

Cyber Insurance Policy

Insurance coverage underwritten by Clear Blue Insurance Company |

Considerations:

Wherever appearing throughout this **Policy**, the words "we," "us," and "our" refer to the insurer providing this insurance and "Declaration" and "Declarations" refer to the Cyber Insurance **Policy** Declarations. Terms which appear in bold face type shall have the meanings set forth in Section V. Definitions.

In consideration of payment of the premium, in reliance upon representations and statements in the information and materials provided to us in connection with the underwriting and issuance of this **Policy**, and pursuant to the terms, provisions, and conditions of this **Policy**, we and the **Insureds** agree as follows:

(NYFTZ_STAMP)

I. INSURING AGREEMENTS

Coverage is afforded pursuant to those Insuring Agreements included under this **Policy**, displayed as “Included” in ITEM 7 of the Declarations:

A. Information Privacy

1. Information Privacy Liability

We shall pay on behalf of the **Insured**, all **Claim Expenses** and **Damages** resulting from a **Claim** first made against any **Insured** during the **Policy Period** for an **Information Privacy Event**.

2. Regulatory Liability

We shall pay on behalf of the **Insured**, all **Claim Expenses**, **Regulatory Penalties**, and **Regulatory Assessments and Expenses** resulting from a **Regulatory Claim** first made against any **Insured** during the **Policy Period** for an **Information Privacy Event**.

3. PCI-DSS Liability

We shall pay on behalf of the **Insured Organization**, all **PCI-DSS Penalties**, **PCI-DSS Response Expenses**, and **Claim Expenses** resulting from a **PCI-DSS Claim** first made against the **Insured Organization** during the **Policy Period** for an **Information Privacy Event**.

B. Network Security

1. Network Security Liability

We shall pay on behalf of the **Insured**, all **Claim Expenses** and **Damages** resulting from a **Claim** first made against any **Insured** during the **Policy Period** for a **Network Security Event**.

C. Event Response and Management

1. Event Response and Management

We shall pay on behalf of the **Insured Organization**, all **Technical Response Loss**, **Legal Services Loss**, **Public Relations Loss**, **Notification Loss**, **Reward Expense Loss**, and **Credit Monitoring Loss** incurred by the **Insured Organization** as a result of an actual or reasonably suspected **Information Privacy Event** or **Network Security Event** first discovered by the **Insured** during the **Policy Period**.

D. Data Recovery

1. Data Recovery

We shall pay on behalf of the **Insured Organization**, all **Data Recovery Loss** and **System Restoration Loss** incurred by the **Insured Organization** as a direct result of a **Network Security Event** first discovered by the **Insured** during the **Policy Period**.

E. Business Interruption

1. Direct Business Interruption

We shall indemnify the **Insured Organization** for **Business Interruption Loss** and **Extra Expense** incurred by the **Insured Organization** as a direct result of a **System Disruption** caused by a **Network Security Event** or **Information Privacy Event** that the **Insured** first discovers during the **Policy Period**.

2. Contingent Business Interruption

We shall indemnify the **Insured Organization** for **Contingent Business Interruption Loss** and **Extra Expense** incurred by the **Insured Organization** as a direct result of a **System Disruption** caused by a **Network Security Event** or **Information Privacy Event** that the **Insured** first discovers during the **Policy Period**.

3. Direct System Failure

We shall indemnify the **Insured Organization** for **Business Interruption Loss** and **Extra Expense** incurred by the **Insured Organization** as a direct result of a **System Disruption** caused by a **System Failure** that the **Insured** first discovers during the **Policy Period**.

4. Contingent System Failure

We shall indemnify the **Insured Organization** for **Contingent Business Interruption Loss** and **Extra Expense** incurred by the **Insured Organization** as a direct result of a **System Disruption** caused by a **System Failure** that the **Insured** first discovers during the **Policy Period**.

F. Reputational Harm

1. Reputational Harm

We shall indemnify the **Insured Organization** for **Reputational Harm Loss** and **Public Relations Loss** as a direct result of an **Adverse Publication** that first occurs during the **Policy Period**.

G. Cyber Extortion

1. Cyber Extortion

We shall indemnify the **Insured Organization** for all **Extortion Loss**, **Reward Expense Loss**, and **Public Relations Loss** incurred by the **Insured Organization** as a direct result of an **Extortion Threat** against an **Insured Organization** that the **Insured** first discovers during the **Policy Period**.

H. Financial and Utility Fraud

1. Financial Fraud and Social Engineering

We shall indemnify the **Insured Organization** for:

- a. **Fraudulent Inducement Loss** as a direct result of **Fraudulent Inducement Instructions** that are received and accepted during the **Policy Period**;
- b. **Computer Crime Loss** as a direct result of **Computer Crime**;
- c. **Invoice Loss** as a direct result of **Invoice Manipulation**; and
- d. **Reward Expense Loss** as a direct result of **Fraudulent Inducement Instructions**, **Computer Crime**, or **Invoice Manipulation**;

provided that the **Insured** first discovers such **Fraudulent Inducement Instructions, Computer Crime, or Invoice Manipulation** during the **Policy Period**.

2. Utility Fraud

We shall indemnify the **Insured Organization** for **Utility Loss** as a direct result of **Cryptojacking** or **Telephone Fraud**; provided that the **Insured** first discovers such **Cryptojacking** or **Telephone Fraud** during the **Policy Period**.

I. Media Content

1. Media Liability

We shall pay on behalf of the **Insured**, all **Claim Expenses** and **Damages** resulting from a **Claim** first made against any **Insured** during the **Policy Period** for a **Media Wrongful Act**.

II. LIMITS OF INSURANCE

A. Aggregate Limit of Insurance

1. The Aggregate Limit of Insurance stated in ITEM 4 of the Declarations is our maximum liability under this **Policy** for the duration of the **Policy Period**.
2. We will have no further obligations or liability under this **Policy** upon exhaustion of the Aggregate Limit of Insurance, including the continuation of payment of **Loss** or the duty to defend or investigate any **Claim**.

B. Sub-Limits of Insurance

1. The amounts stated as Sub-Limits of Insurance in ITEM 7 of the Declarations, which are part of and not in addition to the Aggregate Limit of Insurance, are the most we will pay for all **Loss** in excess of the Retention with respect to such Insuring Agreement, and we will not be responsible to pay any **Loss** under such Insuring Agreement upon exhaustion of such Sub-Limit of Insurance.

C. Per Event Limit of Insurance

1. The maximum amount we shall pay for all **Loss** for any:
 - a. single **Cyber Event** or **Claim**;
 - b. or multiple **Cyber Events** or **Claims** arising out of the same, similar, or a continuous nexus of facts, circumstances, acts, errors, or omissions,

will be the Per Event Limit in ITEM 5 of the Declarations, regardless of whether such **Loss** is covered under more than one Insuring Agreement. The Per Event Limit is part of, and not in addition to, the Aggregate Limit of Insurance.

2. If the amount available for any Sub-Limit of Insurance, as set forth in Section II.B.1., is less than the Per Event Limit, the applicable Sub-Limit of Insurance is the maximum amount we will pay for all **Loss** under the Insuring Agreement to which such Sub-Limit of Insurance applies, but in no event will we pay more than the Per Event Limit for any **Loss** covered under more than one Insuring Agreement.

D. Non-Stacking of Limits

1. In the event that any **Claim** or **Loss** resulting from:
 - a. any act, error, omission, incident, circumstance, or **Cyber Event**; or
 - b. multiple acts, errors, omissions, incidents, circumstances, or **Cyber Events** arising out of the same, similar, or continuous nexus of facts, circumstances, acts, errors, or omissions,is covered under this **Policy** and any other policy issued by us, our liability under this **Policy** and such other policy combined shall not exceed the amount of the largest Aggregate Limit of Insurance.

III. RETENTION

1. The Retention applies separately to each **Claim** or **Cyber Event**. Our liability shall apply only to that portion of covered **Loss** in excess of the applicable Retention. The Retention must be paid by the **Named Insured** and cannot be insured. The Retention is eroded only by covered **Loss**.
2. Under Insuring Agreement I.E., Business Interruption, the Retention shall be the amount of **Business Interruption Loss**, **Contingent Business Interruption Loss**, and **Extra Expense** incurred by the **Insured Organization** during the **Waiting Period**. We will then indemnify the **Insured Organization** for all **Business Interruption Loss**, **Contingent Business Interruption Loss**, and **Extra Expense** incurred by the **Insured Organization** during the **Period of Restoration** after the **Waiting Period** has elapsed.
3. With the exception of **Business Interruption Loss**, **Contingent Business Interruption Loss**, and **Extra Expense** under Insuring Agreement I.E., Business Interruption, if any covered **Loss** is subject to more than one Retention, the largest applicable Retention amount shall apply as a single Retention for all **Loss**.

