss**.

- Y. **Malicious code** means any unauthorized and corrupting or harmful computer code, including but not limited to computer viruses, spyware, Trojan horses, worms, logic bombs, and mutations of any of the preceding.
- Z. **Media content** means data, digital code, images, graphics, sounds, text or any other similar material.
- AA. **Multimedia wrongful act** means any of the following acts committed in the ordinary course of **Your Organization's** business in gathering, communicating, reproducing, publishing, disseminating, displaying, releasing, transmitting or disclosing **Media content** via any **Computer system** that **You** own or operate or is operated on **Your** behalf by a third party, including any web-based social media authorized or operated by **Your Organization** or any **internet** or **intranet** website, or via any non-electronic media:
1. defamation, libel, slander, product disparagement, trade libel, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;
 2. invasion of or interference with the right to privacy or publicity;
 3. false arrest, detention or imprisonment or malicious prosecution;
 4. infringement of any right to private occupancy, including trespass, wrongful entry, eviction or eavesdropping;
 5. infringement of copyright, domain name, trade dress, title or slogan, or the dilution or infringement of trademark, service mark, service name or trade name;
 6. plagiarism, piracy or misappropriation of ideas; or
 7. liability regarding any Media Content for which **You** are responsible;

provided always that any **Multimedia wrongful act** was committed or alleged to have been committed by **You**, or any person for whom or entity for which **You** are legally responsible, including an independent contractor or outsourcing organization.

BB. **Newsworthy event** means an event that has been caused by a **claim** or **security breach** within one of the coverages which **You** have purchased, that has been publicized through any media channel, including television, print media, radio or electronic networks, the **Internet**, and/or electronic mail.

CC. **Network Disruption** means any of the following events:

1. A detectable failure, interruption or degradation of the operation of **Your Computer system**; or
2. The denial, restriction or hindrance of access to or Use of **Your Computer system** or **Your Digital Assets** by any party who is otherwise authorized to have access.

More than one such event that results from the same or related underlying facts, circumstances, situations, transactions or **Security Compromises** shall be considered a single **Network Disruption** which commences on the date of the earliest of such events.

DD. **PCI DSS Assessment(s)** means a written demand received by **You** from **Your Acquiring Bank** or a card association (MasterCard, VISA, Discover, American Express or JCB) for a monetary assessment of a penalty or fine due to **Your** non-compliance with **PCI Data Security Standards**.

EE. **PCI Data Security Standards** (known as PCI DSS) means the published data security standard in effect now or as hereafter amended that all merchants and processors must follow when storing, processing and transmitting cardholder data.

FF. **Period of Restoration** means the time period from the commencement of a **Network Disruption** to the earlier of:

1. the date that **Your Computer system** is, or with reasonable diligence could have been, restored to the condition and functionality that existed immediately prior to the **Network Disruption**; or
2. sixty (60) consecutive days after the termination of the **Network Disruption**.

GG. **Policy period** means the period of time from the effective date to the expiration date specified in the Policy, or any earlier cancellation date.

HH. **Privacy breach** means a common law breach of confidence, infringement, or violation of any rights to privacy, including but not limited to breach of **Your** privacy statement, breach of a person's right of publicity, false light, intrusion upon a person's seclusion, public disclosure of a person's private information, or misappropriation of a person's picture or name for commercial gain.

II. **Privacy Regulations** means any federal, state, local or foreign statute or regulation requiring **You** to limit or control the collection, use of, or access to, personally identifiable, non-public information in **Your** possession or under **Your** control, or obligating **You** to inform customers of the **unauthorized access** to or disclosure of such personally identifiable, non-public information, including the following statutes and regulations:

1. The Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), including Title II requiring protection of confidentiality and security of electronic protected health information, and as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH), any rules and regulations promulgated thereunder as they currently exist and as amended, and any related state medical privacy laws as they currently exist and as amended;
2. The Gramm-Leach-Bliley Act of 1999, also known as the Financial Services Modernization Act of 1999, including sections concerning security protection and standards for customer records maintained by financial services companies, and the rules and regulations promulgated thereunder as they currently exist and as amended;
3. Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a), but solely with respect to alleged unfair or deceptive acts or practices in or affecting commerce;

