



In consideration of payment of the premium and subject to the Declarations, limitations, conditions, provisions and other terms of this Policy, the Company and the **Insured** agree as follows:

I INSURING CLAUSES

A. CYBER LIABILITY

The Company shall pay **Loss** on behalf of an **Insured** on account of any **Claim** first made against such **Insured** during the **Policy Period** or, if exercised, during the Extended Reporting Period, for **Injury**.

B. E-BUSINESS INTERRUPTION AND EXTRA EXPENSES

The Company shall pay:

1. **Business Income Loss** the **Insured** incurs during the **Period of Recovery of Services** due to the actual impairment or denial of **Operations** resulting directly from **Fraudulent Access or Transmission**, and
2. **Extra Expenses** the **Insured** incurs during the **Period of Recovery of Services** due to the actual or potential impairment or denial of **Operations** resulting directly from **Fraudulent Access or Transmission**,

where the actual or potential impairment or denial of **Operations** has resulted directly from impairment or denial of the **Insured's Services**.

C. E-THREAT EXPENSES

The Company shall pay E-Threat Expenses resulting directly from the **Insured** having surrendered any funds or property to a natural person who make a Threat directly to the **Insured**.

D. E-VANDALISM EXPENSES

The Company shall pay **E-Vandalism Expenses** the **Insured** incurs resulting directly from the malicious acts of a natural person who alters, damages, deletes, or destroys any **Data** which resides or exists internal or external to the **Insured's System**, which is owned by the **Insured** or for which the **Insured** is legally liable.

E. PRIVACY NOTIFICATION EXPENSES

The Company shall pay **Privacy Notification Expenses** resulting directly from a **Claim**, or circumstance which could give rise to a **Claim**, otherwise covered under Insuring Clause A. of this Policy.

F. CRISIS MANAGEMENT EXPENSES

The Company shall pay **Crisis Management Expenses** the **Insured** incurs resulting directly from any **Claim** or **Loss**, or circumstance which could give rise to a **Claim** or **Loss**, otherwise covered under this Policy.

G. REWARD EXPENSES

The Company shall pay **Reward Expenses** during the **Policy Period**.



II. DEFINITIONS

Application means all signed applications and the CyberSecurity Risk Matrix or similar network security assessment completed by or on behalf of the **Insured**, including attachments and other materials submitted therewith or referenced or incorporated therein, submitted by or on behalf of the **Insured** to the Company for this Policy or for any policy of which this Policy is a direct or indirect renewal or replacement. All such applications, attachments and materials are deemed attached to, incorporated into and made a part of this Policy.

Business Income Loss means:

- A. net profit or loss that would have been earned or incurred before income taxes; and,
- B. the **Insured's** continuing normal operating and payroll expenses.

Business Income Loss does not mean bank interest or investment income.

Claim means, solely as respects Insuring Clause A.:

- A. any of the following:
 - 1. a written demand or written request for monetary damages or non-monetary relief;
 - 2. a written demand for arbitration;
 - 3. a civil proceeding commenced by the service of a complaint or similar pleading; or
 - 4. a criminal proceeding commenced by the services of an indictment,against an **Insured** for an **Injury**, including any appeal therefrom; or
- B. a written request received by an **Insured** to toll or waive a statute of limitations relating to a potential **Claim** describe in Paragraph A. above.

Except as may otherwise be provided in Section VIII. Extended Reporting Period, Section X. Retention Amount and Coinsurance or Section XI. Reporting, a **Claim** will be deemed to have been first made when such **Claim** is commenced as set forth in this definition (or, in the case of a written demand or written request, including but not limited to a demand for arbitration, when such demand or request is first received by an **Insured**.)

Computer means a device or group of devices that by manipulation of electronic, magnetic, optical or electromechanical impulses pursuant to a computer program can perform operations on **Data**.

Conduit Injury means injury sustained by a third party because such third party's **System** cannot be used or is less useful than normal, resulting directly from:

- A. the transmission of a **Cyber-attack** into an **Insured's System**, provided such **Cyber-attack** was then received into a third party's **System**; or
- B. a natural person who has accessed a third party's **System** without authorization through an **Insured's System**,



provided such transmission or access occurred on or after the **Retroactive Date** and before the end of the **Policy Period**.

Content Injury means injury sustained by a third party because of the actual or alleged infringement of:

- A. a collective mark, service mark, or other trademarked name, slogan, symbol or title;
- B. a copyright
- C. the name of a product, service, or organization; or
- D. the title of an artistic or literary work,

resulting directly from **Cyber Activities** of the **Insured**, provided that the **Cyber Activities** that caused or allegedly caused the **Content Injury** first occurred on or after the **Retroactive Date** and before the end of the **Policy Period**.

Crisis Management Expense means the reasonable and necessary cost of retaining, for a stipulated period of time with the prior approval of the Company, an independent public relations consultant and the cost of associated advertising and public relations media and activities.

Customer means a natural person or organization which:

- A. is applying for, or requesting, an Insured Organization's products or services;
- B. has applied for, or has requested, an Insured Organization's products or services; or
- C. is using, or has used, an Insured Organization's products or services.

Cyber Activities means the electronic display, electronic transmission, or electronic dissemination of information.

Cyber-attack means a set of unauthorized **Instructions** that are designed to modify, alter, damage, destroy, delete, record or transmit information within a **System** without authorization, including those **Instructions** that are self-replicating or self-propagating and are designed to contaminate other **Computer** programs or **Computer Data**, consume **Computer** resources or in some fashion usurp the normal operation of a **System**.

Data means a representation of information, knowledge, facts, concepts, or instructions which are being processed or have been processed in a **Computer**.