IV. DEFENSE & SETTLEMENT OF CLAIMS

A. Defense

1. We have the right and duty to defend any **Claim** covered under this **Policy**, even if the allegations are groundless, false, or fraudulent.
2. We will consult with the **Insured** regarding the appointment of counsel in the investigation and defense of any **Claim**, but we retain the right to appoint counsel and to investigate and defend any **Claim** as we deem necessary.

B. Settlement

1. We will not settle any **Claim** without the written consent of the **Insured**. In the event the **Insured** refuses to consent to a settlement recommended by us and acceptable to the claimant(s), then:
 - a. we will pay the sum of all **Damages**, **Regulatory Penalties**, **Regulatory Assessments and Expenses**, **PCI-DSS Penalties**, and **PCI-DSS Response Expenses** for which the **Claim** could have settled plus all **Claim Expenses** incurred up to the time we made our recommendation to the **Insured**; and
 - b. we will pay and maintain responsibility for seventy-five percent (75%) of all **Claim Expenses** and **Damages**, **Regulatory Penalties**, **Regulatory Assessments and Expenses**, **PCI-DSS Penalties**,

and **PCI-DSS Response Expenses** that are in excess of the amount referenced in paragraph IV.B.1.a. above.

This condition, IV.B. Settlement, will not apply if the total incurred **Damages, Regulatory Penalties, Regulatory Assessments and Expenses, PCI-DSS Penalties, PCI-DSS Response Expenses, and Claim Expenses** do not exceed the applicable Retention amount.

2. The **Insured** may settle any **Claim** where the total **Loss** does not exceed the Retention, provided that the entire **Claim** is resolved and the **Insured** obtains a full release on behalf of all **Insureds** from all claimants.

C. Allocation

If a **Claim** includes both covered and uncovered matters, then we will be entitled to allocate any **Damages, Regulatory Penalties, Regulatory Assessments and Expenses, PCI-DSS Penalties, and PCI-DSS Response Expenses** between the covered and non-covered portions of the **Claim**.

V. DEFINITIONS

1. **Adverse Publication** means publication by a third party of any medium, including television, print media, radio or electronic networks, the internet, or e-mail, to the general public that states or alleges that an **Insured Organization** has experienced an **Information Privacy Event** or **Network Security Event**.
2. **Bricking** means any software or computer program that is purposefully designed to adversely affect and render any computer hardware or "IoT" device, including any critical computer hardware, components, or software program contained therein, as useless, inaccessible, damaged, or non-functional to an extent which is beyond reasonable repair or restoration.
3. **Business Interruption Loss** means the following amounts actually sustained by an **Insured Organization** during the **Period of Restoration** due to the measurable interruption of **Insured Organization's** business:
 - a. net profit before income taxes that would have been earned had no **System Disruption of Insured Computer Systems** occurred;
 - b. net loss before income taxes that would have been avoided had no **System Disruption of Insured Computer Systems** occurred; and
 - c. the **Insured Organization's** continuing normal operating and payroll expenses, but only to the extent such operating and payroll expenses must necessarily continue during the **Period of Restoration**.

Business Interruption Loss also means reasonable and necessary costs incurred by an **Insured Organization**, with our prior written consent, for a forensic accountant at a **Cyber Response Firm** to determine the amounts of **Business Interruption Loss** described in paragraphs a.– c. above.

Business Interruption Loss does not include: (i) loss arising out of any liability to any third party; (ii) legal costs or legal expenses; (iii) loss incurred due to unfavorable business conditions; (iv) loss of market or any other consequential loss, including loss of goodwill and interest on money withheld by customers; or (v) **Data Recovery Loss** or other costs or expenses to recreate, replace, regain access to, or restore any software or electronic data.

The **Insured** must submit to us written proof of any **Business Interruption Loss** as set forth in Section VII.H., Loss Calculations for Business Interruption and Reputational Harm.

4. **Change of Control** means:

- a. the acquisition by another person, entity, or group of person or entities acting together, of more than fifty percent (50%) of the outstanding securities, or ownership interests representing the majority and present right to control, elect, appoint, or designate the Board of Directors, Board of Trustees, Board of Managers, or functional equivalent thereof, of the **Named Insured**;
- b. the acquisition by another person, entity, or group of person or entities acting together of all, or substantially all, of the **Named Insured's** assets such that the **Named Insured** is not the surviving entity; or
- c. the merger or consolidation of the **Named Insured** into or with another entity or group of entities acting together such that the **Named Insured** is not the surviving entity.

5. **Claim** means:

- a. a written demand, or assertion of liability for monetary damages or non-monetary or injunctive relief;
- b. arbitration, mediation, or similar alternative dispute resolution proceeding commenced by the receipt of a complaint or written demand, seeking monetary damages or non-monetary or injunctive relief;
- c. a request to toll or waive a statute of limitations applicable to a **Claim** referenced in paragraphs a.-b. above;
- d. with respect to Insuring Agreement I.A.2., Regulatory Liability, a **Regulatory Claim**, and with respect to Insuring Agreement I.A.3., PCI-DSS Liability, a **PCI-DSS Claim**; and
- e. with respect to Insuring Agreements I.A.1., Information Privacy Liability, and I.B.1., Network Security Liability, a request by a third party for an **Insured Organization** to comply with its obligation under a written contract to indemnify such third party for **Third Party Event Response Expenses**.

Multiple **Claims** arising out of the same, similar, or a continuous nexus of facts, circumstances, acts, errors, or omissions, will be considered a single **Claim**, and such **Claim** will be considered to have been made on the date the first of such **Claims** was made against an **Insured**.

6. **Claim Expenses** means reasonable and necessary:

- a. attorneys' fees, mediation and arbitration expenses, expert witness and consultant fees, and other fees and costs incurred by us, or by an **Insured** with our prior written consent, in the investigation and defense of a **Claim**; and
- b. premiums for any appeal bond, injunction bond, attachment bond, or any similar bond, although we will have no obligation to furnish such bond.

Claim Expenses do not include:

- c. overhead costs, general business expenses, salaries, or wages incurred by the **Insured**; or
- d. the defense of any criminal investigation or criminal action, or criminal grand jury proceeding.

7. **Computer Crime** means the intentional, fraudulent, or unauthorized input, destruction, or modification of electronic data or computer instructions into **Insured Computer Systems**, by any entity which is not an **Insured Organization** or person who is not an **Insured Person**, that results in **Funds or Securities** belonging to the **Insured Organization** being transferred, paid, or delivered.
8. **Computer Crime Loss** means the **Insured Organization's** loss of **Funds or Securities** belonging to the **Insured Organization**.
9. **Computer System** means **Insured Computer Systems** and **External Computer Systems**.
10. **Contingent Business Interruption Loss** means the following amounts incurred by an **Insured Organization** during the **Period of Restoration** due to the measurable interruption of the **Insured Organization's** business:
 - a. net profit before income taxes that would have been earned had no **System Disruption of External Computer Systems** occurred;
 - b. net loss before income taxes that would have been avoided had no **System Disruption of External Computer Systems** occurred; and
 - c. the **Insured Organization's** continuing normal operating and payroll expenses, but only to the extent such operating and payroll expenses must necessarily continue during the **Period of Restoration**.

Contingent Business Interruption Loss also means reasonable and necessary costs incurred by an **Insured Organization**, with our prior written consent, for a forensic accountant at a **Cyber Response Firm** to determine the amounts of **Contingent Business Interruption Loss** described in paragraphs a.–c. above.

Contingent Business Interruption Loss does not include: (i) loss arising out of any liability to any third party; (ii) legal costs or legal expenses; (iii) loss incurred due to unfavorable business conditions; (iv) loss of market or any other consequential loss, including loss of goodwill and interest on money withheld by customers; or (v) **Data Recovery Loss** or other costs or expenses to recreate, replace, regain access to, or restore any software or electronic data.

The **Insured** must submit to us written proof of any **Contingent Business Interruption Loss** as set forth in Section VII.H., Loss Calculations for Business Interruption and Reputational Harm.

11. **Control Group** means an **Insured Organization's** Chief Executive Officer, Chief Financial Officer, Chief Security Officer, Chief Technology Officer, Chief Information Officer, Risk Manager, General Counsel, or any functionally equivalent positions, regardless of title.
12. **Corporate Information** means any confidential or proprietary information of an entity, other than an **Insured Organization**, which:
 - a. an **Insured Organization** is contractually or legally required to hold or maintain in confidence; or
 - b. is not known or lawfully available to the general public.

Corporate Information does not include **Protected Personal Information**.

13. **Credit Monitoring Loss** means reasonable and necessary costs and expenses incurred by an **Insured Organization**, with our prior written consent, in response to an **Information Privacy Event** for a **Cyber**

Response Firm to provide identity monitoring, credit monitoring, or other identity restoration services for the period of time required by an applicable **Privacy Regulation**, to those natural persons whose **Protected Personal Information** was impacted as a result of an **Information Privacy Event**.

