

## **GENERAL TERMS AND CONDITIONS**

In consideration of the payment of the premium and in reliance upon the statements contained in the information and materials provided to the **Insurer** in connection with the underwriting and issuance of this Policy, the **Insurer** and the **Named Insured** agree as follows:

### **I. Application of General Terms and Conditions**

These General Terms and Conditions will apply to all **Coverage Modules** unless a **Coverage Module** states specifically that all or part of these General Terms and Conditions do not apply to that **Coverage Module**. The terms and conditions set forth in each **Coverage Module** will only apply to that particular **Coverage Module**. The definitions will have the meaning given to them in either Section III. (Definitions) of these General Terms and Conditions or in the **Coverage Module** they are used in.

### **II. Cover**

The **Insurer** will provide insurance cover as set out in those **Coverage Modules** that are purchased by the **Named Insured** as listed in the Declarations.

### **III. Definitions**

The following terms appearing in bold in these General Terms and Conditions are applicable to all **Coverage Modules** and will have the meanings set out below unless a **Coverage Module** states specifically that a definition will not apply to that **Coverage Module**.

- A. **Additional Insured** means any person or entity that the **Insured Organization** has agreed in writing to add as an Additional Insured under this Policy prior to the commission of any act for which such person or entity would be provided coverage under this Policy, but only to the extent the **Insured Organization** would have been liable and coverage would have been afforded under the terms and conditions of this Policy had such **Claim** been made against the **Insured Organization**.
- B. **Application** means the signed application, including any attachments or supplements to such application, submitted in connection with the underwriting of this Policy.
- C. **Approved Response Provider** means a vendor listed on the **Insurer's** pre-approved response provider list available on request from the **Insurer** or on the **Insurer's** website.
- D. **Claim** means:
  - 1. a written demand received by an **Insured** for money or services;
  - 2. a civil proceeding against any **Insured** seeking monetary damages or non-monetary or injunctive relief, commenced by the service of a complaint or similar pleading;

3. arbitration, mediation, or other alternative dispute resolution proceeding against any **Insured** seeking monetary damages or non-monetary or injunctive relief, commenced by the receipt of a written demand, or service of a complaint or similar pleading;
4. a written request directed at any **Insured** to toll or waive a statute of limitations applicable to a matter referenced in paragraphs 1.- 3. above; or
5. a **Regulatory Proceeding**.

E. **Claims Expenses** means:

1. all reasonable and necessary legal costs and expenses resulting from the investigation, defense, appeal, and settlement of a **Claim**, if incurred by the **Insurer**, or by the **Insured** with the prior written consent of the **Insurer**; and
2. the premium cost for appeal bonds for covered judgments or bonds to release property used to secure a legal obligation, if required in any **Claim** against an **Insured**; provided the **Insurer** will have no obligation to appeal or to obtain such bonds.

**Claims Expenses** will not include any wages, salary, overhead, or compensation paid to any **Insured**, or other charges by the **Insured** for any time spent cooperating in the defense and investigation of any **Claim** or circumstance that might lead to a **Claim** notified under this Policy.

F. **Computer System** means any computer hardware, any software or firmware stored on such hardware, and any associated device or equipment, data storage device, mobile device, networking equipment, or electronic data backup facility, that is:

1. operated by and either owned by or leased to the **Insured Organization**; or
2. operated by an **Information Technology Provider** pursuant to a written contract with the **Insured Organization**.

**Computer System** does not include any SCADA or other operational control systems.

G. **Confidential Information** means **Personally Identifiable Information** and **Corporate Information**.

H. **Control Group** means any principal, partner, corporate officer, director, general counsel (or most senior legal counsel), or risk manager of the **Insured Organization** and any individual in a substantially similar position.

I. **Corporate Information** means any information owned by a third party not insured under this Policy that is not available to the general public.

J. **Coverage Module** means a Coverage Module listed in the Declarations as purchased.

- K. **Cyber Incident** means a **Data Breach**, **Security Breach**, **System Failure**, **Extortion Threat**, **Crime Event**, or any other incident described in a First-Party coverage extension added by endorsement to this Policy.
- L. **Damages** means a monetary judgment, award, or settlement, including any award of pre-judgment or post-judgment interest; however, **Damages** will not include:
1. future profits, restitution, disgorgement of unjust enrichment or profits by an **Insured**, or the costs of complying with orders granting injunctive or equitable relief;
  2. 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;
  3. taxes or loss of tax benefits;
  4. fines, sanctions, or penalties, unless insurable by law in any applicable venue that most favors coverage for such fines, sanctions, or penalties;
  5. punitive or exemplary damages or any damages which are a multiple of compensatory damages, unless insurable by law in any applicable venue that most favors coverage for such punitive, exemplary, or multiple damages;
  6. any amounts an **Insured** has agreed to pay pursuant to a written agreement, including any liquidated damages or setoffs, unless the **Insured** would have been liable for such amounts in the absence of such written agreement;
  7. discounts, coupons, prizes, awards, or other incentives offered to the **Insured's** customers or clients; or
  8. any fines, costs, or other amounts that an **Insured** is responsible to pay under a **Merchant Services Agreement**.
- M. **Data** means any electronic information stored or processed on a **Computer System**.
- N. **Data Breach** means the disclosure or loss of, or access to, **Confidential Information** in a manner that is not authorized by the **Insured Organization** and without the knowledge of a member of the **Control Group**, provided such **Confidential Information** is in the **Insured Organization's** care, custody, or control, or in the care, custody, or control of a third-party for which the **Insured Organization** is legally responsible.
- O. **Individual Contractor** means any natural person who performs labor or service for the **Insured Organization** pursuant to a written contract or agreement with the **Insured Organization**. The status of an individual as an **Individual Contractor** will be determined as of the date of an alleged act, error, or omission by any such **Individual Contractor**.
- P. **Insured** means:

