

**THE THIRD PARTY LIABILITY INSURING AGREEMENTS ARE CLAIMS MADE COVERAGES WITH DEFENSE EXPENSES INCLUDED IN THE LIMIT OF LIABILITY. PLEASE READ ALL TERMS CAREFULLY.**

## **CONSIDERATION CLAUSE**

IN CONSIDERATION of the payment of the premium, in reliance on the statements in the **Application**, subject to the Declarations, and pursuant to all the terms, conditions, exclusions and limitations of this **CyberRisk Policy**, the Company and the **Insureds** agree as follows:

### **I. INSURING AGREEMENTS**

#### **THIRD PARTY LIABILITY INSURING AGREEMENTS**

##### **A. NETWORK AND INFORMATION SECURITY LIABILITY**

The Company will pay on behalf of the **Insured, Loss** for any **Claim**, other than a **Regulatory Claim**, first made during the **Policy Period** or, if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period, for a **Network and Information Security Wrongful Act**.

##### **B. COMMUNICATIONS AND MEDIA LIABILITY**

The Company will pay on behalf of the **Insured, Loss** for any **Claim**, other than a **Regulatory Claim**, first made during the **Policy Period** or, if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period, for a **Communications and Media Wrongful Act**.

##### **C. REGULATORY DEFENSE EXPENSES**

The Company will pay on behalf of the **Insured, Defense Expenses** for any **Regulatory Claim** first made during the **Policy Period** or, if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period, for a **Communications and Media Wrongful Act** or a **Network and Information Security Wrongful Act**.

#### **FIRST PARTY INSURING AGREEMENTS**

##### **D. CRISIS MANAGEMENT EVENT EXPENSES**

The Company will pay the **Insured Organization** for **Crisis Management Event Expenses** incurred by the **Insured Organization** within 12 months of, and as a result of, any **Network and Information Security Wrongful Act** or **Communications and Media Wrongful Act** taking place prior to the expiration of the **Policy Period** and reported to the Company during the **Policy Period** or, if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period.

##### **E. SECURITY BREACH REMEDIATION AND NOTIFICATION EXPENSES**

The Company will pay the **Insured Organization** for **Security Breach Notification Expenses** incurred by the **Insured Organization** within 12 months of, and as a result of, any **Network and Information Security Wrongful Act** taking place prior to the expiration of the **Policy Period** and reported to the Company during the **Policy Period** or, if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period.

## F. COMPUTER PROGRAM AND ELECTRONIC DATA RESTORATION EXPENSES

The Company will pay the **Insured Organization** for **Restoration Expenses** incurred by the **Insured Organization** which are directly caused by a **Computer Violation** taking place prior to the expiration of the **Policy Period** and **Discovered** during the **Policy Period** or the Automatic Extended Period to Discover Loss.

## G. COMPUTER FRAUD

The Company will pay the **Insured Organization** for **Computer Fraud Loss** incurred by the **Insured Organization** prior to the expiration of the **Policy Period** which is directly caused by **Computer Fraud Discovered** during the **Policy Period** or the Automatic Extended Period to Discover Loss.

## H. FUNDS TRANSFER FRAUD

The Company will pay the **Insured Organization** for **Funds Transfer Fraud Loss** incurred by the **Insured Organization** prior to the expiration of the **Policy Period** which is directly caused by **Funds Transfer Fraud Discovered** during the **Policy Period** or the Automatic Extended Period to Discover Loss.

## I. E-COMMERCE EXTORTION

The Company will pay the **Insured Organization** for **E-Commerce Extortion Expenses** resulting from **E-Commerce Extortion** taking place anywhere in the world during the **Policy Period** and **Discovered** during the **Policy Period** or the Automatic Extended Period to Discover Loss.

## J. BUSINESS INTERRUPTION AND ADDITIONAL EXPENSES

The Company will pay the **Insured Organization** for **Business Interruption Loss** incurred by the **Insured Organization** which is directly caused by a **Computer System Disruption** taking place during the **Policy Period** and **Discovered** during the **Policy Period** or the Automatic Extended Period to Discover Loss.

## II. DEFINITIONS

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Wherever appearing in this **CyberRisk Policy**, the following words and phrases appearing in bold type will have the meanings set forth in this section **II. DEFINITIONS**:

- A. Application** means the application deemed to be attached to and forming a part of this **CyberRisk Policy**, including any materials submitted and statements made in connection with that application. If the **Application** uses terms or phrases that differ from the terms defined in this **CyberRisk Policy**, no inconsistency between any terms or phrases used in the **Application** and any terms defined in this **CyberRisk Policy** will waive or change any of the terms, conditions and limitations of this **CyberRisk Policy**.
- B. Approved Service Provider** means a service provider approved in writing by the Company.
- C. Business Income Loss** means, before income taxes, and only with respect to the **Insured Organization's** business operations that are dependent on a **Computer System**, net profit the **Insured Organization** would have earned, or net loss the **Insured Organization** would not have incurred or would have avoided, if there had been no **Computer System Disruption**.
- D. Business Interruption Loss** means the sum of **Business Income Loss** and **Extra Expense** directly resulting from a **Computer System Disruption**.

The **Business Interruption Loss** will be calculated based on the actual **Business Interruption Loss** the **Insured Organization** sustains per hour during the **Business Interruption Period of Restoration**.

**Business Interruption Loss** does not include:

1. contractual penalties of any nature;
2. costs or expenses incurred to update, restore, replace, or otherwise improve a **Computer System** to a level of functionality beyond that which existed prior to the loss event;
3. costs or expenses incurred to identify or remediate computer system errors or vulnerabilities;
4. any other consequential loss or damage;
5. legal cost or legal expense of any nature;
6. loss arising out of liability to any person or entity that is not an **Insured**; or
7. bank interest or investment income.

**E. Business Interruption Period of Restoration** means the period of time that:

1. begins with the date and time that a **Computer System Disruption** is **Discovered** and after application of the **Waiting Period** set forth in ITEM 5 of the Declarations; and
2. ends with the earlier of:
  - a. the date and time a **Computer System** is restored to substantially the level of operation that had existed prior to the **Computer System Disruption**; or
  - b. 30 days from the time that such **Computer System Disruption** was **Discovered**.

**F. Change of Control** means:

1. the acquisition of the **Named Insured**, or all or substantially all of its assets, by another entity, or the merger or consolidation of the **Named Insured** into or with another entity such that the **Named Insured** is not the surviving entity; or
2. the obtaining by any person, entity or affiliated group of persons or entities, of the right to elect, appoint or designate more than fifty percent of the board of directors, board of trustees, board of managers, or functional equivalent thereof, or to exercise a majority control of the board of directors, board of trustees, board of managers, or a functional equivalent thereof, of the **Named Insured**.

**G. Claim** means:

1. a written demand for monetary damages or non-monetary relief;
2. a civil proceeding commenced by service of a complaint or similar pleading;
3. a criminal proceeding commenced by filing of charges;
4. a formal administrative or regulatory proceeding commenced by filing of charges, formal investigative order, service of summons or similar document;
5. an arbitration, mediation or similar alternative dispute resolution proceeding if the **Insured** is obligated to participate in such proceeding or if the **Insured** agrees to participate in such proceeding, with the Company's written consent, such consent not to be unreasonably withheld; or
6. a written request to toll or waive a statute of limitations relating to a potential civil or administrative proceeding,

against an **Insured** for a **Wrongful Act**.

A **Claim** is deemed to be made on the earliest date that any **Executive Officer** first receives written notice of such **Claim**. However, if any **Insured Person** who is not an **Executive Officer** first receives written notice of a **Claim** during the **Policy Period**, but no **Executive Officer** receives written notice of such **Claim** until after the **Policy Period** has expired, then such **Claim** will be deemed to have been made on the date such **Insured Person** first received written notice of the **Claim**.

H. **Communications and Media Wrongful Act** means any actual or alleged:

1. unauthorized use of, or infringement of, copyright, title, slogan, trademark, trade dress, service mark, domain name, logo or service name in the **Insured Organization's Covered Material**;
2. plagiarism or unauthorized use of a literary or artistic format, character, or performance in the **Insured Organization's Covered Material**;
3. invasion or interference with an individual's right of publicity, including commercial appropriation of name, persona, voice or likeness in the **Insured Organization's Covered Material**; or
4. defamation, libel, slander, trade libel, or other tort related to disparagement or harm to the reputation or character of any person or organization in the **Insured Organization's Covered Material**,

by, or asserted against, an **Insured Person**, in his or her capacity as such, or the **Insured Organization**.

I. **Computer Fraud** means an intentional, unauthorized and fraudulent entry of data or computer instructions directly into, or change of data or computer instructions within, a **Computer System** by a natural person or entity, other than an **Employee, Independent Contractor** or any individual under the direct supervision of the **Insured Organization**, including any such entry or change made via the internet or a **Network**, provided that such entry or change causes:

1. **Money, Securities or Other Property** to be transferred, paid or delivered;
2. an account of the **Insured Organization**, or of its customer, to be added, deleted, debited or credited; or
3. an unauthorized or fictitious account to be debited or credited.

J. **Computer Fraud Loss** means the **Insured Organization's** direct loss of **Money, Securities or Other Property** directly caused by **Computer Fraud**.

K. **Computer System** means:

1. any computer; and
2. any input, output, processing, storage or communication device, or any related network, operating system or application software, that is connected to, or used in connection with, such computer,

which is rented by, owned by, leased by, licensed to, or under the direct operational control of, the **Insured Organization**.

L. **Computer System Disruption** means the actual and measurable interruption, suspension or failure of a **Computer System** resulting directly from:

1. a **Computer Violation**; or
2. an intentional attack of a **Computer System** with protocols or instructions transmitted over the internet or another computer communication network, which triggers the use of a **Computer System's** resources to the extent that the capacity of those resources to accommodate authorized users of such **Computer System** is depleted or diminished,

provided that the **Insured Organization** is the specific target of such **Computer Violation** or intentional attack.

**M. Computer Violation** means:

1. the introduction of a **Computer Virus** into a **Computer System**; or
2. damage to, or destruction of, computer programs, software or other electronic data stored within a **Computer System** by a natural person, including an **Employee**, who has: (a) gained unauthorized access to a **Computer System**; or (b) authorized access to a **Computer System** but uses such access to cause such damage or destruction.

