

V-Risk AlphaNet

NETWORK SECURITY AND PRIVACY LIABILITY POLICY

SUBJECT TO ITS TERMS AND PROVISIONS, THIS COVERAGE PART ONLY APPLIES TO COVERED MATTERS THAT ARE FIRST MADE AGAINST THE INSUREDS OR FIRST OCCUR, AND ARE FIRST REPORTED TO THE INSURER IN THE TIME AND MANNER REQUIRED BY THIS POLICY. IN ADDITION, DEFENSE EXPENSES ARE INCLUDED IN AND WILL REDUCE THE LIMITS OF LIABILITY.

PLEASE READ THIS ENTIRE COVERAGE PART CAREFULLY. CONSULT YOUR BROKER OR OTHER REPRESENTATIVE IF YOU DO NOT UNDERSTAND ANY TERMS OR PROVISIONS OF THIS COVERAGE PART OR ANY OTHER PART OF THE POLICY.

In consideration of the payment of Premium, and subject to the agreement of the **Named Insured** to pay the Retention amount stated in the Declarations and as set forth in this Policy, and in reliance upon the **Application**, which shall be deemed incorporated herein, and subject to all of the terms, conditions, limitations, exclusions, and endorsements to this Policy, the **Insurer** and the **Insured** agree as follows:

I. INSURING AGREEMENTS

A. Media and Network Security Liability Coverage

The **Insurer** shall pay, on behalf of the **Insureds**, **Loss** resulting from a **Media Incident** or the failure of **Network Security** taking place after the applicable Retroactive Date listed in the Declarations and first discovered during the **Policy Period**, and is reported to the **Insurer** in the time and manner required by this Policy.

B. Notification Costs Coverage

The **Insurer** shall pay, on behalf of the **Insureds**, **Notification Costs** resulting from a violation of any **Privacy Violation Law** taking place after the applicable Retroactive Date listed in the Declarations and first discovered during the **Policy Period**, and which is reported to the **Insurer** in the time and manner required by this Policy.

C. Cyber Extortion Coverage

The **Insurer** shall pay, on behalf of the **Insureds**, **Extortion Expenses** resulting from an **Extortion Event** taking place prior to the end of the Policy Period or the Discovery Period (if applicable) and which is reported to the **Insurer** in the time and manner required by this Policy.

D. Fraud Mitigation, Public Relations, Crisis Containment, and Data Restoration Coverage

The **Insurer** shall pay, on behalf of the **Insureds**, **Crisis Containment Expenses**, **Fraud Mitigation Expenses**, **Forensic Investigation Expenses**, **Data Restoration Expenses**, **Public Relations Expenses** and **First-Party Legal Expenses** incurred as a result of a **Security Incident** taking place after the applicable Retroactive Date listed in the Declarations and first discovered during

the **Policy Period** and which is reported to the **Insurer** in the time and manner required by this Policy.

E. **Social Engineering Coverage**

The **Insurer** shall reimburse the **Insureds** for any funds actually paid by the **Insured** in excess of any applicable financial institution bond or commercial crime coverage, as a result of a **Social Engineering Event**, taking place after the applicable Retroactive Date listed in the Declarations and first discovered during the **Policy Period**, and which is reported to the **Insurer** in the time and manner required by this Policy.

F. **Business Interruption Coverage**

The **Insurer** shall reimburse the **Insureds** for **Lost Profit** during a **Computer Network Interruption Period** as a direct result of a **Security Incident** taking place prior to the end of the **Policy Period**, and which is reported to the **Insurer** in the time and manner required by this Policy.

G. **Service Failure and Customer Data Compromise Coverage**

The **Insurer** shall pay, on behalf of the **Insureds**, **Loss** resulting from any **Claim** made as result of a **Service Failure** or **Customer Data Compromise** for a **Wrongful Act** taking place prior to the end of the **Policy Period**, and which is first made against the **Insureds** during the **Policy Period** or the Discovery Period (if applicable) and reported to the **Insurer** in the time and manner required by this Policy.

H. **Regulatory Coverage**

The **Insurer** shall pay, on behalf of the **Insureds**, **Defense Expenses**, **Consumer Redress Funds**, and **Penalties** resulting from any **Regulatory Proceeding** for any actual or alleged violation of any **Privacy Violation Law** taking place after the applicable Retroactive Date listed in the Declarations, and which is first made against the **Insureds** during the **Policy Period** or the Discovery Period (if applicable) and reported to the **Insurer** in the time and manner required by this Policy.

I. **Technology Services Failure Coverage**

The **Insurer** shall pay, on behalf of the **Insureds**, **Loss** resulting from any **Claim** for any **Wrongful Act** in the rendering of **Technology Services** taking place prior to the end of the **Policy Period**, and which is first made against the **Insureds** during the **Policy Period** or the Discovery Period (if applicable) and reported to the **Insurer** in the time and manner required by this Policy.

II. **DEFINITIONS**

For the purposes of this Policy:

A. **Application** means:

1. the application for this Policy along with any attachments and any other material submitted with or incorporated into such application, as well as any other documents submitted in connection with the underwriting of this

- Policy or any other policy issued by the **Insurer**, or any of its affiliates, of which this Policy is in whole or in part a renewal or replacement; and
2. all publicly available documents prepared by the **Company** within the twelve 12 months preceding the date this Policy is issued and which are reviewed in connection with the underwriting of this Policy or any policy issued by the **Insurer** of which this Policy is in whole or in part a renewal or replacement.

B. **Claim** means:

1. a written demand for monetary, non-monetary, or injunctive relief made upon an **Insured** as a result of a **Service Failure, Technology Services Wrongful Act, Customer Data Compromise, Media Incident**; or a failure of **Network Security**;
2. a civil or criminal proceeding for monetary or non-monetary relief against an **Insured** for as a result of a **Service Failure; Technology Services Wrongful Act; Customer Data Compromise; Media Incident**; or a failure of **Network Security**; which is commenced by service of a complaint or similar pleading or return of an indictment or information in the case of a criminal proceeding; or
3. any written request to toll or waive a statute of limitations received by an **Insured** concerning any **Service Failure; Technology Services Wrongful Act; Customer Data Compromise; Media Incident**; or a failure of **Network Security**..

Claim shall not include a **Regulatory Proceeding** or any investigation or any government audit.

C. **Clean Up Costs** means expenses (including but not limited to legal and professional fees) incurred in testing for, monitoring, cleaning up, remediating, containing, removing, treating, neutralizing, detoxifying, or assessing the effects of **Pollutants**.

D. **Client** means any natural person or entity for whom or for which the **Insured** provides **Professional Services** for a fee, commission, or other remuneration or financial consideration which inures to the benefit of the **Company**.

E. **Company** means: the (i) **Named Insured**; (ii) and any **Subsidiary** thereof; and (iii) in the event a bankruptcy proceeding is commenced by or against the foregoing entities, the resulting debtor-in-possession under United States bankruptcy law, or any equivalent status under foreign law.

F. **Company Takeover** means:

1. the **Named Insured** consolidating with or merging into, or selling all or substantially all of its assets to any other person or entity, or group of persons or entities, acting in concert; or
2. any person or entity or group of persons or entities acting in concert acquiring more than fifty percent (50%) of the outstanding stock or other interest representing the right to vote, designate or select: (i) a majority of the Board of Directors if the **Named Insured** is a corporation; or (ii) a majority of the management board if the **Named Insured** is a limited liability company.

G. **Computer Network Interruption Period** means the period during which the **Insured's Network Systems** are unavailable or operating at less than full

capacity, or the period during which the **Insured's Network Systems** would have been unavailable or operating at less than full capacity had the **Insured** acted with reasonable due diligence, as a direct result of a **Security Incident**. Should the **Insured's Network Systems** experience an intermittent period for which it is unavailable or operating at less than full capacity as a result of the same or related **Security Incident** or series of **Security Incidents**, such period for which it is unavailable or operating at less than full capacity shall be deemed one continuous period.

The maximum **Computer Network Interruption Period** is set forth in the Declarations and such time period first commences after the **Waiting Period** ends.