Defense Costs means that part of **Loss** consisting of reasonable costs, charges, fees (including but not limited to attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees or benefits of the directors, officers or employees of an **Insured Organization**) incurred in defending an **Claim** or **Loss**, and the premium for appeal, attachment or similar bonds.

Disclosure Injury means injury sustained by a **Customer** because of the unauthorized electronic display, electronic transmission or electronic dissemination of a **Record**, which results directly from:

- A. **Fraudulent Access or Transmission**; or
- B. a natural person who has gained unauthorized access to, or has exceeded authorized access to, a **System** owned by an organization that is authorized by an **Insured** through a



written agreement to provide an **Insured Organization** with **Data** processing or **Data** storage services, provided such display, transmission or dissemination occurs on or after the **Retroactive Date** and before the end of the **Policy Period**.

Domestic Partner means any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the **Insured Organization**.

E-Threat Expenses means:

- A. funds or property the **Insured** surrenders and any of the following expenses set forth below that were incurred by the **Insured**:
 1. reasonable fees and expenses of any independent negotiator or consultant;
 2. reasonable travel and accommodation expenses; or
 3. any other reasonable expense with the Company's prior written approval; or
- B. loss resulting directly from the actual destruction, disappearance, confiscation or wrongful abstraction of funds or property intended as an extortion payment covered under Insuring Clause C while being held or conveyed by any person duly authorized by the **Insured** to have custody of such funds or property,

solely and directly as a result of a **Threat** which would constitute a **Loss** under Insuring Clause C.

E-Vandalism Expenses means the cost of the blank media and the cost of labor for the actual transcription or copying of **Data** or **Media** furnished by the Insured in order to reproduce such **Data** or **Media** from others of the same kind or quality.

Exceeded Authorized Access means to access the Insured's **System** with authorization and to use such access to obtain information in the **Insured's System** that the accessor is not entitled to obtain.

Extra Expenses means reasonable expenses the **Insured** incurs in an attempt to continue **Operations** over and above the expenses the **Insured** would have normally incurred. **Extra Expenses** do not include any costs of updating, upgrading or remediation of the **Insured's System** that are not otherwise cover under this Policy.

Financial Impairment means the status of an **Insured Organization** resulting from:

- A. the appointment by any state or federal official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate such **Insured Organization**; or
- B. such **Insured Organization** becoming a debtor in possession under the United States bankruptcy law or the equivalent of a debtor in possession under the law of any other country.

Fraudulent Access or Transmission means that a natural person has fraudulently:

- A. accessed the **Insured's System** without authorization;
- B. **Exceeded Authorized Access**; or
- C. Transmitted a **Cyber-attack** into the **Insured's System**.



Informant means any person providing information solely in return for monetary payment paid or promised by the **Insured**.

Impaired Access Injury means injury sustained by a **Customer** who is authorized by an **Insured Organization** to access an **Insured's System**, because such access has been impaired or denied, resulting directly from **Fraudulent Access or Transmission**, provided such **Fraudulent Access or Transmission** occurred on or after the **Retroactive Date** and before the end of the **Policy Period**.

Injury means **Disclosure Injury, Reputational Injury, Content Injury, Conduit Injury or Impaired Access Injury**.

Instructions mean an ordered set of Data that, when executed by a computer, causes it to process **Data** or perform one or more operations.

Insured means any **Insured Organization** and any **Insured Person**.

Insured Organization means the **Parent Organization** and any **Subsidiary**.

Insured Person means any natural person who was, now is, or shall become a director, officer, or foreign equivalent executive position, or employee of an **Insured Organization**, but only while active within the scope of his or her duties as such.

Intellectual Property Law or Right means any:

- A. certification mark, collective mark, copyright, patent, service mark, or trademark;
- B. right to, or judicial or statutory law recognizing an interest in, any trade secret or confidential or proprietary information;
- C. other right to, or judicial or statutory law recognizing an interest in, any expression, idea, likeness, name, slogan, style of doing business, symbol, title, trade dress or other intellectual property; or
- D. other judicial or statutory law concerning piracy, unfair competition or other similar practices.

Loss means:

- A. solely as respects Insuring Clause A, the amount that an Insured becomes legally obligated to pay as a result of any covered **Claim**, including but not limited to damages (including punitive or exemplary damages if and to the extent that such punitive or exemplary damages are insurable under the law of the jurisdiction most favorable to the insurability of such damages, provided such jurisdiction has a substantial relationship to the relevant **Insured**, to the Company, or to the **Claim** giving rise to the damages; judgments, settlements, pre-judgment and post-judgment interest and **Defense Costs**; or
- B. solely as respects Insuring Clauses B through G, **Business Income Loss, Extra Expenses, E-Threat Expenses, E-Vandalism Expenses, Privacy Notification Expenses, Crisis Management Expenses, and Reward Expenses**.

With respect to all Insuring Clauses, **Loss** does not include;

- A. any consideration owed or paid in connection with any **Insured's** goods, products or services, including but not limited to any restitution, reduction, disgorgement or return of any payments, charges or fees;



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- B. any costs or expenses incurred to perform any obligation assumed by, on behalf of, or with the consent of any **Insured**;
 - C. any costs, fees or expenses incurred by the **Insured** in establishing the existence of or amount of **Loss** covered under Insuring Clauses B through G of this Policy;
 - D. any costs or expenses incurred to replace, upgrade, update, improve, or maintain a **System**;
 - E. any costs incurred by an **Insured** to comply with any order for injunctive or other non-monetary relief, or to comply with an agreement to provide such relief;
 - F. any amount incurred by an **Insured** in the defense or investigation of any action, proceeding, demand or request that is not then a **Claim** even if such matter subsequently gives rise to a **Claim**;
 - G. taxes, fines, penalties (except as provided above with respect to punitive or exemplary damages under Insuring Clause A), liquidate damages or the multiple portion of any multiplied damage award; or
 - H. any amount not insurable under the law pursuant to which this Policy is construed.