14. **Cryptocurrency** means a digital currency or asset which is electronically stored and transferred, is operated independently of any central bank or other central authority, and requires cryptographic techniques to verify and regulate its transfer and generation.
15. **Cryptojacking** means the gaining of access to, or use of, an **Insured Computer System** by:
 - a. an unauthorized person; or
 - b. an authorized person for purposes not authorized by an **Insured Organization**;to mine for **Cryptocurrency**.
16. **Cyber Event** means an **Information Privacy Event**, **Network Security Event**, **Extortion Threat**, **Fraudulent Inducement Instructions**, **Computer Crime**, **Invoice Manipulation**, **System Failure**, **Cryptojacking**, **Telephone Fraud**, and **Adverse Publication**. Multiple **Cyber Events** arising out of the same, similar, or a continuous nexus of facts, circumstances, acts, errors, or omissions, will be considered one single **Cyber Event** for purposes of this **Policy**, and will be considered first discovered on the date the earliest of such **Cyber Events** is first discovered.
17. **Cyber Response Firm** means any firm listed on our pre-approved service provider list or any firm appointed by us.
18. **Damages** means any amounts an **Insured** becomes legally obligated to pay on account of any **Claim**, including:
 - a. compensatory damages, settlements, and judgments;
 - b. awards of prejudgment and post-judgment interest;
 - c. punitive, exemplary, or multiplied damages to the extent insurable in any jurisdiction which most favors coverage and has a substantial relationship to an **Insured**, us, this **Policy**, or the **Claim**; and
 - d. with respect to Insuring Agreements I.A.1., Information Privacy Liability, and I.B.1., Network Security Liability, **Third Party Event Response Expenses** that the **Insured Organization** is legally obligated to pay under a written contract as a direct result of an **Information Privacy Event** or **Network Security Event**.

Damages do not include:

- e. fines, penalties, taxes, or sanctions imposed against an **Insured**;
- f. future profits, restitution, disgorgement of unjust enrichment or profits by an **Insured**;
- g. return or offset of fees, charges, or commissions charged by or owed to an **Insured** for goods or services already provided or contracted to be provided;
- h. discounts, coupons, prizes, awards, or other incentives offered to the **Insured's** customers or clients;

- i. fines, costs, or other amounts an **Insured** is responsible to pay under a payment processing agreement or merchant services agreement;
 - j. any amounts for which the **Insured** is not liable; or
 - k. costs to comply with any injunctive, remedial, preventative, or other non-monetary or declaratory relief.
19. **Data Recovery Loss** means reasonable and necessary costs and expenses from a **Cyber Response Firm** incurred by an **Insured Organization**, with our prior written consent, to replace, regain access to, or restore from backups, originals, or other sources, corrupted, destroyed, or lost software or electronic data stored on a **Computer System**.

In the event that any corrupted, destroyed, or lost software or electronic data cannot reasonably be replaced, accessed, or restored, then **Data Recovery Loss** means the reasonable and necessary costs incurred by the **Insured Organization** to reach this determination.

Data Recovery Loss does not include: (i) the monetary value of profits, royalties, or lost market share related to data, including trade secrets or other proprietary information or any other amount pertaining to the value of data; (ii) legal costs or legal expenses; (iii) loss arising out of any liability to any third party; or (iv) **Extortion Loss**.

20. **Employee** means any full-time, part-time, leased, or seasonal employee, intern, or volunteer of an **Insured Organization**.
21. **External Computer Systems** means any computer hardware, software, firmware, wireless device, voice-based telecommunication system, operating system, virtual machine, networking equipment, and any associated devices or equipment, which are operated for an **Insured's** benefit by a third party under written contract between such third party and **Insured**.

External Computer Systems do not include any **Insured Computer Systems**.

22. **Extortion Loss** means reasonable and necessary costs incurred by an **Insured Organization**, with our prior written consent, to:
- a. make payment of any funds, **Cryptocurrencies**, marketable goods, services, or other assets to the person or group which is believed to be responsible for, and to have made, an **Extortion Threat**; and
 - b. engage a **Cyber Response Firm** to assist the **Insured Organization** with its response to, mitigation, and resolution of an **Extortion Threat**.

23. **Extortion Threat** means any threat to take any of the following actions unless an **Insured Organization** makes a payment or meets a non-monetary demand:
- a. cause an **Information Privacy Event** or **Network Security Event**;
 - b. alter, corrupt, damage, manipulate, misappropriate, encrypt, delete, or destroy any **Insured Computer System** or any **Corporate Information** or **Protected Personal Information** on an **Insured Computer System**;
 - c. restrict or inhibit access to an **Insured Computer System**; or

- d. any action connected to the continuation or furthering of any of the actions referenced in paragraphs a.- c. above.

24. **Extra Expense** means reasonable and necessary costs and expenses incurred by an **Insured Organization** during the **Period of Restoration** as a result of the measurable interruption of the **Insured Organization's** business operations, in order to reduce the **Period of Restoration** and minimize or reduce **Business Interruption Loss** or **Contingent Business Interruption Loss**.

Extra Expense does not include any: (i) loss arising out of any liability to any third party; (ii) legal costs or legal expenses; or (iii) **Data Recovery Loss** or other costs or expenses to recreate, replace, regain access to, or restore any software or electronic data.

25. **Financial Institution** means any financial or banking institution at which the **Insured Organization** maintains **Funds or Securities** in an account from which the **Insured Organization** can initiate the transfer, payment, or delivery of **Funds or Securities**.

Financial Institution does not include any organization, entity, or institution which is an **Insured Organization**.

26. **Fraudulent Inducement Instructions** means a fraudulent e-mail or other means of electronic communication from a third-party person or entity:

- a. intended to mislead an **Insured** into transferring, paying, or delivering **Funds or Securities** in the **Insured's** care, custody, or control; or
- b. issued to a **Financial Institution** purportedly by an **Insured**, without any **Insured's** knowledge, participation, or consent, directing such **Financial Institution** to transfer, pay, or deliver **Funds or Securities** from an account maintained by an **Insured Organization** at such **Financial Institution** and from which the **Insured Organization** can initiate the transfer, payment, or delivery of **Funds or Securities**.

27. **Fraudulent Inducement Loss** means an **Insured Organization's** loss of **Funds or Securities**.

Fraudulent Inducement Loss will not include any amounts for which a **Financial Institution** has agreed to indemnify or reimburse the **Insured Organization** following such **Financial Institution's** receipt and acceptance of **Fraudulent Inducement Instructions**.

28. **Funds or Securities** means any of the following owned by, or under the care, custody, or control of the **Insured Organization**:

- a. any medium of exchange, including any written negotiable or non-negotiable instruments representative of such, which is authorized or adopted by a foreign or domestic government and in current use, including bank notes, travelers' checks, registered check, money orders, currency, bullion, and coins; and
- b. any tangible, physical, or other assets which maintain a fungible, market, or transferrable monetary value.

Funds or Securities does not include any **Cryptocurrency** or crypto-asset.

29. **Independent Contractor** means any natural person, agent, or single person entity who is not an **Employee** but performs work for an **Insured Organization** pursuant to a written contract or agreement.

30. **Information Privacy Event** means any:

- a. access to **Protected Personal Information** in a manner that is not authorized by an **Insured Organization**;
- b. unintentional violation by an **Insured** of any **Privacy Regulations**; and
- c. failure by an **Insured** to comply with those portions of its **Privacy Policy** which govern **Protected Personal Information**.
- d. with respect to Insuring Agreement I.E.2., Contingent Business Interruption, **Information Privacy Event** also means unauthorized access to **Protected Personal Information** on an **External Computer System**.

31. **Insured** means the **Insured Organization**, any **Insured Person**, and any "Additional Insured" solely to the extent of coverage afforded by the terms and conditions in Section VII.A.1., Additional Insureds.

32. **Insured Computer Systems** means any computer hardware, software, firmware, wireless device, voice-based telecommunication system, operating system, virtual machine, networking equipment, and any associated devices or equipment, which are (i) rented, leased, owned, or operated by an **Insured**; or (ii) operated solely for an **Insured's** benefit by a third party under written contract between such third party and **Insured**.

33. **Insured Organization** means the **Named Insured** and any **Subsidiaries**.