- H. **Consumer Redress Funds** means the amounts the **Company** is legally obligated to deposit into a fund, due to an adverse judgment or settlement of a **Regulatory Proceeding**, and constituting equitable relief for payment of consumer claims.
- I. **Crisis Containment Expenses** means the reasonable costs of the following services that are in excess of the **Company's** normal operating costs and incurred by or on behalf of the **Company Insured** with the prior written approval of the **Insurer**:
 1. preparing and providing notice of a **Security Incident** by reasonable means to persons whose **Personally Identifiable Non-Public Information** may have been improperly accessed, lost or stolen, including costs in providing call center services to answer questions from persons receiving such notice; provided that such costs are incurred by an **Insured** in order to mitigate reputational, financial, or other harm in connection with a **Security Incident**; or
 2. in design and implementation of a website for advising of any purported access, loss of or theft of **Personally Identifiable Non-Public Information**.

Provided, however, **Crisis Containment Expenses** shall not include **Forensic Investigation Expenses, Fraud Mitigation Expenses, First-Party Legal Expenses, or Public Relations Expenses**.

- J. **Customer Data Compromise** means the unauthorized misappropriation, misuse, or disclosure of information on computers, network equipment, data storage media, back up facilities, and online business platforms leased, owned, or operated by the **Company**, or by third-party service providers for or on behalf of the **Company**.
- K. **Damages** means **Defense Expenses, Consumer Redress Funds, Crisis Containment Expenses, Data Restoration Expenses, Extortion Expenses, First-Party Legal Expenses, Forensic Investigation Expenses, Fraud Mitigation Expenses, Loss, Notification Costs, Lost Profits, Penalties, Public Relations Expenses**, as well as funds actually paid by the **Insured** in excess of any applicable financial institution bond or commercial crime coverage, as a result of a **Social Engineering Event**.
- L. **Data Restoration Expenses** means the reasonable cost incurred by or on behalf of the **Company** in excess of the **Company's** normal operating costs and with the prior written consent of the **Insurer** to retain a third-party professional to restore, recreate, or re-collect data assets from backup; provided, however, that in the event data assets cannot be restored, recreated or re-collected, **Data Restoration Expenses** means the reasonable cost incurred by or on behalf of an **Company** in excess of the **Company's** normal operating costs and with the prior written

consent of the **Insurer** to retain a third-party professional who has reached that determination.

- M. **Defense Expenses** means reasonable and necessary legal fees and expenses incurred in the defense of a **Claim**, including the premium for an appeal bond; provided, however, that the **Insurer** shall not be required to apply for or furnish such bonds. Provided, however, **Defense Expenses** shall not include any of the **Insured's** overhead expenses, or any wages, salaries, benefits, or costs of **Insured Persons** or any other representative, agent or servant of any **Insured**. **Defense Expenses** shall also not include **First-Party Legal Expenses, Fraud Mitigation Expenses, Crisis Containment Expenses, Public Relations Expenses, or Forensic Investigation Expenses**.
- N. **Domestic Partner** means any individual person legally recognized as a domestic or civil union partner under:
1. the provisions of any applicable federal, state, or local law; or
 2. the provisions of any formal program established by the **Company**.
- O. **Employee** means any past or present employee whose labor or service is engaged by and directed by the **Company** while performing duties related to the conduct of the **Company's** business. **Employee** includes leased, part-time, seasonal and temporary workers, volunteers and interns; and independent contractors who are treated under applicable law as employees of the **Company**. **Employee** shall not include **Executives**.
- P. **Executive** means any natural person who was, now is, or shall be a duly elected or appointed Chief Executive Officer, Chief Financial Officer, Chief Security Officer, Chief Technology Officer, Chief Information Officer, Risk Manager, General Counsel, or a holder of a title, position or capacity equivalent to any of these positions, of any **Company**.
- Q. **Extortion Expenses** means reasonable and necessary expenses, including virtual, digital, and electronic currency, incurred by the **Company**, with the **Company's** prior consent, which result directly from a **Security Threat** or **Privacy Threat**, for the purposes of resolving the **Security Threat** or **Privacy Threat**.
- R. **Extortion Event** means a **Security Threat** or **Privacy Threat**.
- S. **First Party Insuring Agreements** means **INSURING AGREEMENTS B., C., D., E., and F.**
- T. **First-Party Legal Expenses** means the reasonable costs incurred by or on behalf of the **Company** in excess of the **Company's** normal operating costs and with the prior written consent of the **Insurer** for services performed by a licensed legal professional retained by the **Company** for the purpose of:
1. advising the **Company** of the notice requirements under any applicable **Privacy Violation Law**;
 2. developing the notification required to in order to comply with any applicable **Privacy Violation Law**.

Provided, however, that **First-Party Legal Expenses** shall not include **Defense Expenses, Crisis Containment Expenses, Forensic Investigation Expenses, Fraud Mitigation Expenses, or Public Relations Expense**.

- U. **Forensic Investigation Expenses** means:
1. the reasonable cost incurred by or on behalf of the **Company** in excess of the **Company's** normal operating costs and with the prior written consent of the **Insurer** to investigate **Network Systems** in order to determine the cause of a **Security Incident** and to identify and enroll or catalog the persons' names, addresses and **Personally Identifiable Non-Public Information** that may have been improperly accessed, lost or stolen, for the purposes of providing any required notification;
 2. the services performed by a licensed legal professional retained by the **Company** to determine any applicability of notice requirements under any **Privacy Violation Law**, and determine the form and substance of any such required notification needed to comply with any **Privacy Violations Law**; or
 3. **Data Restoration Expenses**.
- Provided, however, **Forensic Investigation Expenses** shall not include **Crisis Mitigation Expenses, Fraud Mitigation Expenses** or **Public Relations Expenses**.

- V. **Fraud Mitigation Expenses** means:
1. the reasonable costs incurred from credit monitoring services and identity monitoring services offered to a person whose social security number, driver's license number, government issued identification number, or financial account, credit card, or debit card number has been improperly accessed, lost or stolen together with such person's name; or
 2. the costs to restore an individual's identity for whatever period is required by state law or regulation to a person whose medical service or healthcare information has been improperly accessed, lost or stolen together with such person's name, provided such costs are incurred by or on behalf of an **Insured** in excess of the **Insured's** normal operating costs and with the prior written consent of the **Insurer** for the purpose of mitigating financial loss resulting from disclosure of **Personally Identifiable Non-Public Information** due to a **Security Incident**.
- Provided, however, that **Fraud Mitigation Expenses** shall not include **Crisis Containment Expenses, Public Relations Expense, First-Party Legal Expenses**, or **Forensic Investigation Expenses**.

- W. **Insured** means:
1. the **Company**; and
 2. any **Insured Person**.

X. **Insured Person** means any **Executive** or **Employee**, but solely while acting in their respective capacities as such.

Y. **Insurer** means the insurance company issuing this Policy.

- Z. **Interrelated Occurrences** means any **Occurrences** that are:
1. repeated or continuous;
 2. connected by reason of any common circumstance, situation, transaction, casualty, event, decision or policy; or

3. part of the same series of facts, circumstances, situations, transactions, casualties, events, decisions, or policies.

AA. **Interrelated Wrongful Acts** means any **Wrongful Acts** that are:

1. repeated or continuous;
2. connected by reason of any common circumstance, situation, transaction, casualty, event, decision or policy; or
3. part of the same series of facts, circumstances, situations, transactions, casualties, events, decisions, or policies.

BB. **Loss** means the amounts an **Insured** is legally obligated to pay as a result of any **Claim** arising from a **Service Failure, Customer Data Compromise, Media Incident, Technology Services Wrongful Act**, or failure of **Network Security**, including:

- a. compensatory damages;
- b. judgments, including awarded costs, fees, and pre-judgment and post-judgment interest;
- c. **Defense Expenses**;
- d. punitive, exemplary and multiplied damages; and
- e. monetary assessments or fines or penalties due to an **Insured's** noncompliance with PCI Data Security Standards in connection with a **Security Incident** or **Privacy Violation Law** violation.