Media means the magnetic tap, magnetic disk, optical disk, or any other bulk media on which **Data** is recorded.

Operations means the **Insured's** business activities occurring prior to **Fraudulent Access or Transmission**.

Parent Organization means the organization designated in ITEM 1 of the Declarations.

Period of Recovery of Services begins:

- A. for **Extra Expenses**, immediately after **Fraudulent Access or Transmission** occurs; and
- B. for **Business Income Loss**, twenty-four (24) business hours after **Fraudulent Access or Transmission** occurs.

Period of Recovery of Services will continue until the earlier of the following:

- A. the date **Operations** are restored, with due diligence and dispatch, to the condition that would have existed had there been no impairment or denial; or
- B. sixty (60) days after the date the **Insured's Services** are fully restored, with due diligence and dispatch, to the level that would have existed had there been no impairment or denial.

The expiration date of this Policy will not cut short the **Period of Recovery of Services**.

Policy Period means the period of time specified in ITEM 2 of the Declarations, subject to prior termination in accordance with Section XXIII, Termination of Policy. If this period is less than or greater than one year, then the Limits of Liability specified in the Declarations shall be the Company's maximum limit of liability under this Policy for such period.



Pollutants means:

- A. any substance located anywhere in the world exhibiting 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, municipality or locality counterpart thereof, including, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials; or
- B. any other air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products or any noise.

Privacy Notification Expenses means the reasonable and necessary cost of notifying those persons who may be directly affected by the misappropriation of a **Record**; and

- A. changing their account numbers, other identification numbers and security codes; and
- B. providing them, for a stipulated period of time and with the prior approval of the Company, with credit monitoring or other similar services that may help protect them against the fraudulent use of the **Record**.

Record means information about a **Customer**:

- A. pertaining to the **Customer's** relationship with an **Insured Organization**;
- B. not publicly available;
- C. stored in an electronic medium; and
- D. retrievable in a perceivable form.

Related Claims means all **Claims** based upon, arising from, or in consequence of the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances, situations, transactions or events.

Reputational Injury means injury sustained by a third part, other than a **Customer**, because of an actual or alleged:

- A. disparagement of such third party's products or services;
- B. libel or slander of such third party; or
- C. violation of such third party's rights of privacy or publicity,

resulting directly from **Cyber Activities** of the **Insured**, provided that the **Cyber Activities** that caused or allegedly caused the **Reputational Injury** first occurred on or after the **Retroactive Date** and before the end of the **Policy Period**.

Retroactive Date means the date set forth in ITEM 7 of the Declarations, provided that if no date is set forth in ITEM 7, then the **Retroactive Date** is the inception date of this Policy.

Reward Expenses means the reasonable amount paid by the **Insured**, with the prior approval of the Company, to an Informant for information not otherwise available which leads to the arrest and conviction of persons responsible for **Cyber-attack**, **Fraudulent Access or Transmission**, or a **Threat** otherwise covered under this Policy.



Services means computer time, data processing, or storage functions or other uses of the **Insured's System**.

Single Loss means, with respect to Insuring Clauses B through G, all covered **Loss** resulting from:

- A. any one act or series of related acts on the part of any natural person resulting in damage or destruction or **Data** or **Media**;
- B. any one act or series of related acts which impairs or denies the **Insured's Services**;
- C. all **Threats** related by a common committed, attempted or threatened wrongful act or made contemporaneously against the same Insured;
- D. all loss of property and other consideration actually surrendered as ransom and extortion payments arising from one **Threat** or a series of related **Threats**;
- E. all expenses arising from one **Threat** or a series of related **Threats**; and
- F. all acts, other than those specified above, caused by any person or in which such person is implicated; or any one event not specified above.

Subsidiary means any organization, at or prior to the inception date of the Policy, in which more than fifty percent (50%) of the outstanding securities or voting rights representing the present right to vote for election of directors of such organization are owned, directly or indirectly, in any combination, by one or more **Insured Organizations**.

System means a **Computer** and;

- A. all input, output, processing, storage and communication devices controlled, supervised or accessed by the operating systems that are proprietary to, or licensed to, the owner of the **Computer**; and
- B. **Media**.

Threat means a declaration made by a natural person that he or she has gained access or alleges to have gained access to the **Insured's System** and intends to:

- A. cause the Insured to transfer, pay or deliver any funds or property using the **Insured's System**;
- B. sell or disclose a **Record** to another person;
- C. alter, damage or destroy the **Insured's Data** while stored within the **Insured's System**;
- D. alter, damage, or destroy the **Insured's Data** through the transmitting of a **Cyber-attack**; or
- E. impair or deny the Insured's **Services**,

where there exists a demand for an extortion payment or a series of such payments as condition for the mitigation or removal of such **Threat**.



