



Except for section and paragraph headings, all words in bold have a special meaning as set forth in the DEFINITIONS, whether expressed in the singular or plural. Section and paragraph headings are provided for informational purposes only and do not have special meaning.

In consideration of the payment of the premium and in reliance on the statements made in the **Application** and subject to all other terms and conditions of this policy, the Insurer designated on the Declarations and the **First Named Insured** on behalf of all **Insureds** agree to the following:

CLAIMS-MADE LIABILITY COVERAGES

The following Coverages apply if the Declarations displays a Limit of Insurance for such Coverage:

A. Security Event Liability

The Insurer will pay on behalf of an **Insured** the **Damages**, in excess of the applicable retention and within the applicable Limit of Insurance, that the **Insured** becomes legally obligated to pay because of a **Claim** alleging a **Security Event**.

The Insurer will also pay all **Claim Expense** in excess of any applicable retention in connection with such **Claim**. **Claim Expense** is included within and erodes the applicable Limits of Insurance.

B. Privacy Regulatory Actions

The Insurer will pay the **Regulatory Loss**, in excess of the applicable retention and within the applicable Limit of Insurance, that the **Insured** becomes legally obligated to pay because of a **Privacy Regulatory Action**.

The Insurer will also pay all **Claim Expense** in excess of any applicable retention in connection with such **Privacy Regulatory Action**. **Claim Expense** is included within and erodes the applicable Limits of Insurance.

C. PCI-DSS Loss

The Insurer will pay on behalf an **Insured** the **PCI-DSS Loss**, in excess of the applicable retention and within the applicable Limit of Insurance, that the **Insured** becomes legally obligated to pay because of a **PCI-DSS Claim**.

The Insurer will also pay all **Claim Expense** in excess of any applicable retention in connection with such **PCI-DSS Claim**. **Claim Expense** is included within and erodes the applicable Limits of Insurance.

D. Media Liability

The Insurer will pay on behalf of an **Insured** the **Damages**, in excess of the applicable retention and within the applicable Limit of Insurance, that the **Insured** becomes legally obligated to pay because of a **Claim** alleging a **Media Wrongful Act**.

The Insurer will also pay all **Claim Expense** in excess of the applicable retention in connection with such **Claim**. **Claim Expense** is included within and erodes the applicable Limits of Insurance.

It is a condition precedent to coverage under the CLAIMS-MADE LIABILITY COVERAGES that the **Claim**, **Privacy Regulatory Action** or **PCI-DSS Claim** must be first made against an **Insured** during the **Policy Period** or any applicable **Extended Reporting Period** and reported to the Insurer in accordance with REPORTING OF CLAIMS AND EVENTS.



FIRST PARTY COVERAGES

The following Coverages apply if the Declarations displays a Limit of Insurance for such Coverage:

A. Incident Response

The Insurer will pay the **Incident Response Expense** incurred by an **Insured Entity** to respond to a **Security Event** discovered during the **Policy Period**, in excess of the applicable retention and within the applicable Limits of Insurance.

B. Business Interruption

The Insurer will pay the **Business Income Loss** and **Extra Expense** incurred by an **Insured Entity** during the **Period of Restoration** because of a measurable interruption, suspension or degradation in the **Insured Entity's** business resulting from an **Interruption** of a **Network** owned, operated or controlled by the **Insured Entity** that exceeds the **Waiting Period** and is discovered during the **Policy Period**, in excess of the applicable retention and within the applicable Limits of Insurance.

C. Dependent Business Interruption

The Insurer will pay the **Business Income Loss** and **Extra Expense** incurred by an **Insured Entity** during the **Period of Restoration** because of a measurable interruption, suspension or degradation in the **Insured Entity's** business resulting from an **Interruption** of a **Network** owned, operated or controlled by a **Service Provider** that exceeds the **Waiting Period** and is discovered during the **Policy Period**, in excess of the applicable retention and within the applicable Limits of Insurance.

D. Data Recovery

The Insurer will pay the **Data Recovery Expense** incurred by an **Insured Entity** because of damage to its **Data Assets** resulting from a **Security Incident** or an **Interruption** of the **Insured Entity's Network** discovered during the **Policy Period**, in excess of the applicable retention and within the applicable Limits of Insurance.

E. Hardware Replacement

The Insurer will pay the **Hardware Replacement Expense** incurred by an **Insured Entity** to replace **Bricked Devices** resulting from a **Security Incident** discovered during the **Policy Period**, in excess of the applicable retention and within the applicable Limits of Insurance.

F. Extortion

The Insurer will reimburse the **Extortion Loss** incurred by an **Insured Entity** because of an **Extortion Event** discovered during the **Policy Period**, in excess of the applicable retention and within the applicable Limits of Insurance.

G. Crime

The Insurer will pay the **Crime Loss** incurred by an **Insured Entity** because of a **Crime Event** discovered during the **Policy Period**, in excess of the applicable retention and within the applicable Limits of Insurance.

H. Reputational Harm

The Insurer will pay the **Business Income Loss** and **Extra Expense** incurred by an **Insured Entity** during the **Period of Restoration** because of a **Reputation Event** discovered during the **Policy Period**, in excess of the applicable retention and within the applicable Limits of Insurance.



SUPPLEMENTAL BENEFITS

Extortion Event Information Reward Reimbursement

The Insurer will pay rewards an **Insured Entity** pays to a third party for information that leads to the arrest and conviction of persons responsible for causing a covered **Extortion Event**, with the Insurer's prior written consent. Payments under this supplemental benefit are subject to a Sublimit of Insurance and any other Limits of Insurance applicable to the **Extortion Event**, regardless of the number of **Extortion Events** or informants, but not subject to a retention. The Insurer will not pay rewards offered to auditors or investigators or **Insureds**.

DEFINITIONS

Additional Insured means a person or entity that an **Insured Entity** has agreed in writing to include as an **Insured** under this policy.

Application means each and every signed application, any attachments or supplements to such applications, other written materials submitted therewith or incorporated therein and any other documents, including any warranty letters or similar documents, submitted in connection with the underwriting of this policy or any other policy issued by the Insurer or any of its affiliates providing the same or similar coverage or of which this policy is a renewal or replacement, or which it succeeds in time.

Bodily Injury means bodily injury, sickness, disease, death, mental injury and emotional distress.

Bricked Devices means solely desktop and laptop computers and associated input and output devices, mobile devices and networking, data storage, backup and peripheral devices that have been rendered non-functional for their intended purpose because their software or firmware has been damaged or deleted by unauthorized code.

Business Income Loss means the actual loss of business income as calculated in GENERAL CONDITIONS, Calculation of Business Income Loss, Appraisal and Proof of Loss and Preparation Costs.

Claim means:

1. with respect to coverage under the Security Event Liability Coverage and Media Liability Coverage,
 - a. a written demand, civil proceeding, arbitration, mediation or other alternative dispute resolution proceeding seeking monetary or non-monetary relief and any appeal therefrom; or
 - b. a verbal or written request to toll or waive an applicable statute of limitations;

Claim, as defined in this paragraph 1, does not include a **Privacy Regulatory Action** or **PCI-DSS Claim**;

2. with respect to coverage under the Privacy Regulatory Actions Coverage, a **Privacy Regulatory Action**; or
3. with respect to coverage under the PCI-DSS Loss Coverage, a **PCI-DSS Claim**.