**N. Computer Virus** means any malicious code which could destroy, alter, contaminate, or degrade the integrity, quality, or performance of:

1. electronic data used, or stored, in any computer system or network; or
2. a computer network, any computer application software, or a computer operating system or related network.

**O. Covered Material** means any content made known, displayed or disseminated via any electronic means, including websites and electronic mail.

**P. Crisis Management Event Expenses** means reasonable fees, costs, and expenses incurred and paid by the **Insured Organization**, with the Company's prior written consent, for public relations services recommended and provided by an **Approved Service Provider** to the **Insured Organization** to mitigate any actual or potential negative publicity resulting from any **Wrongful Act**.

**Crisis Management Event Expenses** do not include:

1. costs to notify any individual or entity of a **Wrongful Act** or to develop such notification documents or materials;
2. costs to determine the scope of, or whether any, **Wrongful Act** has occurred;
3. costs paid by any **Insured** intended as compensation for any individual or entity as a result of a **Wrongful Act**;
4. fees, costs or expenses the **Insured Organization** incurs to comply with any law or regulation;
5. taxes, fines, penalties, punitive, exemplary or liquidated damages, or the multiple portion of any multiplied damage award; or
6. costs or expenses incurred to replace, upgrade, improve, or maintain a **Computer System**.

**Q. CyberRisk Policy** means, collectively, the Declarations, the **Application**, each purchased **Third Party Liability Insuring Agreement** and **First Party Insuring Agreement**, and any endorsements attached thereto.

**R. CyberRisk Policy Aggregate Limit** means the amount set forth as such in ITEM 5 of the Declarations.

**S. Defense Expenses** means reasonable and necessary legal fees and expenses incurred by the Company or the **Insured**, with the Company's prior written consent, in the investigation, defense, settlement and appeal of a **Claim**, including costs of expert consultants and witnesses, premiums for appeal, injunction, attachment or supersedeas bonds (without the obligation to furnish such bonds) regarding such **Claim**; provided, that **Defense Expenses** will not include the salaries, wages, benefits or overhead of, or paid to, any **Insured** or any employee of such **Insured**.

- T. Discover, Discovered or Discovery** means the moment when any **Executive Officer**:
1. first becomes aware of facts that would cause a reasonable person to assume that a loss of the type covered by **Insuring Agreements F, G, H, I or J** has been or will be incurred, regardless of when the act or acts causing or contributing to such loss occurred, even though the exact amount or details of loss may not then be known; or
  2. first receives notice in which it is alleged that the **Insured Organization** is liable to a third party under circumstances which, if true, would constitute a loss under **Insuring Agreements F, G, H, I or J**,

whichever is earlier.

- U. E-Commerce Extortion** means any threat made to the **Insured Organization** by an individual other than an identifiable **Employee**, expressing an intention to:

1. cause the **Insured Organization** to transfer, pay or deliver any funds or property using a **Computer System** without the permission, authorization, and consent of the **Insured Organization**;
2. sell or disclose information about a customer of the **Insured Organization** which is unique to the relationship of the customer and the **Insured Organization** and is not otherwise publicly available, provided such information is stored in an electronic medium in a **Computer System** and is retrievable in a perceivable form;
3. alter, damage, or destroy any computer program, software or other electronic data that is stored within a **Computer System**;
4. maliciously or fraudulently introduce a **Computer Virus** into a **Computer System** when such threat is premised upon actual or alleged unauthorized access to a **Computer System**; or
5. initiate an intentional attack on a **Computer System** that depletes system resources or impedes system access available through the internet to authorized external users of such **Computer System**,

where such threat is made for the purpose of demanding **Money, Securities**, property or services.

- V. E-Commerce Extortion Expenses** means any **Money** or **Securities** the **Insured Organization** pays, with the Company's prior written consent and pursuant to a recommendation by an **Approved Service Provider**, at the direction and demand of any person committing or allegedly committing **E-Commerce Extortion**, or loss incurred solely in, and directly from, the process of making or attempting to make such payment. The value of **E-Commerce Extortion Expenses** will be determined as of the date such **E-Commerce Extortion Expenses** are paid or lost.

**E-Commerce Extortion Expenses** include reasonable costs, fees and expenses incurred by the **Insured Organization**, with the Company's prior written consent and pursuant to a recommendation by an **Approved Service Provider**, to prevent or mitigate **E-Commerce Extortion Expenses**.

- W. Employee** means any natural person whose labor or service is or was engaged by and directed by the **Insured Organization**, including full-time, part-time, seasonal or temporary workers, volunteers, students, interns, or workers whose services have been leased to the **Insured Organization**.

With respect only to **Insuring Agreements F, G, H, I or J**, **Employee** also means any natural person who was or is a member of the board of directors, trustees or governors, an officer, **LLC Manager**, management committee member, general partner, or in-house general counsel of the **Insured Organization**.

**Employee** does not include an **Independent Contractor**.

- X. **Executive Officer** means a member of the board of directors, board of trustees, board of managers, board of governors, officer, natural person partner, principal, risk manager, **LLC Manager**, in-house general counsel, or branch manager of the **Insured Organization**, or a functional equivalent thereof.
- Y. **Extra Expense** means necessary expenses incurred by the **Insured Organization**, with the Company's prior written consent, and directly as a result of a **Computer System Disruption**, but only to the extent such expenses are in excess of the **Insured Organization's** normal operating expenses and reduce **Business Income Loss** and would not have been incurred had there been no **Computer System Disruption**.
- Z. **Financial Insolvency** means:
1. the court appointment of an examiner, receiver, conservator, liquidator, trustee, or rehabilitator, or any functional equivalent position, to take control of, supervise, manage or liquidate the **Insured Organization**; or
  2. the **Insured Organization** becoming a debtor in possession under Chapter 11 of the United States Bankruptcy Code, as amended, or the equivalent of a debtor in possession under any applicable foreign law or regulation.
- AA. **Financial Institution** means:
1. a bank, trust company, savings bank, credit union, savings and loan association, or similar thrift institution; or
  2. a stock brokerage firm, mutual fund, liquid assets fund or similar investment institution,
- provided that **Financial Institution** does not include any such entity, institution or organization that is an **Insured Organization**.
- BB. **First Party Insured Event** means:
1. a **Computer Violation, Computer Fraud, Funds Transfer Fraud, E-Commerce Extortion or Computer System Disruption**; or
  2. with respect to **Insuring Agreements D and E**, a **Wrongful Act**.
- CC. **First Party Insuring Agreements** means **Insuring Agreements D, E, F, G, H, I and J**.
- DD. **First Party Loss or Expenses** means **Crisis Management Event Expenses, Security Breach Notification Expenses, Restoration Expenses, Computer Fraud Loss, Funds Transfer Fraud Loss, E-Commerce Extortion Expenses** and **Business Interruption Loss**.
- EE. **Funds Transfer Fraud** means an intentional, unauthorized and fraudulent instruction transmitted by electronic means (including via telefacsimile, voice, electronic mail or electronic text) to a **Financial Institution** directing such institution to debit an account and to transfer, pay or deliver **Money** or **Securities** from such account, which instruction purports to have been transmitted by the **Insured Organization**, but was in fact transmitted by someone other than an **Employee** without the **Insured Organization's** knowledge or consent.
- FF. **Funds Transfer Fraud Loss** means the **Insured Organization's** direct loss of **Money** or **Securities** directly caused by **Funds Transfer Fraud**.
- GG. **Identity Information** means:
1. information concerning any natural person that constitutes "nonpublic personal information" as defined in the Gramm-Leach Bliley Act of 1999, as amended, and regulations issued pursuant to such Act;

2. medical or health care information concerning a natural person, including “protected health information” as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations issued pursuant to such Act;
3. any private personal information concerning any natural person that is protected under any local, state, federal or foreign act, statute, rule, regulation, requirement, ordinance, common or other law, for any **Claim** subject to such act, statute, rule, regulation, requirement, ordinance, common or other law; or
4. a natural person’s driver’s license or state identification number; social security number; unpublished telephone number; credit, debit, or charge card numbers, or other financial account numbers and associated security codes, access codes, passwords or PIN numbers associated with such credit, debit, or charge card numbers, or other financial account numbers.

**HH. *Independent Contractor*** means any natural person who is not an **Employee** but who performs labor or service for the **Insured Organization** pursuant to a written contract or agreement. The status of an individual as an **Independent Contractor** will be determined as of the date of the alleged **Wrongful Act** or **First Party Insured Event**.

**II. *Insured*** means the **Insured Persons** and the **Insured Organization**.

**JJ. *Insured Organization*** means the **Named Insured**, any **Subsidiary**, and, only with respect to **Insuring Agreements A, B and C**, any such entity as a debtor in possession, as such term is used in Chapter 11 of the United States of America Bankruptcy Code, as amended, or the equivalent of a debtor in possession under any applicable foreign law.

**KK. *Insured Person*** means any natural person who was, is, or becomes a member of the board of directors, board of trustees, board of managers, board of governors, officer, **Employee**, partner, or **LLC Manager** of the **Insured Organization** for a **Wrongful Act** committed in the discharge of his or her duties as such.

In the event of the death, incapacity or bankruptcy of an **Insured Person**, any **Claim** against the estate, heirs, legal representatives or assigns of such **Insured Person** for a **Wrongful Act** of such **Insured Person** will be deemed to be a **Claim** against such **Insured Person**.

**LL. *LLC Manager*** means any natural person who was, is or becomes a manager, member of the board of managers, or a functionally equivalent executive of an **Insured Organization** that is a limited liability company.

**MM. *Loss*** means **Defense Expenses** and money which an **Insured** is legally obligated to pay as a result of a **Claim**, including settlements, judgments, compensatory damages, punitive or exemplary damages or the multiple portion of any multiplied damage award if insurable under the applicable law most favorable to the insurability of punitive, exemplary, or multiplied damages, prejudgment and post judgment interest, and legal fees and expenses awarded pursuant to a court order or judgment.

**Loss** does not include:

1. civil or criminal fines, sanctions, liquidated damages, payroll or other taxes, or damages, penalties or types of relief deemed uninsurable under applicable law;
2. amounts that constitute the cost of complying with any order for, grant of, or agreement to provide injunctive or non-monetary relief; or
3. any amount allocated to non-covered loss pursuant to section **V. CONDITIONS APPLICABLE TO ALL THIRD PARTY LIABILITY INSURING AGREEMENTS, B. ALLOCATION**.