III. EXCLUSIONS:

- A. Solely as respects to Insuring Clause A, this Policy does not directly or indirectly cover any **Claim**:
1. based upon, arising from, or in consequence of any fact, circumstance, situation, transaction, event, act or omission that was the subject of any notice given under any policy of which this Policy is a direct or indirect renewal or replacement.
 2. based upon, arising from, or in consequence of any demand, suit or other proceeding pending against, or order, decree or judgment entered for or against any **Insured**, on or prior to the Pending of Prior Date set forth in ITEM 8 of the Declarations, or the same or substantially the same fact, circumstance, situation, transaction, event, act or omission underlying or alleged therein;
 3. for any actual or alleged violation by an **Insured** of the responsibilities, obligations or duties imposed on fiduciaries by the Employee Retirement Income Security Act of 1974, or any amendments thereto, or any rules or regulations promulgated thereunder, or an similar provisions of any federal, state, or local statutory law or common law anywhere in the world;
 4. brought or maintained by or on behalf of any **Insured** in any capacity, other than by an Insured Person solely in his or her capacity as a **Customer** of the **Insured Organization**;
 5. based upon, arising from, or in consequence of any actual or alleged infringement of, violation of or assertion of any right to or interest in a patent or trade secret by an **Insured**;
 6. based upon, arising from, or in consequence of any claim or proceeding brought by or on behalf of any:
 - a. federal, state, or local government agency or authority; or
 - b. licensing or regulatory organization;
 7. based upon, arising from, or in consequence of any electronic, oral, written, or other publication of information, by, on behalf of, or with the consent of any **Insured**;
 - a. with the knowledge of its falsity; or
 - b. if a reasonable person in the circumstances of such **Insured** would have know such to be false;
 8. based upon, arising from, or in consequence of the failure of goods, products, or services to conform with any electronic, oral, written, or other representation or warranty with respect to durability, fitness, performance, quality, or use;
 9. for **Content Injury** or **Reputational Injury** sustained by any natural 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 natural person or organization described in a. above.

This Exclusion applies regardless of whether such content, material, or service was jointly created, designed, developed, or provided by any **Insured**.



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10. for **Content Injury** or **Reputational Injury** that is based upon, arises from, or in consequence of any:
- a. distribution or sale of, or offer to distribute to sell, any good, product, or service; or
 - b. other use of any good, product, or service,
- that actually or allegedly infringes or violates any **Intellectual Property Law or Right** relating to the appearance, design or function of any good, product, or service;
11. based upon, arising from, or in consequence of:
- a. controlling, creating, designing, or developing any natural person's or organization's Web site;
 - b. controlling, creating, designing, developing, determining, or providing the content of material of any natural person's or organization's Web site; or
 - c. controlling, facilitating, or providing, or failing to control, facility, or provide, access to the Internet; or
12. based upon, arising from, or in consequences of any actual or alleged infringement of, violation of, or assertion of any right to or interest in any:
- a. software or its source content or material;
 - b. computer code or its source content or material; or
 - c. expression, method, or process designed to control or facilitate any operation or other use of a Computer or automated system.
- B. Solely as respects Insuring Clauses B through G, this Policy does not directly or indirectly cover:
1. loss of **Data** while in the mail; or
 2. loss resulting from mechanical failure, faulty construction, error in design, latent defect, wear or tear, gradual deterioration, electrical disturbance, **Media** failure or breakdown or any malfunction or error in programming or error in omission in processing.
- C. As respects all Insuring Clauses, this Policy does not directly or indirectly cover any **Claim** or **Loss**:
1. based upon, arising from or in consequence of the committing in fact of any deliberately criminal, fraudulent or dishonest act or omission or any willful violation of any statute or regulation by, on behalf of, or with the consent of any Insured, as evidenced by:
 - a. any written statement or written document by any **Insured**; or
 - b. any judgment, award, order, decree or ruling or equivalent determination in any judicial, administrative or alternative dispute resolution proceeding;



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2. based upon, arising from or in consequence of any:
 - a. breach of contract or agreement; or
 - b. liability assumed by any Insured under any contract or agreementprovided that a.above shall not apply to **Conduit Injury, Impaired Access Injury** or **Disclosure Injury** or to the extent that an **Insured** would have been liable in the absence of the contract or agreement;
 3. based upon, arising from, or in consequence of:
 - a. any actual, alleged, or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, escape, treatment, removal or disposal of any **Pollutants**;
 - b. any regulation, order, direction or requests to test for, monitor, clean up, remove, contain, treat, detoxify or neutralized any **Pollutants**, or any action taken in contemplation or anticipation of any such regulation, order, direction or request;
 - c. any nuclear fission, fusion or radioactivity; or
 - d. any riot or civil commotion, outside the United States of America or Canada, or any military, naval or usurped power, war or insurrection; or
 4. for bodily injury, mental anguish, emotional distress (except mental anguish and emotional distress resulting from **Disclosure Injury**), sickness, disease or death of any person or damage to, destruction of or loss of use of any tangible property whether or not it is damaged or destroyed.
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IV. SEVERABILITY OF EXCLUSIONS

For the purposes of determining the applicability of Section III, Exclusions A.7.and C.1.:

- A. No fact pertaining to or knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person** to determine if coverage is available; and
 - B. Only facts pertaining to or knowledge possessed by an **Insured Organization's** chief financial officer, in-house general counsel, risk manager, president, chief executive officer, chief information officer, chairperson or equivalent position shall be imputed to such **Insured Organization** to determine if coverage is available.
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V. SPOUSES, ESTATES AND LEGAL REPRESENTATIVES

Coverage shall extend to **Claims** for the covered acts, errors or omissions of an **Insured Person** made against:

- A. the lawful spouse or **Domestic Partner** of such **Insured Person**, if named as a co-defendant with such **Insured Person** solely by reason of such person's status as a spouse or **Domestic Partner**,



or such spouse or **Domestic Partner's** ownership interest in property that is sought by a claimant as recovery for an alleged act, error or omission of such **Insured Person**; and

- B. the estate, heirs, legal representatives or assigns of such **Insured Person** if such **Insured Person** is deceased or the legal representatives or assigns of such **Insured Person** if such **Insured Person** is incompetent, insolvent or bankrupt.