Claim Expense means reasonable and necessary expenses charged by a third party for legal and professional services in the investigation, defense, appeal or settlement of a **Claim**, with the Insurer's prior written consent, and court costs. **Claim Expense** includes premiums for any appeal bond or attachment bond but the Insurer has no obligation to apply for or furnish any such bond. **Claim Expense** does not mean compensation paid to any **Insured**, overhead or loss of earnings incurred by an **Insured** or any expenses incurred before the **Claim** is first made against an **Insured**.

Confidentiality Incident means any failure to protect or dispose of **Corporate Information** in an **Insured Entity's** care, custody or control or for which the **Insured Entity** is legally responsible.



Control Group Insured means an **Insured Entity's** Chief Executive Officer ("CEO"), President, Chief Information Officer ("CIO"), Chief Technology Officer ("CTO"), Chief Security Officer ("CSO"), Chief Operating Officer ("COO"), Chief Financial Officer ("CFO"), Chief Privacy Officer ("CPO"), General Counsel ("GC") or Risk Manager, or any of their functional equivalents, and the non-administrative personnel of their offices.

Corporate Information means any information owned by a third party. However, **Corporate Information** does not mean **Protected Personal Information** or information that is lawfully in the public domain or publicly available from government records.

Crime Event means:

1. a fraudulent entry or alteration of information in an **Insured Entity's Network** caused by a **Security Incident** resulting in a transfer, payment or electronic theft of the **Insured Entity's** money or securities;
2. a fraudulent payment instruction provided by a third party to an employee of an **Insured Entity** by any means, including but not limited to "social engineering" or "business email compromise" or any other verbal, written or electronic instruction, resulting in a transfer of the **Insured Entity's** money or securities by or on behalf of the employee who relied upon the payment instruction in good faith;
3. a fraudulent payment instruction provided to a third party as a result of a **Security Incident**, resulting in a diversion of a payment, transfer or receivable of money or securities due to the **Insured Entity** for goods or services already delivered;
4. theft or diversion by a third party of telecommunications services provided to an **Insured Entity**; and
5. unauthorized use of an **Insured Entity's Network** by a third party resulting in increased consumption of the **Insured Entity's** internet and electricity services in excess of its normal business operating use, including but not limited to "cryptojacking".

Crime Loss means:

1. with respect to paragraphs 1, 2 and 3 of the definition of **Crime Event**, the actual loss of money or securities incurred by an **Insured Entity** because of the **Crime Event**;
2. with respect to paragraphs 4 and 5 of the definition of **Crime Event**, the expenses incurred by an **Insured Entity** for the usage of telecommunications, internet and electricity services in excess of its normal business operating costs because of the **Crime Event**; and
3. reasonable and necessary expenses incurred by an **Insured Entity** to investigate a **Crime Event** or reverse or correct a transfer or payment resulting from the **Crime Event**, with the Insurer's prior written consent.

Crime Loss does not mean:

- a. with respect to paragraph 2 of the definition of **Crime Event**, loss resulting from any fraudulent payment instruction that was not first verified by verbal confirmation, password, security question or other form of authentication;
- b. loss resulting from the use of any payment, access, convenience, electronic benefits transfer or other card or any payment processing;
- c. the amount of any transfer or payment that has been recovered, reversed, returned or corrected;
- d. loss arising out of accounting or mathematical errors or omissions;
- e. consequential or indirect loss of any kind; or
- f. the value of any trade secrets or other intangible or intellectual property.



Cyber Terrorism means an act or series of acts of any person or group of persons, whether acting alone or on behalf of or in connection with any organization, committed for social, political, economic, religious or ideological purposes. This shall include, but is not limited to, the intention to influence any government or to put the public in fear for such purposes by using activities perpetrated electronically or otherwise which result in a **Security Event** involving an **Insured**, or that are directed towards the destruction, disruption or subversion of communication and information systems, infrastructure, computers, the internet, telecommunications or electronic networks, or the contents thereof.

Damages means a monetary judgment or award (including pre and post-judgment interest) or settlement. **Damages** does not mean:

1. return or offset of an **Insured's** fees, commissions or other compensation, or any royalties or licensing fees;
2. any of an **Insured's** expenses, including but not limited to overhead, employee compensation or cost-overruns;
3. profit or advantage to which an **Insured** is not legally entitled or any amounts for which the **Insured** is not liable or for which there is no legal recourse against the **Insured**;
4. punitive, multiple or exemplary damages unless insurable by the law of an applicable jurisdiction that would most favor coverage for such damages;
5. costs of complying with orders granting injunctive relief or other non-monetary relief, including specific performance, or any agreement to provide such relief;
6. taxes or loss of a tax benefit;
7. any fines, penalties or sanctions, provided, however, this paragraph 7 does not include civil fines and penalties that are insurable under the law of an applicable jurisdiction;
8. any amounts an **Insured** has agreed to pay pursuant to a written agreement, including but not limited to liquidated damages, setoffs, penalties or the value of service level credits, provided, however, this paragraph 8 does not apply to the amount for which the **Insured** would have been liable in the absence of such agreement;
9. costs of production, reproduction, reprinting or correction of content, products or services or to withdraw or recall content, products or services from the marketplace;
10. **Regulatory Loss**; or
11. **PCI-DSS Loss**.

Data Assets means any electronic information stored or processed on an **Insured Entity's Network** and the software or firmware components of the **Insured Entity's Network**.

Data Recovery Expense means reasonable and necessary expenses incurred within 12 months of the **Event** to restore, repair, recreate or replace an **Insured Entity's** damaged **Data Assets**, with the Insurer's prior written consent. Provided, however:

1. if replacing damaged software and firmware, **Data Recovery Expense** will only include the cost of the same or functionally equivalent products that are commercially available to the general public, and the first 12 months of any software license, lease or subscription;
2. **Data Recovery Expense** will include the cost of upgrades and improvements recommended by a forensic investigator from the Insurer's Pre-Approved Providers Panel to address weaknesses that caused or contributed to the **Event**, not to exceed an additional 25% to the cost of restoring, repairing, recreating or replacing the damaged **Data Assets**;
3. **Data Recovery Expense** will not include the cost to create or develop any software or firmware on a custom or one-off basis; and



4. **Data Recovery Expense** will not include the cost to replace software or firmware that are part of **Operational Technology**.

Event means:

1. with respect to the CLAIMS-MADE LIABILITY COVERAGES, a **Security Event** or **Media Wrongful Act**; and
2. with respect to the FIRST PARTY COVERAGES, a **Security Event**, **Interruption**, **Extortion Event**, **Crime Event** or **Reputation Event**.

Extended Reporting Period means a period of time after the end of the **Policy Period** during which to report a **Claim** in accordance with EXTENDED REPORTING PERIODS.

Extortion Event means a demand for the payment of money, cryptocurrency, securities or other property of value made against an **Insured Entity** accompanied by a threat to intentionally cause a **Security Event**, an **Interruption** of or damage to the **Insured Entity's Network** or damage to or theft or encryption of **Data Assets** located on the **Insured Entity's Network**, including but not limited to installation of ransomware.