Loss shall not include:

1. any civil or criminal fines or penalties imposed by law, other than punitive or exemplary damages or the multiple portion of a judgment or award of multiplied damages, and monetary assessments or fines or penalties due to an **Insured's** noncompliance with PCI Data Security Standards in connection with a **Security Incident** or **Privacy Violation Law** violation;
2. taxes;
3. **Clean Up Costs**;
4. the cost of any non-monetary relief, including without limitation any costs associated with complying with any injunctive relief of any kind or nature imposed by any judgment or settlement;
5. loss of the actual money, securities, property or other items of value in the custody or control of the **Insureds**;
6. coupons, prizes, awards, discounts, or other incentives offered to the **Insured's** customers or clients;
7. the return, restitution, reduction, compromise or refund of commissions, fees or charges;
8. any amount for which the **Insureds** are not financially liable or which are without legal recourse to the **Insureds**; or
9. any matter deemed uninsurable under the law pursuant to which this Policy shall be construed.

The **Insureds'** good faith determination as to the insurability of matters otherwise included within this definition shall not be contested by the **Insurer**; such good faith determination shall be based upon the most favorable law bearing a reasonable relationship to the **Insured**, the **Insurer**, or the **Claim**.

CC. **Lost Profit** means the reasonable forecast of income before taxes for the period for which reimbursement is sought under **INSURING AGREEMENT F. Business Interruption Coverage**, less:

1. actual income less taxes for the period for which reimbursement is sought under **INSURING AGREEMENT F. Business Interruption Coverage**; and
 2. any savings in costs as a result of the reduction for which reimbursement is sought under **INSURING AGREEMENT F. Business Interruption Coverage**;
- DD. **Media** means any data, text, photographs, video, graphics, images, music, sounds, or advertisements, including but not limited to streaming content, blogs, webcasts, podcasts, and online forums or chat rooms; Provided, however, that **Media** shall not include computer software, software technology, or the actual goods, products or services described, illustrated or displayed in or by such **Media**.
- EE. **Media Incident** means any **Wrongful Act** in the public display of **Media** posted by or on behalf of an **Insured** on any social media site or anywhere on the Internet, on an **Insured's** website, or on printed material, by any **Insured**, or by any person or entity for whom an **Insured** is legally responsible, which results in any of the following:
1. piracy, plagiarism, copyright infringement, passing-off, or misappropriation of property rights;
 2. trademark infringement or dilution of trade name, service mark, service name, logo, slogan, domain name, or metatag;
 3. libel, slander, defamation, harm to the character or reputation of any person or entity), including product disparagement, trade libel, infliction of emotional distress, or *prima facie* tort;
 4. invasion or infringement of the right of privacy or publicity, including the torts of intrusion upon seclusion, publication of private facts, false light, or misappropriation of name or likeness;
 5. false arrest, detention or imprisonment, harassment, trespass, wrongful entry or eviction, eavesdropping, or other invasion of the right of private occupancy;
 6. improper deep linking or framing; or
 7. unfair competition or unfair trade practices, including misrepresentations in advertising, solely when alleged in conjunction with the alleged conduct referenced in items 1–6 immediately above.
- FF. **Named Insured** means the entity identified as such in the Declarations.
- GG. **Network Security** means activities performed by the **Insured**, or by others on the **Company's** behalf, to prevent:
1. the transmission of a **Virus** to a third party;
 2. a denial of service attack against the **Company** which prevents an authorized third party from accessing the **Insured's** website or a failure to prevent a denial of service attack against an authorized third party;
 3. unauthorized access to or unauthorized use of the **Company's Network System**.
- HH. **Network Systems** means computers, network equipment, associated input and output devices, data storage devices, and back up facilities that are (i) operated by and owned or leased by the **Company**; (ii) pursuant to a written policy or procedure, approved by the **Company** for use in connection with a Bring Your Own Device program; or (iii) pursuant to a written contract or agreement with the **Company**, operated by third-party service provider and used solely for hosting computer application services to the **Company**, or for processing, storing, maintaining, or hosting the **Company's** electronic data.

- II. **Notification Costs** mean the following reasonable and necessary costs incurred by the **Company** within one (1) year of the voluntary reporting of the **Company's** violation or suspected violation of a **Privacy Violation Law** to the **Insurer**:
1. subject to the Sub-Limit of Liability set forth in the Declarations, amounts incurred to retain a computer security expert to determine the existence and cause of any electronic data breach that resulting in an actual or reasonably suspected theft, loss or **Unauthorized Disclosure of Personally Identifiable Non-Public Information** or other confidential information which may require the **Company** to comply with a **Privacy Violation Law** and to determine the extent to which such information was accessed by an unauthorized person or persons; and attorneys' fees charged to determine the applicability of and actions necessary by the **Company** to comply with any applicable **Privacy Violation Law** due to an actual or reasonably suspected theft, loss or **Unauthorized Disclosure of Personally Identifiable Non-Public Information** or other confidential information;
 2. amounts incurred by the **Company** to comply with the notification requirements of a **Privacy Violation Law**, including, in the **Insurer's** discretion, expenses incurred in providing notice to other individuals affected by the same incident whose unsecured **Personally Identifiable Non-Public Information** or other confidential information has been or is reasonably believed to have been disclosed, accessed, acquired, or used as a result of such incident in a manner which compromises the security or privacy of such individual by posing a significant risk of financial, reputational or other harm to such individuals;
 3. amounts incurred, including mailing and other reasonable third-party administrative costs, in implementing a credit file monitoring program, to be approved by the **Insurer**, consisting of the offering of one (1) year of credit monitoring services to those individuals whose **Personally Identifiable Non-Public Information** or other confidential information was compromised or reasonably believed to have been compromised as a result of theft, loss or **Unauthorized Disclosure** of information giving rise to a notification requirement pursuant to a **Privacy Violation Law**; and
 4. up to one hundred thousand dollars (USD \$100,000) for the costs of a public relations consultancy for the purpose of averting or mitigating material damage to the **Company's** reputation.
- JJ. **Occurrence** means any: **Media Incident**; failure of **Network Security**; violation of any **Privacy Violation Law**; **Extortion Event**; **Security Incident**; **Social Engineering Event**; **Service Failure**; or **Customer Data Compromise**.
- KK. **Penalties** means any civil fine or monetary penalty payable to a governmental entity that was imposed in a **Regulatory Proceeding**; provided, however, **Penalties** shall not include **Notification Costs**.
- The **Insureds'** good faith determination as to the insurability of **Penalties** otherwise included within this definition shall not be contested by the **Insurer**; such good faith determination shall be based upon the most favorable law bearing a reasonable relationship to the **Insured**, the **Insurer**, or the **Regulatory Proceeding**.
- LL. **Personally Identifiable Non-Public Information** means:
1. information constituting "nonpublic personal information" as defined in the Gramm-Leach Bliley Act of 1999, as amended, including regulations issued pursuant to such Act;

2. medical or health care information regarding any individual, including "protected health information" as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, including regulations issued pursuant to such Act;
3. information defined as private personal information under statutes enacted to protect such information in foreign countries, for **Claims** or **Regulatory Proceedings** subject to the law of such jurisdiction;
4. information defined as private personal information under any **Privacy Violation Law**; or
5. an individual's driver's license or state identification number; social security number; unpublished telephone number; and credit, debit or other financial account numbers in combination with associated security codes, access codes, passwords or pins;

if such information allows an individual to be uniquely and reliably identified or contacted, or allows access to the individual's financial account or medical record information; provided, however, that **Personally Identifiable Non-Public Information** shall not include publicly available information that is lawfully made available to the general public.