4. Federal, state or local privacy protection regulations or laws, such as the California Database Protection Act of 2003 (previously called SB 1386), as they currently exist now or may be amended, associated with the control and Use of, or limiting **unauthorized access** to, personal information, including but not limited to requirements to post privacy policies, adopt specific privacy controls, or inform customers of breaches of security that has or may impact their personal information;
 5. Federal, state or local data breach regulations or laws, as they currently exist now or in the future, imposing liability for failure to take reasonable care to guard against **unauthorized access** to credit or debit account information that is in **Your** possession or under **Your** control;
 6. Identity Theft Red Flags under the Fair and Accurate Credit Transactions Act of 2003;
 7. Federal and state consumer credit reporting laws, such as the Federal Fair Credit Reporting Act (FCRA) and the California Consumer Credit Reporting Agencies Act (CCCRAA);
 8. the Children's Online Privacy Protection Act of 1998; or
 9. Privacy protection regulations or laws adopted by countries outside of the United States, such as the EU Data Protection Directive and the Canadian Personal Information Protection and Electronic Documents Act, as they currently exist now or may be amended, associated with the collection, control and Use of, or limiting **unauthorized access** to, personal information.
- JJ. **Privacy wrongful act** means any **privacy breach** or breach of **Privacy Regulations** committed by **You** or by any person or entity for which **You** are legally responsible, including an independent contractor or outsourcing organization.
- KK. **Property damage** means physical injury to or destruction of any tangible property, including the loss thereof. Data is not considered tangible property.
- LL. **Regulatory claim** means:
1. any request for information, civil investigative demand or formal investigation of **You** by an administrative or regulatory agency or similar governmental body concerning a **Privacy breach** or possible breach of **Privacy regulations**; or
 2. any administrative adjudicative proceeding against **You** by an administrative or regulatory agency or similar governmental body for a breach of **Privacy regulations**.
- MM. **Regulatory fines** means fines, penalties, or sanctions awarded for a violation of any **privacy regulation**.
- NN. **Restoration Costs** means the actual, reasonable and necessary costs **You** incur to replace, restore, or re-create **Your Digital Assets** to the level or condition at which they existed prior to sustaining any **Loss**. If such **Digital Assets** cannot be replaced, restored or recreated, then **Restoration Costs** will be limited to the actual, reasonable and necessary costs **You** incur to reach this determination. **Restoration Costs** do not include:
1. any costs **You** incur to replace, restore or recreate any of **Your Digital Assets** that were not subject to regular network back-up procedures at the time of the **Loss**;
 2. any costs or expenses incurred to update, upgrade, replace, restore or otherwise improve **Your Digital Assets** to a level beyond that which existed prior to sustaining any **Loss**;
 3. any costs or expenses incurred to identify, remove or remediate computer program errors or vulnerabilities, or costs to update, upgrade, replace, restore, maintain or otherwise improve any **Computer system**; or
 4. the economic or market value of any **Digital Assets**, including trade secrets.
- OO. **Retroactive Date** means the date specified in the Policy.

PP. **Security breach** means:

1. the loss or disclosure of personal, non-public information of customers or **employees** in **Your** care, custody or control, including such information stored on paper or on a **Computer system** operated by **You** or on **Your** behalf; or
2. **Theft of data, unauthorized access** to or **unauthorized use** of personal, non-public information of customers or **employees** in **Your** care, custody or control, including such information stored on paper or on a **Computer system** operated by **You** or on **Your** behalf;

that results in or may result in the compromise of the privacy or confidentiality of such personal, non-public information.

More than one **security breach** arising from the same or a series of continuous, repeated or related acts, errors, or omissions shall be considered a single **security breach**, which shall be deemed to have first occurred at the time of the first such **security breach**.

QQ. **Security Compromise** means:

1. The **unauthorized access** or Use of **Your Computer system** or **Your Digital Assets**;
2. The unauthorized transmission of computer code into **Your Computer system** that causes **Loss** or damage to **Your Digital Assets**; or
3. A **Denial of Service Attack** on **Your Computer system** that causes **Loss** or damage to **Your Digital Assets**.

RR. **Security wrongful act** means any act, error, or omission committed by **You** or a person or entity for which **You** are legally responsible, including an independent contractor or outsourcing organization, in the conduct of **Computer systems** security and the protection of the security and confidentiality of **Your** customer records or information, that results in:

1. The inability of a third party, who is authorized to do so, to gain access to **Your Computer systems**;
2. The failure to prevent or hinder **unauthorized access** to or unauthorized Use of a **Computer system** operated by **You** or on **Your** behalf, the failure to prevent physical theft of hardware or firmware **You** control, the failure to prevent people or processes security failures, or the failure to prevent false communications designed to trick the User into surrendering personal information (such as "phishing", "pharming" or "vishing"), any of which results in:
 - a. The alteration, copying, corruption, destruction or deletion of, or damage to, electronic data on a **Computer system** operated by **You** or on **Your** behalf;
 - b. Unauthorized disclosure of commercial, personal or private information;
 - c. **Theft of data** (including identity theft); or
 - d. Denial of service attacks against **Internet** sites or **Computer systems** of a third party; or
3. The failure to prevent transmission of **malicious code** from a **Computer system** operated by **You** or on **Your** behalf to a third party's **Computer system**.

SS. **Service Provider** means any third party that is responsible for the processing, maintenance, protection or storage of **Your Digital Assets** pursuant to a written contract directly with **Your Organization**. A **Service Provider** does not include any provider of telecommunications services, including internet access, to **You**.