**NN. *Money*** means a medium of exchange in current use and authorized or adopted by a domestic or foreign government, including currency, coins, bank notes, bullion, travelers’ checks, registered checks and money orders held for sale to the public.

**OO. *Named Insured*** means any entity named in ITEM 1 of the Declarations.



**PP. Network** means:

1. any and all services provided by or through the facilities of any electronic or computer communication system, including Fedwire, Clearing House Interbank Payment System (CHIPS), Society for Worldwide Interbank Financial Telecommunication (SWIFT) and similar interbank payment or settlement systems; and
2. automated teller machines, point of sale terminals, and other similar operating systems,

including any shared networks, internet access facilities, or other similar facilities for such systems in which the **Insured Organization** participates, allowing the input, output, examination or transfer of data or programs from one computer to a **Computer System**.

**QQ. Network and Information Security Wrongful Act** means any actual or alleged:

1. failure to prevent unauthorized access to, or use of, electronic or non-electronic data containing **Identity Information**;
2. failure to prevent the transmission of a **Computer Virus** through a **Computer System** into a computer network, any application software, or a computer operating system or related network, that is not rented, owned, leased by, licensed to, or under the direct operational control of, the **Insured Organization**;
3. failure to provide any authorized user of the **Insured Organization's** website or **Computer System** with access to such website or **Computer System**; or
4. failure to provide notification of any actual or potential unauthorized access to, or use of, data containing private or confidential information of others if such notification is required by any **Security Breach Notification Law**,

by, or asserted against, an **Insured Person**, in his or her capacity as such, or the **Insured Organization**.

**RR. Other Property** means any tangible property other than **Money** and **Securities** that has intrinsic value.

**SS. Policy Period** means the period from the Inception Date to the Expiration Date set forth in ITEM 2 of the Declarations. In no event will the **Policy Period** continue past the effective date of cancellation or termination of this **CyberRisk Policy**.

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

**UU. Potential Claim** means any **Wrongful Act** that may subsequently give rise to a **Claim**.

**VV. Regulatory Claim** means any **Claim**, in whole or in part, brought by, or on behalf of, any state attorney's general, the Federal Trade Commission, the Federal Communications Commission, or any federal, state, local, or foreign governmental entity in such entity's regulatory or official capacity in connection with such proceeding.

**WW. Related Wrongful Act** means all **Wrongful Acts** that have as a common nexus, or are causally connected by reason of, any act or event, or a series of acts or events.

**XX. Restoration Expenses** means reasonable costs incurred by the **Insured Organization**, with the Company's prior written consent, to restore, replace or reproduce damaged or destroyed computer programs, software or other electronic data stored within a **Computer System**, or leased by the **Insured Organization**, or for which the **Insured Organization** is legally liable, to the condition that existed immediately preceding a **Computer Violation**; provided that if it is determined by the **Insured Organization** that such computer programs, software or other electronic data cannot reasonably be

restored, replaced or reproduced, then **Restoration Expenses** means only the reasonable costs incurred by the **Insured Organization**, with the Company's prior written consent, to reach such determination.

**Restoration Expenses** do not include:

1. expenses incurred as a result of the reconstruction of computer programs, software or other electronic data which the **Insured Organization** did not have a license to use;
2. expenses incurred to restore, replace or reproduce damaged or destroyed computer programs, software or other electronic data if such damage or destruction was caused by computer programs, software or other electronic data which the **Insured Organization** did not have a license to use;
3. expenses incurred to design, update, improve or perfect the operation or performance of computer programs, software or other electronic data; or
4. expenses incurred to redo the work product, research or analysis that was the basis of, or resulted in, any computer programs, software or other electronic data stored.

**YY. Securities** means:

1. written negotiable and non-negotiable instruments or contracts representing **Money** or **Other Property**; or
2. uncertificated securities,

but **Securities** does not include **Money**.

**ZZ. Security Breach** means unauthorized access to, or acquisition of, **Identity Information** owned, licensed, maintained or stored by the **Insured Organization**.

**AAA. Security Breach Notification Expenses** mean any of the following reasonable fees, costs or expenses incurred and paid by the **Insured Organization**, with the Company's prior written consent, for services recommended and provided by an **Approved Service Provider** which can be directly attributed to a **Security Breach**:

1. fees, costs or expenses to determine the persons whose **Identity Information** was accessed or acquired without their authorization;
2. fees, costs or expenses to develop documents or materials to notify the persons whose **Identity Information** was accessed or acquired without their authorization;
3. costs of mailings or other communications required to notify the persons whose **Identity Information** was accessed or acquired without their authorization;
4. costs of providing up to 365 days of credit monitoring services to persons whose **Identity Information** was accessed or acquired without their authorization, starting with the date that the **Insured Organization** first notified such persons of the **Security Breach**;
5. costs of establishing and maintaining a call center to be used by persons whose **Identity Information** was accessed or acquired without their authorization; or
6. any other fees, costs, or expenses necessary to comply with any **Security Breach Notification Law** that applies to the **Insured Organization**.

**Security Breach Notification Expenses** also include fees, costs or expenses associated with the purchase of an identity fraud insurance policy specifically designed to provide reimbursement of identity fraud related expenses, or similar coverage if such similar coverage is available as part of credit monitoring services, to benefit persons whose **Identity Information** was accessed or acquired without their authorization.

**Security Breach Notification Expenses** do not include:

1. remuneration paid to **Employees**;
2. fees, costs or expenses of outside consultants, other than the **Approved Service Provider**, retained by the **Insured Organization**, unless the Company agrees in writing to reimburse the **Insured Organization** for such fees, costs or expenses;
3. taxes, fines, penalties, punitive, exemplary or liquidated damages, or the multiple portion of any multiplied damage award imposed by law or that any **Insured** has agreed to pay for any reason;
4. gratis amounts that any **Insured** voluntarily agrees to pay to any person whose **Identity Information** was accessed or acquired without their authorization; or
5. **Crisis Management Event Expenses**.

**BBB. Security Breach Notification Law** means any law or regulation that requires an organization to notify persons that their personal information was or may have been accessed or acquired without their authorization.

**CCC. Single First Party Insured Event** means:

1. an individual **First Party Insured Event**; or
2. multiple **First Party Insured Events** that have as a common nexus, or are causally connected by reason of, any fact, circumstance, situation, event or decision.

A **Single First Party Insured Event** will be deemed to have occurred at the time the first of such **First Party Insured Events** occurred whether prior to or during the **Policy Period**.

**DDD. Subsidiary** means:

1. any corporation, partnership, limited liability company or other entity organized under the laws of any jurisdiction in which, on or before the Inception Date set forth in ITEM 2 of the Declarations, the **Named Insured** owns, directly or indirectly, more than 50% of the outstanding securities or voting rights representing the present right to elect, appoint or exercise a majority control over such entity's board of directors, board of trustees, board of managers, natural person general partners, or functional equivalent;
2. any non-profit entity over which, on or before the Inception Date set forth in ITEM 2 of the Declarations, the **Named Insured** has the ability to exercise managerial control;
3. any entity operated as a joint venture, in which, on or before the Inception Date set forth in ITEM 2 of the Declarations, the **Named Insured** owns, directly or indirectly, exactly 50% of the issued and outstanding voting stock and whose management and operation the **Insured Organization** solely controls, pursuant to a written agreement with the owner(s) of the remaining issued and outstanding voting stock; or
4. subject to the provisions set forth in section **IV. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS, H. ACQUISITIONS OR CREATIONS OF SUBSIDIARIES; PURCHASE OF ASSETS OR ASSUMPTION OF LIABILITIES**, any entity that the **Insured Organization** acquires or forms during the **Policy Period** in which the **Named Insured** owns, directly or indirectly, more than 50% of the outstanding securities or voting rights representing the present right to elect, appoint or exercise a majority control over such entity's board of directors, board of trustees, board of managers, natural person general partners, or functional equivalent, or, in the case of any non-profit entity that does not issue securities, over which the **Named Insured** has the ability to exercise managerial control.

**EEE. Third Party Liability Insuring Agreements** means **Insuring Agreements A, B and C**.

**FFF. *Waiting Period*** means the number of hours following a **Computer System Disruption** before the Company is first obligated to pay **Business Interruption Loss** covered under **Insuring Agreement J**. The **Waiting Period** incepts immediately following the **Computer System Disruption**.

**GGG. *Wrongful Act*** means any **Network and Information Security Wrongful Act** or **Communications and Media Wrongful Act**.

All **Related Wrongful Acts** are a single **Wrongful Act** for purposes of this **CyberRisk Policy**, and all **Related Wrongful Acts** will be deemed to have occurred at the time the first of such **Related Wrongful Acts** occurred whether prior to or during the **Policy Period**.

### **III. EXCLUSIONS**

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#### **A. EXCLUSIONS APPLICABLE TO ALL INSURING AGREEMENTS**

1. This **CyberRisk Policy** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of any nuclear reaction, nuclear radiation, radioactive contamination, biological or chemical contamination or to any related act or incident.
2. This **CyberRisk Policy** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of war, invasion, acts of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, nationalization, requisition, or destruction of, or damage to, property by or under the order of any government, public or local authority; provided that this exclusion will not apply to any "act of terrorism" as defined in the Terrorism Risk Insurance Act, as amended.
3. This **CyberRisk Policy** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of damage to, or destruction of, loss of, or loss of use of, any tangible property including damage to, destruction of, loss of, or loss of use of, tangible property that results from inadequate or insufficient protection from soil or ground water movement, soil subsidence, mold, toxic mold, spores, mildew, fungus, or wet or dry rot.
4. This **CyberRisk Policy** will not apply to any **Claim** or **Single First Party Insured Event** for any actual or alleged bodily injury, sickness, disease, death, loss of consortium, emotional distress, mental anguish, humiliation or loss of reputation; provided that this exclusion will not apply to that portion of any **Claim** for a **Communications and Media Wrongful Act** seeking **Loss** for emotional distress, mental anguish, humiliation or loss of reputation.
5. This **CyberRisk Policy** will not apply to any **Claim** or **Single First Party Insured Event**:
  - a. based upon or arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of any **Pollutant**;
  - b. based upon or arising out of any request, demand, order, or statutory or regulatory requirement that any **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, any **Pollutant**; or
  - c. brought by or on behalf of any governmental authority because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, any **Pollutant**.
6. This **CyberRisk Policy** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of any fact, circumstance, situation or event that is, or reasonably would be regarded as, the basis for a **Claim** or **Single First Party Insured Event** about which any **Executive Officer** had knowledge prior to the Continuity Date set forth in ITEM 5 of the Declarations.
7. This **CyberRisk Policy** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of any fact, circumstance, situation, event, **Wrongful Act** or **Single First Party**

**Insured Event** which, before the Inception Date set forth in ITEM 2 of the Declarations, was the subject of any notice of claim or potential claim given by or on behalf of any **Insured** under any policy of insurance of which this **CyberRisk Policy** is a direct renewal or replacement or which it succeeds in time.