All terms and conditions of this Policy including, without limitation, the Retention Amount applicable to **Loss** incurred by the **Insured Person**, shall also apply to **Loss** incurred by the **Insured Person's** spouse, **Domestic Partner**, estate, heirs, legal representatives or assigns. The coverage provided by this Section V. shall not apply with respect to any loss arising from an act or omission by an **Insured Person's** estate, heirs, legal representatives, assigns, spouse or **Domestic Partner**.

VI. OTHER INSURANCE

This Policy shall be specifically excess over, and shall not contribute with, any other valid and collectible insurance, whether such other insurance is stated to be primary, contributory, excess (except insurance specifically in excess of this Policy), contingent or otherwise. This Policy will not be subject to the terms of any other insurance.

VII. TERRITORY

Coverage shall extend anywhere in the world.

VIII. EXTENDED REPORTING PERIOD

- A. Solely as respects Insuring Clause A, if the Company or the **Parent Organization** terminates or does not renew this Policy, other than termination by the Company for nonpayment of premium, then the **Parent Organization** shall have the right to purchase an Extended Reporting Period for the period set forth in ITEM 6.B of the Declarations beginning on the effective date of the termination or non-renewal of this Policy. This right to purchase an Extended Reporting Period shall lapse unless written notice of election to purchase the Extended Reporting Period, together with payment of the additional premium due, as set forth in ITEM 6.A. of the Declarations, is received by the Company within thirty (30) days following the effective date of the termination or non-renewal of this Policy.
- B. If the Extended Reporting Period is purchased, then coverage otherwise afforded by this Policy will be extended to apply to **Claims** first made during such Extended Reporting Period and reported in accordance with Section XI. Reporting, but only for **Injury** occurring or allegedly occurring before the effective date of termination or non-renewal or the date of any event described in Section XVI, Changes in Exposure, whichever is earlier. The entire additional premium for the Extended Reporting Period shall be deemed fully earned at the inception of such Extended Reporting Period. Any **Claim** made during the Extended Reporting Period shall be deemed to have been made during the immediately preceding **Policy Period**. The Limit of Liability for the Extended Reporting Period shall be part of and not in addition to the applicable Limits of Liability for the immediately preceding **Policy Period**.



IX. LIMIT OF LIABILITY

- A. The Company's maximum aggregate liability for all **Loss** covered under this Policy, whether covered under one or more Insuring Clauses, shall be the Aggregate Limit of Liability for Each **Policy Period** set forth in ITEM 3 of the Declarations.
- B. The Company's maximum liability for all **Loss** on account of each **Claim** made during the **Policy Period**, or for each **Single Loss** discovered during the **Policy Period**, shall be the applicable Limit of Liability set forth in ITEM 4 of the Declarations or the unpaid portion of the Aggregate Limit of Liability for Each **Policy Period**, whichever is less. If a **Single Loss** is covered under more than one Insuring Clause, the maximum amount payable shall not exceed the largest applicable Limit of Liability.
- C. **Defense Costs** are part of and not in addition to the Limits of Liability set forth in ITEM 4 of the Declarations, and payment by the Company of **Defense Costs** shall reduce and may exhaust such Limits of Liability.
- D. Upon exhaustion of the Aggregate Limit of Liability for Each **Policy Period** set forth in ITEM 3 of the Declarations:
 1. the Company shall have no further liability for **Loss** regardless of when a **Claim** is made or a **Loss** is discovered, and
 2. the Company shall have no obligation to continue the defense of the **Insured** and the **Insured** shall assume all responsibility for its defense at its own cost.

X. RETENTION AMOUNT AND COINSURANCE

The Company's liability under this Policy shall apply only to that part of each covered **Claim** or **Loss** which is in excess of the applicable Retention Amount set forth in ITEM 4 of the Declarations. Such Retention Amount shall be depleted only by **Loss** otherwise covered under this Policy and shall be borne by the **Insured** uninsured and at their own risk.

If different parts of a **Single Loss** are subject to different Retention Amounts, or if a **Claim** and a **Single Loss** arise from any one or a series of related facts, circumstances, situations, transactions, or events, the applicable Retention Amounts will be applied separately to each part of such **Claim** or **Single Loss**, but the sum of such Retention Amounts shall not exceed the largest applicable Retention Amount.

To the extent that **Loss** on account of a single **Claim** or a **Single Loss** is covered under this Policy and is in excess of the Retention Amount, the **Insureds** shall bear uninsured and at their own risk that percentage of such **Loss** specified as the Coinsurance Percentage set forth in ITEM 5 of the Declarations. The Company's liability shall apply only to the remaining percentage of such **Loss**.

XI. REPORTING

- A. With respect to Insuring Clause A:
 1. the **Insured** shall, as a condition precedent to exercising any right to coverage under this Policy, give to the Company written notice of such **Claim** as soon as practicable, but in no event later than the earliest of the following dates:



- a. sixty (60) days after the date on which an **Insured Organization's** chief financial officer, in-house general counsel, risk manager, president, chief executive officer, chief information officer, chairperson or equivalent position first becomes aware that the **Claim** has been made;
- b. sixty (60) days after the effective date of expiration or termination, if this Policy expires (or is otherwise terminated) without being renewed and if no Extended Reporting Period is purchased; or
- c. the expiration date of the Extended Reporting Period, if purchased;

provided that if the Company sends written notice to the **Insured**, at any time before the date set forth in paragraph A.1.a of this Section XI, with respect to any **Claim**, stating that this Policy is being terminated for nonpayment of premium, the **Insured** shall give to the Company written notice of such **Claim** prior to the effective date of such termination.