TT. **Subsidiary** means any corporation where more than 50% of the outstanding securities representing the present right to vote for the election of such corporation's directors are owned by the **Named Insured** directly or indirectly, if such corporation was so owned on the inception date of this Policy; or

1. becomes so owned after the inception date of this Policy, provided the revenues of the newly acquired corporation do not exceed 15% of **Your Organization's** annual revenues as set forth in its most recent audited financial statement; or
 2. becomes so owned after the inception date of this Policy, provided that if the revenues of the newly acquired corporation exceed 15% of **Your Organization's** annual revenues as set forth in its most recent audited financial statement, the provisions of Section IX. G. **must** be fulfilled.
- UU. **Theft of data** means the unauthorized taking, misuse or disclosure of information on **Computer systems**, including but not limited to charge, debit, or credit information, banking, financial and investment services account information, proprietary information, and personal, private or confidential information.
- VV. **Unauthorized access** means the gaining of access to a **Computer system** by an unauthorized person or an authorized person in an unauthorized manner.
- WW. **Unauthorized Use** means the Use of a **Computer system** by an unauthorized person or persons or an authorized person in an unauthorized manner.
- XX. **We, Us or Our** means the underwriters providing this insurance.
- YY. **You or Your or Yours** means:
1. the entity named in the Policy ("**Named Insured**") and its **subsidiaries** (together "**Your Organization**");
 2. Any present or future director, officer, or trustee of **Your Organization**, but only with respect to the performance of his or her duties as such on behalf of **Your Organization**;
 3. Any present or future **employee** of **Your Organization** but only with respect to work done while acting within the scope of his or her employment and related to the conduct of **Your Organization's** business;
 4. In the event that the **Named Insured** is a partnership, limited liability partnership, or limited liability company, then any general or managing partner, principal, or owner thereof, but only while acting within the scope of his or her duties as such;
 5. Any person who previously qualified as You under 2, 3, or 4 above prior to the termination of the required relationship with **Your Organization**, but only with respect to the performance of his or her duties as such on behalf of **Your Organization**; and
 6. The estate, heirs, executors, administrators, assigns 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 insurance.
 7. Any agent or independent contractor, including any distributor, licensee or sub-licensee, but only while acting on **Your** behalf, at **Your** direction, and under **Your** control
 8. Any third party entity (including a HIPAA Covered Entity) required by contract to be named as an insured under this policy, but only in respect of sums which they become legally obliged to pay (including liability for claimants' costs and expenses) as a result of a **claim** arising solely out of an act, error or omission committed by **you**, provided that:
 - a) **you** contracted in writing to indemnify the third party for such a **claim** prior to it first being made against them; and
 - b) had the **claim** been made against **you**, then you would be entitled to indemnity under this Policy.

As a condition to **our** indemnification of any third party they shall prove to **our** satisfaction that the **claim** arose solely out of an act, error or omission committed by **you**; and Where a third party is indemnified as an additional Insured as a result, it is understood and agreed that any claim made by that third party against **you** shall be treated by **us** as if they were a third party, not an additional Insured.

VI. LIMITS OF LIABILITY

A. The amount indicated in the Policy as stated within the Limits of Liability (herein the “**policy aggregate limit**”) is the most **We** will pay in the aggregate under this Policy, under all coverages combined, for:

1. all **damages**, including **regulatory fines, consumer redress funds** and all **claim expenses** from all **claims**;
2. all **Crisis Management Costs** and **Breach response costs** from all **security breaches**; and
3. all **Losses**

regardless of the number of acts, errors, or omissions, persons or entities covered by this Policy, claimants, **claims, losses or security breaches**, or Coverages triggered.

B. When purchased as indicated in the Policy as stated within the Limits of Liability:

1. the amount indicated as the Per Claim/Breach Sub-Limit of Liability applicable to Coverage A. is the most **We** will pay for all **damages** and **claim expenses** from each **Claim** arising out of a privacy act, subject to the amount indicated as the Aggregate Sub-Limit of Liability under Coverage A. for all **damages** and **claim expenses** from all such **Claims**;
2. the amount indicated as the Per Claim/Breach Sub-Limit of Liability applicable to Coverage B. is the most **We** will pay for all **regulatory fines, consumer redress funds** and **claim expenses** from each **Regulatory claim** arising out of a privacy act, subject to the amount indicated as the Aggregate Sub-Limit of Liability under Coverage B. for all **regulatory fines** and **claim expenses** from all such **Claims**;
3. the amount indicated as the Per Claim/Breach Sub-Limit of Liability applicable to Coverage C. is the most **We** will pay for all **Crisis Management Costs** and **Breach response costs** from each **Security breach**, subject to the amount indicated as the Aggregate Sub-Limit of Liability under Coverage C. for all **Crisis Management Costs** and **Breach response costs** from all **Security breaches**;
4. the amount indicated as the Per Claim/Breach Sub-Limit of Liability applicable to Coverage D. is the most **We** will pay for all **damages** and **claim expenses** from each **Claim** arising out of a security act, subject to the amount indicated as the Aggregate Sub-Limit of Liability under Coverage D. for all **damages** and **claim expenses** from all such **Claims**; and
5. the amount indicated as the Per **Claim**/Breach Sub-Limit of Liability applicable to Coverage E. is the most **We** will pay for all **damages** and **claim expenses** from each **Claim** arising out of a **multimedia wrongful act**, subject to the amount indicated as the Aggregate Sub-Limit of Liability under Coverage E. for all **damages** and **claim expenses** from all such **Claims**; and
6. the amount indicated as the Sub-Limit of Liability applicable to Coverage F. is the most **We** will pay for all **Cyber-extortion payments** and **Cyber-extortion expenses** from each **Cyber-extortion threat** and all **Cyber-extortion threats** in the aggregate
7. the amount indicated as the Sub-Limit of Liability applicable to Coverage G. is the most **We** will pay for all **Business Income Loss** and from each **Security Compromise** and all **Security Compromises** in the aggregate; **Restoration Costs** from each **Security Compromise** and all **Security Compromises** in the aggregate