1. The **Insured Organization**;
2. any director or officer of the **Insured Organization**, but only with respect to the performance of the individual's duties as such on behalf of the **Insured Organization**;
3. an employee (including a part time, temporary, leased, or seasonal employee or volunteer) or **Individual Contractor** of the **Insured Organization**, but only for work done while acting within the scope of the individual's employment and related to the conduct of the **Insured Organization's** business;
4. a principal if the **Named Insured** is a sole proprietorship, or a partner if the **Named Insured** is a partnership, but only with respect to the performance of the individual's duties as such on behalf of the **Insured Organization**;
5. any person who previously qualified as an **Insured** under parts 2. - 4., but only with respect to the performance of the individual's duties as such on behalf of the **Insured Organization**;
6. an **Additional Insured**, but only with respect to **Claims** against such individual or entity for acts, errors, or omissions of the **Insured Organization**;
7. the estate, heirs, executors, administrators, assigns, and legal representatives of any party referenced in paragraphs 1.- 6. above in the event of such **Insured's** death, incapacity, insolvency, or bankruptcy, but only to the extent that such **Insured** would otherwise be provided coverage under this Policy; and
8. the lawful spouse, including any natural person qualifying as a domestic partner of any individual referenced in paragraphs 2.- 6. above, but solely by reason of any act, error, or omission of an **Insured** other than such spouse or domestic partner.

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

R. **Insurer** means the entity identified as the Insurer in the Declarations.

S. **Information Technology Provider** means an entity under a written agreement with the **Insured Organization** to provide it with:

1. hosted computer application services;
2. cloud services or computing;
3. electronic data hosting, back-up, storage, and processing;
4. co-location services;
5. platform-as-a-service;
6. software-as a service; or

7. any similar type of outsourced computing services.

T. **Loss** means any amounts covered under this Policy.

U. **Management Control** means directly or indirectly, owning interests representing more than 50% of the voting, appointment, or designation power, or having the right pursuant to a written agreement, by-laws, operating agreement, or similar document, to select a majority of the board of directors, trustees, or members of the management committee or management board or functional equivalent of an entity.

V. **Merchant Services Agreement** means any agreement between an **Insured** and a financial institution, credit/debit card company, credit/debit card processor, or independent service operator enabling an **Insured Organization** to accept credit card, debit card, prepaid card, or other payment cards for payments or donations.

W. **Named Insured** means the entity listed as the Named Insured in the Declarations.

X. **Personally Identifiable Information** means:

1. information concerning an individual that constitutes protected personal information under any **Privacy Law**; and
2. information from which an individual can be uniquely and reliably identified or contacted or allows access to the individual's financial account or medial record information, including an individual's passport, social security, driver's license or other government issued identification numbers, credit, debit or other financial account numbers, security codes, passwords, or PINs,

but does not include information lawfully made available to the general public.

Y. **Policy Period** means the period of time between the inception date listed in the Declarations and the effective date of termination, expiration, or cancellation of this Policy and specifically excludes any Optional Extension Period or any prior policy period or renewal period.

Z. **Pollutant** means any solid, liquid, gaseous, or thermal irritant or contaminant, whether occurring naturally or otherwise, including smoke, vapor, soot, fibers, mold, spores, fungus, germs, fumes, acids, alkalis, chemicals, asbestos, asbestos products, or waste. Waste includes materials to be recycled, reconditioned, or reclaimed.

AA. **Privacy Law** means any federal, state, local, or foreign law or regulation that requires commercial entities that collect **Personally Identifiable Information** to post privacy policies, adopt specific privacy or security controls, or notify individuals in the event that **Personally Identifiable Information** has potentially been compromised.

BB. **Related Claims** means all **Claims** that have a common nexus of fact, circumstance, situation, event, transaction, or cause or series of causally or logically connected facts, circumstances, situations, events, transactions, or causes, and includes any **Claims** arising out of a single **Cyber Incident** or **Related Cyber Incidents**.

- CC. **Related Cyber Incidents** means all **Cyber Incidents** that have a common nexus of fact, circumstance, situation, event, transaction, or cause or series of causally or logically connected facts, circumstances, situations, events, transactions, or causes.
- DD. **Regulatory Proceeding** means a written request for information, civil investigative demand, or civil proceeding brought by or on behalf of any federal, state, local, or foreign governmental entity or data protection authority in such entity's regulatory or official capacity.
- EE. **Retroactive Date** means the applicable date shown in the Declarations. If the Declarations is left blank or contains the phrase "Full Prior Acts," "N/A," "Not Applicable," or "None," then no **Retractive Date** applies to the Policy.
- FF. **Security Breach** means a failure of the security of **Computer Systems** (including the theft of a password or other credentials) to prevent:
1. the access or use of the **Computer Systems** in a manner not authorized by the **Insured Organization**;
  2. a denial of service attack;
  3. infection of **Computer Systems** by malicious code; or
  4. the transmission of malicious code from **Computer Systems**.
- GG. **Subsidiary** means any entity over which:
1. on, or prior to the inception date of this Policy, the **Named Insured** has **Management Control**; or
  2. the **Named Insured** acquires **Management Control** after the inception date of this Policy; provided that:
    - a. the revenues of such entity do not exceed 15% of the **Named Insured's** annual revenues; or
    - b. if the revenues of such entity exceed 15% of the **Named Insured's** annual revenues, then coverage under this Policy will be afforded for a period of 60 days, but only for any **Claim** that arises out of any act, error, omission, **Cyber Incident**, or event first occurring after the entity becomes so owned. Coverage beyond such 60-day period will only be available if the **Named Insured** gives the **Insurer** written notice of the acquisition, obtains the written consent of the **Insurer** to extend coverage to the entity beyond such 60-day period, and agrees to pay any additional premium required by the **Insurer**.

This Policy provides coverage only for acts, errors, omissions, **Cyber Incidents**, or events that occur while the **Named Insured** has **Management Control** over an entity.