Extortion Loss means reasonable and necessary expenses incurred by an **Insured Entity** in order to respond to an **Extortion Event**, including but not limited to costs to investigate the **Extortion Event** and for legal and consulting services and related fees to assist the **Insured Entity** in responding to the **Extortion Event**, and any payment made by the **Insured Entity** to terminate the **Extortion Event**, with the Insurer's prior written consent subject to paragraph E of REPORTING OF CLAIMS AND EVENTS.

Extra Expense means reasonable and necessary extra expenses incurred by an **Insured Entity** to avoid or minimize the interruption, suspension or degradation in its business, which it would not have incurred if the **Event** had not occurred, including but not limited to renting or leasing equipment, renting and relocating to temporary premises, consulting and other third party services, substitute work or production procedures, extra labor costs and expenses for special advertising.

First Inception Date means the date identified as such on the Declarations.

First Named Insured means the first entity listed as a **Named Insured** on the Declarations.

Hardware Replacement Expense means reasonable and necessary expenses incurred by an **Insured Entity** to replace **Bricked Devices** after making reasonable efforts to restore the **Bricked Devices** to functionality, with the Insurer's prior written consent. Provided, however, **Hardware Replacement Expense** will:

1. only include the cost of the same or functionally equivalent devices that are commercially available to the general public, except as provided in paragraph 2;
2. include upgrades and improvements recommended by a forensic investigator from the Insurer's Pre-Approved Providers Panel to address weaknesses that caused or contributed to the **Event**, not to exceed an additional 25% to the replacement cost of the **Bricked Devices**;
3. not include the cost to create or manufacture any devices on a custom or one-off basis; and
4. not include the cost to replace medical or robotic devices or devices that are part of **Operational Technology**.

Incident Response Expense means reasonable and necessary expenses incurred, with the Insurer's prior written consent subject to paragraph E of REPORTING OF CLAIMS AND EVENTS, because of an actual or suspected **Security Event**:

1. for forensic investigation services to determine the source, cause and scope of the **Security Event** and contain or remove malware on an **Insured Entity's Network**;



2. for legal services to determine an **Insured Entity's** rights and obligations and assist the **Insured Entity** in responding to the **Security Event**, including but not limited to notifying a law enforcement, regulatory or other government agency or other entity whom the **Insured Entity** is obligated to inform;
3. to notify individuals whose **Protected Personal Information** was or is believed to have been accessed or disclosed without authorization, rendered unavailable or irrevocably altered, including but not limited to call center, postage and advertising costs;
4. to provide credit monitoring, identity monitoring and identity theft assistance for up to 2 years to the individuals described in paragraph 3, including but not limited to credit file monitoring and protection, identity theft insurance and related consulting services;
5. for any other services not described in paragraphs 3 or 4 that are required by a **Privacy Regulation** to respond to the **Security Event**, or, at the sole discretion of the Insurer, recommended by a legal services provider from the Insurer's Pre-Approved Providers Panel;
6. for public relations or crisis communications services to mitigate or prevent adverse publicity resulting from the **Security Event**; and
7. to re-certify an **Insured Entity's** compliance with the Payment Card Industry Data Security Standard if re-certification following a **Security Event** is required pursuant to a merchant services agreement.

Individual Insured means:

1. an **Insured Entity's** shareholders, but solely for their liability as shareholders; and
2. an **Insured Entity's** current or former partners, officers, directors and employees (including part-time, seasonal, leased or temporary workers) or any natural person independent contractor, but only with respect to their activities within the scope of their duties on behalf of the **Insured Entity**. Any of the foregoing acting outside of their scope of duties on behalf of the **Insured Entity** (including a "rogue employee") is not an **Individual Insured**.

Insured means:

1. an **Insured Entity**;
2. an **Individual Insured**; and
3. any **Additional Insured**, but solely with respect to its liability because of an **Insured Entity's Security Event** or **Media Wrongful Act** occurring after becoming an **Additional Insured**.

Insured Entity means the **Named Insured** and any **Subsidiary**.

Interruption means any unintentional and unplanned interruption, disruption, suspension or outage of a **Network**. **Interruption** also means the voluntary and intentional shutdown of an **Insured Entity's Network** as a result of a **Security Event**, when the shutdown is reasonably believed to be necessary to limit the **Business Income Loss** or **Extra Expense** that would otherwise be incurred if no shutdown took place.

Loss means:

1. with respect to the CLAIMS-MADE LIABILITY COVERAGES, **Damages, Claim Expense, Regulatory Loss** or **PCI-DSS Loss**; and
2. with respect to the FIRST PARTY COVERAGES, **Incident Response Expense, Business Income Loss, Extra Expense, Data Recovery Expense, Hardware Replacement Expense, Extortion Loss** or **Crime Loss**.



Management Control means, directly or indirectly, owning interests representing more than 50% of the voting, appointment or designation power, or having the right pursuant to a written agreement, by-laws, operating agreement or similar document, to select a majority of the board of directors, trustees or members of the management committee or management board or functional equivalent of an entity.

Media Wrongful Act means any of the below acts in the course of publishing content in any form:

1. defamation or other tort related to disparagement or harm to the character, reputation or feelings of any person or organization, including libel, slander, product disparagement, trade libel or injurious falsehood;
2. infliction of emotional distress, outrage or outrageous conduct;
3. invasion, infringement or interference with rights of privacy or publicity, including false light, public disclosure of private facts, intrusion, eavesdropping or misappropriation of name or likeness; or
4. infringement of copyright, plagiarism, piracy or misappropriation of ideas under implied contract, including allegations of such infringement resulting from breach of the scope of a license to use any of the foregoing intellectual property.

Named Insured means any entity listed as such on the Declarations.

Network means any computer hardware, firmware, software and all components thereof linked together through a network of devices accessible through the internet or intranet, including all input and output, networking, data storage, backup and peripheral devices and cloud storage and hosted computer resources. **Network** includes electronic devices owned or controlled by an **Individual Insured** while being used to access an **Insured Entity's Network** or store **Protected Personal Information** or **Corporate Information**.

Operational Technology means any industrial or manufacturing control system, SCADA system or other system that detects or causes physical change through direct monitoring or control of devices, processes and events.

PCI-DSS Claim means a written demand for a fine, penalty or assessment against an **Insured Entity** made by a payment card company or processor alleging failure to comply with the Payment Card Industry Data Security Standard because of a **Security Event**.

PCI-DSS Loss means all amounts, including but not limited to the fines, penalties, assessments, sanctions, card reissuance costs, operational, fraud and administrative reimbursement assessments and forensic investigation costs, that an **Insured Entity** is legally obligated to pay under the terms of a merchant services agreement because of its actual or suspected failure to comply with the Payment Card Industry Data Security Standard.

Period of Restoration means:

1. with respect to the Business Interruption Coverage and Dependent Business Interruption Coverage, the period of time starting when an **Interruption** begins and ending on the earlier of 180 days later or the date on which an **Insured Entity's** business is restored to the same or equivalent condition, functionality and level of service that existed prior to the **Interruption** (or could have been if the **Insured Entity** had acted with reasonable speed); and
2. with respect to Reputational Harm Coverage, the period of time beginning when the **Reputation Event** is discovered and ending 12 months later.

