

# U.S. SPECIALTY INSURANCE COMPANY

## NetPAS

### CYBER INSURANCE POLICY

THE LIABILITY INSURING AGREEMENTS OF THIS POLICY ARE CLAIMS-MADE. THE INSURER HAS NO DUTY TO DEFEND. COVERAGE IS AVAILABLE UNDER AN INSURING AGREEMENT ONLY IF SUCH INSURING AGREEMENT HAS BEEN PURCHASED. COVERAGE FOR DEFENSE COSTS IS NOT IN ADDITION TO ANY APPLICABLE LIMIT OF LIABILITY. PLEASE READ THIS POLICY CAREFULLY.

In consideration of the payment of the premium, and in reliance upon the **Application** and subject to the terms and conditions of this Policy (including the Declarations and any endorsements), the Insurer and the **Insureds** agree as follows:

#### INSURING AGREEMENTS

- (A) **NETWORK SECURITY LIABILITY:** The Insurer will pay, to or on behalf of the **Insureds**, **Loss** in the form of **Damages** and **Defense Costs** arising from **Claims** first made against the **Insureds** during the **Policy Period** or the Discovery Period (if purchased) for **Wrongful Acts** which:
- (1) are committed or allegedly committed after the **Retroactive Date**, and
  - (2) result in a **Security Failure**.
- (B) **PRIVACY EVENT LIABILITY:** The Insurer will pay, to or on behalf of the **Insureds**, **Loss** in the form of **Damages** and **Defense Costs** arising from **Claims** first made against the **Insureds** during the **Policy Period** or the Discovery Period (if purchased) for **Wrongful Acts** which:
- (1) are committed or allegedly committed after the **Retroactive Date**, and
  - (2) result in a **Privacy Event**.
- (C) **DATA BREACH EXPENSES:** The Insurer will reimburse the **Company** for **Loss** in the form of **Data Breach Expenses** which:
- (1) are incurred by the **Company** during the **Policy Period**, and
  - (2) directly result from a **Data Breach** first occurring during the **Policy Period**.
- (D) **NETWORK EXTORTION EXPENSES:** The Insurer will reimburse the **Company** for **Loss** in the form of **Extortion Expenses** which directly result from a **Network Threat** first occurring during the **Policy Period**.

#### DEFINITIONS

- (A) **Application** means any application, information or other materials submitted by or on behalf of the **Insureds** in connection with the underwriting of this Policy, all of which are deemed attached to and part of this Policy.
- (B) **Claim** means:
- (1) a written demand for monetary, non-monetary or injunctive relief;
  - (2) a civil proceeding commenced by service of a complaint or similar pleading;
  - (3) an arbitration, mediation or other similar dispute resolution proceeding;
  - (4) with respect to INSURING AGREEMENTS (A) and (B) only, a **Regulatory Proceeding**; and

(5) an appeal from, and a written request or agreement to toll or waive any applicable statute of limitations in connection with, any of the foregoing;

provided, that **Claim** will not include any criminal proceeding.

(C) **Company** means the **Named Corporation** and any **Subsidiary** thereof.

(D) **Company's Computer System** means any **Computer System**:

(1) leased, owned or operated by the **Company**, or

(2) operated on behalf of the **Company** by a third-party service provider pursuant to a written agreement with the **Company**.

(E) **Computer System** means computer hardware and software, and electronic data stored thereon, as well as associated networking equipment, input and output devices, and electronic backup facilities and data storage devices.

(F) **Consumer Redress Fund** means a sum of money which an **Insured** is legally obligated to deposit in a fund as equitable relief for the payment of consumer claims due to an adverse judgment in or settlement of a **Regulatory Proceeding**.

(G) **Cyber Event** means a **Data Breach** and/or a **Network Threat**.

(H) **Damages** means:

(1) compensatory damages,

(2) punitive or exemplary damages (if insurable),

(3) with respect to INSURING AGREEMENTS (A) and (B) only, **Regulatory Fines** (if insurable),

(4) with respect to INSURING AGREEMENTS (A) and (B) only, **Consumer Redress Funds**,

(5) settlements, and

(6) judgments (including pre- and post-judgment interest),

that an **Insured** is legally obligated to pay as a result of a **Claim**.

For purposes of determining whether punitive or exemplary damages and **Regulatory Fines** arising from a **Claim** are insurable by law, the Insurer agrees to abide by the law of whichever jurisdiction is applicable to such **Claim** and is most favorable to the **Insureds** in that regard.

(I) **Data Breach** means any **Security Failure** or **Privacy Event** which compromises or potentially compromises data stored on the **Company's Computer System**, including any **Personal Information**.