#### IV. Exclusions

Unless specifically stated otherwise in a **Coverage Module**, with respect to all **Coverage Modules**, there will be no coverage for any **Loss** arising out of:

**A. Biometric Identifiers and Information**

1. any actual or alleged collection, use, processing, sharing, sale, possession, retention, security or destruction of, or profit from, biometric identifiers or biometric information, including fingerprints, faceprints, hand scans, vein patterns, voiceprints, iris or retina scans, keystroke, gait or other physical patterns, sleep/health/exercise data, or deoxyribonucleic acid (DNA);
2. any actual or alleged use of an **Insured's** products or services in furtherance of or in connection with an activity described in paragraph 1. above; or
3. any cause of action under common law or any actual or alleged violation of any federal, state, local, or foreign law or regulation in connection with an activity described in paragraphs 1. or 2. above, including under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1-14/25 (BIPA) (and any amendments thereto);

**B. Bodily Injury**

physical injury, sickness, disease, or death of any person, including any mental anguish or emotional distress resulting from such physical injury, sickness, disease, or death;

**C. Collection or Use of Personally Identifiable Information**

1. any actual or alleged unlawful collection, use, or retention of **Personally Identifiable Information** or other personal information by or on behalf of the **Insured Organization**;
2. any actual or alleged use of an **Insured's** products or services in furtherance of or in connection with an activity described in paragraph 1. above; or
3. any cause of action under common law or any actual or alleged violation of any federal, state, local, or foreign law or regulation in connection with an activity described in paragraphs 1. or 2. above, including any actual or alleged failure of the **Insured Organization** to provide adequate notice that **Personally Identifiable Information** is being collected, used, or retained;

**D. Consumer Protection Laws**

any actual or alleged violation of any federal, state, local, or foreign consumer protection laws or regulations, including the Fair Credit Reporting Act, Fair and Accurate Credit Transactions Act, Fair Debt Collection Practices Act, the Truth in Lending Act, or any similar federal, state, local, or foreign law or regulation; however, this exclusion will not apply to a **Claim** arising out of a **Data Breach** provided that no member of the **Control Group** participated or colluded in such **Data Breach**;

**E. Contractual Liability**

the breach of any express, implied, actual, or constructive contract, warranty, guarantee, or promise, or for any actual or alleged liability assumed by an **Insured** under contract. However, this exclusion will not apply to such liability that the **Insured** would have in the absence of such agreement;

**F. Employment Practices, Employment Benefits Liability & Discrimination**

1. any actual or alleged discrimination or harassment of any kind;
2. any employment relationship, employment practices or policies, or the nature, terms, or conditions of employment, including workplace torts, wrongful termination, dismissal or discharge, retaliation, refusal to employ, or any other misconduct with respect to employees; or
3. any actual or alleged acts, errors or omissions, or breach of a fiduciary duty, responsibility, or obligation, in connection with an employee benefit, pension, healthcare, welfare, profit sharing, mutual or investment plan, fund, or trust, including a violation of a fiduciary duty under the Employee Retirement Income Security Act of 1974 ("ERISA") or any similar federal, state, local, or foreign law or regulation;

however, part 2. of this exclusion will not apply to a **Claim** arising out of a **Data Breach** provided that no member of the **Control Group** participated or colluded in such **Data Breach**;

**G. Governmental Authority**

1. any seizure, confiscation or nationalization of a **Computer System** by order of any state, federal, local, or foreign governmental entity or data protection authority;
2. any **Claim** brought by or on behalf of any state, federal, local, or foreign governmental entity or data protection authority in such entity's regulatory or official capacity; or
3. any law or decree by or on behalf of any state, federal, local, or foreign governmental entity mandating the restriction of operations, closure, or shutdown of any **Computer System** or any person or entity operating a **Computer System**;

**H. Improvements**

costs or expenses incurred by the **Insured Organization** to:

1. identify or remediate software program errors or vulnerabilities;
2. update or improve privacy or network security controls, policies, or procedures to a level beyond that which existed prior to a **Cyber Incident**;
3. update, replace, restore, assemble, reproduce, recollect, or enhance **Data** or **Computer Systems** to a level beyond that which existed prior to a **Cyber Incident**;

**I. Infrastructure**

any failure, outage, disturbance, degradation, impairment, or interruption of infrastructure that is operated or supplied by a third-party, including:

1. satellite;
2. internet infrastructure, including any Domain Name System (DNS), Certificate Authority, or Internet Service Provider (ISP); or
3. telecommunications, electricity, power, gas, water, or other utility services;

**J. Insured v. Insured**

1. any allegations brought by or on behalf of any **Insured**; or
2. any allegations brought by or on behalf of any entity that is a parent, successor, or assignee of an **Insured**,

however, this exclusion does not apply to any **Claims** brought by an **Additional Insured** or any **Claim** brought by an individual who is not a member of the **Control Group** for a **Data Breach**;

**K. Intellectual Property**

any actual or alleged:

1. infringement, misuse, or abuse of patent or patent rights;
2. infringement of copyright arising from or related to software code or software products; or
3. misappropriation of ideas or trade secrets,

however, parts 2. and 3. of this exclusion do not apply to infringement or misappropriation resulting from a **Data Breach** or **Security Breach**, provided no past, present, or future employee, director, officer, partner, or **Individual Contractor** of the **Insured Organization** colluded or participated in such **Data Breach** or **Security Breach**;

**L. Intentional Conduct**

any actual or alleged dishonest, fraudulent, or criminal, error or omissions, or any deliberate, willful, or knowing violation of the law committed by an **Insured**; however, this exclusion does not apply to **Claims Expenses** in defending any **Claim** alleging the foregoing until there is a final, non-appealable judgment, binding adjudication, or adverse admission of fact establishing such conduct; for purposes of this exclusion:

1. no conduct pertaining to any natural personal **Insured** will be imputed to any other natural person **Insured**; and

2. only acts, errors, omissions, or knowledge of a member of the **Control Group** will be imputed to the **Insured Organization**;