- MM. **Policy Period** means the time period beginning at the inception date and time specified in the Declarations as the Policy Period, and ending at the earlier of the expiration date and time stated in the Declarations as the Policy Period or the effective date and time of the cancellation of this Policy.
- NN. **Pollutants** means any substance that exhibits any hazardous characteristics as defined by, or identified on, a list of hazardous substances issued by the United States Environmental Protection Agency or any state, county, local, or foreign equivalent thereof, including, but not limited to, solids, liquids, gaseous, or thermal irritants, contaminants or smoke, vapor, dust, soot, fumes, acids, alkalis, chemicals or waste materials (including, but not limited to, recycled, reconditioned, or reclaimed sewage or waste water, nuclear materials, or infectious or medical waste); or any air emission, magnetic or electric waves or emissions, odor, oil or oil products, asbestos or asbestos products, fibers, mold, spores, fungi, germs, bacteria, viruses or any noise.
- OO. **Privacy Threat** means any threat or series of connected threats to unlawfully use or disclose to the public **Personally Identifiable Non-Public Information** that was misappropriated from an **Insured** for the purpose of demanding money, including virtual, digital, and electronic currency, securities, or other property of value from an **Insured**; provided, however, that **Privacy Threat** shall not include any such threat made by any governmental entity or public authority.
- PP. **Privacy Violation Law** means any federal, state or foreign statute or regulation requiring the **Insureds** to protect the confidentiality and/or security of **Personally Identifiable Non-Public Information**.
- QQ. **Professional Services** means the services performed by the **Insured** pursuant to a contract or agreement with a **Client** for a fee, commission, or other remuneration or financial consideration which inures to the benefit of the **Company**.
- RR. **Property Damage** means:
1. physical injury to, or loss or destruction of, tangible property, including the loss of use thereof; and

2. loss of use of tangible property which has not been physically injured, lost, damaged or destroyed.

Provided, however, **Property Damage** shall not include loss or destruction of, physical injury to, or loss of use of intangible property, including data.

SS. **Public Relations Expenses** means the reasonable cost incurred by or on behalf of the **Company** in excess of the **Company's** normal operating costs and with the prior written consent of the **Insurer**, following a **Security Incident** of:

1. hiring a public relations firm, law firm or crisis management firm for advertising or other communications services as a result of an **Security Incident**, including training a spokesperson, providing talking points for media interaction, developing frequently asked questions responses, drafting or editing press releases, preparing of internal memos and website content;
2. placing advertisements, preparing website content, and other communications as recommended by such public relations firm, law firm or a crisis management firm to explain the nature of the **Enterprise Security Event** and any corrective actions taken;

Provided, however, **Public Relations Expenses** shall not include **Crisis Mitigation Expenses, Fraud Mitigation Expenses, First-Party Legal Expenses, or Forensic Investigation Expenses.**

TT. **Regulatory Proceeding** means a request for information, civil investigative demand, or civil proceeding commenced by service of a complaint or similar process brought by or on behalf of the Federal Trade Commission, Federal Communications Commission, or any State or Federal regulatory or administrative agency or bureau or any other governmental, quasi-governmental or self-regulatory entity, including a card association or acquiring bank, brought in such entity's regulatory or official capacity in connection with such proceeding.

UU. **Security Incident** means:

1. accidental release, unauthorized disclosure, theft, or loss of **Personally Identifiable Non-Public Information** by an **Insured** or a **Service Contractor**,
2. a **Customer Data Compromise**;
3. a denial of service attack;
4. theft of password or access codes, including, but not limited to theft resulting from a **Social Engineering Event Social Engineering Event** , or phishing attacks; or
5. alteration, corruption, destruction, deletion or damage to data stored on the **Insured's Network System**.

VV. **Security Threat** means any threat or series of connected threats to intentionally attack **Network Systems** for the purpose of demanding money, including virtual, digital, and electronic currency, securities, or other property of value from an **Insured**; provided, however, that **Security Threat** shall not include any such threat made by any governmental entity or public authority.

WW. **Service Failure** means the inability of the **Insured's** customers or clients to access computers, network equipment, data storage media, back up facilities, and online business platforms leased, owned, or operated by the **Company**, or by

third-party service providers for or on behalf of the **Company**, for the purposes of undertaking **Professional Services**.

XX. **Service Provider** means any organization to which the **Company** has given care, custody or control of, or access to, **Personally Identifiable Non-Public Information** pursuant to a written contract or agreement with the Insured Entity.

YY. **Social Engineering Event** means the psychological manipulation of an **Insured** by a third party to perform a fraudulent act, including any fraudulent or unauthorized electronic funds transfer or the theft or divulgence of **Personal Information**.

ZZ. **Subsidiary** means:

1. any corporation or limited liability company of which the **Named Insured** owns, directly or indirectly through one or more of its **Subsidiaries**, more than fifty percent (50%) of the outstanding stock or other interest representing the present right to vote, designate, or select a majority of the Board of Directors of a corporation or of the management board of a limited liability company; but only during such time as the **Named Insured** owns, directly or indirectly through one or more of its **Subsidiaries**, more than fifty percent (50%) of such outstanding stock or other interest representing the present right to vote, designate, or select a majority of the Board of Directors of a corporation or of the management board of a limited liability company; or
2. any joint venture entity in which the **Named Insured**, or any entity described in paragraph 1., above, has exactly fifty percent (50%) ownership of the interests of such joint venture entity and where, pursuant to a written joint venture agreement, the **Named Insured** or any entity described in paragraph 1., above, controls the management and operations of such joint venture entity.

In the event a **Subsidiary** is acquired at any point during the **Policy Period**, then Section **XII. General Conditions**, Subsection E. **Mergers and Acquisitions**, of these GENERAL TERMS AND CONDITIONS shall apply.

AAA. **Technology Products** means telecommunications and any computer hardware, software, firmware, or related electronic product which is created, manufactured, licensed, distributed, leased or sold by the **Company** for use in connection with the **Insured's Technology Services**.

BBB. **Technology Services** means the following services provided to or for a **Client**:

1. information technology consulting and information systems or network analysis, design, programming or integration;
2. database design and the caching, collecting, compiling, processing, mining, or recording or analysis of data; or
3. other related services, including:
 - a. information systems outsourcing;
 - b. website design, programming or maintenance;
 - c. information system or website hosting;
 - d. Internet access services;
 - e. Internet search or navigational tool provision;
 - f. electronic mail services;
 - g. electronic data destruction services;
 - h. the creation, development, distribution, lease, license, or sale of **Technology Products**; and

i. application software services delivery.

CCC. **Third Party Insuring Agreements** means **INSURING AGREEMENTS** A., G., H. and I.

DDD. **Unauthorized Disclosure** means the disclosure of or access to information in a manner that is not authorized by the **Company**.

EEE. **Virus** means any malicious code, script, worm, Trojan horse, or similar software intentionally designed to enter or insert itself into computer memory or storage media and spread itself from one computer to another.

FFF. **Waiting Period** means the period of time set forth in the Declarations that must fully elapse before a **Computer Network Interruption Period** commences. The **Waiting Period** commences when the **Insured's Network Systems** first become unavailable or operating at less than full capacity.

GGG. **Wrongful Act** means:

1. any actual or alleged breach of duty, error, misstatement, act or omission by an **Insured**; or
2. any **Interrelated Wrongful Act**,

by an **Insured** or an independent contractor for whom the **Insured** is legally responsible.

III. EXCLUSIONS

The following Exclusions are applicable to all **INSURING AGREEMENTS**:

The **Insurer** shall not be liable to pay any **Damages**:

- A. brought about or contributed to by: (i) the gaining of any personal profit or financial advantage to which an Insured was not legally entitled; or (ii) by the committing of any intentional criminal or deliberate fraudulent act, if such profit or advantage or intentional criminal or deliberate fraudulent act is established by a final, non-appealable adjudication in the underlying action. For the purpose of applying this exclusion, any **Wrongful Act** of the Chief Executive Officer or the Chief Financial Officer of the Company shall be imputed to such Company. With the exception of the possible imputation of **Wrongful Acts** described in the preceding sentence, no **Wrongful Act** of an Insured may be imputed to any other Insured.
- B. arising out of, based upon or in consequence of, resulting from or in any way involving any **Wrongful Act** by any **Executive** in the his or her respective capacities as such if the matter is brought by the **Company**, or any **Employee, Executive**, or shareholder of the **Company**;
- C. arising out of, based upon or in consequence of, resulting from or in any way involving any **Wrongful Act** or **Occurrence** which took place or allegedly took place prior to the applicable Retroactive Date listed in the Declarations for each respective **Insuring Agreement**; provided, however, that this exclusion shall apply solely to the **Insuring Agreement** for which the **Wrongful Act** or **Occurrence** taking place or allegedly taking place prior to its respective Retroactive Date;