Policy Period means the period of time stated on the Declarations or any shorter period resulting from the cancellation of the policy.

Pollutant means any pollutant or contamination of any kind, including:

1. smoke, vapor, soot, fumes, acid, alkali, chemicals or waste;



2. ionizing radiation or contamination by radioactivity from nuclear fuel, or nuclear waste from the combustion of nuclear fuel; or the radioactive, toxic, or explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
3. mold, mildew, spores, fungi, mycotoxins, organic pathogens, or other micro-organisms;
4. an electromagnetic field, electromagnetic radiation or electromagnetism;
5. asbestos, asbestos fibers or asbestos dust; or
6. any solid, liquid, gaseous or thermal irritants or contaminants.

Privacy Incident means any:

1. failure to protect or dispose of **Protected Personal Information** in the care, custody or control of an **Insured Entity** or a **Service Provider**, or for which the **Insured Entity** is or becomes legally responsible, or wrongful collection, retention, use, processing, sale or sharing of **Protected Personal Information** by an **Insured Entity**;
2. failure to disclose an event described in paragraph 1 above in violation of a **Privacy Regulation**;
3. violation of a **Privacy Regulation** or breach of privacy rights or any obligation to maintain the security or confidentiality of **Protected Personal Information** not described in paragraphs 1 and 2 above, or any similar allegation in the jurisdiction in which the **Claim** is brought; or
4. unintentional failure of an **Insured** to comply with the **Insured Entity's** published or accessible privacy policy.

Privacy Regulation means that part of any federal, state, local or foreign law purporting to regulate the collection, retention, sale, disposal, deletion, disclosure, use, control, processing, access or correction of an individual's identifiable financial, health or other personal data, or that require an **Insured Entity** to adopt and disclose specific information handling and security policies and controls, have a published or accessible privacy policy or notify individuals in the event that such information is or is potentially accessed or disclosed without authorization, and any of their amendments and promulgating regulations, including but not limited to the following:

1. California Consumer Privacy Act of 2018;
2. General Data Protection Regulation (Regulation (EU) 2016/679) ("GDPR");
3. Health Information Technology for Economic and Clinical Health Act of 2009;
4. Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191);
5. Gramm-Leach-Bliley Act of 1999;
6. California Database Breach Act (SB1386); or
7. privacy and identity theft provisions under consumer protection laws, including but not limited to the Fair and Accurate Credit Transactions Act of 2003 (FACTA) and Federal Fair Credit Reporting Act (FCRA).

Privacy Regulatory Action means a civil or administrative proceeding, civil investigation or request for information against any **Insured** resulting from a **Security Event** brought by or on behalf of any federal, state, local or foreign government agency or data protection authority or other organization having authority to enforce a **Privacy Regulation**.

Property Damage means loss or destruction of or damage to and resulting loss of use of tangible property. "Tangible property" does not include electronic data.



Protected Personal Information means:

1. information concerning an individual that constitutes protected personal information under any **Privacy Regulation**; and
2. information from which an individual can be uniquely and reliably identified or contacted or that is used for authenticating an individual for business transactions or access to the individual's accounts or records, including but not limited to an individual's, name, address, email address, telephone number, passport, social security, driver's license or other government issued identification numbers, credit, debit or other financial account numbers, security codes, passwords, PINs and security questions and answers and biometric identification information, but does not include information lawfully made available to the general public from government records.

Regulatory Loss means a regulatory agency's civil fines, penalties and costs imposed on an **Insured** or monetary awards to a third party that are insurable under the law of an applicable jurisdiction, including any amount the **Insured** is required to deposit into a fund as equitable relief for the payment of consumer claims pursuant to an adverse judgment or settlement of a **Privacy Regulatory Action**.

Related Claims means all **Claims** arising out of a single **Event** or **Related Events**.

Related Events means all **Events** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of causally or logically connected facts, circumstances, situations, events, transactions or causes.

Reputation Event means a public dissemination of information concerning an actual or alleged **Security Event** in any form of media that an **Insured Entity** reasonably believes has or will have an adverse effect on the **Insured Entity's** reputation.

Retroactive Date means the date identified as such on the Declarations. If no date is stated, the **Retroactive Date** will be the **First Inception Date**.

Security Event means a **Security Incident**, a **Privacy Incident** or a **Confidentiality Incident**.

Security Incident means any failure of the security of an **Insured Entity's Network**, including but not limited to unauthorized access or use of the **Network**, denial of service attack, receipt or transmission of malicious code by the **Network**, theft or loss of hardware used to store or access **Protected Personal Information** or **Corporate Information** or theft of a password or other credentials used to access the **Network**.

Service Provider means an individual or entity that is not an **Insured** and provides the following to an **Insured Entity** pursuant to a written agreement:

1. information technology services, including but not limited to cloud computing or other hosted computer resources or hosted applications or information security, co-location and electronic data processing or storage services ("**IT Services**"); and
2. any other goods or services not described in paragraph 1, other than internet services, electricity, energy, water, gas, telecommunications or any other public utility services ("**Non IT Services**").

Subsidiary means any entity in which, and as long as, the **First Named Insured** has **Management Control**:

1. as of the effective date of the policy, or
2. after the effective date of the policy by reason of being created or acquired by an **Insured Entity**, subject to GENERAL CONDITIONS, New and Former Entities.

Waiting Period means the number of hours stated on the Declarations starting when an **Interruption** begins.

EXCLUSIONS

This policy does not cover any:

- **Biometric Identifiers and Information**

Claim based upon or arising out of any:

1. collection, use, processing, sharing, sale, possession, retention, security or destruction of, or profit from, biometric identifiers or biometric information, including but not limited to fingerprints, faceprints, hand scans, vein patterns, voiceprints, iris or retina scans, keystroke, gait or other physical patterns, sleep/health/exercise data, or deoxyribonucleic acid (DNA);
2. use of an **Insured's** products or services in furtherance of or in connection with an activity described in paragraph 1 above; or
3. cause of action under common law or any actual or alleged violation of any federal, state, local or foreign law in connection with an activity described in paragraphs 1 or 2 above, including but not limited to a private right of action under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1-14/25 (BIPA).

Provided, however, this exclusion does not apply to a **Privacy Regulatory Action**.

- **Bodily Injury or Property Damage**

Claim or **Loss** based upon or arising out of **Bodily Injury** or **Property Damage**, provided, however, this exclusion does not apply to:

1. mental injury or emotional distress resulting from a **Security Incident** or **Privacy Incident**;
2. mental injury or emotional distress resulting from a **Media Wrongful Act** not related to a bodily injury, sickness, disease or death; or
3. **Hardware Replacement Expense**.

- **Contractual Liability**

Claim or **Loss** based upon or arising out of any obligation an **Insured** has pursuant to a written agreement, provided, however, this exclusion does not apply to:

1. liability that the **Insured** would have in the absence of such agreement;
2. a contractual obligation that the **Insured** has to protect **Protected Personal Information** or **Corporate Information**; or
3. **PCI-DSS Claims**.