**M. Natural Disaster**

any natural disasters, including fire, flood, volcanic eruption, tornados, explosions, lightning, wind, rain, hail, tidal wave, solar flare, coronal mass ejection, electromagnetic pulse, landslide, or act of God;

**N. Pollution**

1. nuclear reaction, radiation, or contamination;
2. electromagnetic radiation or frequencies;
3. the actual, alleged, or threatened discharge, dispersal, release, escape, seepage, migration, or disposal of a **Pollutant**;
4. a request, demand, order, or statutory or regulatory requirement that an **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to or assess the effects of a **Pollutant**; or
5. testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to or assessing the effects of a **Pollutant**;

**O. Prior Known Acts**

any act, error, omission, event, or **Cyber Incident** that first occurred, arose, or took place prior to the earlier of the effective date of this Policy, or the effective date of any policy or coverage part issued by the **Insurer** of which this Policy is a renewal or a replacement, and any member of the **Control Group** knew or could have reasonably foreseen that such act, error, omission, event, or **Cyber Incident** might be the basis of a **Loss** or **Claim**;

**P. Prior Notice**

any **Claim**, **Cyber Incident**, **Loss**, or circumstance for which notice has been provided under any prior policy of which this Policy is a renewal or replacement;

**Q. Property Damage**

loss, physical injury to, or destruction of any tangible property, including the resulting loss of use thereof;

**R. Retroactive Date**

any **Claim** arising out of any act, error, omission, or event, including a **Cyber Incident** or **Related Cyber Incidents**, first occurring prior to the **Retroactive Date**;

**S. Securities Law Violation**

1. any actual or alleged violation of a federal, state, local, or foreign securities law or regulation, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisors Act, or any state blue sky law; or
2. the ownership, sale or purchase of, or the offer to sell or purchase stock or other securities;

**T. Trading Losses, Loss of Money & Discounts**

1. any trading losses, trading liabilities, or change in value of accounts;
2. any loss, transfer, or theft of monies, securities, or tangible property of the **Insured** or others in the care, custody, or control of the **Insured Organization**;
3. the monetary value of any transactions or electronic fund transfers by or on behalf of the **Insured** which is lost, diminished, or damaged during the transfer from, into, or between accounts; or
4. the value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount,

however, this exclusion will not apply to **Loss** under the Crime **Coverage Module**;

**U. Unfair Trade Practices, False Advertising & Antitrust**

any actual or alleged false, deceptive, or unfair trade practices, antitrust violation, price fixing, restraint of trade, unfair competition, false or deceptive or misleading advertising or violation of the Federal Trade Commission Act, the Sherman Antitrust Act, the Clayton Act, the Robinson-Patman Act, or similar federal, state, local, or foreign law or regulation; however, this exclusion will not apply to a **Claim** for a **Data Breach** or **Security Breach** provided no member of the **Control Group** participated or colluded in such **Data Breach** or **Security Breach**;

**V. Uninsurable Loss**

1. a **Claim** that is uninsurable under the law of this Policy or any applicable venue; or
2. any payment or benefit which the **Insurer** is prohibited from making or providing by any applicable federal, state, local, or foreign law or regulation, or directive, order, or other proclamation having the force of law, or that would expose the **Insurer**, its parent company or its ultimate controlling entity to any applicable federal, state, local, or foreign sanctions, prohibitions, or restrictions, or anti-terrorism laws or regulations, including requirements by the United States Office of Foreign Assets Control (OFAC) and United Nations resolutions;

**W. Unsolicited Communications**

any actual or alleged unsolicited dissemination of communications by or on behalf of the **Insured Organization**, including unsolicited email, text messages, direct mail, facsimiles, or other

communications, wiretapping, recording, or telemarketing, actions brought under the Telephone Consumer Protection Act, or any federal or state anti-spam statutes (including CAN-SPAM);

**X. Racketeering**

any actual or alleged violation of the Organized Crime Control Act of 1970 (commonly known as the Racketeer Influenced and Corrupt Organizations Act or RICO), as amended;

**Y. War and Terrorism**

war, invasion, acts of foreign enemies, terrorism, hijacking, hostilities, or warlike operations (whether war is declared or not), military or usurped power, civil commotion assuming the proportions of or amounting to an uprising, strike, lock-out, riot, civil war, rebellion, revolution, or insurrection.

**V. Limits of Liability**

- A. The **Insurer's** total combined limit of liability for all **Loss** payable under the Policy for all **Coverage Modules**, regardless of the number **Cyber Incidents** or **Claims** made, will be the Aggregate Limit of Liability listed in the Declarations.
- B. The limit of liability payable under each **Coverage Module** will be an amount equal to the Aggregate Limit of Liability unless another amount is listed in the Declarations. Such amount is the aggregate amount payable under this Policy pursuant to such **Coverage Module** and is part of, and not in addition to, the Aggregate Limit of Liability. Payment of any **Loss** under a **Coverage Module** will erode the Aggregate Limit of Liability.
- C. The **Insurer** will not be obligated to pay any **Loss**, investigate any **Cyber Incident** or **Claim**, or defend or settle any **Claim**, after the Aggregate Limit of Liability has been exhausted, or after deposit of the Aggregate Limit of Liability in a court of competent jurisdiction.

**VI. Retentions**

- A. Satisfaction of the applicable Retention is a condition precedent to the payment of any **Loss** under this Policy, and the liability of the **Insurer** to pay covered **Loss** will apply only to that part of **Loss** which is in excess of the applicable Retention. The Retention will be satisfied by payments by the **Named Insured** of covered **Loss** and cannot be insured. The limits of liability will not be reduced by the payment of any Retention.
- B. The Retention listed in the Declarations applies separately to each **Cyber Incident**, event, **Related Cyber Incidents**, or related events giving rise to a **Claim** or **Loss**. If any **Loss** arising out of a **Cyber Incident** or **Claim** is subject to more than one Retention, the Retention for each applicable **Coverage Module** will apply separately to such **Loss**, provided that the sum of such Retention amounts will not exceed the largest applicable Retention amount.