such Per Claim/Breach/**Cyber-extortion threat/Security Compromise** Sub-Limits of Liability and Aggregate Sub-Limits of Liability being referred to herein as the “Sublimits of liability”, each of which is part of, and not in addition to the, **policy aggregate limit**.

C. If any **claim** or any single **claim** is covered under more than one Coverage, the highest applicable **sublimit of liability** shall be the most **We** shall pay as to such **claim** or single **claim** and such **claim** or single **claim** shall be subject to the highest applicable retention.

VII. RETENTIONS

The retention for each Coverage is stated in the Policy. The applicable retention shall be first applied to **damages, claim expenses, losses, Crisis Management Costs and Breach response costs** covered by this Policy and **You** shall make direct payments within the retention to appropriate other parties designated by **Us**. **We** shall be liable only for the amounts in excess of the retention, not to exceed the applicable **Sublimit of liability or policy aggregate limit**.

With respect to Coverages A, B, D, E and G the retention shall be satisfied by **Your** payments of **damages and claim expenses** resulting from **claims** first made and reported to **Us** during the **policy period or extended reporting period**. One retention shall apply to each single **Claim or Loss** under such Coverages.

With respect to Coverage C and F, the retention shall be satisfied by **Your** payments of **Crisis Management Costs and Breach response costs** resulting from a **security breach** that occurred during the **policy period** and is reported by **You to Us** during the **policy period or extended reporting period**. One retention shall apply to each single **security breach** under such Coverage.

With respect to Coverage G., the applicable retention amount set forth in the Policy applies once the **Period of Restoration** resulting from a **Network Disruption** has exceeded the **Waiting Period** in hours set forth in the Policy; then the **Business Income Loss** applicable to the retention amount set forth in the Policy shall be computed as of the commencement of such **Network Disruption**.

At our sole and absolute discretion, **We** may pay all or part of the applicable retention, in which case **You** agree to repay **Us** immediately after **We** notify **You** of the payment. The applicable retention shall first be applied to any **Loss** covered by this policy that is paid by **Us**, or by **You** with our prior written consent.

VIII. EXTENDED REPORTING PERIOD

- A. **Basic Extended reporting period:** In the event of cancellation or non-renewal of this Policy by **You** or **Us**, an **Extended reporting period** of sixty(60) days immediately following such cancellation or non-renewal shall be automatically granted hereunder at no additional premium. Such **extended reporting period** shall cover **claims** first made and reported to **Us** during such thirty (30) day **extended reporting period** but only in respect of any act, error, or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions, and exclusions of this Policy. No **claim** in such sixty (60) day **extended reported period** shall be covered under this Policy if **You** are entitled to indemnity under any other insurance or would have been entitled to indemnity under such insurance but for the exhaustion thereof.
- B. **Optional Extended reporting period:** In the event of cancellation or non-renewal of this policy by **You** or **Us**, **You** shall have the right, upon payment in full and not proportionally or otherwise in part, of 100% of the annual premium shown in the Policy, to have issued an endorsement providing a twelve (12) month optional **extended reporting period** from the cancellation or non-renewal date.
1. Such optional **extended reporting period** shall cover **claims** made and reported to **Us** during this optional **extended reporting period**, but only in respect of any **claim** arising out of any act, error, or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions, and exclusions of the Policy.
 2. In order for **You** to invoke the optional **extended reporting period**, the payment of additional premium as stated in this provision must be paid to **Us** within thirty (30) days of the non-renewal or cancellation.
 3. At the commencement of the optional **extended reporting period**, the entire premium shall be deemed fully earned, and in the event **You** terminate the optional **extended reporting period** for

whatever reason prior to its natural expiration, **We** will not be liable to return any premium paid for the optional **extended reporting period**.

C. Terms and conditions of basic and optional **extended reporting period**

1. At renewal of this policy, **Our** quotation of different premium, retention or limit of indemnity or changes in policy language shall not constitute non-renewal by **Us** for the purposes of granting the optional **extended reporting period**.
2. The right to the **extended reporting period** shall not be available to **You** where **We** cancel or non-renew due to non-payment of premium.
3. The limit of liability for the **extended reporting period** shall be part of, and not in addition to, the limit of liability for the **policy period**.
4. All notices and premium payments with respect to the **extended reporting period** shall be directed to **Us** through the entity named in the Policy.