- **Employment Practices, Employee Benefits Liability and Discrimination**

Claim or **Loss** based upon or arising out of:

1. wrongful dismissal, discharge or termination, harassment, retaliation or other employment practice;
2. breach of a fiduciary duty, responsibility or obligation in connection with an employee benefit or pension plan, including but not limited to violation of a fiduciary duty under the Employee Retirement Income Security Act of 1974 ("ERISA") or any similar federal, state, local or foreign law, or any of their amendments or promulgating regulations; or



3. discrimination or harassment or violation of any federal, state, local or foreign law governing the prohibition of discrimination or harassment, including but not limited to the Americans with Disabilities Act or the Civil Rights Act of 1964, or any of their amendments or promulgating regulations.

Provided, however, this exclusion does not apply to a **Privacy Incident** relating to an individual's employment by an **Insured Entity**.

- **False Advertising and Over Redemption and Games of Chance**

Claim for a **Media Wrongful Act** based upon or arising out of:

1. false, misleading, deceptive or fraudulent statements in advertising, including but not limited to inaccurate or incomplete description of the price, quality, performance or other attributes of any goods, products or services or unfair competition based thereon; or
2. contests, discounts, coupons, rebates, prizes, games of chance, sweepstakes, awards or other incentives or over redemption.

- **Fee Disputes**

Extortion Loss or **Crime Loss** based upon or arising out of a fee dispute between an **Insured Entity** and a **Service Provider**.

- **Fraudulent or Intentional Misconduct**

Claim or **Loss** based upon or arising out of any act, error or omission that is dishonest, fraudulent, criminal, malicious or an intentional or knowing violation of the law committed by an **Insured** if any **Control Group Insured** knew or had reason to know of, participated in or acquiesced in the act, error or omission. Provided, however, the Insurer will defend and pay **Claim Expense** for a **Claim** alleging such conduct until there is a final, non-appealable judgment or adjudication evidencing such conduct in an action or proceeding on the merits of the **Claim**.

- **Illegal Profit or Gain**

Claim or **Loss** based upon or arising out of any profit or advantage to which an **Insured** is not legally entitled.

- **Infrastructure Failure**

Claim or **Loss** based upon or arising out of failure of electrical, mechanical, telecommunications or satellite infrastructure not under the control of an **Insured Entity** or a **Service Provider**, including but not limited to electrical power or energy interruption, surge, spike, brownout or blackout or outage to the internet or a public utility, including but not limited to electricity, energy, water, gas or telecommunications services.

- **Insured vs. Insured and Related Parties**

Claim made by, on behalf of or for the benefit of:

1. any **Insured**;
2. any entity that is a parent, successor or assignee of an **Insured**; or
3. any entity affiliated with an **Insured** through common **Management Control** or any entity directly or indirectly controlled, operated or managed by an **Insured**.

Provided, however, this exclusion does not apply to:

- a. a **Claim** made by an **Individual Insured** alleging a **Privacy Incident**; or



b. a **Claim** made by an **Additional Insured**.

- **Intellectual Property**

1. **Claim** for a **Security Event** based upon or arising out of infringement or misappropriation of any copyright, trademark, trade dress, trade secret or patent by an **Insured**; or
2. **Claim** for a **Media Wrongful Act** based upon or arising out of infringement or misappropriation of any software copyright, trademark, trade dress, trade secret or patent by an **Insured**, provided, however, this paragraph 2 does not apply to disclosure of a trade secret in published content.

- **Media Content**

Claim for a **Media Wrongful Act** based upon or arising out of:

1. content published or posted on any website not owned or operated by an **Insured Entity**, provided, however, this exclusion does not apply to content directly published or posted by the **Insured Entity** on its social media page or under its account on a website not owned or operated by the **Insured Entity**;
2. song writing, music composition, music publishing, music recording, or music production activities;
3. ownership or exercise of rights in, or use of or fees associated with, any content or services supplied by an independent contractor, third party distributor, licensee or sub-licensee, joint venturer or co-venturer (or any of their employees) or any employee or agent of an **Insured**; or
4. any negligent error or omission, misstatement or misrepresentation in communicative or informational content.

- **Media Regulatory Actions and Media Regulations**

1. **Claim** for a **Media Wrongful Act** brought by any federal, state, local or foreign governmental or regulatory agency, including but not limited to the Federal Trade Commission or Federal Communications Commission, or any music licensing organizations, including but not limited to ASCAP, SESAC, BMI or RIAA; or
2. **Claim** for a **Media Wrongful Act** based upon or arising out of any violation of any federal, state, local or foreign law regulating disclosure of information contained in any media lending, rental or sales records, including but not limited to the Video Privacy Protection Act of 1988 and Michigan's Video Rental Privacy Act, or any of their amendments or promulgating regulations.

- **Physical Perils**

Claim or **Loss** based upon or arising out of fire, smoke, explosion or any natural peril, including but not limited to earthquake, volcanic eruption, landslide, wind, lightning, tornado, tidal wave, flood, rain or hail.

- **Pollution**

Claim or **Loss** based upon or arising out of:

1. nuclear reaction, radiation or contamination;
2. actual or threatened discharge, release, escape, seepage, migration, dispersal or disposal of **Pollutants** anywhere or anytime or the creation of any injurious condition involving **Pollutants**; or
3. direction, request, demand or order that the **Insureds** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**.

whether or not the foregoing were sudden, accidental, gradual, intended, expected or preventable.



- **Prior Occurrences, Reported Claims and Prior Knowledge**

1. **Claim** based upon or arising out of any **Event** or **Related Event** first occurring prior to the applicable **Retroactive Date** or after the **Policy Period**;
2. **Event, Related Event** or circumstance reported under any insurance of which the applicable Coverage is a renewal, replacement or which it succeeds in time; or
3. **Event, Related Event** or circumstance first occurring prior to the **First Inception Date** that was known or should reasonably have been known to a **Control Group Insured**.

- **Racketeering**

Claim or **Loss** based upon or arising out of violation of the Organized Crime Control Act of 1970 (Racketeering Influenced and Corrupt Organizations Act, or "RICO"), or any similar federal, state, local or foreign law, or any of their amendments or promulgating regulations.

- **Securities Transactions, Shareholder Derivative Actions and Securities Law Violations**

Claim or **Loss** based upon or arising out of:

1. a purchase or sale or offer or solicitation of an offer to purchase or sell securities;
2. a shareholder derivative demand or action alleging, based upon or arising out of a breach of duty by any director or officer; or
3. violation of the Securities Act of 1933, the Securities Exchange Act of 1934, any state blue sky or securities law or any similar federal, state, local or foreign law, or any of their amendments or promulgating regulations, or violation of any order, ruling or regulation issued pursuant to the foregoing, provided, however, this paragraph 3 does not apply to a **Privacy Incident**.

- **Unauthorized Transfer of Money or Securities**

Claim or **Loss** based upon or arising out of an unauthorized transfer of money or securities to or from an **Insured** or an account under the **Insured's** control, including but not limited to the value of such money or securities and cost of reversing, correcting or amending unauthorized transactions, provided, however, this exclusion does not apply to **Crime Loss**.