- D. arising out of, based upon or in consequence of, resulting from or in any way involving any written demand, suit, proceeding or other claim, or any investigation of which any **Insured** had notice, pending on or prior to the respective **Insuring Agreement Pending or Prior Litigation Date** stated in the Declarations, or any fact, matter, circumstance, situation, transaction or event underlying or alleged in such written demand, suit, proceeding, claim or investigation; provided, however, that this exclusion shall apply solely to the **Insuring Agreement** for which the **Insured's** notice of the written demand, suit, proceeding or other claim, or any investigation preceded its respective Pending or Prior Litigation Date;
- E. arising out of, based upon or in consequence of, resulting from or in any way involving;
1. any **Wrongful Act** or **Occurrence** alleged in any demand, suit, proceeding or other claim which has been the subject of any notice given or reported prior to the inception of the **Policy Period**, or in any circumstance of which notice has been given under any policy of which this Policy is a renewal, replacement, or succeeds in time; or
 2. any other **Wrongful Act** or **Occurrence**, whenever occurring, which together with a **Wrongful Act** or **Occurrence** which has been the subject of such prior claim or notice, would constitute **Interrelated Wrongful Acts** or **Interrelated Occurrences**;
- F. for any violation of any statutory, regulatory, or common law, governing any of the following activities: unfair trade practices, anti-trust, unfair competition, or tortious interference in another's business or contractual relationships;
- G. for any actual or alleged bodily injury, mental anguish or emotional distress, disease, sickness, or death of any person, or **Property Damage**; provided, however, this exclusion shall not apply to emotional distress and mental anguish damages resulting from a **Security Incident**.
- H. arising out of, based upon or in consequence of, resulting from or in any way involving the unlawful collection or acquisition of **Personally Identifiable Non-Public Information** by, on behalf of, or with the consent or cooperation of the **Company**; or the failure to comply with any legal requirement to provide individuals with the ability to assent to or withhold assent from the collection, disclosure or use of **Personally Identifiable Non-Public Information**; provided, however, that this exclusion shall not apply to the actual or alleged unlawful collection or acquisition of **Personally Identifiable Non-Public Information** by a third-party undertaken or committed without the knowledge of the **Insureds**;
- I. arising out of, based upon or in consequence of, resulting from or in any way involving any of the following undertaken by or on behalf of the **Company**: wiretapping, eavesdropping, audio or video recording; telemarketing; or the distribution of unsolicited email, direct mail, or facsimiles;
- J. arising out of, based upon or in consequence of, resulting from or in any way involving any of the following: (i) trading losses, trading liabilities or change in value of accounts; any loss, transfer or theft of monies, securities or tangible property of others in the care, custody or control of the **Company**; or (ii) the monetary value of any transactions or electronic fund transfers by or on behalf of the **Insured** which is lost, diminished, or damaged during transfer from, into or between accounts;

- K. for any **Social Engineering Event** arising out of, based upon or in consequence of, resulting from or in any way involving any actual or alleged dishonest, criminal, or fraudulent act by an **Insured Person** either acting alone or in collusion with another **Insured** or a third party;
- L. based upon or attributable to liability under any oral or written contract or agreement including but not limited to any express warranties or guarantees, or liability assumed under any oral or written contract or agreement; provided, however, this exclusion shall not be applicable to: (i) an **Insured's** alleged liability that exists in the absence of such contract or agreement; (ii) any **Claim** against an **Insured** by a client or customer of the **Insured** alleging a breach of contractual obligations in the rendering of or failure to render services that are otherwise covered under this Policy; (iii) any matter alleging violation of PCI Data Security Standards in connection with a **Security Incident** or **Privacy Violation Law** violation or (iv) and solely in connection with the **Insured's Technology Services**, any **Claim** for breach of any contractual or implied contractual obligation to prevent a **Security Incident**, **Privacy Law Violation** or in connection with the **Insured's Technology Services**;
- M. arising out of, based upon or in consequence of, resulting from or in any way involving any products liability, including but not limited to, defects in manufacturing or the failure to warn of such defects or product failures;
- N. arising out of, based upon or in consequence of, resulting from or in any way involving any production costs of, or the cost or expenses of, any recall, reproduction, retracting, removal, disposal, reprinting or correction of, any content, media, material or information by any person or entity;
- O. arising out of, based upon or in consequence of, resulting from or in any way involving any failure, interruption, or outage to **Internet** access service provided by the **Internet** service provider that hosts the **Insured's Website**, unless such infrastructure is under the **Insured's** operational control;

Provided, however, this exclusion shall not apply to **INSURING AGREEMENT C**;

- P. arising out of, based upon or in consequence of, resulting from or in any way involving war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), strike, lock-out, riot, civil war, rebellion, revolution, insurrection, civil commotion;
- Q. arising out of, based upon or in consequence of, resulting from or in any way involving the inability to use, or lack of performance of, software programs that are in development, or are in 'beta' or similar testing stage, and/or have not yet been authorized for general commercial release;
- R. arising out of, based upon or in consequence of, resulting from or in any way involving any unsolicited electronic dissemination of faxes, e-mails or other communications by or on behalf of the **Insured** to multiple actual or prospective customers of the **Insured** or any other third party, including but not limited to actions brought under the Telephone Consumer Protection Act, any federal or state anti-spam statutes, or any federal or state statute, law or regulation relating to a person's or entity's right of seclusion;

- S. arising out of, based upon or in consequence of, resulting from or in any way involving any actual or suspected presence of **Pollutants**, or for the actual discharge, dispersal, release or escape of **Pollutants**;
- T. arising out of, based upon or in consequence of, resulting from or in any way involving any **Insured's** employment practices (including, without limitation, wrongful dismissal, discharge or termination, discrimination, harassment, retaliation or other employment-related claim); provided, however, that this exclusion shall not apply to any violation of any **Privacy Violation Law** or any **Media Incident**;
- U. arising out of, based upon or in consequence of, resulting from or in any way involving any:
 - 1. electrical or mechanical failures or interruption, including but not limited to any electrical disturbance, surge, spike, brownout or blackout, and outages to gas, water, telephone, cable, satellite, telecommunications or other infrastructure; provided, however, this exclusion U.1. shall not apply to failures, interruptions, disturbances or outages of telephone, cable or telecommunications infrastructure under the **Insured's** operational control which are a result of a **Wrongful Act**;
 - 2. failure, interruption, or outage to Internet access service provided by the internet service provider that hosts the **Insured's** website, unless such infrastructure is under the **Insured's** direct operational control;
 - 3. fire, smoke, explosion, lightning, wind, flood, earthquake, volcanic eruption, tidal wave, tsunami, landslide, hail, act of God or any other physical event, however caused;
 - 4. war, invasion, terrorism, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), strike, lock-out, riot, civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, provided, however, that this exclusion U.4. shall not apply to Cyber Terrorism. For purposes of this exclusion U.4., Cyber Terrorism means (i) any act expressly directed against an **Inured's Network Security** by an individual or any group of individuals, whether acting alone, on behalf of or in connection with any entity or government, or for social, ideological, religious, economic or political reasons, including intimidating or coercing a government, a civilian population or disrupting any segment of an economy;
 - 5. satellite failure, outage, or interruption; or
 - 6. seizure, confiscation, nationalization, or destruction of computer system(s) or any data asset, in whole or in part, directly or indirectly, by any governmental or public authority;
- V. arising out of, based upon or in consequence of, resulting from or in any way involving any price discounts, prizes, awards, coupons or any other valuable consideration given in excess of the total contracted or expected amount; or
- W. for any matter brought or maintained by or on behalf of any **Insured**, provided this exclusion shall not apply to:
 - 1. any **Claim** brought by an **Employee** in his or her capacity as a customer, client, or **Employee**;
 - 2. any **Extortion Event** alleged by an **Employee**.

- X. arising out of, based upon or in consequence of, resulting from or in any way involving any:
1. any liability to third-parties for whatever reason;
 2. updating, upgrading, enhancing, or replacing any **Network Systems** to a level beyond that which existed prior to sustaining **Damages**; or
 3. the removal of software program errors or vulnerabilities.