34. **Insured Person** means any past, current, or future natural person:

- a. director, officer, trustee, partner, or principal (or any functionally equivalent positions, regardless of title) of an **Insured Organization**, but only with respect to such person's duties performed on behalf of such **Insured Organization**;
- b. **Employee**, but only for work done while acting within the scope of such person's employment and related to the conduct of the **Insured Organization's** business; and
- c. **Independent Contractor**, but only with respect to work done within the scope of such **Independent Contractor's** duties performed on behalf of the **Insured Organization** and only if the **Insured Organization** indemnifies such **Independent Contractor**.
- d. **Insured Person** also means:
 - i. the estate, heirs, executors, administrators, assigns, and legal representatives of any **Insured Person** in the event of such **Insured Person's** death, incapacity, insolvency, or bankruptcy, but only to the extent that such **Insured Person** would otherwise be provided coverage under this **Policy**; and
 - ii. in the event of a **Claim** made against an **Insured Person's** lawful spouse or domestic partner, such lawful spouse or domestic partner shall be considered an **Insured Person**, but only with respect to acts, errors, or omissions actually or allegedly committed by such **Insured Person** other than such spouse or domestic partner.

35. **Invoice Loss** means the direct net cost incurred by the **Insured Organization** to provide or transfer goods, products, or services to a third party.

Invoice Loss does not include any profit the **Insured Organization** expected to realize as a result of transferring or providing such goods, products, or services to such third party.

36. **Invoice Manipulation** means the release or distribution of any fraudulent invoice or payment instruction to a third party as a result of a **Network Security Event**.
37. **Legal Services Loss** means reasonable and necessary costs and expenses incurred by an **Insured Organization**, with our prior written consent, for an attorney at a **Cyber Response Firm** to determine the **Insured Organization's** obligations under the applicable **Privacy Regulations**, and to prepare notifications to a regulatory entity and to affected natural persons as required by a **Privacy Regulation**, in connection with an actual or reasonably suspected **Information Privacy Event**.
38. **Loss** means **Claim Expenses, Damages, Regulatory Penalties, Regulatory Assessments and Expenses, PCI-DSS Penalties, PCI-DSS Response Expenses, Reward Expense Loss, Technical Response Loss, Public Relations Loss, Legal Services Loss, Notification Loss, Credit Monitoring Loss, Data Recovery Loss, System Restoration Loss, Business Interruption Loss, Contingent Business Interruption Loss, Extra Expense, Extortion Loss, Fraudulent Inducement Loss, Computer Crime Loss, Invoice Loss, Utility Loss, and Reputational Harm Loss**.

Loss does not include:

- a. salaries, benefits, or other compensation payable to **Insured Persons** or an **Insured Organization's** internal operating costs, except to the extent covered under Insuring Agreements I.E., Business Interruption; or
 - b. costs or expenses incurred to update, improve, enhance, or replace privacy or network security controls, policies or procedures, or **Computer Systems** to a level beyond that which existed prior to the applicable **Cyber Event**.
39. **Malicious Code** means any software or computer program that is purposefully designed to adversely affect, intentionally harm, or dishonestly monetize any computer hardware, software, firmware, wireless device, operating system, or virtual machine, including **Bricking**, auto-reproduction programs, computer viruses, worms, Trojan horses, spyware, dishonest adware, crime-ware, or mine-ware.
 40. **Media Content** means any electronic or online content promoting or advertising the **Insured Organization's** goods, products, or services.

Media Content does not include software technology, or the actual goods, products, or services described, illustrated, or displayed in such **Media Content**.

41. **Media Wrongful Act** means any of the following acts committed by or on behalf of the **Insured Organization** in the public dissemination, posting, or display of **Media Content**:
 - a. defamation, libel, slander, trade libel, product disparagement, infliction of emotional distress, or other tort related to disparagement or harm to the character, reputation, or feelings of any person or entity;
 - b. infringement of title, slogan, logo, trademark, trade name, metatag, domain name, trade dress, service mark, or service name;
 - c. copyright infringement, passing off, plagiarism, piracy, or other misappropriation of intellectual property rights;

- d. invasion, infringement, or interference with rights of privacy or publicity, including public disclosure of private facts, breach of confidence, intrusion, false light, and commercial appropriation of name or likeness; or
 - e. improper deep framing or linking.
42. **Named Insured** means the entity displayed in ITEM 1 of the Declarations.
43. **Network Security Event** means any:
- a. propagation of **Malicious Code** from a **Computer System** or attack by **Malicious Code** which infects a **Computer System**;
 - b. denial of service attack originating from, or made against, a **Computer System**;
 - c. access or use of a **Computer System** by an unauthorized person due to a failure in the security of a **Computer System**;
 - d. access or use of a **Computer System** by an authorized person for purposes not authorized by an **Insured Organization**;
 - e. acquisition, access, loss, or disclosure of **Corporate Information** on a **Computer System** in a manner not authorized by an **Insured Organization**;
 - f. theft of a password or access code from a **Computer System**; or
 - g. failure to provide any authorized user access to the **Insured Organization's** website or **Computer System** due to a failure in the security of a **Computer System**.
44. **Notification Loss** means reasonable and necessary costs and expenses incurred by an **Insured Organization**, with our prior written consent, for a **Cyber Response Firm** to:
- a. provide notifications that are legally required under a **Privacy Regulation**;
 - b. provide reasonable voluntary notifications to those natural persons whose **Protected Personal Information** was impacted as a result of an **Information Privacy Event**; and
 - c. establish and maintain a call center to answer questions from those natural persons who received a notification under parts a. or b. above.
45. **PCI-DSS Claim** means any:
- a. investigation brought by a card brand into a potential violation of the Payment Card Industry Data Security Standards; or
 - b. demand for monetary assessments brought by or on behalf of a card brand, or entity processing or providing payment card transactions, for an **Insured Organization's** non-compliance with the Payment Card Industry Data Security Standards.
46. **PCI-DSS Penalties** means monetary assessments, including fines, penalties, reimbursements, fraud recoveries, and card reissuance costs, that the **Insured Organization** is legally obligated to pay under a merchant services agreement.

47. **PCI-DSS Response Expenses** means reasonable and necessary costs and expenses incurred by the **Insured Organization**, with our prior written consent, to retain the services of:
- a forensic firm that is a qualified Payment Card Industry Forensic Investigator, to determine the cause and scope of an **Information Privacy Event**; and
 - a Qualified Security Assessor (QSA) to validate an **Insured Organization's** adherence to the Payment Card Industry Data Security Standards following a **PCI-DSS Claim**.
48. **Period of Restoration** means the continuous period of time that:
- begins upon the measurable interruption of the **Insured Organization's** business operations due to a **Network Security Event, Information Privacy Event, or System Failure**; and
 - ends on the earlier of the date and time when the interruption of the **Insured Organization's** business operations: (i) ends; or (ii) could have ended had the **Insured Organization** acted with due diligence and dispatch.
- A **Period of Restoration** shall not exceed one hundred eighty (180) days from the date the applicable **System Disruption** first occurred.
49. **Policy** means the Declarations and all forms and endorsements, stated in ITEM 9 of the Declarations, which are attached to and form part of this **Policy**.
50. **Policy Period** means the period of time from the Effective Date to the Expiration Date, as set forth in ITEM 2 of the Declarations, or the effective date of termination of this **Policy**, whichever is earlier.
51. **Privacy Policy** means an **Insured Organization's** written or electronic policies which govern the collection, dissemination, confidentiality, integrity, accuracy, disclosure, sale, access, or availability of **Protected Personal Information**.
52. **Privacy Regulation** means any local, state, federal, or foreign privacy protection laws, statutes, legislation, or regulations which require entities which collect, process, or maintain personal information regarding natural persons to post privacy policies, adopt specific privacy or security controls, or notify natural persons in the event that such information has potentially or actually been compromised, accessed, or acquired without their authorization.
- Privacy Regulations** include the California Consumer Privacy Act, Gramm-Leach Bliley Act of 1999, Health Insurance Portability and Accountability Act of 1996, California Database Breach Act, Minnesota Plastic Card Security Act, and General Data Protection Regulation Standard, and regulations issued pursuant to such Acts or Standards.
53. **Protected Personal Information** means any of the following information or data, regardless of whether such data or information is in electronic, non-electronic, or any other format:
- any natural person's social security number, name, e-mail address, driver's license or state identification number, address, and telephone number;
 - any natural person's security access codes or passwords;
 - any natural person's medical or healthcare data, biometric records, or any other protected health information ("PHI");

- d. any natural person's credit card or debit card number, account number, or any other protected financial information; or
- e. any other non-public personal information or data of a natural person as specified in any **Privacy Regulations**.

Protected Personal Information does not include **Corporate Information** or any information that is lawfully available to the general public.

54. **Public Relations Loss** means reasonable and necessary public relations related costs and expenses incurred by an **Insured Organization**, with our prior written consent, for a **Cyber Response Firm** to protect or restore the **Insured Organization's** reputation and mitigate financial harm to the **Insured Organization's** business.

55. **Regulatory Assessments and Expenses** means reasonable and necessary costs and expenses incurred by an **Insured**, with our prior written consent, during the course of a **Regulatory Claim** for a third party to perform a legally required audit or assessment, including related consultative and professional services, of the **Insured Organization's** privacy practices or **Insured Computer Systems**.