- **Unfair Competition and Antitrust**

Claim or **Loss** based upon or arising out of antitrust, price fixing, restraint of trade, unfair or deceptive trade practices or unfair competition or any violation of the Sherman Act, Clayton Act, Robinson-Patman Act or similar federal, state, local or foreign law, or any of their amendments or promulgating regulations, provided, however, this exclusion does not apply to any:

1. **Claim** for a **Media Wrongful Act**; or
2. **Claim** for a **Privacy Incident**;

based upon or arising out of unfair or deceptive trade practices or unfair competition.

- **Unlicensed Software or Firmware**

Hardware Replacement Expense caused by the use and installation by an **Insured** of non-licensed software or firmware or updates thereto.



- **Unsolicited Communications and Consumer Protection Regulations**

Claim or **Loss** based upon or arising out of any:

1. cause of action under common law or any actual or alleged violation of any federal, state, local or foreign law regulating the marketing or dissemination of unsolicited communications, including but not limited to the Telephone Consumer Protection Act of 1991 and the Can-Spam Act of 2003, or any of their amendments or promulgating regulations; or
2. violation of any federal, state, local or foreign consumer protection laws, including but not limited to the Fair Credit Reporting Act and Fair and Accurate Credit Transactions Act; provided, however, this paragraph 2 does not apply to a **Privacy Incident**.

- **War Risks and Government Acts**

Claim or **Loss** based upon or arising out of any act of war (whether war is declared or not), invasion, or the confiscation, nationalization or destruction of, or damage to, property under the order of government or other public authority, provided, however, this exclusion does not apply to **Cyber Terrorism**.

LIMITS OF INSURANCE AND RETENTION

A. Limits of Insurance

The Limits of Insurance stated on the Declarations and the rules below set forth the most the Insurer will pay under the policy regardless of the number of **Insureds**, **Claims**, claimants or **Events**.

1. **Policy Limit of Insurance**

The Policy Limit of Insurance stated on the Declarations is the most the Insurer will pay for all **Loss** or other amounts covered under this policy.

2. **Coverage Limits of Insurance**

The Coverage Limit of Insurance stated on the Declarations for a Coverage is the most the Insurer will pay for all **Loss** or other amounts covered under such Coverage. Each Coverage Limit of Insurance is part of, and not in addition to, and does not increase the Policy Limit of Insurance.

3. **Sublimits of Insurance**

Each Sublimit of Insurance stated on the Declarations is the most the Insurer will pay for all **Loss** or other amounts that are subject to such Sublimit of Insurance. All Sublimits of Insurance are part of, and not in addition to, and do not increase any applicable Coverage Limit of Insurance or the Policy Limit of Insurance.

B. Retention

If a retention is stated on the Declarations, the **Insured** is responsible for payment of such retention. All retentions will be borne by the **Insureds** uninsured and at their own risk. The Insurer's obligation to pay any amounts under this policy is excess of the applicable retention. The Limits of Insurance will not be reduced by the payment of any retention.

The applicable Each **Claim** or Each **Event** Retention stated on the Declarations, if any, will apply to each **Claim** or each **Event**. If a **Claim** or **Event** triggers more than one Coverage, only the highest applicable retention will apply to such **Claim** or **Event**.

REPORTING OF CLAIMS AND EVENTS

A. When a Claim is Made or First Party Event is Discovered

1. With respect to the CLAIMS-MADE LIABILITY COVERAGES, a **Claim** will be deemed to be first made on the earliest date on which a **Control Group Insured** received notice of a demand, request, investigation or service of process, complaint or other pleading or proceeding in connection with such **Claim**.

All **Related Claims**, whenever made, will be considered a single **Claim** and such **Claim** will be deemed to have been made on the date the first of those **Related Claims** was made against any **Insured**.

2. With respect to the FIRST PARTY COVERAGES, an **Event** will be deemed first discovered when such **Event** first becomes known to a **Control Group Insured**.

All **Related Events**, whenever occurring, will be deemed a single **Event** and such **Event** will be deemed to have been discovered on the date the first of those **Related Events** was discovered.

B. Reporting of Claims and Events

It is a condition precedent to coverage under:

1. the CLAIMS-MADE LIABILITY COVERAGES, that as soon as practicable after any **Control Group Insured** becomes aware of a **Claim**, the **Insured** must notify the Insurer in writing of such **Claim**, but no later than 60 days after the end of the **Policy Period** or, with respect to a **Claim** made during any applicable **Extended Reporting Period**, no later than the expiration of the **Extended Reporting Period**; and
2. the FIRST PARTY COVERAGES, that as soon as practicable after any **Control Group Insured** discovers an **Event**, the **Insured** must notify the Insurer in writing of such **Event**, but no later than 60 days after such discovery or the end of the **Policy Period**, whichever is later.

Notice must contain all reasonably obtainable information concerning the time, place and other details of the **Event**.

C. Confidential Events

In the event the **Insured** is prevented from reporting a **Claim** or **Event** because of a statute, law, regulation, court order or written instruction or request from a law enforcement, regulatory or other government agency prohibiting the **Insured** from disclosing information pertaining to a **Security Event**, **Extortion Demand** or **Crime Event**, notice of such **Claim** or **Event** will be considered timely if made as soon as practicable after termination of such prohibition.

D. Reporting of Circumstances

If, during the **Policy Period** or any applicable **Extended Reporting Period**, an **Insured** notifies the Insurer in writing of any circumstance that occurred during the **Policy Period** and that the **Insured** reasonably believes may give rise to a **Claim**, any subsequent **Claim** based upon or arising out of such circumstance will be deemed first made during the **Policy Period** in which notice was given. Such notice must include full particulars of the acts, errors, omissions or facts of the circumstance. In order for coverage to apply to any such **Claim**, the **Insured** must provide notice to the Insurer of such **Claim** in accordance with paragraph B above. No coverage will be provided for any **Loss** incurred prior to the time such **Claim** is made unless otherwise authorized in writing by the Insurer.



E. First 72-Hour Response from Pre-Approved Providers Panel

The **Insured Entity** may incur reasonable and necessary **Incident Response Expense** and **Extortion Loss** without first obtaining the Insurer's prior written consent for up to 72 hours from the time the **Security Event** or **Extortion Event** is discovered to retain a service provider from the Insurer's Pre-Approved Providers Panel. The **Insured Entity** must provide notification to the Insurer that such service provider has been retained within such 72 hour period, and any **Extortion Loss** incurred within such 72 hour period is subject to a Sublimit of Insurance and any other Limits of Insurance and retention applicable to the **Extortion Event**.

The Insurer's prior written consent is required for coverage to apply to any:

1. **Incident Response Expense** or **Extortion Loss** incurred more than 72 hours after the **Security Event** or **Extortion Event** is discovered;
2. **Incident Response Expense** or **Extortion Loss** incurred using a service provider that is not on the Insurer's Pre-Approved Providers Panel; or
3. **Extortion Loss** incurred within such 72 hour period that exceeds the applicable Sublimit of Insurance.