**VII. Optional Extension Period**

- A. Upon non-renewal or cancellation of this Policy for any reason except the non-payment of premium, the **Named Insured** will have the right to purchase, for additional premium in the amount of the Optional Extension Premium percentage listed in the Declarations of the full Policy Premium listed in the Declarations, an Optional Extension Period for the period of time listed in the Declarations. Coverage provided by such Optional Extension Period will only apply to **Claims** first made against any **Insured** during the Optional Extension Period and reported to the **Insurer** during the Optional Extension Period, and arising out of any act, error, omission, **Cyber Incident**, or event committed or occurring before the end of the **Policy Period**. **Claims** made during the Optional Extension Period must be reported in accordance with Section VIII (Notice). In order for the **Named Insured** to invoke the Optional Extension Period option, the payment of the additional premium for the Optional Extension Period must be paid to the **Insurer** within 60 days of the termination of this Policy.
- B. The purchase of the Optional Extension Period will in no way increase the Aggregate Limit of Liability or any sublimit of liability. At the commencement of the Optional Extension Period the entire premium will be deemed earned, and in the event the **Named Insured** terminates the Optional Extension Period for any reason prior to its natural expiration, the **Insurer** will not be liable to return any premium paid for the Optional Extension Period.
- C. All notices and premium payments with respect to the Optional Extension Period option will be directed to the **Insurer** through entity listed for Administrative Notice in the Declarations.

## VIII. Notice

### A. When a Claim is Made or Cyber Incident is Discovered

- 1. With respect to the Third-Party **Coverage Modules**, a **Claim** will be deemed to be made on the earliest date on which a member of the **Control Group** received notice of a demand, request, investigation, service of process, complaint, or other pleading or proceeding in connection with such **Claim**. All **Related Claims**, whenever made, will be considered a single **Claim** and such **Claim** will be deemed to have been made on the date the first of those **Related Claims** was made against any **Insured**.
- 2. With respect to the First-Party **Coverage Modules**, a **Cyber Incident** will be deemed discovered when such **Cyber Incident** first becomes known to a member of the **Control Group**. All **Related Cyber Incidents**, whenever occurring, will be deemed a single **Cyber Incident** and such **Cyber Incident** will be deemed to have been discovered on the date the first of those **Related Cyber Incidents** was discovered.

### B. Reporting of Claims and Incidents

- 1. With respect to the Third-Party **Coverage Modules**, the **Insured** must notify the **Insurer** in writing of a **Claim** as soon as practicable after such **Claim** is made, but no later than 60 days after the end of the **Policy Period** or, with respect to a **Claim** made during any applicable Optional Extension Period, no later than the expiration of the Optional Extension Period; and
- 2. With respect to the First-Party **Coverage Modules**, the **Insured** must notify the **Insurer** in writing of a **Cyber Incident** as soon as practicable after such **Cyber Incident** is discovered, but no later than 60 days after the end of the **Policy Period**. Notice of a **Cyber Incident** in conformance with this

paragraph will also constitute notice of a circumstance that could reasonably be the basis of a future **Claim**.

3. Notice must contain all reasonably obtainable information concerning the details of the **Claim** or **Cyber Incident**.

#### C. Confidential Incidents

In the event the **Insured** is prevented from reporting a **Cyber Incident** or **Claim** or because of court order or written instruction or request from a law enforcement, regulatory, or other government agency prohibiting the **Insured** from disclosing information pertaining to a **Cyber Incident**, notice of such **Cyber Incident** or **Claim** will be considered timely under the Policy if:

1. as soon as practicable after receipt of such court order, instruction, or request, an officer or employee of the **Insured Organization** requests permission from such law enforcement, regulatory, or other government agency to give notice of such **Cyber Incident** or **Claim** under this Policy and to share such confidential information with the **Insurer**;
2. the **Insured** only withholds from the **Insurer** that portion of the information, and any required notice, that it has been instructed by such law enforcement, regulatory, or other government agency not to share with the **Insurer**;
3. the **Insured** provides full notice of such **Cyber Incident** or **Claim** to the **Insurer** as soon as practicable after the termination of such prohibition, but in no event, no later than 60 days after the termination of such prohibition; and
4. the **Insured** provides the **Insurer** with a copy of the court order, instruction, or request from the law enforcement, regulatory, or other government agency, and any subsequent communications relating thereto, prohibiting the **Insured** from disclosing the **Cyber Incident**.

#### D. Notice of Circumstance

If during the **Policy Period** an **Insured** first becomes aware of any circumstance which may reasonably give rise to a future **Claim** under the Policy, an **Insured** may give written notice of such circumstance to the **Insurer** through the contacts listed for notice in the Declarations as soon as practicable during the **Policy Period**. Such notice must include full particulars of the acts, errors, omissions, or facts of the circumstance. Any subsequent **Claim** made against the **Insured** arising out of any circumstance reported to the **Insurer** in conformance with this paragraph will be considered to have been made at the time written notice in conformance with this paragraph was given to the **Insurer**.

### IX. Defense

- A. The **Insurer** has the right and duty to defend a covered **Claim**, even if the allegations are groundless, false, or fraudulent.

- B. The **Insurer** will consult with the **Insured** to reach an agreement regarding the appointment of defense counsel, but will retain the right to appoint counsel on the **Insured's** behalf and to investigate and defend a covered **Claim** or **Regulatory Proceeding** as it deems necessary.
- C. The **Insurer's** right and duty to defend any **Claim** ends when the Aggregate Limit of Liability or applicable Limit of Liability has been exhausted.