(J) **Data Breach Expenses** means reasonable expenses incurred by the **Company**:

(1) to retain third-party computer forensic services to determine the scope of a **Security Failure**;

(2) to comply with **Privacy Regulations**, including but not limited to consumer notification requirements;

(3) to retain the services of a public relations firm or crisis management firm solely for the purpose of issuing communications to mitigate the adverse effects to the **Company's** reputation caused by a **Data Breach**;

(4) to retain the services of a law firm solely:

(a) for the purpose of issuing communications to mitigate the adverse effects to the **Company's** reputation caused by a **Data Breach**, or

(b) to determine the **Company's** indemnification rights under a written agreement with an **Independent Contractor** in connection with a **Privacy Event**; or

- (5) for credit monitoring services following the disclosure of **Personal Information**, but only if such disclosure could result in the opening of an unauthorized line of credit or other financial account.

**Data Breach Expenses** also means **Voluntary Notification Expenses**.

- (K) **Defense Costs** means reasonable fees, costs and expenses (including premiums for any appeal bond, attachment bond or similar bond) incurred by an **Insured** in the investigation, adjustment, defense or appeal of a **Claim** against the **Insured**.
- (L) **Executive** means any director, officer, managing member or manager (or functionally equivalent position) of the **Company**.
- (M) **Extortion Expenses** means reasonable expenses incurred by the **Company** for the purpose of terminating a **Network Threat**, including monies paid to the person(s) reasonably believed to be responsible for such **Network Threat**.
- (N) **First-Party Amounts** means **Data Breach Expenses** and **Extortion Expenses**.
- (O) **Independent Contractor** means any natural-person contractor engaged by the **Company** pursuant to a written agreement.
- (P) **Insured** means:
- (1) the **Company**;
  - (2) any **Insured Person**; and
  - (3) any **Independent Contractor**, but only while such person is performing duties within the scope of his or her engagement by the **Company** and only if the **Company** is legally responsible for his or her actions.
- (Q) **Insured Person** means any natural person during any time he or she holds or held the position of **Executive** or employee of the **Company**.
- (R) **Liability Insuring Agreement** means INSURING AGREEMENT (A) and/or (B).
- (S) **Loss** means **Damages**, **Defense Costs** and **First-Party Amounts**; provided, that **Loss** will not include any:
1. salaries, wages, benefits or overhead expenses of an **Insured**, or fees, costs, expenses or other compensation charged by or paid to an **Insured**;
  2. taxes, fines, penalties or sanctions, other than **Damages** described in Subsections (2) and (3) of DEFINITION (H);
  3. multiple damages;
  4. profit or financial advantage to which an **Insured** was not legally entitled, or amounts which constitute disgorgement or restitution (including but not limited to the return of any fees, costs, expenses or other compensation charged by or paid to an **Insured**);
  5. amounts incurred in connection with injunctive or non-monetary relief, other than:
    - a. **Consumer Redress Funds**, or
    - b. **Data Breach Expenses** described in Subsections (2) and (5) of DEFINITION (J);
  6. amounts incurred to design, upgrade or otherwise maintain a **Computer System**, or to correct or prevent deficiencies, malfunctions or programming errors in any software or **Computer System**;
  7. amounts incurred to replace, restore or recollect data on the **Company's Computer System**;

8. amounts incurred to repair, remove, recall or update the **Company's** goods or products, or to correct, complete or re-perform services by an **Insured** (or services under the **Insured's** supervision);
9. money or other items of value lost or stolen from an **Insured** (including but not limited to electronic fund transfers from an **Insured's** account or an account under the **Insured's** care, custody or control), or amounts representing the change in value of any account;
10. royalties, liquidated damages or contractual penalties (however denominated); or
11. amounts which are uninsurable under the law pursuant to which this Policy is construed.

(T) **Named Corporation** means the entity designated as such in Item 1 of the Declarations.

(U) **Network Threat** means any credible communication received by the **Company** from a third party attempting to extort money or other items of value from the **Company** by threatening to:

- (1) unlawfully access the **Company's Computer System** and destroy, publicly disclose or make unauthorized use of **Personal Information**, or
- (2) intentionally cause a **Security Failure**;

provided, that **Network Threat** will not include any such attempt made with the assistance or acquiescence of an **Executive**.

(V) **Personal Information** means:

- (1) an individual's name, social security number, medical or healthcare data or other protected health information, driver's license number, state identification number, address, telephone number, credit card or debit card number, or account number, history or password, and
- (2) any other nonpublic personal information as defined in **Privacy Regulations**;

provided, that **Personal Information** will not include information that is lawfully made available to the general public for any reason, including but not limited to information in government records.

(W) **Policy Period** means the period set forth in Item 2 of the Declarations, subject to prior termination or cancellation pursuant to CONDITION (E).

(X) **Pollutants** means any type of pollution, seepage or contamination, including but not limited to any solid, liquid, gaseous or thermal irritant or contaminant, asbestos or nuclear material, smoke, vapor, soot, fumes, mold, acids, alkalis, chemicals or waste, or materials to be recycled, reconditioned or reclaimed.

(Y) **Privacy Event** means any:

- (1) loss, theft or unauthorized disclosure of:
  - (a) **Personal Information**, or
  - (b) third-party corporate information provided to the **Insureds** and specifically identified as confidential and protected under a nondisclosure agreement or similar contract with the **Company**; or
- (2) violation of a **Privacy Regulation**;

provided, that **Privacy Event** will not include any such loss, theft, disclosure or violation made with the assistance or acquiescence of an **Executive**.