The following Exclusions are applicable solely to all **Third Party Insuring Agreements**:

The **Insurer** shall not be liable to pay any **Damages**:

- A. arising out of, based upon or in consequence of, resulting from or in any way involving any **Wrongful Act** by any **Executive** in the his or her respective capacities as such if the matter is brought by the **Company**, or any **Employee**, **Executive**, or shareholder of the **Company**;
- B. for infringement or violation of patent, trademark, trade secret copyright, misappropriation, plagiarism or any other intellectual property rights;
- C. arising out of, based upon or in consequence of, resulting from or in any way involving any failure, outage or interruptions of telephone, cable, telecommunications, any Internet service provider, data transmission lines or networking infrastructure comprising or supporting the Internet not under the direct operational control of the **Company**; provided however, this exclusion shall not apply to that portion of any **Claim** otherwise covered that is for a **Wrongful Act** in the rendering of the **Insured's Technology Services**;
- D. in connection with any matter brought by any **Subsidiary** or any **Executive** or **Employee** of any **Subsidiary** for any **Wrongful Act** committed or allegedly committed during any time when such entity was not a **Subsidiary**; or
- E. arising out of, based upon or in consequence of, resulting from or in any way involving any misappropriation of trade secrets obtained by any **Insured Person** prior to commencing employment with the **Company**.
- F. arising out of, based upon or in consequence of, resulting from or in any way involving any violation of the Telephone Consumer Protection Act (TCPA), including any amendments or additions thereto, or any rules or regulations promulgated thereunder, or any similar provisions of any federal, state, local, or foreign statutory or common law.

IV. COOPERATION, DEFENSE AND SETTLEMENT

A. Cooperation

The **Insured** shall cooperate with the **Insurer**, and provide to the **Insurer** all information and assistance which the **Insurer** reasonably requests including but not limited to attending hearings, depositions and trials and assistance in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses,

and conducting the defense of any **Claim, Regulatory Proceeding, or Occurrence** covered by this **Policy**. The **Insured** shall do nothing that may prejudice the **Insurer's** position. The **Insureds** shall immediately forward to the **Insurer**, at the address indicated in the Declarations, every demand, notice, summons, or other process or pleading received by the **Insured** or its representatives

B. Defense

1. The **Insureds** shall have the duty to defend all **Claims**. It shall not be the duty of the **Insurer** to defend any **Claim** under this Policy; but the **Insurer** shall have a right to associate in the defense of all **Claims**.
2. No **Insured** may incur any **Damages**, or admit any liability for, make any settlement offer with respect to, or settle, any **Claim** without the **Insurer's** written consent, such consent not to be unreasonably delayed or withheld.

C. Settlement

The **Insurer** has the right to investigate, conduct negotiations, and with the **Insured's** written consent, settle any **Claim** or **Regulatory Proceeding** that is covered by this Policy. The **Insurer** shall not settle or compromise any **Claim** or **Regulatory Proceeding** without the written consent of the **Insured**, such consent to not be unreasonably delayed or withheld; provided, however, that if the **Insurer** recommends settlement or compromise of any **Claim** or **Regulatory Proceeding** and the **Insured** refuse to consent to such settlement or compromise, the **Insurer's** liability under this Policy with respect to such **Claim** or **Regulatory Proceeding** shall not exceed fifty (50%) percent of the difference between the amount for which settlement or **Compromise** could have been made as so recommended by the **Insurer**, including **Defense Costs** incurred through the date at which the settlement recommendation was made, and the amount actually expended, subject to all terms, conditions, and limitations of the Policy.

V. LIMITS OF LIABILITY

- A. The amount stated in the Declarations as the Policy Maximum Aggregate Limit of Liability shall be the **Insurer's** maximum aggregate liability for all payment obligations under this Policy under all **INSURING AGREEMENTS**, combined, including any matter noticed during the Discovery Period, if applicable. All obligations of the **Insurer** under this Policy shall cease after the Policy Maximum Aggregate Limit of Liability stated in of the Declarations has been paid by the **Insurer**.
- B. The amounts stated in of the Declarations as the Aggregate Limit of Liability for each **INSURING AGREEMENT** listed shall be the maximum aggregate limit of liability of the **Insurer** under such **INSURING AGREEMENT** for all payment obligations under this Policy. The amount set forth in the Declarations as the Aggregate Limit of Liability for each respective **INSURING AGREEMENT** shall be part of, and not in addition to, the amount stated in the Declarations as the Policy Maximum Aggregate Limit of Liability under the Policy.

Any amount stated in the Declarations as a Sub-Limit of Liability under any **INSURING AGREEMENT** shall be the maximum aggregate limit of liability for the **Insurer** under such sub-limited coverage, such amount being part of, and not in addition to, the Aggregate Limit of Liability for such **INSURING AGREEMENT**. The

Insurer's obligations under this Policy shall cease with respect to any respective **INSURING AGREEMENT** purchased after the Aggregate Limit of Liability under such **INSURING AGREEMENT** has been paid by the **Insurer**.

- C. **Damages** including **Defense Expenses** and **First-Party Defense Expenses** are part of, and not in addition to, the applicable limit of liability, and payment of **Defense Expenses** by the **Insurer** shall reduce and may exhaust the applicable limits of liability.
- D. If coverage is available for a **Wrongful Act** or **Occurrence** under more than one **INSURING AGREEMENT**, then the maximum applicable limit of liability for such matter shall be the largest applicable remaining Aggregate Limit of Liability under only one of the applicable **INSURING AGREEMENT**. The **Insurer's** obligations under this Policy shall cease with respect to such a matter when the largest applicable remaining Aggregate Limit of Liability under only one of the applicable **INSURING AGREEMENTS** is exhausted.

VI. RETENTIONS

- A. With respect to **Damages** covered under any **INSURING AGREEMENT**, the **Insurer** shall only pay **Damages** which are in excess of the Retention that is applicable to such respective **INSURING AGREEMENT**, as set forth in the Declarations, such Retention shall be borne by the **Insureds**.
 - 1. If more than one **First Party Insuring Agreement** is triggered by an **Occurrence** or **Interrelated Occurrences**, then the highest single applicable Retention amount shall apply.
 - 2. If more than one **Third Party Insuring Agreement** is triggered by a **Wrongful Act** or **Interrelated Wrongful Acts**, then the highest single applicable Retention amount shall apply.
- B. If coverage is triggered by the same matter under one or more **First Party Insuring Agreements** and one or more **Third Party Insuring Agreements**, then the highest single applicable Retention amount shall apply.
- C. The applicable Retention shall not be reduced by any amounts that are determined to be non-covered loss pursuant to Section **XI. ALLOCATION**, below.
- D. Should the **Company** be unable or refuse to pay an applicable Retention due to bankruptcy or insolvency, the **Insurer** will then advance **Damages** within the Retention, subject to the other terms, conditions and exclusions of this Policy; provided, however, that the **Insurer** shall be entitled to recover such amounts advanced within the retention from the **Company**.

VII. ESTATES, LEGAL REPRESENTATIVES, SPOUSES, AND DOMESTIC PARTNER EXTENSION

- A. Coverage under this Policy, subject to its terms shall be extended to apply to **Claims** for a **Wrongful Act** of an **Insured Person** made against:
 - 1. a natural person who, at the time the **Claim** is made, is the lawful spouse or **Domestic Partner** of an **Insured Person**, provided that such **Claim**:
 - a) arises solely out of such spouse or **Domestic Partner's** status as the spouse or **Domestic Partner** of such **Insured Person**; or

- b) seeks recovery from marital community property, other property jointly held by the spouse or **Domestic Partner** and such **Insured Person**, or property transferred from such **Insured Person** to the spouse or **Domestic Partner**; or
 - 2. the estate, heir, legal representative or assigns of an **Insured Person**, in the event of such **Insured Person's** death, incompetency, insolvency or bankruptcy.
- B. There shall be no coverage extended under this Section for **Damages** resulting from a **Claim** arising from any act, error, or omission of any spouse, **Domestic Partner**, estate, heir, legal representative or assigns of such **Insured Person**.