EXTENDED REPORTING PERIODS

This section applies solely to the CLAIMS-MADE LIABILITY COVERAGES. If the policy is canceled or non-renewed, other than canceled by the Insurer for non-payment of premium, the **Insureds** shall have an **Extended Reporting Period** during which to report a **Claim** first made against the **Insured** during the **Extended Reporting Period** for an **Event** occurring prior to the end of the **Policy Period**.

The **Extended Reporting Period** incepts at the end of the **Policy Period** and is non-cancelable. The Limits of Insurance applicable to **Claims** made during any **Extended Reporting Period** are part of, and not in addition to, the Limits of Insurance stated on the Declarations, and **Claims** made during any **Extended Reporting Period** must be reported in accordance with paragraph B of REPORTING OF CLAIMS AND EVENTS.

A. Automatic Extended Reporting Period

The **Insureds** have an automatic 60 day **Extended Reporting Period** unless the **First Named Insured** purchases an optional **Extended Reporting Period** pursuant to paragraph B below, or the **Claim** is covered under any insurance which is a renewal or replacement of this policy or which succeeds this policy in time, or would be covered under such insurance but for the application of its limits and retention.

B. Optional Extended Reporting Period

The **First Named Insured** may purchase an optional **Extended Reporting Period** for the premium stated on the Declarations for each optional **Extended Reporting Period**.

The **First Named Insured** must notify the Insurer in writing and pay the applicable premium, together with any outstanding amounts owed to the Insurer under the policy, within 45 days after the end of the **Policy Period**. Premium for the optional **Extended Reporting Period** will be fully earned on its inception date.

DEFENSE AND SETTLEMENT OF CLAIMS

- A.** The Insurer will have the right and duty to defend a covered **Claim**, even if the allegations are groundless, false or fraudulent.



- B. The Insurer has the right to appoint counsel on the **Insured's** behalf and to investigate and settle a covered **Claim**. The Insurer will not settle a **Claim** without the **Insured's** prior written consent. If the **Insured** refuses to consent to a settlement of a **Claim** that is acceptable to the Insurer and the claimant, the Insurer's obligation to pay **Loss** arising out of such **Claim** will not exceed the sum of:
 - 1. the amount for which the Insurer could have settled the **Claim**;
 - 2. **Claim Expense** incurred prior to the date of such settlement offer; and
 - 3. 50% of **Loss** incurred after the date of the **Insured's** refusal to consent.
- C. The **Insureds** will not settle any **Claim**, pay any **Damages**, **PCI-DSS Loss** or **Regulatory Loss**, incur any **Claim Expense**, admit or assume any liability, stipulate to any judgment or otherwise assume any obligation with respect to a **Claim** without the Insurer's prior written consent. Provided, however, if the **Insureds** are able to fully and finally settle a **Claim** within the applicable retention including **Claim Expense**, the Insurer's consent will not be required.
- D. The Insurer's right and duty to defend ends when the applicable Limit of Insurance has been exhausted.

GENERAL CONDITIONS

- **Action Against the Insurer**

No action will lie against the Insurer unless, as a condition precedent thereto, there has been full compliance with all of the terms of the policy, nor until the amount of the **Insured's** obligation to pay has been fully and finally determined either by judgment or award against the **Insured** after trial or arbitration or by written agreement among the **Insureds**, the claimant and the Insurer.

No person or entity will have any right under the policy to join the Insurer as a party to an action against an **Insured** to determine the **Insured's** liability, nor will the Insurer be impleaded by an **Insured** or the **Insured's** legal representative.

- **Assignment**

This policy and any right or interest under this policy cannot be assigned without the Insurer's prior written consent.

- **Assistance and Cooperation**

Each **Insured** must cooperate with the Insurer in the handling of any **Claim** or **Event**, including but not limited to:

1. immediately recording the specifics of the **Claim** or **Event** including occurrence and discovery dates;
2. providing copies of any demands, reports, investigations, pleadings and all related documents and invoices and such other information as the Insurer may reasonably request;
3. attending hearings, depositions, conferences and trials, assisting in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and assisting in any other aspect of the investigation and defense;
4. enforcing any legal rights the **Insured** may have against any third party who may be liable to the **Insured**; and
5. taking all other actions that the **Insured** and Insurer agree are necessary and practicable to limit **Loss**.

The **Insureds** will do nothing that in any way prejudices the Insurer's rights under the policy or right of recovery or, except at the **Insureds'** own cost, voluntarily make a payment, admit liability, assume any obligation or incur any expense without the Insurer's prior written consent, except as otherwise provided in the policy.



- **Authority**

The **First Named Insured** acts on behalf of all other **Insureds** with respect to providing and receiving notices of cancellation or nonrenewal and all other notices, paying premiums and receiving any return premium and exercising any rights with respect to an optional **Extended Reporting Period**.

- **Bankruptcy**

The bankruptcy or insolvency of any **Insured** will not relieve the Insurer of any of its obligations under the policy.

- **Calculation of Business Income Loss, Appraisal and Proof of Loss and Preparation Costs**

Business Income Loss is calculated pursuant to the following methodology and conditions:

1. Actual loss of business income means the sum of:
 - a. net income or loss (net profit or loss before income taxes) that would have been earned or incurred if the **Event** had not occurred; and
 - b. continuing normal operating expenses that are incurred regardless of whether the **Event** occurred.
2. In determining the amount of **Business Income Loss**, due consideration will be given to the experience of an **Insured Entity's** business before the first occurrence of the **Event** and to the probable business the **Insured Entity** could have had if the **Event** had not occurred.
3. Calculation of net income or loss does not include:
 - a. net income that would have been earned because of favorable business conditions or increased volume of business caused by the impact of security events or network interruptions impacting other businesses;
 - b. net loss that would have been incurred because of unfavorable business conditions or loss of volume of business caused by the failure of security events or network interruptions to impact other businesses; or
 - c. **Loss** under any other Coverage.
4. If the Insurer and the **Insured Entity** cannot agree on the amount of **Business Income Loss** and **Extra Expense**, either may make a written demand for an appraisal of the **Business Income Loss** and **Extra Expense**, in which event, each party will select an appraiser who will jointly select an umpire. If the appraisers cannot agree on the umpire, they may request that selection be made by a judge of a court having applicable jurisdiction. Each appraiser will separately appraise the amount of **Business Income Loss** and **Extra Expense** in accordance with the terms of the policy and submit their differences to the umpire. A written statement of the **Business Income Loss** and **Extra Expense** agreed and signed by two of the three will be binding. Each party will pay their respective appraiser and an equal share of the cost of the umpire.
5. With respect to **Business Income Loss** and **Extra Expense**, the **Insured Entity** must provide an initial sworn proof of loss with full particulars within 6 months after discovery of the **Event**. The Insurer will reimburse the **Insured Entity** for expenses charged by a third party for accounting services in preparing the proof of loss, including but not limited to auditors' and accountants' fees, subject to a Proof of Loss Sublimit of Insurance and any other Limits of Insurance and retention applicable to the **Event**. If an **Event** triggers more than one Coverage, only one Proof of Loss Sublimit of Insurance will apply to such **Event**, which will erode the Limit of Insurance applicable to each Coverage in the proportion that the **Business Income Loss** and **Extra Expense** covered under such Coverage bears to the total covered **Business Income Loss** and **Extra Expense**.
6. The Insurer may make interim payments of undisputed **Business Income Loss** and **Extra Expense**, at the sole discretion of the Insurer, at any time.