8. This **CyberRisk Policy** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of any **Insured**:
- a. committing any intentionally dishonest or fraudulent act or omission;
  - b. committing any willful violation of any statute, rule, law; or
  - c. gaining any profit, remuneration or advantage to which such **Insured** was not legally entitled,

provided that:

- (1) with respect to the **Third Party Liability Insuring Agreements**:
  - (a) this exclusion will not apply to **Defense Expenses** and will not apply unless a final adjudication establishes that such **Insured** committed such intentionally dishonest or fraudulent act or omission, willful violation of any statute, rule or law, or gained such profit, remuneration or advantage to which such **Insured** was not legally entitled; and
  - (b) no fact pertaining to, knowledge possessed by or conduct of any **Insured Person** will be imputed to any other **Insured Person**, and only facts pertaining to, knowledge possessed by or conduct of an **Executive Officer** will be imputed to the **Insured Organization**; and
- (2) with respect to **Insuring Agreements F** and **J**, this exclusion will not apply to an intentionally dishonest or fraudulent act or omission, or willful violation of any statute, rule or law, by an **Employee**, or any **Employee** gaining any profit, remuneration or advantage to which such **Employee** was not legally entitled.

**B. EXCLUSIONS APPLICABLE TO ALL THIRD PARTY LIABILITY INSURING AGREEMENTS AND INSURING AGREEMENTS D AND E**

1. The **Third Party Liability Insuring Agreements** and **Insuring Agreements D** and **E** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of any fact, circumstance, situation, event or **Wrongful Act** underlying or alleged in any prior or pending civil, criminal, administrative or regulatory proceeding against any **Insured** as of or prior to the Prior and Pending Proceeding Date set forth in ITEM 5 of the Declarations.
2. The **Third Party Liability Insuring Agreements** and **Insuring Agreements D** and **E** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of any **Wrongful Act** by a **Subsidiary** or any related **Insured Person** occurring at any time during which such entity was not a **Subsidiary**.
3. The **Third Party Liability Insuring Agreements** and **Insuring Agreements D** and **E** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of any **Wrongful Act** taking place, in whole or in part, prior to the Retroactive Date set forth in ITEM 5 of the Declarations.
4. The **Third Party Liability Insuring Agreements** and **Insuring Agreements D** and **E** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of false, deceptive or unfair business practices or a violation of any consumer protection law, other than **Loss** or **First Party Loss or Expenses** directly resulting from such deceptive or unfair business practice, or such violation, which constitutes a **Network and Information Security Wrongful Act** or a **Communications and Media Wrongful Act**.

5. The **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of any **Network and Information Security Wrongful Act** that results in:
  - a. the failure to provide access to the **Insured Organization's** website or **Computer System** that was expected or intended by any **Insured**; provided that this exclusion shall not apply if the failure to provide access occurred because the **Insured Organization** suspended its website or **Computer System** to mitigate loss arising out of:
    - (1) a **Computer Virus** that affected the **Insured Organization's** website or **Computer System**;
    - (2) an intentional attack on a **Computer System** that depletes system resources or impedes system access available through the internet to authorized external users of a **Computer System**; or
    - (3) an unauthorized breach of a **Computer System** that prevented authorized users from accessing the **Insured Organization's** website or **Computer System**; or
  - b. any internet service interruption or failure; provided that this exclusion will not apply if the interruption or failure was caused by an **Insured**.
6. The **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of any actual or alleged infringement of copyrighted software.
7. The **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of any false, factually incorrect or inaccurate **Covered Material**, provided that the **Insured** knew the material was false, factually incorrect or inaccurate at the time such **Covered Material** was first made known, displayed, or disseminated.
8. The **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of the actual or alleged obligation to make licensing fee or royalty payments, including the amount or timeliness of such payments.
9. The **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of the actual or alleged inaccurate, inadequate or incomplete description of the price of goods, products or services, cost guarantees, cost representations, or contract price estimates, the authenticity of any goods, products or services, or the failure of any goods or services to conform with any represented quality or performance.
10. The **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of any:
  - a. misappropriation, infringement, or violation of any patent or trade secret;
  - b. distribution or sale of, or offer to distribute or sell, any goods, products or services; or
  - c. other use of any goods, products or services that actually infringes or violates any intellectual property law or right relating to the appearance, design or function of any goods, products or services.
11. The **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E** will not apply to any **Claim** by, or on behalf of, any independent contractor, joint venture or venture partner based upon or arising out of any dispute over ownership rights in the **Insured**

**Organization's Covered Material** or services provided by such independent contractor, joint venturer or venture partner.

12. **The Third Party Liability Insuring Agreements and Insuring Agreements D and E** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of loss sustained by any person or organization that:

- a. creates, designs, develops or provides any content, material, or services for any **Insured**; or
- b. is an assign or heir of any such person or organization,

provided that this exclusion applies regardless of whether such content, material or services were jointly created, designed, developed or provided by any **Insured**.

13. **The Third Party Liability Insuring Agreements and Insuring Agreements D and E** will not apply to any **Claim** by, or on behalf of, or in the name or right of:

- a. any **Insured**; or
- b. any organization that at the time the **Wrongful Act** is committed, or the date the **Claim** is made: (i) is owned, operated or controlled by any **Insured**; or (ii) owns, operates or controls any **Insured**,

provided that this exclusion will not apply to:

- (1) any **Claim** in the form of a cross claim, third party claim or other claim for contribution or indemnity by an **Insured Person** and which is part of or results directly from a **Claim** which is not otherwise excluded by the terms of this **CyberRisk Policy**; or
- (2) any **Claim** under **Insuring Agreements A or B** by or on behalf of an **Employee** for a **Wrongful Act**, but only if such **Employee** did not commit or participate in the **Wrongful Act**.

14. **The Third Party Liability Insuring Agreements and Insuring Agreements D and E** will not apply to any **Claim** or **Single First Party Insured Event** based upon or arising out of any liability assumed by an **Insured** under any contract or agreement, whether oral or written, except to the extent that the **Insured** would have been liable in the absence of such contract or agreement.

#### **C. EXCLUSIONS APPLICABLE TO INSURING AGREEMENTS F, G, H, I AND J**

1. **Insuring Agreements F, G, H, I and J** will not apply to any fees, costs and expenses incurred by the **Insured Organization** in:
- a. establishing the existence or amount of **First Party Loss or Expenses**; or
  - b. the preparation of the **Insured Organization's** proof of loss in support of **First Party Loss or Expenses**.
2. **Insuring Agreements F, G, H, I and J** will not apply to any indirect or consequential loss of any nature, including court costs and attorneys' fees incurred and paid by the **Insured Organization** in defending any suit or legal proceeding brought against the **Insured Organization**.

#### **D. EXCLUSIONS APPLICABLE TO INSURING AGREEMENTS G AND H**

1. **Insuring Agreements G and H** will not apply to loss of confidential information, including trade secrets, formulas, patents, customer information, negatives, drawings, manuscripts, prints and other records of a similar nature, or other confidential information, intellectual property of any kind, data or computer programs.

2. **Insuring Agreements G and H** will not apply to **Computer Fraud Loss** or **Funds Transfer Fraud Loss** resulting directly or indirectly from the use or purported use of credit, debit, charge, access, convenience, identification or other cards:
  - a. in obtaining credit or funds;
  - b. in gaining access to automated teller machines which, on behalf of the **Insured Organization**, disburse **Money**, accept deposits, cash checks, drafts or similar written instruments or make credit card loans; or
  - c. in gaining access to point of sale devices, customer-bank communication devices, or similar electronic devices or electronic funds transfer systems,whether such cards were issued, or purport to have been issued, by the **Insured Organization** or by anyone other than the **Insured Organization**.
3. **Insuring Agreements G and H** will not apply to the giving or surrendering of **Money, Securities** or **Other Property** in any exchange or purchase, whether or not fraudulent.
4. **Insuring Agreements G and H** will not apply to potential income, including interest and dividends, not realized by the **Insured Organization** or a customer of the **Insured Organization**.
5. **Insuring Agreements G and H** will not apply to damages of any type for which the **Insured Organization** is legally liable, except direct compensatory damages, but not multiples thereof, arising directly from **Computer Fraud Loss** or **Funds Transfer Fraud Loss** covered under **Insuring Agreements G and H**.
6. **Insuring Agreements G and H** will not apply to **Computer Fraud Loss** or **Funds Transfer Fraud Loss** caused by an employee or director of an automated clearing house (including a Federal Reserve Bank), service bureau, electronic communications system or similar interbank payment or settlement systems (including Fedwire, CHIPS and SWIFT) or merchants who have contracted with the **Insured Organization** to perform electronic funds transfer services.
7. **Insuring Agreements G and H** will not apply to **Computer Fraud Loss** or **Funds Transfer Fraud Loss** resulting directly or indirectly from a fraudulent instruction if the sender, or anyone acting in collusion with the sender, ever had authorized access to the **Insured Organization's** password, PIN or other security code.
8. **Insuring Agreements G and H** will not apply to **Computer Fraud Loss** or **Funds Transfer Fraud Loss** resulting directly or indirectly from forged, altered or fraudulent negotiable instruments, securities, documents or written instructions or instructions used as source documentation to enter electronic data or send instructions.
9. **Insuring Agreements G and H** will not apply to loss, costs or expenses the **Insured Organization** agrees to incur, or incurs on behalf of another person or entity, when the **Insured Organization** is not legally obligated to incur such loss, costs or expenses under the Uniform Commercial Code or any other common, case or tort law, statute, rule or code anywhere in the world, including any rule or code of any clearing or similar organization.

#### **IV. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS**

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##### **A. TERRITORY**

This **CyberRisk Policy** applies to **Claims** made or **First Party Insured Events** occurring anywhere in the world.