56. **Regulatory Claim** means any investigation or demand brought by, or on behalf of, the Federal Trade Commission, the Federal Communications Commission, any supervisory authority enforcing the General Data Protection Regulation Standard, any state attorney general, or any federal, state, local, or foreign governmental entity or regulatory authority in such entity's official capacity.

57. **Regulatory Penalties** means monetary civil fines or penalties imposed against an **Insured** as a result of a **Regulatory Claim**.

The insurability of **Regulatory Penalties** will be in accordance with the applicable laws of any jurisdiction which most favors coverage and which has a substantial relationship to an **Insured**, us, this **Policy**, or the **Regulatory Claim** giving rise to such **Regulatory Penalties**.

58. **Reputational Harm Indemnity Period** means the continuous period of time that begins on the date the **Adverse Publication** first occurred and ends one hundred eighty (180) days thereafter.

59. **Reputational Harm Loss** means the following amounts incurred by an **Insured Organization** during the **Reputational Harm Indemnity Period**:

- a. net profit before income taxes that would have been earned had no **Adverse Publication** occurred;
- b. net loss before income taxes that would have been avoided had no **Adverse Publication** occurred; and
- c. costs incurred, with our prior written consent, to retain the services of a third-party forensic accounting firm to determine the amounts described in paragraphs a. and b. above.

The amount of **Reputational Harm Loss** will be determined and calculated in accordance with Section VII.H., Loss Calculations for Business Interruption and Reputational Harm.

60. **Reward Expense Loss** means reasonable amounts offered and paid by an **Insured Organization**, with our prior written consent, for information which leads to the arrest and conviction of a natural person or an entity responsible for a **Cyber Event** which resulted in a covered **Loss** under this **Policy**.

Reward Expense Loss does not include any amount based upon information provided by the **Insured**, the **Insured's** auditors, or any individual hired or retained to investigate the illegal acts. All **Reward Expense Loss** offered pursuant to this **Policy** must expire no later than six (6) months following the end of the **Policy Period**.

61. **Subsidiary** means:

- a. any corporation, partnership, limited liability company, or other entity in which the **Named Insured** owns, directly or indirectly through one or more **Subsidiaries**, more than fifty percent (50%) of such entity's outstanding securities or voting rights representing the present right to elect, appoint, or exercise a majority control over such entity's board of directors, board of trustees, board of managers, natural person general partners, or functional equivalent;
- b. any entity operated as a joint venture in which the **Named Insured** owns, directly or indirectly through one or more **Subsidiaries**, exactly fifty percent (50%) of the issued and outstanding voting stock and whose management and operation an **Insured Organization** solely controls, pursuant to a written agreement with the owner(s) of the remaining issued and outstanding voting stock; or
- c. any non-profit entity over which the **Named Insured**, directly or indirectly through one or more **Subsidiaries**, exercises management control.

The **Policy** only provides coverage for acts, errors, omissions, incidents, or **Cyber Events** that occur while an entity described in parts a. - c. above qualifies as a **Subsidiary**.

62. **System Disruption** means:

- a. the actual and necessary interruption, suspension, degradation, or failure in the service of the following **Computer Systems**:
 - i. with respect to Insuring Agreements I.E.1., Direct Business Interruption, and I.E.3., Direct System Failure, **Insured Computer Systems**; and
 - ii. with respect to Insuring Agreements I.E.2., Contingent Business Interruption, and I.E.4., Contingent System Failure, **External Computer Systems**; or
- b. with respect to Insuring Agreement I.E.1., Direct Business Interruption, **System Disruption** also means an **Insured's** voluntary and intentional interruption or suspension of **Insured Computer Systems** in response to a credible or actual threat of an **Information Privacy Event** or **Network Security Event** in order to mitigate, reduce, or avoid **Loss**. Provided that any voluntary and intentional interruption or suspension of **Insured Computer Systems** is subject to our prior written consent, which will not be unreasonably withheld.

63. **System Failure** means any **System Disruption** that is not caused by a **Network Security Event** or **Information Privacy Event**.

64. **System Restoration Loss** means reasonable and necessary costs and expenses incurred an **Insured Organization**, with our prior written consent, for a **Cyber Response Firm** to:

- a. replace or reinstall software programs contained on **Computer Systems** to their level of functionality immediately prior to the **Network Security Event**;

- b. replace or reinstall computer hardware contained on **Insured Computer Systems** that are impacted by **Bricking**, but only if we determine that the replacement or reinstallation of computer hardware will reduce the cost of the restoration effort of **Computer Systems** described in paragraph a. above;
 - c. remove any **Malicious Code** from **Computer Systems** resulting from the applicable **Network Security Event**; and
 - d. restore the configuration of **Computer Systems** to the level that was present immediately prior to the **Network Security Event**.
- 65. **Technical Response Loss** means reasonable and necessary costs and expenses incurred by an **Insured Organization**, with our prior written consent, for a **Cyber Response Firm** to:
 - a. investigate and determine the cause of an **Information Privacy Event** or **Network Security Event**;
 - b. mitigate or contain an ongoing **Information Privacy Event** or **Network Security Event** on an **Insured Computer System**;
 - c. identify those natural persons whose **Protected Personal Information** was impacted as a result of an **Information Privacy Event**; and
 - d. identify those entities whose **Corporate Information** was impacted as a result of a **Network Security Event**.
- 66. **Telephone Fraud** means the gaining of access to, or use of, an **Insured Computer System** by an unauthorized person, or an authorized person for purposes not authorized by an **Insured Organization**, to fraudulently infiltrate and manipulate telecommunications or telephone system(s) from a remote location.
- 67. **Third Party Event Response Expenses** means:
 - a. with respect to Insuring Agreement I.A.1., Information Privacy Liability, **Technical Response Loss**, **Legal Services Loss**, **Public Relations Loss**, **Notification Loss**, and **Credit Monitoring Loss** incurred by a third party as a result of an **Information Privacy Event**; and
 - b. with respect to Insuring Agreement I.B.1., Network Security Liability, **Technical Response Loss** and **Public Relations Loss** incurred by a third party as a result of a **Network Security Event**,
but only to the same extent that would have been otherwise covered under Insuring Agreement I.C.1., Event Response and Management, if incurred by an **Insured Organization**.
- 68. **Utility Loss** means additional amounts incurred by the **Insured Organization** as a direct result of any **Cryptojacking** or **Telephone Fraud** for the use of any of the following utility services or resources:
 - a. electricity, natural gas, oil, water, or sewage;
 - b. television or internet; or
 - c. telecommunication or telephone toll, line, or long-distance communication.

Utility Loss includes only those additional amounts which are charged to the **Insured Organization** by the provider of the respective utility resource or service in a periodic billing statement pursuant to a written contract with the **Insured Organization** and does not include any amounts charged at a flat fee that does not scale with the rate or use of the respective utility resource or service.

69. **Waiting Period** means the number of hours stated as the value of the **Waiting Period** in the Declarations. The **Waiting Period** begins at the date and time the measurable interruption of the **Insured Organization's** business operations caused by a **System Disruption**, and ends after the number of **Waiting Period** hours have elapsed.

VI. EXCLUSIONS

The coverage under this **Policy** will not apply to any **Loss**:

1. Conduct

based upon or arising out of any criminal, fraudulent, malicious, or intentional act or omission, or intentional or knowing violation of the law, if committed by an **Insured**. However, this exclusion shall not apply to **Claim Expenses** for defending any **Claim** based upon or arising out of any fraudulent, malicious, or intentional act or omission, or knowing violation of the law, until there is a final non-appealable adjudication establishing such conduct.

Provided that this exclusion will only apply to the **Named Insured** if the conduct was committed by:

- a. any member of the **Control Group**; or
- b. **Employee**, if any member of the **Control Group** knew or should have known of any such conduct.

2. Contract

alleging, based upon, or arising out of any breach of any express, implied, actual, or constructive contract, warranty, or guarantee.

However, this exclusion will not apply to:

- a. liability assumed by an **Insured**, but only to the extent that such assumed liability would have attached to the **Insured** in the absence of such contract, warranty, or guarantee;
- b. an **Insured's** contractual obligation to maintain the confidentiality or security of **Protected Personal Information** or **Corporate Information**;
- c. with respect to Insuring Agreement I.A.1., Information Privacy Liability, an unintentional violation by an **Insured** to comply with a **Privacy Policy**;
- d. with respect to Insuring Agreements I.A.1., Information Privacy Liability, and I.B.1., Network Security Liability, an otherwise covered **Claim** for **Third Party Event Response Expenses** under a written contract;
- e. with respect to Insuring Agreement I.A.3., PCI-DSS Liability, a **PCI-DSS Claim**; or
- f. with respect to Insuring Agreement I.I.1., Media Liability, any actual or alleged misappropriation of idea under implied contract.