#### **X. Settlement**

- A. No **Insured** will settle any **Claim**, incur any **Claims Expenses**, pay any **Damages, PCI Loss, or Penalty**, admit or assume liability, stipulate to any judgment or otherwise assume any obligation with respect to a **Claim** without the **Insurer's** prior written consent. Provided, however, the **Insured** may settle a **Claim** without the **Insurer's** consent if all **Loss** (including **Claims Expenses**) remains within the Retention, and the **Insured** obtains a full release on behalf of all **Insureds** from all claimants.
- B. If the **Insured** refuses to consent to any settlement recommended by the **Insurer** and acceptable to the claimant, the **Insurer's** obligation to pay **Loss** for such **Claim** will not exceed the sum of:
  - 1. the amount for which the **Claim** could have been settled, less the remaining Retention; and
  - 2. the **Claims Expenses** incurred up to the time of such refusal,and the **Insurer** will have the right to withdraw from the further defense of such **Claim**.

#### **XI. Assistance and Cooperation**

- A. Each **Insured** must cooperate with the **Insurer** in the investigation and handling of any **Claim** or **Cyber Incident**, including:
  - 1. providing copies of any demands, reports, investigations, pleadings, and all related documents, invoices, and other information as the **Insurer** may reasonably request;
  - 2. attending hearings, depositions, conferences and trials, assisting in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and assisting in any other aspect of the investigation and defense;
  - 3. enforcing any legal rights the **Insured** may have against any third party who may be liable to the **Insured**; and
  - 4. taking all other actions that the **Insured** and **Insurer** agree are necessary and practicable to limit **Loss**.
- B. Each **Insured** must cooperate with and provide any additional information requested by the **Insurer** in its investigation of a **Cyber Incident**, and shall allow and facilitate the **Insurer's** investigation of a **Cyber Incident**, including the scope, impact, and cause of such **Cyber Incident**.

- C. The **Insured** will do nothing that in any way prejudices the **Insurer's** rights under the Policy, make a payment, admit liability, assume any obligation or incur any expense without the written consent of the **Insurer**, except as specifically provided in Section X. (Settlement) or under the definition of **Extra Expenses** or **Data Recovery Costs**.

## **XII. Other Insurance**

The insurance under this Policy will apply in excess of any other valid and collectible insurance available to any **Insured** unless such other insurance is written only as specific excess insurance over this Policy.

## **XIII. Subrogation**

In the event of any payment under this Policy, the **Insurer** will be subrogated to all of the **Insured's** rights of recovery against any person or organization, and the **Insured** will execute and deliver instruments and papers and do whatever else is reasonably necessary to secure such rights. The **Insured** will do nothing to prejudice such rights. The **Insurer** will have no rights of subrogation against any **Insured**. Any recoveries will be applied first to subrogation expenses, second to **Loss** paid by the **Insurer**, and lastly to the Retention. Any additional amounts recovered will be paid to the **Named Insured**.

## **XIV. Action Against the Insurer**

- A. No action will lie against the **Insurer** unless, as a condition precedent thereto, there has been full compliance with all of the terms of this Policy, nor until the amount of the **Insured's** obligation to pay has been fully and finally determined either by judgment or award against the **Insured** after trial or arbitration or by written agreement among the **Insureds**, the claimant, and the **Insurer**.
- B. No person or entity will have any right under the Policy to join the **Insurer** as a party to an action against an **Insured** to determine the **Insured's** liability, nor will the **Insurer** be impleaded by an **Insured** or the **Insured's** legal representative.

## **XV. Entire Agreement**

By acceptance of the Policy, all **Insureds** agree that this Policy embodies all agreements between the **Insurer** and the **Insured** relating to this Policy. Notice to any agent, or knowledge possessed by any agent or by any other person, will not be deemed a waiver or a change in any part of this Policy or stop the **Insurer** 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 by the **Insurer** to form a part of this Policy.

## **XVI. Mergers or Consolidations**

If during the **Policy Period** any one of the following occurs:

1. the **Named Insured** consolidates or merges with or is acquired by another entity such that the **Named Insured** is not the surviving entity; or
2. the **Named Insured** sells more than 50% of its assets to another entity such that another person, entity, or group of persons or entities acquires **Management Control**;

then this Policy will continue to remain in effect through the end of the **Policy Period**, but only with respect to errors, omissions, acts, events, or **Cyber Incidents** that occur prior to such consolidation, merger, or acquisition. There will be no coverage provided by this Policy for any other **Cyber Incident, Claim, or Loss** unless the **Named Insured** provides written notice to the **Insurer** prior to such consolidation, merger, or acquisition, the **Named Insured** has agreed to any additional premium and terms of coverage required by the **Insurer**, and the **Insurer** has issued an endorsement extending coverage under this Policy.

#### **XVII. Assignment**

This Policy and any right or interest hereunder cannot be assigned without the **Insurer's** prior written consent.

#### **XVIII. Bankruptcy or Insolvency**

The bankruptcy or insolvency of any **Insured** will not relieve the **Insurer** of any of its obligations under the Policy.

#### **XIX. Cancellation**

- A. This Policy may be cancelled by the **Named Insured** by giving written notice to the **Insurer** through the entity listed for notice in the Declarations stating when the cancellation will be effective or, if no effective date is stated, the effective date of cancellation will be 30 days after the **Insurer's** receipt of notice. The **Policy Period** will end on the effective date of cancellation.
- B. This Policy may be cancelled by the **Insurer** by mailing to the **Named Insured** at the address listed in the Declarations written notice stating when such cancellation will be effective. Such date of cancellation will not be less than 60 days (or 10 days for cancellation due to non-payment of premium) after the date of notice.
- C. If this Policy is canceled in accordance with the paragraphs above, the earned premium will be computed pro rata; but the premium will be deemed fully earned if any **Cyber Incident, Claim**, or any circumstance that could reasonably be the basis for a **Claim** is reported to the **Insurer** on or before the date of cancellation. Payment or return of unearned premium is not a condition precedent of cancellation.

#### **XX. Nonrenewal**

The **Insurer** may elect not to renew this Policy by mailing or delivering written notice of nonrenewal to the **Named Insured** at its address stated on the Declarations. If notice of nonrenewal is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

#### **XXI. Governing Law**

This Policy and any disputes or claims arising out of or in connection with the Policy will be governed by and construed in accordance with the laws of the jurisdiction stated in the Declarations.