VIII. NOTICE OF CLAIM, WRONGFUL ACT, AND OCCURRENCE

- A. As a condition precedent to the obligations of the **Insurer** under this Policy, the **Insureds** shall give the **Insurer** written notice of any **Claim, Regulatory Proceeding, or Occurrence** made during the **Policy Period** or the Discovery Period (if applicable) against an **Insured** as soon as practicable after any **Executive** first receives notice or discovers **Claim, Regulatory Proceeding, or Occurrence**, but in all events before the later of:
 - 1. ninety (90) days after the Policy expires and is renewed with the **Insurer**, provided however, if the **Insured** can prove to the **Insurer's** satisfaction that it was not reasonably possible for the **Insured** to give such notice within the ninety (90) day time period and that subsequent notice was given as soon as reasonably possible thereafter, the **Insurer** shall waive the foregoing time period; or
 - 2. sixty (60) days after:
 - a) this Policy expires or terminates and is not renewed with the **Insurer**; or
 - b) the expiration date of the Discovery Period, if applicable.
- B. Notwithstanding the conditions and obligations set forth in Subsection A., above, in the event the **Insured** fails to provide timely notice of a **Claim, Regulatory Proceeding, or Occurrence**, coverage may be denied by the **Insurer** solely on the basis of late notice only if the **Insurer** can show that such late notice materially prejudiced its interests.
- C. If during the **Policy Period** or the Discovery Period (if applicable), the **Insured** becomes aware of any circumstances which reasonably may be expected to give rise to a **Claim or Regulatory Proceeding** being made against an **Insured**, or an **Occurrence**, and gives written notice to the **Insurer** of such circumstances, including the anticipated alleged **Wrongful Act(s) or Occurrence(s)**, the reasons for anticipating such a **Claim, Regulatory Proceeding, or Occurrence**, and full particulars as to dates, persons and entities involved, then any **Claim, Regulatory Proceeding, or Occurrence** subsequently made against the **Insureds** arising out of the circumstances described in such notice shall be deemed to have been made at the time such notice was received by the **Insurer**.
- D. The **Insureds** shall give notice to the **Insurer** under this Section at the address set forth by Endorsement to this Policy.

IX. DISCOVERY PERIOD

- A. If the **Named Insured** cancels or if the **Insurer** or the **Named Insured** refuses to renew this Policy, the **Named Insured** shall have up to sixty (60) days after the effective date of such cancellation or nonrenewal, to pay the Additional Premium for the Discovery Period specified in the Declarations to extend the coverage granted by this Policy to:
1. any **Claim** or **Regulatory Proceeding** first made during an additional period of time specified in the Declarations, (the "Discovery Period"), which Discovery Period shall begin on the effective date of such cancellation or non-renewal; and
 2. any **Occurrence** first reported during an additional period of time specified in the Declarations, (the "Discovery Period"), which Discovery Period shall begin on the effective date of such cancellation or non-renewal;

Provided, however, that the **Named Insured** shall not be entitled to extend the coverage granted by this Policy by paying the Additional Premium for the Discovery Period if the Policy is rescinded, cancelled, or non-renewed as a result of a material misrepresentation on the **Application**.

Any coverage for **Claims** first made and first reported during the Discovery Period shall be limited only to **Wrongful Acts** that occurred prior to the inception of the Discovery Period.

Any coverage for **Regulatory Proceedings** first made and first reported during the Discovery Period shall be limited only to violations of any **Privacy Violation Law** that occurred prior to the inception of the Discovery Period.

Any coverage for **Occurrences** first reported during the Discovery Period shall be limited only to **Occurrences** that took place prior to the inception of the Discovery Period.

- B. The Additional Premium for the Discovery Period shall be fully earned at the inception of the Discovery Period; and the Discovery Period is not cancelable, except that the **Insurer** may cancel the Discovery Period for non-payment of premium.
- C. The Discovery Period is not available and the provisions of this Section **IX. Discovery Period** shall not be applicable if the Policy is cancelled for non-payment of premium.

X. SINGLE CLAIM/INTERRELATED WRONGFUL ACTS

- A. All **Claims** based upon or arising out of the same **Wrongful Act** or out of **Interrelated Wrongful Acts** shall be considered a single **Claim**, and each such **Claim** is deemed to have been first made on the earlier of the following:
1. when the earliest **Claim** arising out of such **Wrongful Act** or **Interrelated Wrongful Acts** was first made; or
 2. when written notice of a fact, circumstance, or situation giving rise to such **Claim** pursuant to Section **VIII. NOTICE OF CLAIM, WRONGFUL ACT, AND OCCURRENCE**, Subsection C., above, was received by the **Insurer**.
- B. All **Regulatory Proceedings** or **Occurrences** based upon or arising out of the same **Occurrences** or out of **Interrelated Occurrences** shall be considered a

single **Occurrence**, and each such **Occurrence** is deemed to have been first made on the earlier of the following:

1. when the earliest **Occurrence** or **Interrelated Occurrences** first took place; or
2. when written notice of a fact, circumstance, or situation giving rise to such **Occurrence** pursuant to Section **VIII. NOTICE OF CLAIM, WRONGFUL ACT, AND OCCURRENCE**, Subsection C., above, was received by the **Insurer**.

XI. ALLOCATION

If both **Damages** covered by this Policy and damages not covered by this Policy are incurred as a result of a **Claim, Regulatory Proceeding, or Occurrence**, the **Insurer** shall not be liable for that portion of such amount allocated to non-covered loss; and:

- A. With respect to all damages incurred by the **Insureds** in connection with such a **Claim, Regulatory Proceeding, or Occurrence**, the **Insureds** and the **Insurer** agree to use their best efforts to determine a fair and proper allocation of covered **Damages** and noncovered loss, taking into account the relative legal and financial exposures of and the relative benefits obtained in the defense and/or settlement of the **Claim, Regulatory Proceeding, or Occurrence** by the **Insureds**.
- B. In the event that the **Insurer** and the **Insureds** cannot agree upon an allocation, the **Insurer** shall make an interim payment for that portion of **Damages** that are not in dispute until a different amount shall be agreed upon or determined pursuant to the provisions of this Policy and applicable law. If the **Insured** and the **Insurer** agree on an allocation of **Defense Expenses** or **First-Party Legal Expenses**, then the **Insurer** shall pay, on behalf of such **Insured, Defense Expenses** or **First-Party Legal Expenses** allocated to covered **Damages**. If, however, the **Insured** and the **Insurer** cannot agree on an allocation of **Defense Expenses** or **First-Party Legal Expenses**, no presumption as to allocation of **Defense Expenses** shall exist in any suit or other proceeding; but the **Insurer** shall pay, on behalf of such **Insured, Defense Expenses** which the **Insurer** believes to be covered until a different allocation is negotiated or judicially determined.
- C. Notwithstanding any prior advancement to the contrary, any negotiated or judicially determined allocation of **Defense Expenses** or **First-Party Legal Expenses** on account of a **Claim, Regulatory Proceeding, or Occurrence** shall be applied retroactively to all **Defense Expenses** and **First-Party Legal Expenses** on account of such **Claim, Regulatory Proceeding, or Occurrence**. Any allocation of **Defense Expenses** or **First-Party Legal Expenses** shall not apply to or create any presumption with respect to the allocation of other **Damages** on account of such **Claim, Regulatory Proceeding, or Occurrence**.

XII. GENERAL CONDITIONS

- A. Cancellation and Non-Renewal
 1. The **Insurer** may cancel this Policy for non-payment of any premium when due by providing written notice to the **Named Insured** stating when, not less than twenty (20) days thereafter, such cancellation shall be effective.
 2. The **Named Insured** may cancel this Policy by providing written notice to the **Insurer** at the address set forth by Endorsement to this Policy, stating when thereafter such cancellation shall be effective. The **Insurer** shall retain the *pro rata* proportion of the premium calculated from the effective date of cancellation; provided, however, that if at the time of cancellation any **Claims, Regulatory Proceedings, or Occurrences** or notices of

circumstance have been reported during the **Policy Period** under Section **VIII.**, above, then the entire premium shall be considered fully earned and non-refundable. Payment or tender of any unearned premium by the **Insurer** shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.

3. In the event the **Insurer** decides not to renew this Policy, the **Insurer** shall provide written notice of such non-renewal to the **Named Insured** not less than thirty (30) days prior to the end of the **Policy Period**. The notice shall state the reason for such non-renewal. An offer to renew this Policy on terms that involve any change in Retention amount, premium, limit of liability or other terms or conditions shall not constitute a decision by the **Insurer** not to renew this Policy.
4. Any notices to be given to the **Named Insured** shall be provided to the **Named Insured** at its last known principal address with a copy to its insurance agent or broker. The mailing by certified mail of such notice shall be sufficient.