## B. RELATED CLAIMS

All **Claims** or **Potential Claims** arising out of the same **Wrongful Act** or **Related Wrongful Acts** are deemed one **Claim** or **Potential Claim**, whichever is applicable, and any such **Claim** or **Potential Claim** is deemed to be first made on the date the earliest of such **Claims** or **Potential Claims** is first made, regardless of whether such date is before or during the **Policy Period**, or if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period.

## C. RETENTION

If any **Claim** gives rise to coverage under a **Third Party Liability Insuring Agreement**, or any **Single First Party Insured Event** gives rise to coverage under a **First Party Insuring Agreement**, the Company has no obligation to pay **Loss**, including **Defense Expenses**, or **First Party Loss or Expenses**, until the applicable Retention amount set forth in ITEM 5 of the Declarations has been paid by the **Insured**.

If any **Claim** is covered under more than one **Third Party Liability Insuring Agreement**, the Retention set forth in ITEM 5 of the Declarations for each applicable **Third Party Liability Insuring Agreement** will apply separately to the part of such **Claim** covered under such **Third Party Liability Insuring Agreement**, but the sum of such Retentions for such **Claim** will not exceed the largest applicable Retention set forth in ITEM 5 of the Declarations for any such **Third Party Liability Insuring Agreement**.

If a **Single First Party Insured Event** is covered under more than one **First Party Insuring Agreement**, the Retention set forth in ITEM 5 of the Declarations for each applicable **First Party Insuring Agreement** will apply separately to the part of such **Single First Party Insured Event** covered under such **First Party Insuring Agreement**, but the sum of such Retentions for such **Single First Party Insured Event** will not exceed the largest applicable Retention set forth in ITEM 5 of the Declarations for any such **First Party Insuring Agreement**.

Only with respect to a **Third Party Liability Insuring Agreement**, no Retention will apply to an **Insured Person** if indemnification by the **Insured Organization** is not permitted by law or if the **Insured Organization** is unable to make such indemnification solely by reason of its **Financial Insolvency**. The **Insured Organization** will be conclusively deemed to have indemnified all **Insured Persons** to the extent that the **Insured Organization** is permitted or required to indemnify them pursuant to law, common or statutory, or contract, or the charter or by-laws of the **Insured Organization**.

The Company, at its sole discretion, may pay all or part of the Retention amount on behalf of any **Insured**, and in such event, the **Insureds** agree to repay the Company any amounts so paid.

## D. LIMITS

This limits section applies as described herein regardless of the number of persons or entities bringing **Claims** or the number of persons or entities who are **Insureds** and regardless of when payment is made by the Company or when an **Insured's** legal obligation with regard thereto arises or is established.

1. The **CyberRisk Policy Aggregate Limit** is the maximum amount the Company will pay for all **Loss**, including **Defense Expenses**, and for all **First Party Loss or Expenses**.
2. If the **CyberRisk Policy Aggregate Limit** is exhausted by the payment of **Loss**, including **Defense Expenses**, or **First Party Loss or Expenses**, the premium for this **CyberRisk Policy** will be fully earned, all obligations of the Company under this **CyberRisk Policy** will be completely fulfilled and exhausted, including any duty to defend, and the Company will have no further obligations of any kind or nature whatsoever under this **CyberRisk Policy**.
3. Subject to the **CyberRisk Policy Aggregate Limit**:
  - a. The Company's maximum limit of liability for **Loss**, including **Defense Expenses**, for each **Claim** under **Insuring Agreements A** or **B** will not exceed the applicable limit of liability for each **Claim** set forth in ITEM 5 of the Declarations for such Insuring Agreements.

- b. The Company's maximum limit of liability for **Defense Expenses** for each **Regulatory Claim** under **Insuring Agreement C** will not exceed the applicable limit of liability for each **Regulatory Claim** set forth in ITEM 5 of the Declarations for such Insuring Agreement.
  - c. If any **Claim** is covered under more than one of **Insuring Agreements A, B or C**, the limit of liability set forth in ITEM 5 of the Declarations for each applicable Insuring Agreement will apply separately to the part of **Loss** or, with respect to **Insuring Agreement C, Defense Expenses**, covered under such Insuring Agreement, provided that the Company's maximum limit of liability for such **Claim** will not exceed the largest applicable limit set forth in ITEM 5 of the Declarations for any such applicable Insuring Agreement.
  - d. The Company's maximum limit of insurance for **First Party Loss or Expenses** for each **Single First Party Insured Event** under **Insuring Agreements D, E, F, G, H, I or J** will not exceed the applicable limit of insurance set forth in ITEM 5 of the Declarations for such Insuring Agreements.
  - e. If any **Single First Party Insured Event** is covered under more than one of **Insuring Agreements D, E, F, G, H, I or J**, the limit of insurance set forth in ITEM 5 of the Declarations for each applicable Insuring Agreement will apply separately to the part of **First Party Loss or Expenses** covered under such Insuring Agreement, provided that the Company's maximum limit of insurance for such **Single First Party Insured Event** will not exceed the largest applicable limit set forth in ITEM 5 of the Declarations for any such applicable Insuring Agreement.
4. Payment of **Loss**, including **Defense Expenses**, under the applicable limit of liability for each **Claim** set forth in ITEM 5 of the Declarations, or payment of **First Party Loss or Expenses** under the applicable limit of insurance for each **Single First Party Insured Event** set forth in ITEM 5 of the Declarations, will reduce, and may exhaust, the **CyberRisk Policy Aggregate Limit**.

#### **E. INSURED'S DUTIES IN THE EVENT OF A CLAIM OR A FIRST PARTY INSURED EVENT**

1. The **Insured's** duty to report a **Claim** commences on the earliest date a written notice thereof is received by an **Executive Officer**. If an **Executive Officer** becomes aware that a **Claim** has been made against any **Insured**, the **Insured**, as a condition precedent to any rights under any **Third Party Liability Insuring Agreement**, must give to the Company written notice of the particulars of such **Claim**, including all facts related to any alleged **Wrongful Act**, the identity of each person allegedly involved in or affected by such **Wrongful Act**, and the dates of the alleged events, as soon as practicable. The **Insured** agrees to give the Company such information, assistance and cooperation as it may reasonably require.
2. The **Insured's** duty to report a **First Party Insured Event** under **Insuring Agreements D or E** commences on the earliest date an **Executive Officer** reasonably believes that a **Wrongful Act** has occurred. If an **Executive Officer** reasonably believes that a **Wrongful Act** has occurred, the **Insured**, as a condition precedent to any rights under **Insuring Agreements D or E**, must give to the Company written notice of the particulars of such **First Party Insured Event**, including all facts related to the **Wrongful Act**, the identity of each person allegedly involved in or affected by such **Wrongful Act**, and the dates of the alleged events, as soon as practicable. The **Insured** agrees to give the Company such information, assistance and cooperation as it may reasonably require.
3. After the **Insured Organization Discovers** a **First Party Insured Event** under **Insuring Agreements F, G, H or I**, or a situation that may result in **First Party Loss or Expenses** under **Insuring Agreements F, G, H or I** that exceeds 25% of the applicable Retention, the **Insured Organization** must:
  - a. notify the Company as soon as possible;
  - b. notify law enforcement authorities if the **Insured Organization** has reason to believe that any **First Party Insured Event** involves a violation of law;

- c. submit to examination under oath at the Company's request and give the Company a signed statement of the **Insured Organization's** answers;
  - d. give the Company a detailed, sworn proof of loss within 120 days; and
  - e. cooperate with the Company in the investigation and settlement of such matter.
4. After the **Insured Organization Discovers a First Party Insured Event** under **Insuring Agreement J**, the **Insured Organization**, as a condition precedent to any rights under **Insuring Agreement J**, must give to the Company written notice of the particulars of such **First Party Insured Event**, including all facts related to any alleged **Computer System Disruption**, the identity of the business operations affected by such **Computer System Disruption**, and the dates of the alleged events, as soon as practicable. The **Insured** agrees to give the Company such information, assistance and cooperation as it may reasonably require.
  5. All notices under this section **IV. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS, E. INSURED'S DUTIES IN THE EVENT OF A CLAIM OR A FIRST PARTY INSURED EVENT**, must be sent by email, facsimile or mail in accordance with ITEM 3 of the Declarations and will be effective upon receipt.
  6. With respect to the **Third Party Liability Insuring Agreements**, the **Insured** agrees not to voluntarily settle any **Claim**, make any settlement offer, assume or admit any liability or, except at the **Insured's** own cost, voluntarily make any payment, pay or incur any **Defense Expenses**, or assume any obligation or incur any other expense, without the Company's prior written consent, such consent not to be unreasonably withheld. The Company is not liable for any settlement, **Defense Expenses**, assumed obligation or admission to which it has not consented.

#### F. SUBROGATION

In the event of payment of **Loss**, including **Defense Expenses**, or **First Party Loss or Expenses**, the Company is subrogated to all of the **Insured's** rights of recovery against any person or organization to the extent of such payment and the **Insured** agrees to 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.

#### G. RECOVERIES

All recoveries from third parties for payments of **Loss**, including **Defense Expenses**, or **First Party Loss or Expenses**, will be applied, after first deducting the costs and expenses incurred in obtaining such recovery, in the following order of priority:

1. first, to the Company to reimburse the Company for any Retention amount it has paid on behalf of any **Insured**;
2. second, to the **Insured** to reimburse the **Insured** for any amount that would have been paid under this **CyberRisk Policy** but for the fact that it is in excess of the applicable limits hereunder;
3. third, to the Company to reimburse the Company for any amount paid to the **Insured** under this **CyberRisk Policy**;
4. fourth, to the **Insured** in satisfaction of any applicable Retention; and
5. fifth, to the **Insured** in satisfaction of any loss or expenses not covered under this **CyberRisk Policy**.

Provided, however, that such recoveries do not include any recovery:

- a. from insurance, suretyship, reinsurance, security or indemnity taken for the Company's benefit; or

- b. of **First Party Loss or Expenses** that consist of original **Securities** after duplicates of them have been issued.