2. If during the **Policy Period** an **Insured** becomes aware of any circumstances which may subsequently give rise to a **Claim**, and during the **Policy Period** the **Insureds**:
 - a. give the Company written notice of such circumstances, including a description of the circumstances in question, the identities of the potential claimants, the consequences which have resulted or may result from the circumstances, the damages which may result from the circumstances and the way in which the **Insureds** first became aware of the circumstances; and
 - b. request coverage under this Policy for any subsequently resulting **Claim** for such circumstances,

then the Company will treat any such subsequently resulting **Claim** as if it had been made against the **Insured** during the **Policy Period**; provided that written notice of such **Claim** is then given to the Company in accordance with paragraph A.1.a. of this Section XI.

3. The **Insured** shall, as a condition precedent to exercising any right to coverage under this Policy, give to the Company such information, assistance and cooperation as the Company may reasonably require, and shall include in any notice under paragraphs A.1 or A.2 of this Section XI, a description of the **Claim** or circumstances, the nature of any alleged **Injury**, the nature of the alleged or potential damage, the names of all actual or potential claimants, the names of all actual or potential parties, and the manner in which such **Insured** first became aware of the **Claim** or circumstances.

B. With respect to Insuring Clauses B through G:

1. The **Insured** shall, as a condition precedent to exercising any right to coverage under this Policy, give to the Company written notice of any **Loss** as soon as practicable, but in no event later than sixty (60) days after discovery of a **Loss** by an **Insured Organization's** chief financial officer, in-house general counsel, risk manager, president, chief executive officer, chief information officer, chairperson or equivalent position.
2. The **Insured** shall furnish to the Company proof of loss, duly sworn to, with full particulars, within six months after such discovery.



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3. Legal proceedings for the recovery of any **Loss** under this Policy shall not be brought prior to the expiration of sixty (60) days after the proof of loss is filed with the Company or after the expiration of twenty-four (24) months from the discovery of such **Loss**.
 4. This Policy affords coverage only in favor of the **Insured** where legally permissible. No claim, suit, action or legal proceeding shall be brought with respect to Insuring Clauses B through G by anyone other than the **Insured**.
- C. All **Related Claims** shall be treated as a single **Claim** first made on the date the earliest of such **Related Claims** was first made, or on the date the earliest of such **Related Claims** is treated as having been made in accordance with Section XI, Reporting, regardless of whether such date is before or during the **Policy Period**.

XII. NOTICE

- A. All notices to the Company of **Losses, Claims** or circumstances shall be given in writing addressed to:

Home Office Claims Department
Chubb Group of Insurance Companies
15 Mountain View Road
Warren, NJ 07059

- B. All other notices to the Company under this Policy shall be given in writing addressed to:

Attn: Underwriting
Chubb Group of Insurance Companies
82 Hopmeadow Street
Simsbury, CT 06070-7683

- C. Any notice given under this Section XII. Subsection A or B above shall be effective on the date of receipt by the Company at such address.

XIII. DISCOVERY

With respect to Insuring Clauses B through G, this Policy applies only to loss first discovered by the **Insured Organization's** chief financial officer, in-house general counsel, risk manager, president, chief executive officer, chief information officer, chairperson or equivalent position during the **Policy Period**. Discovery occurs at the earlier of such person being aware of:

- A. circumstances which could give rise to a **Loss** of a type covered by this Policy, or
- B. an actual or potential claim in which it is alleged that the **Insured** is liable to a third party,

regardless of when the act or acts causing or contributing to such loss occurred, even though the amount of loss does not exceed the applicable Retention Amount, or the exact amount or details of loss may not then be known.

With respect to Insuring Clause C, this Policy does not cover any loss arising from any **Threat** unless such **Threat** occurs or is communicated directly or indirectly to the **Insured** prior to the effective date of termination of coverage hereunder and is discovered by the **Insured** and communicated to the Company in writing prior to sixty (60) days after the effective date of the termination of this Policy in its entirety.



XIV. DEFENSE AND SETTLEMENT

- A. It shall be the duty of the **Insured** and not the duty of the Company to defend **Claims** made against the **Insured** and to retain qualified counsel of its own choosing with the Company's prior consent, such consent not to be unreasonably withheld.
- B. With respect to any **Claim** that appears reasonably likely to be covered in whole or in part under this Policy, the Company shall have the right and shall be given the opportunity to effectively associate with the **Insured**, and shall be consulted in advance by the **Insured** regarding the investigation, defense and settlement of such **Claim**, including but not limited to selecting appropriate defense counsel and negotiating any settlement. It shall not be unreasonable for the Company to withhold its consent to separate counsel for one or more of such **Insureds**, unless there is a material actual or potential conflict of interest among such **Insureds**.
- C. No **Insured** shall settle or offer to settle any **Claim**, incur any **Defense Costs**, or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** without the Company's prior written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement, **Defense Costs**, assumed obligation or admission to which it has not given its prior written consent.
- D. If any **Insured** withholds consent to any settlement acceptable to the claimant in accordance with the Company's recommendation (a "Proposed Settlement"), then the Company's liability for all **Loss**, including **Defense Costs**, from such **Claim** shall not exceed the amount of the Proposed Settlement plus **Defense Costs** incurred up to the date of the **Insured's** refusal to consent to the Proposed Settlement of such **Claim**.
- E. The **Insured** agrees to provide the Company with all information, assistance and cooperation which the Company may reasonably require and agree they will do nothing that may prejudice the Company's position or its potential or actual rights of recovery.
- F. The Company shall, upon written request, advance on a current basis **Defense Costs** owed under this Policy. As a condition of any payment of **Defense Costs** before the final disposition of a **Claim**, the Company may require a written undertaking of terms and conditions satisfactory to it guaranteeing the repayment of any **Defense Costs** paid on behalf of any **Insured** if it is finally determined that this Policy would not cover **Loss** incurred by such **Insured** in connection with such **Claim**.