3. Bodily Injury

alleging, based upon, or arising out of any physical injury, sickness, disease, or death of any person, including any resulting mental anguish, mental injury, shock, or emotional distress.

However, this exclusion will not apply to any **Claim** for emotional distress under Insuring Agreements I.A.1., Information Privacy Liability, or I.I.1., Media Liability.

4. Property Damage

alleging, based upon, or arising out of damage to or destruction of any tangible property, including loss of use thereof. For purposes of this exclusion, electronic **Protected Personal Information** or **Corporate Information** will not be considered tangible property.

However, this exclusion will not apply to any **System Restoration Loss** resulting from **Bricking**.

5. Prior Notice, Knowledge & Acts

alleging, based upon, or arising out of any act, error, omission, incident, or **Cyber Event**:

- a. which was the subject of any notice of claim or potential claim under any policy before the inception date of the **Policy**;
- b. committed or occurring prior to the inception date of the **Policy** if any member of the **Control Group** had knowledge on or before the inception date of the **Policy** or could have reasonably foreseen that such act, error, omission, incident, or **Cyber Event** could be the basis of a **Claim** or **Loss**; or
- c. which was the subject of, or related to, any prior or pending civil, criminal, administrative, or regulatory proceeding or litigation against an **Insured** prior to the inception of this **Policy**.

For purposes of this exclusion only, if this **Policy** is a renewal or replacement of a previous policy issued by us, and is part of an unbroken chain of successive policies issued by us, the "inception date of the **Policy**" referenced in paragraphs b. and c. above will be the inception date of the first such policy issued by us to the **Named Insured**.

6. Pollution

alleging, based upon, or arising out of:

- a. asbestos, or any materials containing asbestos in whatever form or quantity;
- b. the actual, alleged or threatened discharge, dispersal, release, or escape of Pollutants; or any governmental, judicial, or regulatory directive or request that the **Insured** or anyone acting under the direction or control of the **Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize Pollutants. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including gas, acids, alkalis, chemicals, heat, smoke, vapor, soot, fumes, or waste. Waste includes materials to be recycled, reconditioned, or reclaimed; or
- c. the actual, potential, alleged, or threatened formation, growth, presence, release, or dispersal of any fungi, molds, spores, or mycotoxins of any kind; or any governmental, judicial, or regulatory directive or request that the **Insured** or anyone acting under the direction or control of the **Insured** take action

in response to the actual, potential, alleged, or threatened formation, growth, presence, release, or dispersal of fungi, molds, spores, or mycotoxins of any kind.

7. Nuclear, Biological, and Chemical Contamination

alleging, based upon, or arising out of any planning, construction, maintenance, or use of any nuclear reactor, nuclear storage, disposal, waste or radiation site, or any other nuclear facility or site, the transportation of nuclear material, or any nuclear reaction or radiation, or radioactive, biological, or chemical contamination, regardless of its cause.

8. Natural Disaster

alleging, based upon, or arising out of fire, smoke, explosion, lightning, wind, water, flood, earthquake, tornado, volcanic eruption, tidal wave, landslide, hail, solar flare, coronal mass ejection, electromagnetic pulse, or act of God or nature.

9. Intellectual Property

alleging, based upon, or arising out of any infringement, disclosure, use or misappropriation of any intellectual property, including any patent, copyright, trademark, trade dress, service mark, service name, title, or slogan.

However, this exclusion will not apply to:

- a. with respect to Insuring Agreement I.I.1., Media Liability, an otherwise covered **Claim** for a **Media Wrongful Act**, except to the extent such **Claim** arises from or is related to any actual or alleged infringement of copyright for or related to software technology;
- b. with respect to Insuring Agreement I.B.1., Network Security Liability, any **Claim** arising out of the actual or alleged disclosure of **Corporate Information** resulting from a **Network Security Event**.

10. Fees or Chargebacks

alleging, based upon, or arising out of any:

- a. fees, expenses, or costs paid to or charged by an **Insured**; or
- b. chargebacks, transfer fees, transaction fees, merchant service fees, or prospective service fees.

However, this exclusion will not apply to a **PCI-DSS Claim** under Insuring Agreement I.A.3., PCI-DSS Liability.

11. Unsolicited Communications

alleging, based upon, or arising out of the dissemination of unsolicited faxes, e-mails, or other communications, including any violation of the Telephone Consumer Protection Act of 1991 or any similar federal, state, common, or foreign law, if such dissemination is done by or on behalf of the **Insured Organization**.

12. Consumer Protection Laws

alleging, based upon, or arising out of any violation of the Truth in Lending Act, Fair Debt Collection Practices Act, Fair Credit Reporting Act, or the Fair and Accurate Credit Transactions Act, or any

amendments thereto or any rules or regulations promulgated thereunder, or any similar federal, state, common, or foreign law.

13. Infrastructure

alleging, based upon, or arising out of any outage, failure, degradation, malfunction, or interruption of electricity, gas, water, telephone, cable, satellite, telecommunications, internet infrastructure (including any Domain Name System, Certificate Authority, or Internet Service Provider), or other infrastructure services.

However, this exclusion will not apply to infrastructure that is under the **Insured Organization's** direct operational control.

For purposes of this exclusion, **External Computer Systems** providing an **Insured Organization** with cloud services, cloud computing platforms, associated application hosting, data hosting, data storage, data back-up, data processing, co-location services, or "Infrastructure-as-a-Service" will not be considered internet infrastructure or other infrastructure. "Infrastructure-as-a-Service" means computer infrastructure on an outsourced basis to support enterprise operations.

14. Prior Acts

resulting from any **Claim** alleging, based upon, or arising out of an act, error, omission, incident, or **Cyber Event** taking place, in whole or in part, prior to the Retroactive Date as stated in ITEM 8 of the Declarations.

15. Insured vs. Insured

based upon or arising out of any **Claim** brought by or on behalf of any:

- a. **Insured**;
- b. entity, if ten percent (10%) or more of its equity is owned, controlled, operated, or managed, directly or indirectly by an **Insured**; or
- c. successor or assignee of any **Insured**.

However, this exclusion will not apply to any **Claim**:

- d. with respect to Insuring Agreement I.A.1, Information Privacy Liability, brought by an **Employee** for an **Information Privacy Event** involving the access to **Protected Personal Information** in a manner that is not authorized by an **Insured Organization**; or
- e. brought by or on behalf of any person or entity qualifying as an "Additional Insured" under Section VII.A.1., Additional Insureds.

16. Securities

alleging, based upon, or arising out of any **Insured's**:

- a. purchase, sale, or offer, or solicitation of an offer, to purchase or sell securities; or
- b. violation of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisors Act, the Organized Crime Control Act of 1970, or any other

federal, state, foreign or local securities law, and any amendments thereto or any rules or regulations circulated thereunder, or any similar federal, state, foreign, or common law.

However, with respect to Insuring Agreements I.A.1., Information Privacy Liability, and I.A.2., Regulatory Liability, part b. of this exclusion will not apply to any **Claim** alleging a failure to disclose an **Information Privacy Event**.

17. Governmental Seizure & Action

alleging, based upon, or arising out of:

- a. exclusively with respect to Insuring Agreements I.C.1., Event Response and Management, I.D.1., Data Recovery, I.E., Business Interruption, and I.H., Financial and Utility Fraud, any confiscation, nationalization, seizure, or destruction of a **Computer System** or electronic data held or processed by an **Insured** or by order of any governmental or public authority; or
- b. **Claim** brought by or on behalf of any state, federal, local, or foreign governmental entity, in such entity's regulatory or official capacity; however, this exclusion will not apply to Insuring Agreement I.A.2, Regulatory Liability.

18. Employment Practices or Discrimination

alleging, based upon, or arising out of any:

- a. employer-employee relations, policies, practices, acts, or omissions, including any misconduct by an **Insured** as an employer or prospective employer; or
- b. discrimination of any kind.

However, part a. of this exclusion will not apply to a **Claim** under Insuring Agreement I.A.1., Information Privacy Liability, brought by an **Employee** for an **Information Privacy Event** involving the access to **Protected Personal Information** in a manner that is not authorized by an **Insured Organization**.

19. Antitrust

alleging, based upon, or arising out of any deceptive or unfair trade practices, antitrust violation, unfair competition, or restraint of trade, or false or deceptive or misleading advertising, or violation of the Sherman Antitrust Act, the Clayton Act, or the Robinson-Patman Act.

However, this exclusion will not apply to:

- a. with respect to Insuring Agreement I.A.2., Regulatory Liability, a **Regulatory Claim** resulting from an **Information Privacy Event** involving the access to **Protected Personal Information** in a manner that is not authorized by an **Insured Organization**; or
- b. with respect to Insuring Agreement I.I.1., Media Liability, an otherwise covered **Claim** for a **Media Wrongful Act**.