- **Cancellation and Nonrenewal**

1. **Cancellation**

- a. The **First Named Insured** may cancel this policy by mailing or delivering written notice of cancellation to the Insurer at the address stated on the Declarations. Notice of cancellation will state the effective date of cancellation or, if no effective date is stated, the effective date of cancellation will be 30 days after the Insurer's receipt of notice. The **Policy Period** will end on the effective date of cancellation.
- b. The Insurer may cancel this policy by mailing or delivering to the **First Named Insured** written notice of cancellation at least:
 - i. 10 days before the effective date of cancellation if the Insurer cancels for nonpayment of premium; or
 - ii. 30 days before the effective date of cancellation if the Insurer cancels for any other reason.

The Insurer will mail or deliver the notice to the **First Named Insured** at the address stated on the Declarations. If notice of cancellation is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

- c. If the Insurer cancels, the Insurer will return the pro rata proportion of the premium to the **First Named Insured**. If the **First Named Insured** cancels, the Insurer will return to the **First Named Insured** the customary short rate proportion of the premium. Return of premium to the **First Named Insured** is not a condition precedent to cancellation.

2. **Nonrenewal**

The Insurer may elect not to renew this policy by mailing or delivering written notice of nonrenewal to the **First Named Insured** at its address stated on the Declarations. If notice of nonrenewal is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

- **Changes to the Policy**

The terms of this policy will not be waived or changed except by written endorsement issued to form a part of this policy. Notice or knowledge possessed by any person will not waive or change any part of the policy or estop the Insurer from asserting any of its rights under the policy.

- **Consents**

The Insurer and the **First Named Insured** each agree not to unreasonably delay or withhold consent whenever their consent is required under the policy.

- **Dispute Resolution**

1. The parties agree to try in good faith to resolve all disputes or differences which may arise under or in connection with the policy by non-binding mediation in accordance with the then prevailing JAMS Mediation, Arbitration and ADR Services ("JAMS") Rules.
2. Either party may commence mediation by providing to JAMS and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The mediation may be conducted in New York, New York; Atlanta, Georgia; Chicago, Illinois; Toronto, Canada; or London, United Kingdom. The parties will cooperate with JAMS and with one another in selecting the venue and a mediator from the JAMS panel of neutrals and scheduling the mediation proceedings. The parties will share equally in all costs of the mediation. In construing or interpreting the policy, the mediator will give due consideration to the law of the jurisdiction in which the **First Named Insured** is incorporated. If the mediation does not result in a settlement of the dispute or differences, either party has the right to commence a judicial proceeding, but not earlier than 90 days following the conclusion or termination of the mediation proceedings.



3. The parties may agree to conduct a mediation in accordance with alternative rules or procedures or in an alternative location, provided, however, if the parties cannot agree, the mediation will be conducted in accordance with paragraphs 1 and 2.

- **Legal Representatives, Spouses and Domestic Partners**

The legal representatives, estate, heirs, spouse and any domestic partner of any **Individual Insured** will be considered to be an **Insured** under this policy, but only for a **Claim** against such person arising solely out of their status as such and, with respect to a spouse or domestic partner, only where such **Claim** seeks amounts from marital community or jointly held property or property transferred from such **Individual Insured** to such spouse or domestic partner. No coverage is provided for any act, error or omission committed by any legal representative, estate, heir, spouse or domestic partner.

- **Merger or Acquisition of the First Named Insured**

If during the **Policy Period** any of the following occurs:

1. the merger or consolidation of the **First Named Insured** into or with another entity such that the **First Named Insured** is not the surviving entity; or
2. the acquisition by any person, entity or group of persons or entities of:
 - a. **Management Control** of the **First Named Insured**; or
 - b. all or substantially all of the assets of the **First Named Insured**;

coverage will continue under the policy, but only with respect to **Events**, acts, errors or omissions that occurred prior to such merger, consolidation, acquisition or appointment. The policy will not apply to any **Events**, acts, errors or omissions first occurring after such merger, consolidation or acquisition.

- **New and Former Entities**

1. If during the **Policy Period**, the **First Named Insured** creates or acquires **Management Control** of any entity, such entity will be deemed a **Subsidiary**. Provided, however, if such entity's gross revenues exceed 20% of the **First Named Insured's** combined annual gross revenues as of the effective date of the policy, such entity will only be deemed a **Subsidiary** for 90 days, unless the **First Named Insured** provides full particulars of such entity within the 90 day period and subject to payment of any additional premium required by the Insurer and amendment of the policy by endorsement to add such entity as a **Subsidiary**.
2. There is no coverage under this policy for any **Subsidiary** in connection with an **Event** that first occurred before the entity became a **Subsidiary** or after the entity ceased to be a **Subsidiary**, or any **Related Event**.

- **Notices**

Except as otherwise provided in this policy, all notices under any provision of this policy must be in writing. A notice to an **Insured** will be delivered by prepaid express courier or certified mail to the **First Named Insured** at its address as stated on the Declarations and is effective upon actual receipt or one day following the date such notice is sent, whichever is earlier. A notice to the Insurer will be delivered by prepaid express courier or certified mail, facsimile, or electronic mail to the address, fax number or email address, as applicable, stated on the Declarations.

- **Other Insurance**

If there is any other valid and collectible insurance available to the **Insured**, the insurance provided by this policy is excess over such other insurance, except if such other insurance is specifically written to apply in excess of this policy.



- **Representations and Severability**

The Insurer has relied on the statements made and information contained in the **Application** and the accuracy and completeness of such statements and information to issue this policy, and such statements and information are incorporated into and made a part of this policy.

There is no coverage under the policy for any **Claim** or **Event** based upon or arising out of a misrepresentation or any inaccurate or incomplete information or statement that was made with the intent to deceive or materially affected either the acceptance of the risk or the hazard assumed by the Insurer under this policy, with respect to:

1. any **Individual Insured** who knew, as of the date the **Application** was signed, of the facts that were the subject of the misrepresentation or inaccurate or incomplete information or statement; or
2. any **Insured Entity**, if any **Control Group Insured** of such **Insured Entity** knew, as of the date the **Application** was signed, of the facts that were the subject of the misrepresentation or inaccurate or incomplete information or statement.

For purposes of applying this condition, the knowledge of an **Insured** will not be imputed to any other **Insured**.

- **Subrogation and Recovery**

In the event of any payment under this policy, the Insurer will be subrogated to all the **Insured's** rights of recovery therefor against any person or organization, and the **Insured** will execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** will do nothing to prejudice such rights. The Insurer will have no rights of subrogation against any **Insured**.

- **Territory, Valuation and Currency**

The coverage afforded under this policy applies anywhere in the world, where legally permissible.

All monetary amounts under this policy are expressed and payable in the currency of the United States. If any amounts covered by this policy are paid in a currency other than the official currency of the country where this policy was issued ("Official Policy Currency"), then the payment will be considered to have been made in the Official Policy Currency at the conversion rate published in the *Wall Street Journal* at the time of the payment.

SIGNATURE PAGE FOLLOWS.