**H. ACQUISITIONS OR CREATIONS OF SUBSIDIARIES; PURCHASE OF ASSETS OR ASSUMPTION OF LIABILITIES**

If, during the **Policy Period**, the **Insured Organization**:

- 1. acquires or creates another entity that as a result of such acquisition or creation becomes a **Subsidiary**;
- 2. acquires any entity by such entity's merger into, or consolidation with, the **Insured Organization** such that the **Insured Organization** is the surviving entity; or
- 3. purchases assets or assumes liabilities of another entity, without acquiring such entity,

then this **CyberRisk Policy** will provide coverage with respect to such acquisition, creation, purchased assets, or assumed liabilities, subject to all of its terms, conditions and limitations, as follows:

- a. If the total assets of any such acquired or created entity, or the combined total amount of the purchased assets or assumed liabilities of such other entity, are less than 30% of the consolidated assets of the **Insured Organization** as of the **Insured Organization's** most recent financial statements prior to the inception date of the **Policy Period**, then such acquisition, creation, purchased assets, or assumed liabilities will be covered, subject to the following:
  - (1) with respect to **Insuring Agreements A, B, C, D and E**, such coverage will only extend to **Wrongful Acts** taking place after such acquisition, creation, purchase, or assumption, unless the Company agrees, after presentation of a complete application and all appropriate information, to provide coverage by endorsement for **Wrongful Acts** taking place before such acquisition, creation, purchase or assumption; and
  - (2) with respect to **Insuring Agreements F, G, H, I and J**, such coverage will only extend to any **First Party Insured Event** taking place in its entirety, and which is **Discovered**, after such acquisition, creation, purchase, or assumption, and only if:
    - (a) such acquisition, creation, purchase, or assumption was not regulatory-assisted or was not the subject of any regulatory cease and desist order, memorandum of understanding or letter of agreement; and
    - (b) the entity acquired, or from which the assets were purchased or liabilities were assumed, had no paid or pending losses during the three year period before the date of such acquisition, purchase, or assumption of the type covered by **Insuring Agreements F, G, H, I or J** in excess of the applicable retention for such entity.
- b. With respect to any other acquisition, creation, purchase of assets, or assumption of liabilities not described within a. above, such acquisition, creation, purchased assets, or assumed liabilities will be covered, but only for the lesser of the remainder of the **Policy Period** or 90 days following the effective date of such acquisition, creation, purchase or assumption (the "Automatic Coverage Period"), subject to the following:
  - (1) with respect to **Insuring Agreements A, B, C, D and E**, such coverage will only extend to **Wrongful Acts** taking place after such acquisition, creation, purchase, or assumption; and

- (2) with respect to **Insuring Agreements F, G, H, I and J**, such coverage will only extend to any **First Party Insured Event** taking place in its entirety, and which is **Discovered**, after such acquisition, creation, purchase, or assumption.

As a condition precedent to further coverage with respect to such acquisition, creation, purchased assets, or assumed liabilities after such Automatic Coverage Period, the **Named Insured** must give written notice of such acquisition, creation, purchase, or assumption as soon as practicable but in no event later than 60 days following the effective date of such acquisition, creation, purchase, or assumption, and must promptly provide the Company such information as the Company may request. Upon receipt of such notice and other information, the Company will, at its option, provide the **Named Insured** a quotation for coverage under this **CyberRisk Policy** with respect to such acquisition, creation, purchased assets, or assumed liabilities for the remainder of the **Policy Period**. If the **Named Insured** fails to comply with such condition precedent, or within 60 days following receipt of any such quotation, the **Named Insured** fails to pay any additional premium or fails to agree to any additional or amended coverage terms, conditions, exclusions or limitations set forth in such quotation, coverage otherwise afforded by this section for such acquisition, creation, purchased assets, or assumed liabilities will terminate upon expiration of the Automatic Coverage Period.

## I. CANCELLATION OR TERMINATION

### 1. Cancellation

The Company may cancel this **CyberRisk Policy** for failure to pay a premium when due by mailing to the **Named Insured**, at the **Named Insured's** last mailing address known to the Company, written notice of cancellation at least 20 days before the effective date of such cancellation, provided that if the Company receives payment in full of such premium within such 20 days, such cancellation by the Company shall not be effective. The Company has the right to the premium amount for the portion of the **Policy Period** during which this **CyberRisk Policy** was in effect.

Subject to the provisions set forth in section **IV. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS, S. CHANGE OF CONTROL**, the **Named Insured** may cancel any one, or all, of the Insuring Agreements of this **CyberRisk Policy** by mailing the Company written notice stating when, thereafter, not later than the Expiration Date set forth in ITEM 2 of the Declarations, such cancellation will be effective.

The Company shall refund the unearned premium computed at customary short rates if this **CyberRisk Policy** is cancelled by the **Named Insured**. If the Company initiates cancellation, the Company shall refund the unearned premium computed pro rata. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

The Company will not be required to renew this **CyberRisk Policy** upon its expiration. If the Company elects not to renew, it will provide the **Named Insured** written notice to that effect at least 30 days before the Expiration Date set forth in ITEM 2 of the Declarations.

### 2. Termination

**Insuring Agreements F, G, H, I and J** of this **CyberRisk Policy** will terminate effective immediately:

- a. upon a **Change of Control**; or
- b. upon the voluntary liquidation or dissolution of the **Named Insured**.

## J. ACTION AGAINST THE COMPANY

No action will lie against the Company unless there has been full compliance with all of the terms of this **CyberRisk Policy**.

1. Only with respect to the **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E**:
  - a. no person or organization has any right to join the Company as a party to any action against the **Insured** to determine the **Insured's** liability, nor may the Company be impleaded by an **Insured** or said **Insured's** legal representative; and
  - b. bankruptcy or insolvency of any **Insured** or an **Insured's** estate does not relieve the Company of any of its obligations hereunder.
2. Only with respect to the **Insuring Agreements F, G, H, I and J**:

The **Insured Organization** may not bring any legal action against the Company involving **First Party Loss or Expenses**:

- a. until 60 days after the **Insured Organization** has filed proof of loss with the Company; and
  - b. unless such legal action is brought within two years from the date the **Insured Organization Discovers** the **First Party Insured Event**.
3. If any limitation in this section is deemed to be inconsistent with applicable law, such limitation is amended so as to equal the minimum period of limitation provided by such law.

## K. CHANGES

Only the **Named Insured** is authorized to make changes in the terms of this **CyberRisk Policy** and solely with the Company's prior written consent. This **CyberRisk Policy's** terms can be changed, amended or waived only by endorsement issued by the Company and made a part of this **CyberRisk Policy**. Notice to any representative of the **Insured Organization** or knowledge possessed by any agent or by any other person will not effect a waiver or change to any part of this **CyberRisk Policy** or estop the Company from asserting any right under the terms, conditions and limitations of this **CyberRisk Policy**, nor may the terms, conditions and limitations hereunder be waived or changed, except by a written endorsement to this **CyberRisk Policy** issued by the Company.

## L. ASSIGNMENT

This **CyberRisk Policy**, and any rights or duties herein, may not be assigned or transferred, and any such attempted assignment or transfer is void and without effect unless the Company has provided its prior written consent to such assignment or transfer.

## M. REPRESENTATIONS

By acceptance of the terms set forth in this **CyberRisk Policy**, each **Insured** represents and agrees that the statements contained in the **Application**, which is deemed to be attached hereto, incorporated herein, and forming a part hereof, are said **Insured's** agreements and representations, that such representations are material to the Company's acceptance of this risk, that this **CyberRisk Policy** is issued in reliance upon the truth of such representations, and that this **CyberRisk Policy** embodies all agreements existing between said **Insured** and the Company or any of its agents.

If any statement or representation in the **Application** is untrue, then no coverage will be afforded under this **CyberRisk Policy**, but only with respect to:

- a. any **Insured Person** who knew, as of the Inception Date set forth in ITEM 2 of the Declarations, that the statement or representation was untrue; and

- b. the **Insured Organization**, if the person who signed the **Application** knew that the statement or representation was untrue.

Whether an **Insured Person** had such knowledge will be determined without regard to whether the **Insured Person** actually knew the **Application**, or any other application completed for this **CyberRisk Policy**, contained any such untrue statement or representation.

#### N. LIBERALIZATION

If during the **Policy Period** the Company is required by law or by any insurance supervisory authority of the state in which this **CyberRisk Policy** was issued, to make any changes in the form of this **CyberRisk Policy**, by which the insurance provided by this **CyberRisk Policy** could be extended or broadened without increased premium charge by endorsement or substitution of form, then such extended or broadened insurance will inure to the benefit of the **Insured** as of the date the revision or change is approved for general use by the applicable department of insurance.

#### O. AUTHORIZATION

By acceptance of the terms herein, the **Named Insured** agrees to act on behalf of all **Insureds** with respect to the payment of premiums, the receiving of any return premiums that may become due hereunder, and the receiving of notices of cancellation, nonrenewal, or change of coverage, and the **Insureds** each agree that they have, individually and collectively, delegated such authority exclusively to the **Named Insured**; provided, that nothing herein will relieve the **Insureds** from giving any notice to the Company that is required under this **CyberRisk Policy**.

#### P. ENTIRE AGREEMENT

The Declarations, the **Application**, each **Third Party Liability Insuring Agreement**, each **First Party Insuring Agreement**, and any endorsements attached thereto, constitute the entire agreement between the Company and the **Insured**.

#### Q. HEADINGS

The titles of the various paragraphs of this **CyberRisk Policy** and its endorsements are inserted solely for convenience or reference and are not to be deemed in any way to limit or affect the provision to which they relate.

#### R. OTHER INSURANCE

1. This **CyberRisk Policy** will apply only as excess insurance over, and will not contribute with, any other valid and collectible insurance available to the **Insured**, including any insurance under which there is a duty to defend, unless such insurance is written specifically excess of this **CyberRisk Policy** by reference in such other policy to the Policy Number of this **CyberRisk Policy**. This **CyberRisk Policy** will not be subject to the terms of any other insurance.
2. Only with respect to **Insuring Agreements F, G, H, I and J**:
  - a. This **CyberRisk Policy** applies only as excess insurance over, and will not contribute with, any indemnification to which any **Insured Organization** is entitled from any entity other than any **Insured Organization**.
  - b. As excess insurance, this **CyberRisk Policy** will not apply or contribute to the payment of any loss to the **Insured Organization** until the amount of such other insurance or indemnity has been exhausted by loss covered thereunder. If the limit of the other insurance or indemnity is insufficient to cover the entire amount of the loss, this **CyberRisk Policy** will apply to that part of the loss not recoverable or recovered under the other insurance or indemnity. This **CyberRisk Policy** will not be subject to the terms of any other insurance.