IX. TERMS AND CONDITIONS

A. NOTICE OF CLAIM OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM

1. If any **claim** is made against **You** during the **policy period**, then as soon as practicable after **You** become aware of such claim, **You** must forward to **Us** through persons named in the Policy every demand, notice, summons or other process **You** or **Your** representative receive.
2. If during the **policy period**, **You** becomes aware of any act, error or omission that might reasonably give rise to a **claim** or **loss**, **You** must give written notice to **Us** through persons named in the Policy as soon as practicable during the **policy period** of:
 - a. The specific details of the act, error or omission that might reasonably give rise to a **claim** or **loss**;
 - b. The possible damage which may result or has resulted from the act, error or omission;
 - c. The facts by which **You** first became aware of the act, error, omission or **loss**; and
 - d. Any **Computer system** security and event logs which provide evidence of the act, error or omission.

Any subsequent **claim** made against **You** arising out of such act, error or omission or **loss** 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** or **loss** shall be considered to be reported to **Us** when notice is first given to **Us** through persons named in the Policy or when notice of a Wrongful Act which might reasonably give rise to a **claim** is first provided in compliance with IX.A.2 above.
4. If **You** report any **claim**, **loss** or request any payment under this Policy knowing such **claim**, **loss** or request to be false or fraudulent, as regards amounts or otherwise, this Policy shall become null and void and all coverage hereunder shall be forfeited.
5. Whenever coverage under this Policy would be lost because of non-compliance of Section IX.A.1. relating to the giving of notice of **claim** or **loss** to **Us** with respect to which any other of **You** shall be in default solely because of the failure to give such notice or concealment of such failure by one or more **You** responsible for the loss or damage otherwise insured hereunder, then **We** agree that such insurance as would otherwise be afforded under this Policy shall cover and be paid with respect to those of **You** who did not personally commit or personally participate in committing or personally acquiesce in such failure to give notice, provided that those of **You** entitled to the benefit of this provision under Section IX.A.1. have complied with such condition promptly after obtaining knowledge of the failure of any others of **You** to comply therewith, and any such **claim** or **loss** was reported during the **policy period** or **extended reporting period**, if applicable.

However, such insurance as afforded by this provision shall not cover a **claim** or **loss** against **Your Organization** if a current principal, partner, director, or officer failed to give notice as required by Section IX.A.1. for a **claim** or **loss** against **Your Organization** arising from acts, errors, or omissions that Were known to a current principal, partner, director, or officer.

B. ASSISTANCE AND COOPERATION

1. **You** shall cooperate with **Us** in all investigations. **You** shall execute or cause to be executed all papers and render all assistance as requested by **Us**. Part of this assistance may require **You** to provide soft copies of **Your** system security and event logs.
2. Upon **Our** request, **You** shall assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to **You** because of acts, errors, or omissions with respect to which insurance is afforded under this Policy; and **You** shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.
3. **You** shall not admit liability, make any payment, assume any obligation, incur any expense, enter into any settlement, stipulate to any judgment or award or dispose of any **claim** without **Our** written consent, unless otherwise provided under Section II.
4. As soon as practicable after **You** give **Us** notice of any **Claim**, circumstance, **Loss**, or **security breach**, **You** must also give **Us** copies of reports, photographs, investigations, pleadings and all other papers in connection therewith, including allowing **Us** to question **You** under oath at such times as may be reasonably required regarding **Your Organization's** books, records, and any other matters relating to such **security breach** or **Claim**.
5. In the event of a **security breach** or **loss**, **You** must take all reasonable steps to protect **Computer systems** and personally identifiable, non-public information from further access, disclosure, loss or damage.

C. DUTIES IN THE EVENT OF A LOSS (applicable to Coverage G only)

You must see that the following are done if **You** send **Us** a Loss Notification:

1. At our request, notify the police, FBI, CERT or other applicable law enforcement authority, central reporting or investigative organization that **We** may designate, if it appears that a law may have been broken;
2. Immediately take all reasonable steps and measures necessary to limit or mitigate the **Loss**;
3. Send **Us** copies of every demand, notice, summons, or any other applicable information **You** receive;
4. If requested, permit **Us** to question **You** under oath at such times and places as may be reasonably required about matters relating to this insurance, including **Your** books and records;
5. Send **Us** a sworn statement of **Loss** containing the information **We** request to resolve, settle or otherwise handle the **Loss**. **We** will provide **You** with the necessary forms;
6. Cooperate with **Us** and counsel **We** may appoint in the investigation of any **Loss** covered by this Policy;
7. Assist **Us** and counsel **We** may appoint in the investigation or settlement of **Losses**;
8. Assist **Us** in protecting and enforcing any right of subrogation, contribution or indemnity against any person, organization or other entity that may be liable to **You**, including attending depositions, hearings and trials; and
9. Otherwise assist in securing and giving documentation and evidence, and obtaining the attendance of witnesses.

D. SUBROGATION

In the event of any payment under this Policy, **You** agree to give **Us** the right to any subrogation and recovery to the extent of our payments. **You** agree to execute all papers required and will do everything that is reasonably necessary to secure these rights to enable **Us** to bring suit in **Your** name. **You** agree to

fully cooperate in our prosecution of that suit. **You** agree not to take any action that could impair our right of subrogation without our written consent whether or not **You** have incurred any un-reimbursed **Loss**. Any recoveries shall be applied first to subrogation expenses, second to **damages** and **claim expenses** paid by **Us**, and third to the Retention. Any additional amounts recovered shall be paid to **You**.