(Z) **Privacy Regulation** means any of the following statutes or regulations, to the extent they relate to the care, custody, control or use of personally identifiable financial, medical or other sensitive information:

- (1) the Health Insurance Portability and Accountability Act of 1996;
- (2) the Health Information Technology for Economic and Clinical Health Act;

- (3) the Gramm-Leach-Bliley Act of 1999;
  - (4) the California Database Breach Notification Security Act (SB 1386);
  - (5) Massachusetts 201 CMR 17 (Standards for the Protection of Personal Information of Residents of the Commonwealth);
  - (6) the Red Flags Rule issued under the Fair and Accurate Credit Transactions Act of 2003; and
  - (7) any other similar identity theft and privacy protection legislation which requires commercial entities that collect personally identifiable financial, medical or other sensitive information to post privacy policies, adopt specific privacy or security controls, or notify individuals in the event such information has potentially been compromised.
- (AA) **Regulatory Fines** means civil fines or penalties imposed in a **Regulatory Proceeding** by order of a governmental entity in its regulatory capacity.
- (BB) **Regulatory Proceeding** means an administrative or regulatory proceeding brought by a governmental entity commenced by the filing of a notice of charges, formal investigative order or similar document, including a formal request for information concerning an **Insured's Wrongful Acts**.
- (CC) **Retroactive Date** means, with respect to each INSURING AGREEMENT, the applicable date indicated under Item 3(a) of the Declarations.
- (DD) **Security Failure** means any:
- (1) unauthorized access to or unauthorized use of,
  - (2) denial of service attack by a third party directed against, or
  - (3) transmission of unauthorized, corrupting or harmful software code to,
- the **Company's Computer System**; provided, that **Security Failure** will not include any such access, use, attack or transmission made with the assistance or acquiescence of an **Executive**.
- (EE) **Subsidiary** means any entity:
- (1) during any time on or before the inception of the **Policy Period** in which the **Named Corporation** owns or owned more than 50% of the issued and outstanding securities representing the right to vote for election of such entity's directors (or the legal equivalent thereof), or
  - (2) subject to CONDITION (F)(3), created or acquired during the **Policy Period** during any time in which, as a result of such creation or acquisition, the **Named Corporation** owns more than 50% of the issued and outstanding securities representing the right to vote for election of such entity's directors (or the legal equivalent thereof),
- either directly or indirectly through one or more other **Subsidiaries**.
- An entity ceases to be a **Subsidiary** when the **Named Corporation** ceases to own more than 50% of the issued and outstanding securities representing the right to vote for election of such entity's directors (or the legal equivalent thereof), either directly or indirectly through one or more other **Subsidiaries**. Coverage under this Policy as to any **Subsidiary** will only be available with respect to **Wrongful Acts** committed or allegedly committed, and **Cyber Events** first occurring, after the effective time such entity became a **Subsidiary** and prior to the time such entity ceases to be a **Subsidiary**.
- (FF) **Voluntary Notification Expenses** means reasonable expenses incurred by the **Company** to voluntarily notify individuals whose **Personal Information** has been wrongfully disclosed.
- (GG) **Wrongful Act** means any actual or alleged act, error, misstatement, misleading statement, neglect, omission or breach of duty by an **Insured** in his, her or its capacity as such.

## EXCLUSIONS

The Insurer will not be liable to make any payment of **Loss**:

- (A) arising out of, based upon or attributable to any criminal, fraudulent, dishonest, malicious or intentional act committed or allegedly committed by an **Insured**, or any intentional or knowing violation of law committed or allegedly committed by an **Insured**; provided, that:
- (1) this EXCLUSION (A) will not apply to **Defense Costs** under INSURING AGREEMENT (A) and/or (B) unless and until such act or violation has been established by a judgment, finding of fact or arbitration against the **Insured**, or an adverse admission or plea of no contest by the **Insured**; and
  - (2) for purposes of determining the application of this EXCLUSION (A) to INSURING AGREEMENT (A) and/or (B), only the **Wrongful Acts**, conduct and knowledge of an **Executive** will be imputed to other **Insureds**;
- (B) arising out of, based upon or attributable to any actual or alleged:
- (1) unauthorized or surreptitious collection of **Personal Information** by an **Insured**;
  - (2) failure by an **Insured** to provide adequate notice that **Personal Information** is being collected; or
  - (3) intentional failure by an **Insured** to provide notice of a loss, theft or disclosure of **Personal Information** in violation of law;
- provided, that for purposes of determining the application of this EXCLUSION (B) to INSURING AGREEMENT (A) and/or (B), only the **Wrongful Acts**, conduct and knowledge of an **Executive** will be imputed to other **Insureds**;
- (C) arising out of, based upon or attributable to any actual or alleged:
- (1) damage to or destruction of any tangible property, including the loss of use thereof; or
  - (2) bodily injury, sickness, mental anguish, emotional distress, shock, pain and suffering, disease or death of any person; provided, that this EXCLUSION (C)(2) will not apply to **Claims** under INSURING AGREEMENT (B) alleging mental anguish, emotional distress, shock, or pain and suffering as the result of a **Privacy Event**;
- (D) arising out of, based upon or attributable to any actual or alleged:
- (1) electrical or mechanical failure or interruption, including but not limited to an electrical disturbance, surge, spike, brownout or blackout;
  - (2) outage to or interruption of gas, water, satellite, cable, telephone, telecommunication or other infrastructure; provided, that this EXCLUSION (D)(2) will not apply to **Claims** under INSURING AGREEMENT (A) alleging that **Wrongful Acts** caused an outage to cable, telephone or telecommunication infrastructure under an **Insured's** direct control;
  - (3) failure or interruption of the internet or any component thereof, including interruption of internet access provided by the internet service provider that hosts the **Company's** website; provided, that this EXCLUSION (D)(3) will not apply to **Extortion Expenses**;
  - (4) fire, smoke, explosion, lightning, wind, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God or any other physical event (however caused); or
  - (5) war, invasion or warlike operations (whether war is declared or not); military or usurped power; nationalization, confiscation or hostile acts by foreign or governmental entities; strikes, lockouts or labor unrest; or riots, revolution, rebellion, insurrection or civil war or commotion;
- (E) arising out of, based upon or attributable to any actual or alleged:
- (1) discrimination of any kind;
  - (2) sexual harassment; or

- (3) employment practice or violation of employment law, including but not limited to wrongful termination, retaliation or any employment-related discrimination, harassment or tort; provided, that this EXCLUSION (E)(3) will not apply to **Claims** under INSURING AGREEMENT (B) brought by an **Insured Person** alleging employment-related mental anguish, emotional distress or invasion of privacy as the result of a **Privacy Event** described in Subsection (1)(a) of DEFINITION (Y);
- (F) arising out of, based upon or attributable to any actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants**, or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**;
- (G) arising out of, based upon or attributable to any actual or alleged violation of the Employee Retirement Income Security Act of 1974 or any similar law (statutory or common), or any rule or regulation promulgated under the foregoing; provided, that this EXCLUSION (G) will not apply to:
- (1) **Data Breach Expenses** described in Subsection (2) of DEFINITION (J); or
  - (2) **Voluntary Notification Expenses**;
- (H) arising out of, based upon or attributable to any actual or alleged violation of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisers Act of 1940, any “blue sky” law or any other securities law (statutory or common), or any rule or regulation promulgated under any of the foregoing;
- (I) arising out of, based upon or attributable to any actual or alleged dissemination of unsolicited electronic communications, including e-mail, texts or faxes, by or on behalf of an **Insured** to multiple customers or clients (actual or prospective) or other third parties, or any actual or alleged violation of the Telephone Consumer Protection Act, any anti-spam law, any law protecting the right of seclusion, or any similar law (statutory or common), or any rule or regulation promulgated under any of the foregoing; provided, that this EXCLUSION (I) will not apply to **Claims** under INSURING AGREEMENT (A) alleging that a hacker disseminated unsolicited electronic communications to multiple customers or clients of the **Company** as part of a **Security Failure** caused by the hacker;
- (J) in connection with any **Claim** brought by or on behalf of, or in the name or right of: any **Insured**; any person or entity for whom an **Insured** is legally responsible; any business entity controlled, managed or operated by an **Insured**; any parent company of the **Named Corporation**; or any entity affiliated with the **Company** through common management control; provided, that this EXCLUSION (J) will not apply to **Claims** under INSURING AGREEMENT (B) brought by an **Insured Person**:
- (1) in his or her capacity as a customer or client of the **Company**; or
  - (2) alleging a **Privacy Event** described in Subsection (1)(a) of DEFINITION (Y);
- (K) in connection with any **Claim** brought by or on behalf of, or in the name or right of, any governmental entity, any self-regulatory organization, or any professional or licensing organization (including but not limited to Broadcast Music, Inc., or the American Society of Composers, Authors and Publishers); provided, that this EXCLUSION (K) will not apply to **Regulatory Proceedings**;
- (L) arising out of, based upon or attributable to any actual or alleged violation, infringement, invalidity, misappropriation or unauthorized use or taking of any patent, copyright, trademark, trade secret or any other intellectual property;
- (M) arising out of, based upon or attributable to any actual or alleged contractual liability assumed by an **Insured**, or any actual or alleged breach of any contract, agreement, warranty, guarantee or promise by an **Insured**; provided, that this EXCLUSION (M) will not apply:
- (1) to **Claims** under INSURING AGREEMENT (B) alleging a **Privacy Event** described in Subsection (1)(b) of DEFINITION (Y); or
  - (2) to the extent the **Insured** would have been liable in the absence of such contract, agreement, warranty, guarantee or promise;