20. Trading Losses & Theft of Funds

alleging, based upon, or arising out of:

- a. any loss, transfer, or theft of monies, securities, or tangible property of the **Insured** or others in the care, custody, or control of an **Insured Organization**; or
- b. any trading losses, trading liabilities, or change in value of accounts.

However, this exclusion will not apply to Insuring Agreement I.H., Financial and Utility Fraud.

21. Biometric Data

alleging, based upon, or arising out of any violation of the Biometric Information Privacy Act or any similar federal, state, common, or foreign law.

22. Unlawful Wiretapping

alleging, based upon, or arising out of wiretapping, or audio or video recording by or on behalf of the **Insured Organization**.

23. Media Exclusions

solely with respect to Insuring Agreement I.I.1., Media Liability, alleging, based upon, or arising out any:

- a. obligation to pay any licensing fee or royalty payments;
- b. right asserted by or on behalf of ASCAP, SESAC, BMI, or other similar licensing organization;
- c. gambling, contest, game of chance, lottery, or promotional game, including the redemption of coupons or tickets related thereto;
- d. content created as part of the professional services provided by an **Insured** to its customers;
- e. content posted or created by any employee in their personal capacity for non-business purposes, whether or not such content is created during working hours or on the **Insured's** premises;
- f. reviews, messages, or posts to any website, social media platform, or account by a third party without the **Insured's** consent;
- g. inaccurate, inadequate, or incomplete description of the price of goods, products or services, cost guarantees, cost representations, or contract price estimates, the authenticity of any goods, products or services, or the failure of any goods or services to conform with any represented quality or performance; or
- h. **Claim** made by or on behalf of any independent contractor or joint venturer arising out of or resulting from disputes over ownership of rights in **Media Content** or services provided by such independent contractor or joint venturer.

24. Financial Fraud and Social Engineering Exclusions

solely with respect to Insuring Agreement I.H.1., Financial Fraud and Social Engineering, based upon or arising out of:

- a. the loss of confidential information, including trade secrets, formulas, patents, customer information, negatives, drawings, manuscripts, prints, and other records of a similar nature, or other confidential information, intellectual property of any kind, data, or computer programs;

- b. any potential income, including interest and dividends, not realized by the **Insured Organization** or a customer of the **Insured Organization**;
- c. forged, altered, or fraudulent negotiable instruments, securities, documents, or written instructions or instructions used as source documentation to enter electronic data or send instructions;
- d. any actual or alleged use of credit, debit, charge, access, convenience, or other cards or the information contained on such cards;
- e. amounts incurred by any **Insured** to prove or establish the existence of **Fraudulent Inducement Instructions**; or
- f. any actual or alleged fraudulent, dishonest, or criminal act or omission by, or involving, any natural person **Insured**.

However, part c. of this exclusion will not apply to **Fraudulent Inducement Loss** or **Invoice Loss**.

VII. CONDITIONS

A. Insured Extensions

With respect to any **Claim** under this **Policy**, coverage will extend as follows:

1. Additional Insureds

If an **Insured Organization** is required by written contract to provide coverage for any person or entity under this **Policy** (hereinafter an "Additional Insured"), then such person or entity shall be considered an "Additional Insured" under this **Policy**, but only for liability arising out of acts, errors, or omissions actually or allegedly committed by or on behalf of an **Insured Organization**, and not for any liability arising out of any acts, errors, or omissions by such "Additional Insured"; provided, however, that coverage afforded to an "Additional Insured" shall only extend to acts, errors, or omissions actually or allegedly committed by or on behalf of an **Insured Organization** after such written contract was executed.

B. Subsidiaries

1. Coverage for Subsidiaries

With respect to any **Insured Organization** which is a **Subsidiary**, coverage afforded under this **Policy** for such **Subsidiary** will only apply to acts, errors, incidents, or **Cyber Events** that occur while such entity qualifies as a **Subsidiary**. Any entity which ceases to be a **Subsidiary** during the **Policy Period** will be afforded coverage through the expiration date of the current **Policy Period** but only with respect to acts, errors, omissions, incidents, or **Cyber Events** which occurred before the date it ceased to be a **Subsidiary**.

2. Subsidiary Acquisition or Creation

If, during the **Policy Period**, an **Insured Organization** acquires or creates another entity whose gross revenues exceed twenty percent (20%) of the consolidated gross revenues of the **Insured Organization**, as of the most recent fiscal year prior to the effective date of this **Policy**, and such that the acquired or created entity becomes a **Subsidiary**, then such **Subsidiary** will only be considered an **Insured Organization** for a period of ninety (90) days following its acquisition or formation. Coverage beyond

such ninety (90) day period will only be available if the **Named Insured** gives us written notice of the acquisition or creation, obtains our written consent to extend coverage to the entity beyond such ninety (90) day period, and agrees to pay any additional premium required by us.

C. **Change of Control**

If a **Change of Control** occurs during the **Policy Period**:

1. the **Policy** will continue to remain in effect until the expiration date of the **Policy Period**, but only with respect to acts, errors, omissions, incidents, or **Cyber Events** that occur prior to such **Change of Control**; and
2. the **Named Insured** will have the right to give us notice that it desires to purchase an Extended Reporting Period, in accordance with the conditions set forth in Section VII.D.1., Extended Reporting Period, of this **Policy**.

D. **Extended Reporting Period**

1. Extended Reporting Period
 - a. An "Extended Reporting Period," if purchased, means the period of time in which the **Named Insured** may give written notice of **Claims** under this **Policy**, and will apply to **Claims** first made during such Extended Reporting Period but only with respect to:
 - i. **Claims** for acts, errors, omissions, incidents, or **Cyber Events** which occurred prior to the effective date of **Policy** termination, the end of the **Policy Period**, or effective date of **Change of Control** (whichever is applicable); and
 - ii. **Claims** for acts, errors, omissions, incidents, or **Cyber Events** made against persons or entities which were **Insureds** as of the effective date of **Policy** termination, the end of the **Policy Period**, or effective date of **Change of Control** (whichever is applicable).
 - b. If this **Policy** does not renew or otherwise terminates for a reason other than for failure to pay premium, or upon the occurrence of a **Change of Control**, the **Named Insured** will have the right to purchase an Extended Reporting Period in the amount of the Optional Extension Premium listed by endorsement to this **Policy** for **Claims** first made against an **Insured** during the Optional Extended Reporting Period and reported to us during the Optional Extended Reporting Period.
 - c. the **Named Insured**, or a party acting on its behalf, may send us a request for the purchase of an Extended Reporting Period outside the periods and Optional Extension Premium amounts listed by endorsement to this **Policy**, and we may, at our discretion, subsequently provide a quote for such request;
 - d. any **Claim** made during a purchased Extended Reporting Period will be deemed to have been made during the **Policy Period** immediately preceding the Extended Reporting Period;
 - e. the Aggregate Limit of Insurance and Sub-Limits of Insurance available for any purchased Extended Reporting Period shall not be increased or renewed, unless we expressly provide such amendment via an endorsement to this **Policy**;

- f. the **Named Insured** must provide written notice to us of its election to purchase such Extended Reporting Period within sixty (60) days after this **Policy's** termination or expiration date or, if applicable, the effective date of any **Change of Control**; and
- g. the entire premium charged for any purchased Extended Reporting Period is due at the time of purchase and shall be considered fully earned as of the effective date of such Extended Reporting Period.

E. Notice

1. Notice of Claims and Cyber Events

An **Insured** must notify us as soon as practicable after any member of the **Control Group**:

- a. first becomes aware of any **Claim** first made against an **Insured** during the **Policy Period**, but in no event later than sixty (60) days after the end of the **Policy Period**; and
- b. first discovers any **Cyber Event**, but in no event later than sixty (60) days after the end of the **Policy Period**.

Provided, however, that if an Extended Reporting Period is purchased, all **Claims** made during such Extended Reporting Period must be reported to us no later than the end of the Extended Reporting Period.

2. Notice of Circumstances

If, during the **Policy Period**, any member of the **Control Group** first becomes aware of any circumstances which may reasonably give rise to a **Claim** under this **Policy**, then the **Insured** may give us written notice of such circumstances as soon as practicable and within the **Policy Period**. Any **Claim** which arises out of such circumstances will be deemed to have been first made at the time such written notice was received by us, but only if written notice includes the following details:

- a. the identity of the potential claimant, likely demand for relief, and likely basis for alleged liability; and
- b. all pertinent facts, particulars, and dates, including the nature of such circumstances, why the **Insured** believes a **Claim** may reasonably be forthcoming, and its potential consequences and **Loss**.