E. INSPECTIONS AND SURVEYS

We may choose to perform inspections or surveys of **Your** operations, conduct interviews and review documents as part of our underwriting, our decision whether to provide continued or modified coverage, or our processing of any **Loss**. If **We** make recommendations as a result of these inspections, **You** should not assume that every possible recommendation has been made or that **Your** implementation of a recommendation will prevent a **Loss**. **We** do not indicate by making an inspection or by providing **You** with a report that **You** are complying with or violating any laws, regulations, codes or standards.

F. OTHER INSURANCE

This insurance shall apply in excess of any other valid and collectible insurance available to **You**, including any retention or deductible portion thereof, unless such other insurance is written only as specific excess insurance over the Limit of Liability of this Policy.

G. ACTION AGAINST US

No action shall lie against **Us** or **Our** representatives unless, as a condition precedent thereto: (1) there shall have been full compliance with all terms of this insurance; and (2) until the amount of **Your** obligation to pay shall have been finally determined either by judgment or award against **You** after trial, regulatory proceeding, arbitration or by written agreement between **You**, the claimant, and **Us**.

Any person or organization or the legal representative thereof who has secured such judgment, award, or written agreement shall thereafter be entitled to make a **claim** under this Policy to the extent of the insurance afforded by this Policy. No person or organization shall have the right under this Policy to join **Us** as a party to an action or other proceeding against **You** to determine **Your** liability, nor shall **We** be impleaded by **You** or **Your** legal representative.

Your bankruptcy or insolvency shall not relieve **Us** of our obligations hereunder.

H. ENTIRE AGREEMENT

By acceptance of the policy, **You** agree that this Policy embodies all agreements between **You** and **Us** relating to this insurance. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect 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 shall the terms of this Policy be waived or changed, except by endorsement issued to form a part of this Policy signed by **Us**.

I. NEW SUBSIDIARIES/CHANGES IN NAMED INSURED OR YOUR ORGANIZATION

1. During the **policy period**, if **You** acquire another corporation whose annual revenues are more than fifteen percent (15%) of **Your Organization's** annual revenues as set forth in its most recent audited financial statements there shall be no coverage under this Policy for acts, errors, or omissions committed or allegedly committed by the newly acquired **subsidiary** unless **You** give **Us** written notice of the acquisition containing full details thereof, and **We** have agreed to add coverage for the newly acquired **subsidiary** upon such terms, conditions, and limitations of coverage and such additional premium as **We**, in **Our** sole discretion, may require.
2. During the **policy period**, if the **Named Insured** consolidates or merges with or is acquired by another entity, or sells substantially all of its assets to another entity, or a receiver, conservator, trustee, liquidator, or rehabilitator, or any similar official is appointed for or with respect to the **Named**

Insured, then all coverage under this Policy shall continue to the expiration of the **policy period** but only for losses, acts, errors, or omissions that occurred prior to the date of such consolidation, merger or appointment.

3. Should a corporation cease to be a **subsidiary** after the inception date of this policy, coverage with respect to such corporation shall continue as if it was still a **subsidiary** until the expiration date of this policy, but only with respect to a **claim** that arises out of any act, error, or omission committed such corporation prior to the date that it ceased to be a **subsidiary**.
4. All notices and premium payments made under this paragraph shall be directed to **Us** through the entity named in the Policy.

J. ASSIGNMENT

Your interest under this Policy may not be assigned to any other person or organization, whether by operation of law or otherwise, without our written consent. If **You** shall die or be adjudged incompetent, such insurance shall cover **Your** legal representative as **You** as would be covered under this Policy.

K. CANCELLATION

This Policy may be cancelled:

- a) by **you** at any time on request. If this policy is cancelled by **you**, thirty percent (30%) of the premium shall be deemed earned upon inception of this policy and **we** will refund the remaining unearned premium computed on a daily pro rata basis thereafter. No premium will be refunded where any **claims** or circumstances have been notified under this policy.
- b) by us. **We** will only cancel this policy if **you** fail to pay the premium within the terms of the payment condition attaching to this Policy, or if a principal, partner, executive officer, or director intentionally makes a material misrepresentation to **us** in regard to any **claim** notified to **us** under this policy; in which case, **we** will provide a notice of cancellation in accordance with the applicable law. the Policy is in effect.

L. WORDS AND TITLES OF PARAGRAPHS

The titles of paragraphs, section, 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. Whenever the singular form of a word is Used herein, the same shall include the plural when required by context.

M. NAMED INSURED AUTHORIZATION

The **Named Insured** first specified in the Policy has the right and duty to act on **Your** behalf for:

1. The giving and receiving of notice of cancellation;
2. The payment of premiums, including additional premiums;
3. The receiving of any return premiums;
4. The acceptance of any endorsements added after the effective date of coverage;
5. The payment of any retentions;
6. The receiving of any loss payments; and
7. Otherwise corresponding with **Us**.