XV. ALLOCATION

- A. If both **Loss** covered by this Policy and loss not covered by this Policy are incurred either because a **Claim** against an **Insured** includes both covered and non-covered matters or because a **Claim** is made against both an **Insured** and others, the **Insured** and the Company shall allocate such amount between covered **Loss** and non-covered loss based upon the relative legal and financial exposures of the parties to covered and non-covered matters and, in the event of a settlement of such **Claim**, also based upon the relative benefits to the parties from such settlement. The Company shall not be liable under this Policy for the portion of such amount allocated to non-covered loss.
- B. If the **Insured** and the Company agree on an allocation of **Defense Costs**, then the Company shall advance on a current basis **Defense Costs** allocated to the covered **Loss**. If the **Insured** and the Company cannot agree on an allocation:



1. no presumption as to allocation shall exist in any arbitration, suit or other proceeding;
 2. the Company shall advance on a current basis **Defense Costs** which the Company believes to be covered under this Policy until a different allocation is negotiated, arbitrated or judicially determined; and
 3. the Company, if requested by the **Insured**, shall submit the dispute to binding arbitration. The rules of the American Arbitration Association shall apply except with respect to the selection of the arbitration panel, which shall consist of one arbitrator selected by the **Insured**, one arbitrator selected by the Company, and a third independent arbitrator selected by the first two arbitrators.
- C. Any negotiated, arbitrated or judicially determined allocation of **Defense Costs** on account of a **Claim** shall be applied retroactively to all **Defense Costs** on account of such **Claim**, notwithstanding any prior advancement to the contrary. Any allocation of advancement of **Defense Costs** on account of a **Claim** shall not apply to or create any presumption with respect to the allocation of other **Loss** on account of such **Claim**.

XVI. CHANGES IN EXPOSURE

- A. Acquisition of Another Organization
1. If any **Insured Organization** acquires another entity or merges with another entity (each an "Acquired Organization") such that the **Insured Organization** is the surviving entity, and if as a result of such acquisition or merger the Acquired Organization becomes (or would, but for its absorption into the **Insured Organization**, have become) a **Subsidiary**, then, subject to the provisions of paragraphs 2 and 3 below, coverage shall be provided for such Acquired Organization and its **Insured Persons**, with respect to any **Injury** first caused, or **Loss** first incurred, after the effective date of such acquisition or merger. As respects Insuring Clauses B through G, coverage applies to such Acquired Organization and its **Insured Persons** only for a **Loss** where all of the circumstances, conditions or acts causing or contributing to such **Loss** occur on or after the date of such acquisition or creation.
 2. If, at the time of an acquisition or merger described in paragraph 1. above, the annual revenues of the Acquired Organization are equal to or less than ten percent (10%) of the annual revenues of all of the **Insured Organizations**, as reflected in the **Insured Organizations'** or **Parent Organization's** then most recently concluded fiscal year end financial statements or fiscal quarterly financial statements, then the **Parent Organization** shall provide to the Company written notice of the acquisition or merger containing full details thereof when it next applies for renewal of this Policy. As a condition precedent to providing coverage for such Acquired Organization upon renewal, the Company, in its sole discretion, may impose additional or different terms, conditions and limitations of coverage and require payment of additional premium.
 3. If, at the time of an acquisition or merger described in paragraph 1. above, the annual revenues of the Acquired Organization exceed ten percent (10%) of the annual revenues of all of the **Insured Organizations**, as reflected in the **Insured Organizations'** or **Parent Organization's** then most recently concluded fiscal year end financial statements or fiscal quarterly financial statements, then the **Parent Organization** shall provide to the Company written notice of the acquisition or merger containing full details thereof, as soon as practicable, but in no event later than sixty (60) days after the date of such



acquisition or merger. If the **Parent Organization** fails to give such notice within the time specified in the preceding sentence, or fails to pay the additional premium required by the Company, coverage for such Acquired Organization and its **Insured Persons** shall terminate with respect to **Claims** first made or **Loss** first incurred more than sixty (60) days after such acquisition or merger. As a condition precedent to providing coverage for such Acquired Organization or its **Insured Persons**, the Company, in its sole discretion, may impose additional or different terms, conditions and limitations of coverage and require payment of additional premium.

B. Cessation of Subsidiaries

If any **Subsidiary** ceases to be a **Subsidiary** before or during the **Policy Period**, then any coverage under this Policy shall continue for such **Subsidiary** and its **Insured Persons** until the expiration of this Policy, but solely for **Injury** first caused, or **Loss** first incurred, prior to the effective date of such cessation (and not before the **Retroactive Date** shown in Item 7 of the Declarations).