- (N) arising out of, based upon or attributable to any actual or alleged:
- (1) rendering of or failure to render any professional service by an **Insured** to a customer, client or other third party (including but not limited to information technology services or advertising services);
  - (2) inaccurate, incomplete or misleading estimate or description by an **Insured** regarding profitability, cost savings, pricing, fees, expenses or other charges, or failure of an **Insured** to meet deadlines;
  - (3) failure of an **Insured's** goods, products or services to conform to advertised or intended quality, function or performance; or
  - (4) inability to use or non-performance of a software program, if:
    - (a) such software is in development, testing or "beta" stage or otherwise has not been authorized for general commercial release; or
    - (b) such inability or non-performance is due to the software's expiration or the software vendor's withdrawal of technical support;
- (O) arising out of, based upon or attributable to any actual or alleged price fixing, unfair competition, restraint of trade, monopolization, unfair trade practice, deceptive business practice, consumer fraud, or false or deceptive advertising, or any actual or alleged violation of the Federal Trade Commission Act, the Sherman Antitrust Act, the Clayton Act, Section 605 or 616 of the Fair Credit Reporting Act, or any similar law (statutory or common), or any rule or regulation promulgated under any of the foregoing;
- (P) arising out of, based upon or attributable to facts or circumstances alleged, or the same or related **Wrongful Acts** or **Cyber Events** alleged or contained, in any matter which has been reported, or with respect to which any notice has been given, under any policy of which this Policy is a renewal or replacement or which it may succeed in time;
- (Q) arising out of, based upon or attributable to any pending or prior litigation, proceeding or demand as of the inception date of this Policy, or alleging or derived from the same or essentially the same facts or circumstances alleged in such pending or prior litigation, proceeding or demand; or
- (R) arising out of, based upon or attributable to any fact or circumstance which occurred or allegedly occurred, or **Wrongful Act** committed or allegedly committed, prior to the inception date of this Policy if, as of such date, any **Executive** knew or could have reasonably foreseen that such fact, circumstance or **Wrongful Act** could give rise to a **Claim** against an **Insured** or a **Cyber Event**.

#### EXTENSIONS

- (A) **Discovery Period:** If the Insurer or the **Named Corporation** cancels or fails to renew this Policy, any **Insured** will have the right, upon payment of the Discovery Period Premium set forth in Item 6(a) of the Declarations, to an extension of the coverage granted by the **Liability Insuring Agreements** (if purchased) for the period set forth in Item 6(b) of the Declarations following the effective date of such cancellation or non-renewal (the "Discovery Period"). If purchased, the Discovery Period will operate as an extension of coverage only with respect to **Claims** first made during the Discovery Period for **Wrongful Acts** committed or allegedly committed before the effective date of such cancellation or non-renewal. A written request for the Discovery Period, together with payment of the Discovery Period Premium, must be made within 30 days after the effective date of cancellation or non-renewal. Such Discovery Period Premium will be deemed fully earned as of the inception of the Discovery Period. No Discovery Period will be available if this Policy is cancelled for non-payment of premium. The Discovery Period does not provide an additional Limit of Liability and will not increase or reinstate any Limit of Liability.
- (B) **Estates and Representatives:** Subject to this Policy's terms and conditions, the **Liability Insuring Agreements** (if purchased) will afford coverage for a **Claim** for **Wrongful Acts** of an **Insured Person**



if such **Claim** is made against the estates, heirs, legal representatives or assigns of an **Insured Person** who is deceased or against the legal representatives or assigns of an **Insured Person** who is incompetent, insolvent or bankrupt, to the extent that such **Claim**, if brought against such **Insured Person**, would have been covered in the absence of such death, incompetence, insolvency or bankruptcy. This coverage extension will not apply to the extent the **Claim** alleges any act, error, misstatement, misleading statement, neglect, omission or breach of duty by any party other than the **Insured Person**.

- (C) Spouse or Domestic Partner: Subject to this Policy's terms and conditions, the **Liability Insuring Agreements** (if purchased) will afford coverage for a **Claim** for **Wrongful Acts** of an **Insured Person** if such **Claim** is made against such **Insured Person's** lawful spouse or domestic partner solely by reason of such person's status as spouse or domestic partner or his or her ownership interest in property which the claimant seeks as recovery for the **Wrongful Acts** of the **Insured Person**. This coverage extension will not apply to the extent the **Claim** alleges any act, error, misstatement, misleading statement, neglect, omission or breach of duty by any party other than the **Insured Person**.