N. WARRANTY BY YOU

By acceptance of this Policy, **You** agree that the statements contained in the **Application**, or any **Application** for coverage of which this Policy is a renewal, and any supplemental materials submitted

therewith, are **Your** agreements and representations, that they shall be deemed material to the risk assumed by **Us**, and that this Policy is issued in reliance upon the truth thereof.

The misrepresentation or non-disclosure of any matter by **You** in the **Application**, or any **Application** for coverage of which this Policy is a renewal, or any supplemental materials submitted therewith will render the Policy null and void and relieve **Us** from all liability under the Policy.

The **Application** and any **Application** for coverage of which this Policy is a renewal, and any supplemental materials submitted therewith, are deemed incorporated into and made a part of this Policy.

O. SERVICE OF SUIT CLAUSE (U.S.A.)

1. It is agreed that in the event of our failure to pay any amount claimed to be due under this Policy, at **Your** request **We** will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this clause constitutes or should be understood to constitute a waiver of our rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or seek a transfer of a case to another court as permitted by the laws of the United States or any state in the United States. It is further agreed that service of process in such suit may be made upon our representative, designated in the Policy, and that in any suit instituted against any one of **Us** upon this contract; **We** will abide by the final decision of such court or of any appellate court, in the event of an appeal.
2. **Our** representative designated in the Policy is authorized and directed to accept service of process on our behalf in any such suit and/or upon **Your** request to give a written undertaking to **You** that they will enter a general appearance upon our behalf in the event such a suit shall be instituted.
3. Pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, **We** hereby designate the Superintendent, Commissioner, or Director of Insurance or other officer specified for that purpose in the statute, or his successor in office, as our true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of **You** or any beneficiary hereunder arising out of this Policy, and hereby designate our representative listed in the Policy as the person to whom the said officer is authorized to mail such process or a true copy thereof.

P. CHOICE OF LAW

Any disputes involving this Policy shall be resolved applying the law designated in the Policy.

Q. DISPUTE RESOLUTION

We and **You** agree to attempt in good faith to resolve any dispute arising out of or relating to this Policy promptly by negotiation in accordance with the following schedule:

1. If the dispute has not been resolved by negotiation within thirty (30) days of the disputing party's notice, either party may demand that the dispute be submitted for non-binding resolution by mini-trial.
2. The parties shall have ten (10) business days to agree on a mini-trial neutral.
3. If the parties are unable to agree on a mini-trial neutral, no more than three (3) business days after the expiration of the ten (10) day period set forth in subpart 2. above, each party shall submit to the other party the name of a single proposed mini-trial neutral who is available and able to comply with the requirements set forth herein.
4. If the parties are unable to agree after such disclosure, the mini-trial neutral will be determined as follows: **Your** proposed mini-trial neutral will be selected if the first digit to the left of the decimal point of the Dow Jones Industrial Average's closing number two (2) business days after the expiration of the period set forth in 3. above is an even number. **Our** proposed mini-trial neutral will be selected if that digit is an odd number.

5. The parties must submit confidential briefs no longer than twenty-five (25) double-spaced pages, along with no more than five exhibits, to the mini-trial neutral within twenty (20) business days of the selection of the neutral.
6. The meeting with the mini-trial neutral must take place within fourteen (14) business days of the submission of the briefs set forth in 5. above.
7. The mini-trial neutral shall submit a written decision to the parties within ten (10) business days of the meeting set forth in 6. above.

No person or organization will have any right under this policy to join **Us** as a party to any action against **You** to determine **Your** liability.

This is not a valid policy
Quotation
Open 90 days

SHORT RATE CANCELLATION TABLE ENDORSEMENT NMA 45 (Amended)

Notwithstanding anything to the contrary contained herein and in consideration of the premium for which this Insurance is written it is agreed that in the event of cancellation thereof by the Insured the Earned Premium shall be computed as follows:-

A. For insurances written for one year:-

Days Insurance in Force	Percent of One Year Premium	Days Insurance in Force	Per cent. of One Year Premium
1 - 73	30	206 - 209	66
74 - 76	31	210 - 214	67
77 - 80	32	215 - 218	68
81 - 83	33	219 - 223	69
84 - 87	34	224 - 228	70
88 - 91	35	229 - 232	71
92 - 94	36	233 - 237	72
95 - 98	37	238 - 241	73
99 - 102	38	242 - 246	74
103 - 105	39	247 - 250	75
106 - 109	40	251 - 255	76
110 - 113	41	256 - 260	77
114 - 116	42	261 - 264	78
117 - 120	43	265 - 269	79
121 - 124	44	270 - 273	80
125 - 127	45	274 - 278	81
128 - 131	46	279 - 282	82
132 - 135	47	283 - 287	83
136 - 138	48	288 - 291	84
139 - 142	49	292 - 296	85
143 - 146	50	297 - 301	86
147 - 149	51	302 - 305	87
150 - 153	52	306 - 310	88
154 - 156	53	311 - 314	89
157 - 160	54	315 - 319	90
161 - 164	55	320 - 323	91
165 - 167	56	324 - 328	92
168 - 171	57	329 - 332	93
172 - 175	58	333 - 337	94
176 - 178	59	338 - 342	95
179 - 182	60	343 - 346	96
183 - 187	61	347 - 351	97
188 - 191	62	352 - 355	98
192 - 196	63	356 - 360	99
197 - 200	64	361 - 365	100
201 - 205	65		