3. Law Enforcement Hold

- a. In the event an **Insured** receives a request from a law enforcement authority to keep confidential certain information about an actual, possible, or reasonably suspected **Cyber Event**, then the notice of such **Cyber Event**, including any **Claim** relating to or arising out of such **Cyber Event**, will be considered timely under this **Policy**, provided the **Insured**:
 - i. requests permission from such law enforcement authority to share such information with us as soon as practicable following the receipt of such a request;
 - ii. only withholds from us that portion of the information that the law enforcement authority has instructed such **Insured** not share with us; and
 - iii. provides us with a full notice of such **Cyber Event** as soon as legally possible after the law enforcement authority permits such **Insured** to share with us the full notice.

4. Notice Delivery

All notices described within this Notice section will be given to us in writing, either electronically or non-electronically, at the address set forth in ITEM 6 of the Declarations. All such notices will be effective on the date we receive such notice. If such notice is mailed or transmitted by e-mail, the date of such mailing or transmission will constitute the date that such notice was given to us, and proof of mailing or transmission shall be sufficient proof of notice.

F. Obligations

In connection with all **Claims** and **Cyber Events** under this **Policy**, the **Insured** agrees to the following:

1. The **Insured** will cooperate with us in all investigations, including investigations regarding coverage under this **Policy** and the information and materials provided to us in connection with the underwriting and issuance of this **Policy**.
2. The **Insured** will cooperate with and assist us in the effort to defend and settle any **Claim** or respond to any **Loss**, including:
 - a. attending hearings and trials, assisting in securing and giving evidence, obtaining the attendance of witnesses, and enforcing the **Insured's** rights of contribution or indemnity against any person or entity which may be liable to such **Insured**;
 - b. delivering to us copies of all demands, legal papers, other related legal documents, and invoices the **Insured** receives, as soon as practicable; and
 - c. notifying, or allowing us to notify on the **Insured's** behalf, law enforcement of an **Extortion Threat** and any actual or anticipated **Extortion Loss**.
3. The **Insured** will not make any payment, incur any expense, settle any **Claim**, stipulate to any judgment or award, assume any obligation, or admit liability without our written consent. However, the **Insured** may settle a **Claim** as provided in Section IV.B.2 if the **Claim** is fully resolved within the Retention.
4. Expenses incurred by the **Insured** in assisting and cooperating with us do not constitute **Loss** or **Claim Expenses** under the **Policy**.

G. Policy Termination

1. We may only cancel this **Policy** by mailing a written notice to the **Named Insured** stating when such cancellation will be effective. Such notice will be delivered at least twenty (20) days prior to the date that such cancellation is proposed to become effective.
2. The **Named Insured** may cancel this **Policy** at any time and for any reason by delivering such instructions to us by mail or e-mail. Such instructions may be delivered directly by the **Named Insured** or through any person or entity contracted to act on the **Named Insured's** behalf for the placement of this **Policy**.
3. If this **Policy** is canceled by us prior to the end of the **Policy Period**, we will refund the unearned premium computed pro rata. If this **Policy** is canceled by the **Named Insured** prior to the end of the **Policy Period**, the unearned premium we refund may be less than pro rata. Such premium adjustment

will be made as soon as practicable upon termination of the **Policy**, but payment or tender of any unearned premium by us shall not be a condition precedent to the effectiveness of such termination.

4. We are not required to renew or offer to renew this **Policy** upon the expiry of its **Policy Period**.

H. Loss Calculations for Business Interruption and Reputational Harm

1. With respect to **Business Interruption Loss**, **Contingent Business Interruption Loss**, **Extra Expense**, and **Reputational Harm Loss**, the **Named Insured** must provide us with a written proof of loss sworn by an officer of the **Insured Organization** and providing details regarding:
 - a. the **System Disruption** or **Adverse Publication**, including the time, place and cause of such event, the interests of the **Insured** and of others in the affected systems or property, and any other potentially applicable insurance; and
 - b. the **Insured's** calculation of **Business Interruption Loss**, **Contingent Business Interruption Loss**, **Extra Expense**, and **Reputational Harm Loss** being submitted, including copies of any backup documentation, reports, invoices, or service agreements in support thereof.

Such proof of loss must be provided to us no later than six (6) months after the end of the **Policy Period**. At our request, the **Named Insured** will provide additional information or documentation or submit to an examination under oath in order for us to complete our evaluation of coverage for the incident or the amount of covered **Loss**.

2. In determining and calculating the amount of **Business Interruption Loss**, **Contingent Business Interruption Loss**, and **Extra Expense** covered under this **Policy**, we will give due consideration to the prior experience of the **Insured Organization's** business before the beginning of the applicable **System Disruption** and to the probable business such **Insured Organization** could have performed had no **System Disruption** occurred.
3. In determining and calculating the amount of **Reputational Harm Loss** covered under this **Policy**, we will use reasonable projections and give due consideration to:
 - a. the **Insured Organization's** business operations prior to the first occurrence of the **Adverse Publication**;
 - b. the public and market perception of the **Insured Organization** prior to the first occurrence of the **Adverse Publication**;
 - c. the **Insured Organization's** net profit or net loss during the twelve (12) months immediately preceding the date of the **Adverse Publication's** first occurrence; and
 - d. market and industry trends, variations, and circumstances, including seasonable influences and economic conditions, which would have affected the **Insured Organization's** business and operations regardless of the occurrence of the **Adverse Publication**.

We will determine and calculate the amount of **Reputational Harm Loss** at our sole discretion, in good faith, and as we deem reasonable and necessary.

I. Representations & Severability

In granting this **Policy** to the **Insured**, we have relied upon representations and statements in the information and materials provided to us in connection with the underwriting and issuance of this **Policy**, with such representations and statements forming the basis of coverage under this **Policy**. All **Insureds** agree that representations and statements in the information and materials provided to us in connection with the underwriting and issuance of this **Policy** are true, accurate, and are not misleading.

J. Other Insurance

The insurance under this **Policy** will apply in excess of any other valid and collectible insurance, including any self-insured retention or deductible portion thereof, available to any **Insured** unless such other insurance is written only as specific excess insurance over this **Policy**.

K. Subrogation & Recoveries

In the event of any payment by us of any **Loss** or other amounts under this **Policy**, we are subrogated to the **Insured's** rights of recovery against any person or organization, and the **Insureds** will execute and deliver instruments, papers, and whatever else is necessary to secure such rights and enable us to effectively bring suit or otherwise pursue subrogation rights in the name of the **Insureds** under this **Policy**.

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

1. to us, to reimburse us for any Retention we paid on an **Insured's** behalf and for any **Loss** we paid under this **Policy**; and
2. to the **Insured**, to reimburse the **Insured** for any Retention such **Insured** paid and for any other amounts not covered under this **Policy**.

Provided, that such recoveries will not include any recovery from insurance, security, or indemnity taken for our benefit.

L. Authorization

The **Named Insured** has the authority to act on behalf of all **Insureds** and is responsible for the payment of premiums and receiving of notices of cancellation, nonrenewal, or any change to coverage provided under this **Policy**.

M. Assignment

This **Policy**, including any rights or duties herein, may not be transferred or assigned to another party unless we have provided our prior written consent to such transfer or assignment.

N. Action Against Us

In the event of a dispute between us and any **Insured**, we and such **Insured** agree to make reasonable efforts to resolve such dispute via negotiation or mediation.

No action will lie against us unless, as a condition precedent thereto, the **Insured** has been in full compliance with all terms of this **Policy** and the amount of the **Insured's** obligation to pay has been finally determined either by judgment or award against the **Insured** after trial, regulatory proceeding, arbitration, or by written agreement of us, the **Insured**, and the claimant. No person or entity shall have any rights under this **Policy** to join us as a party

to any action against any **Insured** to determine such **Insured's** liability, nor shall we be impleaded by such **Insured** or the legal representatives of such **Insured**.

O. **Bankruptcy**

Bankruptcy or insolvency of any **Insured**, including any **Insured Person's** estate, does not relieve us of any of our obligations, rights, or defenses under this **Policy**.

P. **Territory**

Coverage provided under this **Policy** shall extend to acts, errors, omissions, incidents, and **Cyber Events** occurring anywhere in the world.

Q. **Headings**

The titles, headings, and subheadings of certain paragraphs, sections, conditions, or provisions of this **Policy**, and any endorsements attached thereto, are intended solely for convenience and reference and form no part of the terms and conditions of coverage under this **Policy**.

R. **Singular Form of a Word**

Whenever the singular form of a word is used herein, the same will include the plural when required by context.

S. **Entire Agreement**

By acceptance of the **Policy**, all **Insureds** agree that this **Policy** embodies all agreements between the **Insured** and us relating to this **Policy**. Notice to any agent or knowledge possessed by any agent or by any other person will not effect a waiver or a change in any part of this **Policy** or stop us from asserting any right under the terms of this **Policy**; nor will the terms of this **Policy** be waived or changed, except by endorsement issued to form a part of this **Policy** signed by us.