#### **XXII. Representation by the Insured**

The **Insurer** has issued this Policy in reliance on the truth, accuracy, and completeness of the statements and representations that the **Insured** made to the **Insurer** in the **Application** and in connection with the underwriting

and issuance of this Policy. Such statements and representations are incorporated into and made part of this Policy.

### **XXIII. 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.

### **XXIV. Headings**

The titles of paragraphs, clauses, provisions, or endorsements of or to this Policy are intended solely for convenience and reference and are not deemed in any way to limit or expand the provisions to which they relate and are not part of the Policy.

### **XXV. Named Insured as Agent**

The **Named Insured** will be considered the agent of all **Insureds** and will act on behalf of all **Insureds** with respect to the giving of or receipt of all notices pertaining to this Policy, and the acceptance of any endorsements to this Policy. The **Named Insured** is responsible for the payment of all premiums and Retentions and for receiving any return premiums.

### **XXVI. Territory**

The coverage afford under this Policy applies anywhere in the world, where legally permissible.

### **XXVII. Valuation and Currency**

All monetary amounts under this Policy are expressed and payable in the currency of the United States. If any amounts covered by this Policy are stated or paid in a currency (including cryptocurrency) other than United States of America dollars, then the payment under this Policy will be made in United States Dollars at the conversion rate published in the Wall Street Journal at the time of the payment.

## **FIRST PARTY COVERAGE MODULE - INCIDENT RESPONSE**

### **I. Insuring Agreement**

The **Insurer** will indemnify the **Insured Organization** for **Incident Response Costs** incurred by the **Insured Organization** because of an actual or reasonably suspected **Data Breach** or **Security Breach** that the **Insured** discovers during the **Policy Period**.

### **II. Definitions**

The following additional definitions apply to the Incident Response **Coverage Module**:

**Incident Response Costs** means the following fees and costs incurred by the **Insured Organization** with the **Insurer's** prior written consent and by an **Approved Response Provider**:

1. for an attorney to provide necessary legal advice to the **Insured Organization** regarding its obligations pursuant to **Privacy Laws** or a **Merchant Services Agreement**;
2. for a computer security expert to determine the existence, cause, and scope of an actual or reasonably suspected **Data Breach**, and if such **Data Breach** is actively in progress on a **Computer System**, to assist in containing it;
3. to notify those individuals whose **Personally Identifiable Information** was, or is believed to have been, accessed or disclosed by a **Data Breach**;
4. to provide a call center to respond to inquiries by those individuals described in part 3. above about a **Data Breach**;
5. to provide up to one year (or longer if legally required) of a credit monitoring, identity monitoring, or other personal fraud or loss prevention solution to those individuals described in part 3. above;
6. public relations and crisis management costs directly related to mitigating harm to the **Insured Organization** which are approved in advance by the **Insurer** in its discretion; and
7. for a PCI Forensic Investigator to investigate the existence and extent of an actual or reasonably suspected **Data Breach** involving payment card data and for a Qualified Security Assessor to certify and assist in attesting to the **Insured Organization's** PCI compliance, as required by a **Merchant Services Agreement**.

**Incident Response Costs** will not include any internal salary or overhead expenses of the **Insured Organization**.

## **FIRST PARTY COVERAGE MODULE - DATA RECOVERY**

### **I. Insuring Agreement**

The **Insurer** will indemnify the **Insured Organization** for **Data Recovery Costs** that the **Insured Organization** incurs as a direct result of a **Security Breach** that the **Insured** discovers during the **Policy Period**.

### **II. Definitions**

The following additional definitions apply to the Data Recovery **Coverage Module**:

**Data Recovery Costs** mean reasonable and necessary costs incurred by the **Insured Organization** to regain access to, replace, or restore **Data**, or if **Data** cannot reasonably be accessed, replaced, or restored, then reasonable and necessary costs incurred by the **Insured Organization** to reach this determination.

**Data Recovery Costs** do not include:

1. 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**;
2. costs to research and develop **Data**, including trade secrets;
3. legal costs or legal expenses;
4. loss arising out of any liability to any third party;
5. any other consequential loss or damages; or
6. any internal salary or overhead expenses of the **Insured Organization**.

### **III. Conditions**

With respect to **Data Recovery Costs**, the **Insured Organization** must provide the **Insurer** with proof of loss with full particulars (including backup documentation) as soon as practicable after discovery of the **Cyber Incident**, but no later than six (6) months after the end of the **Policy Period**. The **Insurer** will reimburse the **Insured Organization** for reasonable and necessary costs, not to exceed the sublimit in the Declarations, that the **Insured Organization** incurs to contract with a third party to prepare such proof. If a **Cyber Incident** implicates coverage under more than one **Coverage Module**, only one sublimit for the preparation of a proof of loss will apply to such **Cyber Incident**.

The **Insurer** may make interim payments of undisputed **Data Recovery Costs** at the sole discretion of the **Insurer**, at any time.

## **FIRST PARTY COVERAGE MODULE - BUSINESS INTERRUPTION**

### **I. Insuring Agreement**

The **Insurer** will indemnify the **Insured Organization** for **Business Interruption Loss** that the **Insured Organization** incurs as a direct result of a **Security Breach** or **System Failure** that the **Insured** discovers during the **Policy Period**.

### **II. Definitions**

With respect to the Business Interruption **Coverage Module**, the definition of **Computer System** in the General Terms and Conditions is amended and is as follows:

**Computer System** means any computer hardware, any software or firmware stored on such hardware, and any associated device or equipment, data storage device, mobile device, networking equipment, or electronic data backup facility, that is operated by and either owned by or leased to the **Insured Organization**. **Computer System** does not include any SCADA or other operational control systems.