C. Conversion of Coverage Under Certain Circumstances

If, during the **Policy Period**, any of the following events occur:

1. the acquisition of all, or substantially all of the **Parent Organization's** assets by another organization or person or group of organizations or persons acting in concert, or the merger or consolidation of the **Parent Organization** into or with another entity such that the **Parent Organization** is not the surviving entity;
2. another organization, person or group of organizations or persons acting in concert acquires securities or voting rights which results in ownership or voting control by the other organization(s) or person(s) of more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of directors, trustees, members of the Board of Managers or management committee members of the **Parent Organization**;
3. the **Insured Organization** completely ceases to actively engage in its primary business ("cessation"); or
4. **Financial Impairment** occurs,

then coverage provided by this Policy shall continue until its expiration, but solely for **Injury** first caused, or **Loss** first incurred, prior to such event (and not before the **Retroactive Date** shown in Item 7 of the Declarations).

The **Parent Organization** shall give written notice of such event to the Company as soon as practicable together with such other information as the Company may request, and the entire premium for this Policy will be deemed fully earned as of the date of such event.

XVII. REPRESENTATIONS AND SEVERABILITY

In issuing this Policy, the Company has relied upon the statements, representations and information in the **Application**. All of the **Insureds** acknowledge and agree that all such statements, representations and information (i) are true and accurate, (ii) were made or provided in order to induce the Company to issue this Policy, and (iii) are material to the Company's acceptance of the risk to which this Policy applies.



In the event that any of the statements, representations or information in the **Application** are not true and accurate, this Policy shall be void with respect to any **Insured** who knew as of the effective date of the **Application** the facts that were not truthfully and accurately disclosed (whether or not the **Insured** knew of such untruthful disclosure in the **Application**) or to whom knowledge of such facts is imputed.

For purposes of the preceding sentence:

- A. the knowledge of any **Insured Person** who is a past, present or future chief financial officer, in-house general counsel, risk manager, president, chief executive officer, chief information officer, chairperson or equivalent position of an **Insured Organization** shall be imputed to such **Insured Organization**;
- B. the knowledge of the person(s) who signed the **Application** for this Policy shall be imputed to all of the **Insureds**; and
- C. except as provided in A. above, the knowledge of an **Insured Person** who did not sign the **Application** shall not be imputed to any other **Insured**.

XVIII. VALUATION AND FOREIGN CURRENCY

All premiums, limits, Retention Amounts, **Loss** and other amounts under this Policy are expressed and payable in the currency of the United States of America. If a judgment is rendered, a settlement is denominated or any element of **Loss** under this Policy is stated in a currency other than United States of America dollars, payment under this Policy shall be made in United States of America dollars at the rate of exchange published in The Wall Street Journal on the date the final judgment is reached, the amount of the settlement is agreed upon or the element of **Loss** is due, respectively.

With respect to Insuring Clauses B through D, the value of any loss of property other than **Data** or **Media** shall be the actual cash value or the cost of repairing or replacing such property with property of like quality and value, whichever is less.

XIX. SUBROGATION

In the event of any payment under this Policy, the Company shall be subrogated to the extent of such payment to all the **Insured's** rights of recovery therefore, and the **Insured** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Company effectively to bring suit or otherwise pursue subrogation rights in the name of any **Insured**.

XX. ACTION AGAINST THE COMPANY

No action may be taken against the Company unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy. No person or entity shall have any right under this Policy to join the Company as a party to any action against any **Insured** to determine such **Insured's** liability nor shall the Company be impleaded by such **Insured** or legal representatives of such **Insured**.

XXI. PARENT ORGANIZATION RIGHTS AND OBLIGATIONS

By acceptance of this Policy, the **Parent Organization** acknowledges and agrees that it shall be considered the sole agent of and will act on behalf of each **Insured** with respect to: the payment of



premiums and the receiving of any return premiums that may become due under this Policy; the negotiation, agreement to and acceptance of endorsements; the giving or receiving of any notice, including but not limited to giving notice of **Claim** or **Loss** a notice of termination pursuant to Section XXIII, Termination of Policy; and the receipt or enforcement of payment of a **Loss** (and the **Parent Organization** shall be responsible for application of any such payment as provided for in this Policy). Each **Insured** acknowledges and agrees that the **Parent Organization** shall act on its behalf with respect to all such matters.

XXII. ALTERATION AND ASSIGNMENT

No change in, modification of, or assignment of interest under this Policy shall be effective except when made by a written endorsement to this Policy which is signed by an authorized employee of Chubb & Son, a division of Federal Insurance Company.

XXIII. TERMINATION OF POLICY

A. This Policy shall terminate at the earliest of the following times:

1. sixty (60) days after receipt by the **Parent Organization** of written notice of non-renewal from the Company;
2. upon receipt by the Company of written notice of termination from the **Parent Organization**; provided that this Policy may not be terminated by the **Parent Organization** after the effective date of any event described in Section XVI, Changes in Exposure C;
3. upon expiration of the **Policy Period** as set forth in ITEM 2 of the Declarations;
4. twenty (20) days after receipt by the **Parent Organization** of a written notice of termination from the Company based upon nonpayment of premium, unless the premium is paid within such twenty (20) day period; or
5. at such other time as may be agreed upon by the Company and the **Parent Organization**.

B. The Company shall refund the unearned premium computed at customary short rates if this Policy is terminated by the **Parent Organization**. Under any other circumstances the refund shall be computed pro rata. Payment or tender of any unearned premium by the Company shall not be a condition precedent to the effectiveness of such termination, but such payment shall be made as soon as practicable.

XXIV. BANKRUPTCY

Except as provided in Section XVI, Changes in Exposure, bankruptcy or insolvency of any **Insured** shall not relieve the Company of its obligations nor deprive the Company of its rights or defenses under this Policy.

XXV. HEADINGS

The descriptions in the headings and sub-headings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.



XXVI. COMPLIANCE WITH APPLICABLE TRADE SANCTION LAWS

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit the Company from providing insurance.