B. Action Against the Insurer

No action shall lie against the **Insurer** unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this Policy.

C. ADR Provision

The **Insurer** and the **Insured** agree that they will attempt in good faith to negotiate a resolution to any dispute arising out of this Policy. In the event any dispute cannot be resolved by negotiation, the **Insurer** and the **Insured** agree to submit the dispute to non-binding mediation, the terms of which shall be subject to negotiation. If the parties cannot agree to such terms within thirty (30) days of either party requesting the mediation, the matter will be submitted to JAMS for mediation, with each party bearing their own costs. Should the mediation fail to result in a settlement of the dispute, no party may commence an action against any other party until at least thirty (30) days after the conclusion of the final mediation session.

D. Company Takeover

If a **Company Takeover** occurs during the **Policy Period**, then this Policy shall continue in full force and effect only for **Wrongful Acts** occurring prior to the effective date of the **Company Takeover**, unless:

1. the **Named Insured** gives the **Insurer** written notice of the **Company Takeover** as soon as practicable but not later than thirty (30) days after the effective date of the **Company Takeover** and the **Insurer** agrees in writing to provide coverage for **Wrongful Acts** occurring after such effective date; and
2. the **Named Insured** accepts any special terms, conditions, amendments, exclusions or additional premium charge required by the **Insurer**.

This Policy may not be canceled after the effective time of the **Company Takeover** and the entire premium for this Policy shall be deemed fully earned as of the effective date of the **Company Takeover**.

D. Mergers and Acquisitions

1. If the **Company**, during the **Policy Period**, acquires another entity by merger or by consolidation with a **Subsidiary**, acquires all or substantially all of the assets of another entity, or creates or acquires a **Subsidiary**, and if the assets acquired through such transaction are more than twenty-five percent (25%) of the total consolidated assets of the **Named Insured** as of the inception of this Policy, then, subject to all the other provisions of this Policy, coverage shall apply to any **Claim** or **Occurrence** involving the merged or consolidated entity or **Subsidiary** for a period of ninety (90) days from the date of consummation of the transaction (unless the expiration of the **Policy Period** occurs sooner, in which case all coverage shall cease as of the date the **Policy Period** expires). No coverage shall apply to any **Claim, Regulatory Proceeding, or Occurrence** made after such ninety (90) day period involving the merged or consolidated entity or **Subsidiary** unless the **Named Insured** provides the **Insurer** with full particulars of such transaction, and accepts any special terms, conditions, amendments, exclusions or additional premium charge required by the **Insurer**.
2. There shall be no coverage for any **Wrongful Act** or **Occurrence** involving the merged or consolidated entity or **Subsidiary** that occurred prior to the consummation of a transaction described in Paragraph 1., above, or for any other **Wrongful Act** or **Occurrence**, whenever occurring, which together with a **Wrongful Act** or **Occurrence** that occurred prior to the consummation of such transaction would constitute **Interrelated Wrongful Acts** or **Interrelated Occurrences**, respectively.
3. There shall be no coverage for any **Wrongful Act** of any **Subsidiary** or any of its directors, officers or employees occurring, or for any **Occurrence** taking place, on or after the date such entity ceases to be a **Subsidiary**.
4. If an entity ceases to be a **Subsidiary** during the **Policy Period**, coverage with respect to any **INSURING AGREEMENT** for such **Subsidiary** and its **Insureds** shall continue until expiration of the **Policy Period** or termination of this Policy, whichever occurs first, but only for for **Wrongful Acts** committed or **Occurrences** taking place while such entity was a **Subsidiary**.

F. Bankruptcy

Bankruptcy or insolvency of the **Company** or of an **Insured Person** shall not relieve the **Insurer** of any of its obligations hereunder; and the **Insurer** agrees not to oppose or object to any efforts to obtain relief from any automatic stay or injunction which may apply to this Policy or its proceeds.

G. Representations

The **Insureds** agree that the **Application** is deemed attached to this Policy and incorporated herein, and that all warranties, statements and representations contained in or incorporated into the **Application** have been made to the **Insurer** and are material to the risk assumed by the **Insurer**. This Policy is issued in reliance upon the truth of such warranties, statements and representations. The **Insureds** further agree that in the event of any material misstatement, misrepresentation or omission in the **Application**, there shall be no coverage under this Policy for any **Insured** who had actual or imputed knowledge as of the inception date of the **Policy Period** of the facts that were misstated, misrepresented or omitted in the **Application** (whether or not such **Insured** was aware that such facts were misstated, misrepresented, or omitted in the **Application**). For purposes of determining the applicability of this Paragraph, any

knowledge possessed by the Chief Executive Officer, the Chief Financial Officer, or the General Counsel of the **Named Insured** shall be imputed to the **Company**, but with the exception of the foregoing, any knowledge possessed by an **Insured** shall not be imputed to any other **Insured**.

H. Other Insurance

Such insurance as is provided by this Policy shall apply only as excess over any other valid and collectible insurance, unless such other insurance is written as specific excess insurance over this Policy. This Policy shall specifically be excess of any other valid and collectible insurance pursuant to which any other insurer has a duty to defend any matter for which this Policy may be obligated to pay **Damages**.

I. Subrogation

1. The **Insurer** shall be subrogated to the extent of any payment made under this Policy to all of the rights of recovery of the **Insureds** against any person or organization. The **Insureds** shall do nothing to prejudice any of the **Insurer's** subrogation rights, and shall execute and deliver all papers and instruments required, and shall do whatever else is necessary, to enable the **Insurer** effectively to bring suit in their name and otherwise secure such rights. In no event, however, shall the **Insurer** exercise its subrogation rights against any **Insured Person** under this Policy, unless such **Insured Person** has been convicted of a criminal act, or been determined by a final adjudication to have committed a dishonest, fraudulent act or willful violation of any statute, rule or law, or determined by a final adjudication to have obtained any profit or advantage to which such **Insured Person** was not legally entitled.
2. Any amount recovered after payment under this Policy shall be apportioned in the inverse order of any actual payment of the underlying **Claim, Regulatory Proceeding, or Occurrence** so the last dollar paid shall be the first dollar recovered. The expenses incurred in obtaining any such recoveries shall be apportioned in the ratio of the actual recoveries of the **Insurer** and the **Insureds**; and any amounts recovered, less the expenses incurred in obtaining any such recovery, shall be credited toward the applicable limit of liability.

J. Assignment

This Policy and any and all rights hereunder are not assignable without the written consent of the **Insurer**

K. Entire Agreement

By acceptance of this Policy, the **Insureds** and the **Insurer** agree that this Policy (including the **Application**) and any written endorsements attached hereto constitute the entire agreement between the parties.

L. Conformity to Statute

Any terms of this Policy which are in conflict with the terms of any applicable laws construing this Policy are hereby amended to conform to such laws.

M. Authorization

The **Insureds** agree that the **Named Insured** will act on behalf of the **Insureds** with respect to the giving of all notices to the **Insurer**, the receipt of notices from the **Insurer**, the payment of premiums, and the receipt of any return premiums that may become due under this Policy.

N. Worldwide Territory

The Policy shall apply to **Claims** and **Regulatory Proceedings** made, and **Occurrences** taking place, against the **Insureds** anywhere in the world.

O. Compliance with Laws Governing Trade and Economic Sanctions

Payment of **Loss** under this Policy shall be made only in full compliance with all economic or trade sanction laws and regulations, including but not limited to sanctions, laws, and regulations administered and enforced by the United States Treasury's Office of Foreign Asset Control (OFAC), and any other laws or regulations of the United States, European Union, or United Kingdom.

P. Headings

The descriptions in the headings and any subheading of this Policy (including any titles given to any endorsement attached hereto) are inserted solely for convenience and do not constitute any part of the terms or conditions hereof.

THIS POLICY SHALL NOT BE VALID UNLESS COMPLETED BY THE ATTACHMENT HERETO OF A DECLARATION PAGE AND SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF THE **INSURER**.