- c. Any loss that is applicable to this section **IV. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS, R. OTHER INSURANCE**, is subject to both the applicable limit of insurance for each **Single First Party Insured Event** set forth in ITEM 5 of the Declarations and any applicable Retention set forth in ITEM 5 of the Declarations.
- d. If this **CyberRisk Policy** replaces prior insurance that provided the **Insured Organization** with an extended period of time after the termination or cancellation of such prior insurance in which to **Discover a First Party Insured Event**, then, and with respect to any **First Party Insured Event Discovered** during such extended period involving **First Party Loss or Expenses** incurred by the **Insured Organization** prior to the termination of such prior insurance, the coverage afforded by this **CyberRisk Policy** applies as follows:
- (1) the Company will have no liability for **First Party Loss or Expenses** directly caused by such **First Party Insured Event**, unless the amount of such **First Party Loss or Expenses** exceeds the limit of insurance of that prior insurance; provided, that in such case, the Company will pay the **Insured Organization** for the excess of such **First Party Loss or Expenses** subject to the terms and conditions of this **CyberRisk Policy**; and
  - (2) any payment the Company makes to the **Insured Organization** for such excess **First Party Loss or Expenses** will not be greater than the difference between the limit of insurance of the **Insured Organization's** prior insurance and the applicable limit for each **First Party Insured Event** set forth in ITEM 5 of the Declarations. The Company will not apply the applicable Retention set forth in ITEM 5 of the Declarations to **First Party Loss or Expenses** directly caused by such **First Party Insured Event**.

## S. CHANGE OF CONTROL

1. Only with respect to the **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E**:

If, during the **Policy Period**, a **Change of Control** occurs, the coverage provided under the **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E** will continue in full force and effect with respect to **Claims** for **Wrongful Acts**, or, with respect to **Insuring Agreements D or E, Wrongful Acts**, committed before such **Change in Control**, but coverage will cease with respect to **Claims** for **Wrongful Acts**, or, with respect to **Insuring Agreements D or E, Wrongful Acts**, committed after such **Change in Control**.

No coverage will be available hereunder for **Loss**, including **Defense Expenses**, for any **Claim**, or for **Crisis Management Event Expenses** or **Security Breach Notification Expenses**, based upon, alleging, arising out of, or in any way relating to, directly or indirectly, any **Wrongful Act** committed or allegedly committed after such **Change in Control**. After any **Change in Control**, the **CyberRisk Policy** may not be canceled by the **Named Insured** and the entire premium for the **CyberRisk Policy** will be deemed fully earned.

Upon the occurrence of any **Change of Control**, the **Named Insured** will have the right to give the Company notice that it desires to purchase a Run-Off Extended Reporting Period for the **Third Party Liability Insuring Agreements** or **Insuring Agreements D or E**, for the period set forth in ITEM 9 of the Declarations following the effective date of such **Change of Control**, regarding **Claims** made during such Run-Off Extended Reporting Period against persons or entities who at the effective date of the **Change of Control** are **Insureds**, or regarding **Wrongful Acts** under **Insuring Agreements D or E**, but only for **Wrongful Acts** occurring wholly prior to such **Change of Control** and which otherwise would be covered by the **Third Party Liability Insuring Agreements** or **Insuring Agreements D or E**, subject to the following provisions:

- a. such Run-Off Extended Reporting Period will not provide new, additional or renewed limits; and



- b. the Company's total liability for all such **Claims** made, or with respect to **Insuring Agreements D or E, Wrongful Acts** occurring wholly prior to such **Change of Control**, and reported during such Run-Off Extended Reporting Period will be only the remaining portion of the applicable limit set forth in the Declarations as of the effective date of the **Change of Control**.

The premium due for the Run-Off Extended Reporting Period will equal the percentage set forth in ITEM 9 of the Declarations of the annualized premium of the **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E**, including the fully annualized amount of any additional premiums charged by the Company during the **Policy Period** prior to the **Change of Control**. The entire premium for the Run-Off Extended Reporting Period will be deemed fully earned at the commencement of such Run-Off Extended Reporting Period.

The right to elect the Run-Off Extended Reporting Period will terminate unless written notice of such election, together with payment of the additional premium due, is received by the Company within 30 days of the **Change of Control**. In the event the Run-Off Extended Reporting Period is purchased, the option to purchase the Extended Reporting Period in section **IV. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS, T. AUTOMATIC EXTENDED PERIOD TO DISCOVER LOSS AND EXTENDED REPORTING PERIOD** will terminate. In the event the Run-Off Extended Reporting Period is not purchased, the **Named Insured** will have the right to purchase the Extended Reporting Period under the terms of section **IV. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS, T. AUTOMATIC EXTENDED PERIOD TO DISCOVER LOSS AND EXTENDED REPORTING PERIOD**.

If, at any time during the **Policy Period**, the **Insured Organization** eliminates or reduces its ownership interest in, or control over a **Subsidiary**, such that it no longer meets the definition of a **Subsidiary**, coverage under the **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E** will continue for such entity but only with regard to **Claims for Wrongful Acts**, or, with respect to **Insuring Agreements D or E, Wrongful Acts**, which occurred wholly during the time that the entity was a **Subsidiary**.

2. If any entity ceases to be an **Insured Organization**, **First Party Loss or Expenses** sustained by such **Insured Organization** under **Insuring Agreements F, G, H, I or J** is covered only if incurred by such **Insured Organization** prior to the time such entity ceased to be an **Insured Organization** and **Discovered** during the **Policy Period** or the Automatic Extended Period to Discover Loss pursuant to the terms set forth in section **IV. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS, T. AUTOMATIC EXTENDED PERIOD TO DISCOVER LOSS AND EXTENDED REPORTING PERIOD**.

#### **T. AUTOMATIC EXTENDED PERIOD TO DISCOVER LOSS AND EXTENDED REPORTING PERIOD**

1. Automatic Extended Period to Discover Loss

Only with respect to **Insuring Agreements F, G, H, I or J**:

Effective the date of termination or cancellation of **Insuring Agreements F, G, H, I or J** for any reason other than nonpayment of premium, the **Insured Organization** will automatically be provided a period of 90 days following the effective date of such termination or cancellation to **Discover First Party Insured Events** wholly taking place prior to the effective date of such termination or cancellation, subject to the following provisions:

- a. such Automatic Extended Reporting Period to Discover Loss will not provide a new, additional or renewed limit;
- b. the Company's maximum limit for all **Single First Party Insured Events Discovered** during such Automatic Extended Reporting Period to Discover Loss will be only the remaining portion of the applicable limit set forth in ITEM 5 of the Declarations as of the effective date of the termination or cancellation;

- c. such Automatic Extended Reporting Period to Discover Loss will not be made available in the event of termination or cancellation arising out of **Financial Insolvency**; and
  - d. this Automatic Extended Reporting Period to Discover Loss terminates immediately upon the effective date of any other insurance obtained by the **Insured Organization** replacing in whole or in part the insurance afforded by **Insuring Agreements F, G, H, I or J**, whether or not such other insurance provides coverage for loss sustained prior to its effective date.
2. Extended Reporting Period

Only with respect to the **Third Party Liability Insuring Agreements** and **Insuring Agreements D and E**:

At any time prior to or within 60 days after the effective date of termination or cancellation of any **Third Party Liability Insuring Agreement** or **Insuring Agreements D or E** for any reason other than nonpayment of premium, the **Named Insured** may give the Company written notice that it desires to purchase an Extended Reporting Period for the period set forth in ITEM 8 of the Declarations following the effective date of such termination or cancellation, regarding **Claims** made during such Extended Reporting Period against persons or entities who at or prior to the effective date of termination or cancellation are **Insureds**, or regarding **Wrongful Acts** under **Insuring Agreements D or E**, but only for **Wrongful Acts** occurring wholly prior to the effective date of the termination or cancellation and which otherwise would be covered by such **Third Party Liability Insuring Agreements** or **Insuring Agreements D or E**, subject to the following provisions:

- a. such Extended Reporting Period will not provide a new, additional or renewed limit; and
- b. the Company's maximum limit for all **Claims** made, or with respect to **Insuring Agreements D or E**, all **Wrongful Acts** occurring wholly prior to the effective date of the termination or cancellation, and reported during such Extended Reporting Period will be only the remaining portion of the applicable limit set forth in the Declarations as of the effective date of the termination or cancellation.

The premium due for the Extended Reporting Period will equal the percentage set forth in ITEM 8 of the Declarations of the annualized premium of the applicable **Third Party Liability Insuring Agreement** and **Insuring Agreements D and E**, including the fully annualized amount of any additional premiums charged by the Company during the **Policy Period**. The entire premium for the Extended Reporting Period will be deemed to have been fully earned at the commencement of such Extended Reporting Period.

The right to elect the Extended Reporting Period will terminate unless written notice of such election, together with payment of the additional premium due, is received by the Company within 60 days of the effective date of the termination or cancellation.

## **V. CONDITIONS APPLICABLE TO ALL THIRD PARTY LIABILITY INSURING AGREEMENTS**

### **A. CLAIM DEFENSE**

1. If Duty-to-Defend coverage is provided with respect to the **Third Party Liability Insuring Agreements** as indicated in ITEM 7 of the Declarations, the Company will have the right and duty to defend any **Claim** covered by a **Third Party Liability Insuring Agreement**, even if the allegations are groundless, false or fraudulent, including the right to select defense counsel with respect to such **Claim**; provided that the Company will not be obligated to defend or to continue to defend any **Claim** after the applicable limit of liability has been exhausted by payment of **Loss**.
2. If Reimbursement coverage is provided with respect to the **Third Party Liability Insuring Agreements** as indicated in ITEM 7 of the Declarations:

- a. the Company will have no duty to defend any **Claim** covered by a **Third Party Liability Insuring Agreement**. It will be the duty of the **Insureds** to defend such **Claims**; and the Company will have the right to participate with the **Insureds** in the investigation, defense and settlement, including the negotiation of a settlement of any **Claim** that appears reasonably likely to be covered in whole or in part by such **Third Party Liability Insuring Agreement** and the selection of appropriate defense counsel; and
  - b. upon written request, the Company will advance **Defense Expenses** with respect to such **Claim**. Such advanced payments by the Company will be repaid to the Company by the **Insureds** severally according to their respective interests in the event and to the extent that the **Insureds** are not entitled to payment of such **Defense Expenses** under such **Third Party Liability Insuring Agreement**. As a condition of any payment of **Defense Expenses** under this subsection, the Company may require a written undertaking on terms and conditions satisfactory to the Company guaranteeing the repayment of any **Defense Expenses** paid to or on behalf of any **Insured** if it is finally determined that any such **Claim** or portion of any **Claim** is not covered under such **Third Party Liability Insuring Agreement**.
3. The **Insureds** agree to cooperate with the Company and, upon the Company's request, assist in making settlements and in the defense of **Claims** and in enforcing rights of contribution or indemnity against any person or entity which may be liable to the **Insureds** because of an act or omission covered under any **Third Party Liability Insuring Agreement**, and will attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.