## CONDITIONS

(A) Coverages, Limits of Liability and Retentions

- (1) Coverage is available under an INSURING AGREEMENT only if such INSURING AGREEMENT has been purchased, as indicated in Item 3(a) of the Declarations. **Damages** and **Defense Costs** are payable under the **Liability Insuring Agreements** only. **Data Breach Expenses** are payable under INSURING AGREEMENT (C) only. **Extortion Expenses** are payable under INSURING AGREEMENT (D) only.
- (2) The Insurer's maximum aggregate liability under this Policy for all **Loss** under all INSURING AGREEMENTS combined will not exceed the Policy Limit of Liability set forth in Item 3(c) of the Declarations. In no event shall the Insurer be liable for any amount in excess of the Policy Limit of Liability. Moreover, if the schedule under Item 3(a) of the Declarations indicates that a Sublimit applies to an INSURING AGREEMENT:
  - (a) the Insurer's maximum aggregate liability under INSURING AGREEMENT (A) for all **Damages** and **Defense Costs** on account of all **Claims** will not exceed the Sublimit indicated for INSURING AGREEMENT (A);
  - (b) the Insurer's maximum aggregate liability under INSURING AGREEMENT (B) for all **Damages** and **Defense Costs** on account of all **Claims** will not exceed the Sublimit indicated for INSURING AGREEMENT (B);
  - (c) the Insurer's maximum aggregate liability under INSURING AGREEMENT (C) for all **Data Breach Expenses** on account of all **Data Breaches** will not exceed the Sublimit indicated for INSURING AGREEMENT (C); and
  - (d) the Insurer's maximum aggregate liability under INSURING AGREEMENT (D) for all **Extortion Expenses** on account of all **Network Threats** will not exceed the Sublimit indicated for INSURING AGREEMENT (D).

Any Sublimit set forth under Item 3(a) of the Declarations is part of, and not in addition to, the Policy Limit of Liability set forth in Item 3(c) of the Declarations. Any payment of **Damages**, **Defense Costs** and/or **First-Party Amounts** under this Policy will reduce the Policy Limit of Liability as well as any applicable Sublimit.

- (3) The Insurer's maximum aggregate liability under this Policy for all **Defense Costs** and all **Damages**, other than **Consumer Redress Funds**, on account of all **Regulatory Proceedings** will not exceed the Regulatory Sublimit set forth in Item 3(b) of the Declarations. Moreover, if the schedule under Item 3(a) of the Declarations indicates a Sublimit applies to INSURING AGREEMENT (A) or (B), the Regulatory Sublimit further will be part of, and not in addition to, such Sublimit applicable to INSURING AGREEMENT (A) or (B). **Consumer Redress Funds** are not subject to the Regulatory Sublimit, but are subject to the Policy Limit of Liability as well as any Sublimit applicable to INSURING AGREEMENT (A) or (B).

- (4) This Policy's coverage for **Defense Costs** is not in addition to any Limit of Liability; **Defense Costs** are subject to the Policy Limit of Liability as well as any applicable Sublimit. **Defense Costs**, as incurred, will also be applied against the Retention.
- (5) With respect to each **Claim** or **Cyber Event**, the Insurer will be liable only for the amount of **Loss** in excess of the applicable Retention indicated under Item 3(a) of the Declarations. One Retention amount will apply to the covered portion of each and every single **Claim** or **Cyber Event**. If a single matter is subject to multiple Retentions under this Policy, each Retention will be applied separately to the relevant portion of the matter, and the sum of the Retentions so applied will constitute the Retention for such matter, which in total will not exceed the largest of the applicable Retentions. Retentions are to be borne by the **Insureds** and remain uninsured.

(B) Notice and Reporting Provisions

- (1) As a condition precedent to the obligations of the Insurer under the **Liability Insuring Agreements**, the **Insureds** must give the Insurer written notice of any **Claim**, including full details, as soon as practicable, but in no event later than:
  - (a) 30 days after expiration of the **Policy Period**, or
  - (b) expiration of the Discovery Period (if purchased).
- (2) As a condition precedent to the obligations of the Insurer under INSURING AGREEMENT (C), the **Insureds** must give the Insurer written notice of any **Data Breach**, including full details, as soon as practicable. As a condition precedent to the obligations of the Insurer under INSURING AGREEMENT (D), the **Insureds** must give the Insurer written notice of any **Network Threat**, including full details, as soon as practicable.
- (3) If, during the **Policy Period**, the **Insureds** become aware of any circumstances which may reasonably be expected to give rise to a **Claim** against the **Insureds** and if, before the end of the **Policy Period** or the Discovery Period (if purchased), the **Insureds** give written notice to the Insurer of the circumstances and the reasons for anticipating such a **Claim**, with full particulars as to dates, persons and entities involved, potential claimants and the consequences which have resulted or may result from such circumstances, then any **Claim** subsequently made against the **Insureds** and reported to the Insurer alleging, arising out of, based upon or attributable to such circumstances or alleging any **Wrongful Act** which is the same as or related to any **Wrongful Act** described in such notice will be considered to have been made at the time such notice of circumstances was given.
- (4) All notices under this CONDITION (B) must be in writing, must refer to the Policy Number, must request coverage under the applicable INSURING AGREEMENT(S), and must be given by certified mail or prepaid express courier, facsimile, or electronic mail to the street address, facsimile number, or e-mail address set forth in Item 5 of the Declarations. The date of the Insurer's receipt of such notice will constitute the date of notice.