B. For Insurances written for more or less than one year:-

1. If insurance has been in force for 12 months or less, apply the standard short rate table for annual insurances to the full annual premium determined as for an insurance written for a term of one year.
2. If insurance has been in force for more than 12 months:
 - (a) Determine full annual premium as for an insurance written for a term of one year.
 - (b) Deduct such premium from the full insurance premium, and on the remainder calculate the pro rata Earned Premium on the basis of the ratio of the length of time beyond one year the

insurance has been in force to the length of time beyond one year for which the insurance was originally written.

- (c) Add premium produced in accordance with items (a) and (b) to obtain Earned Premium during full period insurance has been in force.

Furthermore and notwithstanding the foregoing, Underwriters shall retain the total premium for this Insurance, such total premium to be deemed earned upon inception of the Policy if any claim or any circumstance that could reasonably be the basis for a claim is reported to Underwriters under this Insurance on or before such date of cancellation.

QUOTATION
This is not a valid policy
Open 90 days

NUCLEAR INCIDENT EXCLUSION CLAUSE (BROAD)

NMA 1256

For attachment to insurances of the following classifications in the U.S.A., its Territories and Possessions, Puerto Rico and the Canal Zone:-

Owners, Landlords and Tenants Liability, Contractual Liability, Elevator Liability, Owners or Contractors (including railroad) Protective Liability, Manufacturers and Contractors Liability, Product Liability, Professional and Malpractice Liability, Storekeepers Liability, Garage Liability, Automobile Liability (including Massachusetts Motor Vehicle or Garage Liability, not being insurances of the classifications to which the Nuclear Incident Exclusion Clause-Liability-Direct (Limited) applies.

This policy*

does not apply:-

- I. **Under any Liability Coverage, to injury, sickness, disease, death or destruction**
 - (a) with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - (b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- II. Under any Medical Payments Coverage or under any Supplementary Payments Provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.
- III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if
 - (a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;
 - (b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
 - (c) the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.
- IV. As used in this endorsement:

"**hazardous properties**" include radioactive, toxic or explosive properties; "**nuclear material**" means source material, special nuclear material or byproduct material; "**source material**", "**special nuclear material**", and "**byproduct material**" have the meanings given them in the Atomic Energy Act 1954 or in any law amendatory thereof; "**spent fuel**" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor; "**waste**" means any waste material (1)

containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof; "**nuclear facility**" means

- (a) any nuclear reactor,
- (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
- (c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations, "**nuclear reactor**" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. With respect to injury to or destruction of property, the word "**injury**" or "**destruction**" includes all forms of radioactive contamination of property.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this clause is subject to the terms, exclusions, conditions and limitations of the Policy to which it is attached.

*NOTE:- As respects policies which afford liability coverages and other forms of coverage in addition, the words underlined should be amended to designate the liability coverage to which this clause is to apply.

RADIOACTIVE CONTAMINATION EXCLUSION CLAUSE
NMA 1477

For attachment (in addition to the appropriate Nuclear Incident Exclusion Clause- Liability-Direct) to liability insurances affording worldwide coverage.

In relation to liability arising outside the U.S.A., its Territories or Possessions, Puerto Rico or the Canal Zone, this Policy does not cover any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

Quotation
This is not a valid policy
Open 90 days

SEVERAL LIABILITY NOTICE

LSW 1001 (Insurance) 08/94

The subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

QUOTATION
This is not a valid policy
Open 90 days

PREMIUM PAYMENT CLAUSE

Notwithstanding any provision to the contrary within this contract or any endorsement hereto, in respect of non payment of premium only the following clause will apply.

The (Re)Insured undertakes that premium will be paid in full to (Re)Insurers within sixty (60) days of inception of this contract (or, in respect of instalment premiums, when due).

If the premium due under this contract has not been so paid to (Re)Insurers by the sixtieth (60th) day from the inception of this contract (and, in respect of instalment premiums, by the date they are due) (Re)Insurers shall have the right to cancel this contract by notifying the (Re)Insured via the broker in writing. In the event of cancellation, premium is due to (Re)Insurers on a pro rata basis for the period that (Re)Insurers are on risk but the full contract premium shall be payable to (Re)Insurers in the event of a loss or occurrence prior to the date of termination which gives rise to a valid claim under this contract.

It is agreed that (Re)Insurers shall give not less than ten (10) days prior notice of cancellation to the (Re)Insured via the broker. If premium due is paid in full to (Re)Insurers before the notice period expires, notice of cancellation shall automatically be revoked. If not, the contract shall automatically terminate at the end of the notice period.

If any provision of this clause is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of this clause which will remain in full force and effect.

LSW3001

September 2008

Sanction Limitation and Exclusion Clause
LMA3100, 15 September 2010

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

QUOTATION
This is not a valid policy
Open 90 days