## B. ALLOCATION

1. If Duty-to-Defend coverage is indicated in ITEM 7 of the Declarations and there is a **Claim** under any **Third Party Liability Insuring Agreement** in which the **Insureds** who are afforded coverage for such **Claim** incur an amount consisting of both **Loss** that is covered by such **Third Party Liability Insuring Agreement** and also loss that is not covered by such **Third Party Liability Insuring Agreement** because such **Claim** includes both covered and uncovered matters or covered and uncovered parties, then such covered **Loss** and uncovered loss will be allocated as follows:
  - a. 100% of **Defense Expenses** incurred by the **Insureds** who are afforded coverage for such **Claim** will be allocated to covered **Loss**; and
  - b. all loss other than **Defense Expense** will be allocated between covered **Loss** and uncovered loss based upon the relative legal and financial exposures of, and relative benefits obtained in connection with the defense and settlement of the **Claim** by the **Insured Persons**, the **Insured Organization**, and others not insured under such **Third Party Liability Insuring Agreement**. In making such a determination, the **Insured Organization**, the **Insured Persons** and the Company agree to use their best efforts to determine a fair and proper allocation of all such amounts. In the event that an allocation cannot be agreed to, then the Company will be obligated to make an interim payment of the amount of **Loss** which the parties agree is not in dispute until a final amount is agreed upon or determined pursuant to the provisions of the applicable **Third Party Liability Insuring Agreement** and applicable law.
2. If Reimbursement coverage is indicated in ITEM 7 of the Declarations and there is a **Claim** under any **Third Party Liability Insuring Agreement** in which the **Insureds** who are afforded coverage for such **Claim** incur an amount consisting of both **Loss** that is covered by such **Third Party Liability Insuring Agreement** and also loss that is not covered by such **Third Party Liability Insuring Agreement** because such **Claim** includes both covered and uncovered matters or covered and uncovered parties, the **Insureds** and the Company agree to use their best efforts to determine a fair and proper allocation of all such amounts. In making such a determination, the parties will take into account the relative legal and financial exposures of, and relative benefits obtained in connection with the defense and settlement of the **Claim** by the **Insured Persons**, the **Insured Organization**, and others not insured under the applicable **Third Party Liability**

**Insuring Agreement.** In the event that an allocation cannot be agreed to, then the Company will be obligated to make an interim payment of the amount of **Loss** which the parties agree is not in dispute until a final amount is agreed upon or determined pursuant to the provisions of the applicable **Third Party Liability Insuring Agreement** and applicable law.

#### C. SETTLEMENT

The Company may, with the written consent of the **Insured**, make such settlement or compromise of any **Claim** as the Company deems expedient. In the event that the Company recommends an offer of settlement of any **Claim** which is acceptable to the claimant(s) (a "Settlement Offer"), and if the **Insured** refuses to consent to such Settlement Offer, the **Insured** will be solely responsible for 30% of all **Defense Expenses** incurred or paid by the **Insured** after the date the **Insured** refused to consent to the Settlement Offer, and the **Insured** will also be responsible for 30% of all **Loss**, other than **Defense Expenses**, in excess of the Settlement Offer, provided that the Company's liability under any **Third Party Liability Insuring Agreement** for such **Claim** will not exceed the remaining applicable limit of liability.

#### D. SPOUSAL AND DOMESTIC PARTNER LIABILITY COVERAGE

The **Third Party Liability Insuring Agreements** will, subject to all of the terms, conditions, and limitations, be extended to apply to **Loss** resulting from a **Claim** made against a person who, at the time the **Claim** is made, is a lawful spouse or a person qualifying as a domestic partner under the provisions of any applicable federal, state or local law (a "Domestic Partner") of an **Insured Person**, but only if and so long as:

1. the **Claim** against such spouse or Domestic Partner results from a **Wrongful Act** actually or allegedly committed by the **Insured Person**, to whom the spouse is married, or who is joined with the Domestic Partner; and
2. such **Insured Person** and his or her spouse or Domestic Partner are represented by the same counsel in connection with such **Claim**.

No spouse or Domestic Partner of an **Insured Person** will, by reason of this subsection, have any greater right to coverage under the **Third Party Liability Insuring Agreements** than the **Insured Person** to whom such spouse is married, or to whom such Domestic Partner is joined.

The Company has no obligation to make any payment for **Loss** in connection with any **Claim** against a spouse or Domestic Partner of an **Insured Person** for any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by such spouse or Domestic Partner.

#### E. NOTICE OF POTENTIAL CLAIMS

If an **Insured** becomes aware of a **Potential Claim** and gives the Company written notice of the particulars of such **Potential Claim**, including all facts related to the **Wrongful Act**, the identity of each person allegedly involved in or affected by such **Wrongful Act**, the dates of the alleged events, and the reasons for anticipating a **Claim**, as soon as practicable during the **Policy Period**, or if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period, any **Claim** subsequently made against any **Insured** arising out of such **Wrongful Act** will be deemed to have been made during the **Policy Period**.

All notices under this section **V. CONDITIONS APPLICABLE TO ALL THIRD PARTY LIABILITY INSURING AGREEMENTS, E. NOTICE OF POTENTIAL CLAIMS**, must be sent by email, facsimile or mail in accordance with ITEM 3 of the Declarations and will be effective upon receipt.

## VI. **CONDITIONS APPLICABLE TO INSURING AGREEMENTS F, G, H, I AND J**

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### A. **COOPERATION**

The **Insured Organization** must cooperate with the Company in all matters pertaining to **Insuring Agreements F, G, H, I or J** as stated in the terms, conditions and limitations of this **CyberRisk Policy**.

### B. **JOINT INSURED**

1. If the **Insured Organization** consists of more than one entity, then the **Named Insured** acts for itself and for every other **Insured Organization** for all purposes of **Insuring Agreements F, G, H, I or J**. Payment by the Company to the **Named Insured** of **First Party Loss or Expenses** incurred by any **Insured Organization** shall fully release the Company of liability for such **First Party Loss or Expenses**. The **Named Insured** is responsible for the payment of all premiums and will be the payee for any return premiums the Company pays.
2. If any **Insured Organization**, or any **Executive Officer**, has knowledge of, or **Discovers**, any information relevant to **Insuring Agreements F, G, H, I or J**, that knowledge or **Discovery** is considered knowledge or **Discovery** of every **Insured Organization**.
3. The Company will not pay the **Insured Organization** more for **First Party Loss or Expenses** incurred by more than one **Insured Organization** than the amount the Company would have paid if all **First Party Loss or Expenses** had been sustained by one **Insured Organization**.

### C. **OWNERSHIP OF PROPERTY; INTERESTS COVERED**

The property covered under **Insuring Agreements F, G, H, I or J** is limited to property:

1. that the **Insured Organization** owns or leases;
2. that the **Insured Organization** holds for others on the **Insured Organization's** premises or the **Insured Organization's Financial Institution** premises; or
3. for which the **Insured Organization** is legally liable, except property covered under **Insuring Agreements F, G, H, I or J** does not include property located inside the **Insured Organization's** client's premises or the **Insured Organization's** client's **Financial Institution** premises.

Notwithstanding the above, **Insuring Agreements F, G, H, I or J** are for the **Insured Organization's** benefit only and provides no rights or benefits to any other person or organization. Any claim for loss that is covered under this **CyberRisk Policy** must be presented by the **Insured Organization**.

### D. **VALUATION/SETTLEMENT**

Subject to the **CyberRisk Policy Aggregate Limit**, and the applicable limit of insurance for each **Single First Party Insured Event** set forth in ITEM 5 of the Declarations, the Company will pay the **Insured Organization** for:

1. loss of **Money**, or loss payable in **Money**, in, at the option of the **Insured Organization**, the **Money** of the country in which the **Single First Party Insured Event** took place or in the United States of America dollar equivalent thereof determined at the rate of exchange published by the Wall Street Journal at the time of payment of such loss.
2. loss of **Securities**, but only up to and including their value at the close of business on the day the **Single First Party Insured Event** was **Discovered**, and at the Company's option:
  - a. pay the **Insured Organization** the value of such **Securities** or replace them in kind, in which event the **Insured Organization** must assign to the Company all the **Insured Organization's** rights, title and interest in those **Securities**; or
  - b. pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the **Securities**; provided, the Company will be liable only for the cost of the Lost

Securities Bond as would be charged for a bond having a penalty not exceeding the lesser of the value of the **Securities** at the close of business on the day the **Single First Party Insured Event** was **Discovered**.

3. loss of, or loss from damage to, **Other Property** or premises including its exterior for the replacement cost without deduction for depreciation; provided, the Company will pay the **Insured Organization** the lesser of the following:
  - a. the applicable limit of insurance for each **Single First Party Insured Event** set forth in ITEM 5 of the Declarations;
  - b. the cost to replace **Other Property** or premises including its exterior with property of comparable material and quality, and used for the same purpose; or
  - c. the amount the **Insured Organization** actually spends that is necessary to repair or replace such property,

provided, the Company will, at its option, pay the **Insured Organization** for loss of, or loss from damage to, **Other Property** or premises including its exterior in the **Money** of the country in which the **Single First Party Insured Event** took place, or in the United States of America dollar equivalent of the **Money** of the country in which the **Single First Party Insured Event** took place determined by the rate of exchange published in the Wall Street Journal on the day the **Single First Party Insured Event** was **Discovered**.

The Company will not pay the **Insured Organization** on a replacement cost basis for any loss or damage until such property is actually repaired or replaced, and unless the repairs or replacement are made as soon as reasonably possible after the loss or damage. If the lost or damaged property is not repaired or replaced, the Company will pay the **Insured Organization** actual cash value on the day the **Single First Party Insured Event** was **Discovered**.

Any property that the Company pays the **Insured Organization** for or replaces becomes the Company's property.

SPECIMEN