(C) Interrelationship of Claims and Cyber Events: All **Claims** and **Cyber Events** alleging, arising out of, based upon or attributable to the same **Wrongful Acts**, facts, circumstances, situations, transactions or events, or a series of related **Wrongful Acts**, facts, circumstances, situations, transactions or events, will be considered to be a single **Claim** or **Cyber Event** and will be considered to have been made or to have occurred (as applicable) at the time the earliest such **Claim** was made or the earliest such **Cyber Event** occurred.

(D) No Duty to Defend; Insurer Consent; Allocation

- (1) The Insurer has no duty to defend under this Policy. The **Insureds** must defend any **Claim** against them, and must defend or otherwise respond to any **Cyber Event**. Except as expressly provided in CONDITION (D)(2) below, the **Insureds** may not admit or assume any liability, enter into any settlement agreement, stipulate to any judgment, or incur any **Defense Costs** or **First-Party Amounts** without the Insurer's prior written consent; only those settlements, stipulated judgments, **Defense Costs** and **First-Party Amounts** to which the Insurer has consented will be recoverable as **Loss** under this Policy. The Insurer's consent may not be

unreasonably withheld; provided, that the Insurer will be entitled to effectively associate in the defense of and settlement negotiations for any **Claim**, and in the disposition or resolution of any **Cyber Event**.

- (2) The **Company** may incur **Data Breach Expenses**, other than **Voluntary Notification Expenses**, without the Insurer's consent; however, the Insurer will be obligated to reimburse the **Company** only for **Data Breach Expenses** that the Insurer, in its sole discretion, determines to have been reasonable in light of the **Data Breach** at issue.
- (3) The Insurer will pay covered **Defense Costs** on an as-incurred basis. If it is finally determined that any **Defense Costs** paid by the Insurer are not covered under this Policy, the **Insureds** agree to repay such non-covered amounts to the Insurer.
- (4) If **Loss** covered by this Policy and loss not covered by this Policy are both incurred in connection with a single **Claim** or **Cyber Event** because such **Claim** or **Cyber Event** includes both covered and uncovered matters, then the **Insureds** and the Insurer agree to use their best efforts to determine a fair and proper allocation of all such amounts, taking into account the relative legal and financial exposures presented and the relative benefits to be obtained by resolution or disposition of such **Claim** or **Cyber Event**. The Insurer will be obligated to pay only those amounts or portions of **Loss** allocated to covered matters under this Policy. If the **Insureds** and the Insurer are unable to agree upon an allocation, then until a final allocation is agreed upon or determined pursuant to the provisions of this Policy and applicable law, the Insurer will be obligated to make an interim payment of that amount or portion of **Loss** (including **Defense Costs**) which the parties agree is not in dispute.

(E) Cancellation or Non-Renewal

- (1) The Insurer may cancel this Policy by sending not less than 60 days notice (10 days in the event of non-payment of premium) to the **Named Corporation** at its last known address. The **Named Corporation** may cancel this Policy by mailing the Insurer written notice stating when such cancellation will be effective; provided, that the **Named Corporation** may not cancel this Policy after the effective time of any Change in Control described in CONDITION (F)(1) below.
- (2) If the Insurer cancels this Policy, the Insurer will retain a pro rata portion of the premium. If the **Named Corporation** cancels this Policy, the Insurer will retain the customary short rate premium. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment of unearned premium is not a condition of cancellation.
- (3) If the Insurer elects not to renew this Policy, the Insurer must give the **Named Corporation** notice of non-renewal no less than 60 days before the end of the **Policy Period**.
- (4) If any notice period referenced in this CONDITION (E) is prohibited or made void by any law controlling the construction thereof, such period will be deemed amended to be equal to the minimum period permitted by such law.

(F) Changes in Exposure

- (1) If, during the **Policy Period**, any of the following transactions or events (each a "Change in Control") occurs with respect to the **Named Corporation**:
  - (a) the **Named Corporation** merges into or consolidates with another entity such that the **Named Corporation** is not the surviving entity, or
  - (b) another entity, person or group of entities and/or persons acting in concert acquires securities or voting rights which result in ownership or voting control by the other entity(ies) or person(s) of more than 50% of the outstanding securities representing the present right to vote for election of the **Named Corporation's** directors (or the legal equivalent thereof),

then the premium for this Policy will be fully earned and coverage will continue until the end of the **Policy Period**, but only with respect to **Wrongful Acts** committed or allegedly committed, and **Cyber Events** that first occurred, before the effective time of such Change in

Control. Coverage shall cease with respect to any **Wrongful Act** committed or allegedly committed, and any **Cyber Event** first occurring, after the effective time of such Change in Control.

- (2) If, during the **Policy Period**, an entity ceases to be a **Subsidiary** (a “Change in Control”), then coverage as to such entity will continue until the end of the **Policy Period**, but only with respect to **Wrongful Acts** committed or allegedly committed, and **Cyber Events** that first occurred, before the effective time of such Change in Control. Coverage as to such **Subsidiary** shall cease with respect to any **Wrongful Act** committed or allegedly committed, and any **Cyber Event** first occurring, after the effective time of such Change in Control.
- (3) If, during the **Policy Period**, the **Company** creates or acquires an entity as described in Subsection (2) of DEFINITION (EE) (a “New Entity”) and at the effective time of such transaction, the New Entity’s assets and/or liabilities exceed 10% of the total assets and/or liabilities of the **Company** as reflected in the **Company’s** most recent audited consolidated financial statements, then the New Entity will be deemed a **Subsidiary** under this Policy for a period of 60 days following the effective time of such transaction, but only with respect to **Wrongful Acts** committed or allegedly committed, and **Cyber Events** first occurring, after the effective time of such transaction. The New Entity will not be deemed a **Subsidiary** beyond such 60-day period and coverage shall cease unless the Insurer has received written notice containing full details of such transaction and has agreed to provide coverage beyond such 60-day period with respect to such New Entity.

(G) Other Insurance: Except for policies written specifically excess over this Policy, such coverage as is provided by this Policy will apply only as excess over and will not contribute with any other valid and collectible insurance.

(H) Cooperation, Subrogation and System Maintenance

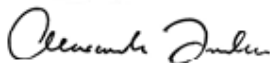
- (1) In the event of any notice under CONDITION (B), the **Insureds** will give the Insurer all information, assistance and cooperation that the Insurer reasonably requests. The **Insureds** will promptly record the details of any **Claim** or **Cyber Event** for which coverage may be sought under this Policy, will grant the Insurer reasonable access to the **Company’s** books and records, and will permit the Insurer to question the **Insureds** under oath at such times as may be reasonably required.
- (2) In the event of any payment under this Policy, the Insurer will be subrogated to the extent of such payment to all of the **Insureds’** rights of recovery. The **Insureds** must execute all papers required and do everything necessary to secure such rights and to enable the Insurer to bring suit in their name.
- (3) The **Insureds** must protect, secure and maintain the **Company’s Computer System** in good order and will take reasonable steps and measures to mitigate **Loss** in the event of a **Claim** or **Cyber Event**. Upon request, the **Insureds** will grant the Insurer reasonable opportunity to inspect the **Company’s Computer System**. The **Insureds** will not take any action (or fail to take any action) which prejudices the Insurer’s position or increases the Insurer’s exposure under this Policy.

(I) Interpretation; Dispute Resolution

- (1) The terms and conditions of this Policy will be interpreted and construed in an evenhanded fashion between the **Insureds** and the Insurer. If any term or condition is deemed to be ambiguous or otherwise unclear, the issue will be resolved in the manner most consistent with such term or condition, without regard to authorship of language, without any presumption or arbitrary interpretation or construction in favor of either party, and without reference to either party’s expectations. No action may be taken against the Insurer unless, as a condition precedent thereto, there has been full compliance with all of the terms and conditions of this Policy. No person or entity will have any right under this Policy to join the Insurer as a party to any action against the **Insureds** to determine the Insurer’s liability, nor may the Insurer be impleaded by the **Insureds** or their legal representatives in any such action.

- (2) Upon request of either the **Named Corporation** or the Insurer, the **Insureds** and the Insurer shall submit any dispute or controversy involving this Policy to non-binding mediation. Unless otherwise agreed by the parties, such non-binding mediation will be administered by the American Arbitration Association in accordance with its then-prevailing Commercial Mediation Rules. The mediator's fees and other common expenses of the mediation process will be shared equally between the parties to the mediation. If the dispute or controversy is not resolved in such mediation, then either party to the mediation may commence a judicial proceeding against the other, but not earlier than 90 days following termination of the mediation.
- (J) Entire Agreement; Amendments; Authority: The **Insureds** and the Insurer agree that this Policy, including the **Application**, Declarations and any endorsements, constitutes the entire agreement between the parties with respect to this insurance (The titles and headings to various provisions of this Policy are solely for ease of reference and form no part of the terms and conditions of coverage). This Policy cannot be amended or assigned, and no provision of it may be waived, except by written endorsement issued to form a part of the Policy. Notice to any agent or knowledge possessed by any other person acting on behalf of the Insurer will not effect an amendment or waiver of any provision of this Policy, nor will it stop the Insurer from asserting any right hereunder. By acceptance of this Policy, the **Insureds** agree that the **Named Corporation** may act on behalf of all **Insureds** with respect to this insurance.
- (K) Representations and Severability: The **Insureds** represent that the particulars and statements contained in the **Application** are true, accurate and complete. This Policy is issued in reliance upon the truth of such representations. If any of the particulars or statements in the **Application** is untrue, this Policy will be void with respect to any **Insured** who knew of such untruth or to whom such knowledge is imputed. For purposes of the foregoing, only the knowledge and information possessed by an **Executive** will be imputed to other **Insureds**.
- (L) Territory: This Policy applies worldwide.

In witness whereof, the Insurer has caused this Policy to be executed by its authorized officers, but this Policy will not be valid unless countersigned on the Declarations Page by a duly authorized representative of the Insurer.



Secretary



President