In addition, the following additional definitions apply to the Business Interruption **Coverage Module**:

#### **A. Business Interruption Loss** means:

1. **Income Loss**; and
2. **Extra Expenses**,

actually sustained during the **Period of Restoration** as a result of a **Material Interruption** of **Computer Systems** caused by a **Security Breach** or **System Failure**.

**Business Interruption Loss** does not include:

1. loss arising out of any liability to any third party;
2. legal costs or legal expenses;
3. loss incurred as a result of unfavorable business conditions;
4. loss of market or any other consequential loss; or
5. costs incurred by the **Insured Organization** to regain access to, replace, or restore **Data**.

#### **B. Extra Expenses** means reasonable and necessary expenses (including overtime of employees) which are over and above normal operating expenses:

1. in order to ensure continuation of the normal business operations of an **Insured Organization**; and

2. to reduce **Income Loss**.

Provided that **Extra Expenses** will not exceed the reduction in **Income Loss** that would have been sustained had the **Insured Organization** not incurred such expenses.

- C. **Income Loss** means an **Insured Organization's** actual loss sustained resulting from the reduction in business income calculated by taking either Network Loss Option 1 or Network Loss Option 2 (as set forth in the Conditions of this **Coverage Module**).
- D. **Material Interruption** means the actual full or partial interruption of a **Computer System** which causes the **Insured Organization** to be unable to continue normal business operations.
- E. **Period of Restoration** means the period of time that begins upon the **Material Interruption** of a **Computer System** and ends on the date on which a **Computer System** is restored with reasonable speed to the same functionality and level of service that existed prior to the **Security Breach** or **System Failure**. In no event will the **Period of Restoration** exceed 180 days.
- F. **System Failure** means an unintentional and unplanned full or partial interruption of a **Computer System**. **System Failure** will not include any full or partial interruption resulting from a **Security Breach**.
- G. **Waiting Period** means the number of hours stated in the Declarations, and begins upon the **Material Interruption** of a **Computer System**. Coverage for **Business Interruption Loss** will apply only after the **Waiting Period** has elapsed.

### III. Exclusions

In addition to the Exclusions set forth in the General Terms and Conditions, with respect to the Business Interruption **Coverage Module** only, there will be no coverage for any **Loss** arising out of:

1. Any failure of computer security to prevent a breach of computer systems operated by an **Information Technology Provider** or an entity that is not part of the **Insured Organization**;
2. Any interruption of computer systems operated by an **Information Technology Provider** or an entity that is not part of the **Insured Organization**; or
3. Any voluntary and intentional interruption or shutdown of a **Computer System** by an **Insured Organization**.

### IV. Conditions

#### A. Retention

With respect to the Business Interruption **Coverage Module**, Section VI. Retentions of the General Terms and Conditions is amended to include the following additional term:

Coverage for **Business Interruption Loss** will apply after the **Waiting Period** has elapsed and the **Insurer** will then indemnify the **Named Insured** for all **Business Interruption Loss** sustained during the **Period of Restoration** in excess of the **Retention**.

## B. POL Requirement

With respect to any potential **Business Interruption Loss**, the **Insured Organization** must provide the **Insurer** with proof of loss with full particulars (including backup documentation) as soon as practicable after discovery of the **Cyber Incident**, but no later than six (6) months after the end of the **Policy Period**. The **Insurer** will reimburse the **Insured Organization** for reasonable and necessary costs, not to exceed the sublimit in the Declarations, that the **Insured Organization** incurs to contract with a third party to prepare such proof. If a **Cyber Incident** implicates more than one **Coverage Module**, only one sublimit for the preparation of a proof of loss will apply to such **Cyber Incident**.

The **Insurer** may make interim payments of undisputed **Business Interruption Loss** at the sole discretion of the **Insurer**, at any time.

## C. Network Loss Options

Network Loss Option 1 (Net Profit and Continuing Fixed Costs Calculation) is calculated as follows:

Take the net profit or loss which would have been earned or incurred had the **Material Interruption** not occurred and add the costs (including ordinary payroll) which necessarily continue during the **Material Interruption**.

Network Loss Option 2 (Gross Profits Calculation) is calculated as follows:

Take the revenue which would have been derived from the operation of the business had the **Material Interruption** not occurred and subtract the variable costs, and any other costs, which do not necessarily continue during the **Material Interruption**.

Under both Network Loss Options 1 and 2, due consideration will be given to:

- (1) the experience of the business before the date of the **Material Interruption** and the probable experience during the **Period of Interruption** had no **Material Interruption** occurred;
- (2) the continuation of only those necessary charges and expenses that would have existed had no **Material Interruption** occurred; and
- (3) **Business Income Loss** which is made up within a reasonable period of time (no less than one year) after the expiration of the **Period of Restoration**.

Under both Network Loss Options 1 and 2, due consideration will not be given to income that might have been earned as a result of favorable business conditions caused by the impact of the **Cyber Incident** or similar events on other businesses.

## D. Miscellaneous Provisions and Conditions

Coverage provided under this **Coverage Module** will not exceed the actual loss sustained by an **Insured**. In addition, each **Insured** agrees to:

- (1) use any resource owned or controlled by such **Insured**, or available to such **Insured** from other sources (including any other **Insured**), in order to continue its business and reduce **Business Interruption Loss**;
- (2) act with due diligence and dispatch to repair or restore the **Computer System** to the same or equivalent operating conditions that existed prior to the **Material Interruption** in order to continue its business and to reduce **Business Interruption Loss**; and
- (3) take reasonable efforts to seek recovery from any vendor or other third party that is likely to have a contractual or other legal obligation to indemnify the **Insured** for **Business Interruption Loss**.

## **FIRST PARTY COVERAGE MODULE - DEPENDENT BUSINESS INTERRUPTION**

### **I. Insuring Agreement**

The **Insurer** will indemnify the **Insured Organization** for **Business Interruption Loss** that the **Insured Organization** sustains as a direct result of a **Security Breach** or **System Failure** of an **Information Technology Provider Computer System** that the **Insured** discovers during the **Policy Period**.

### **II. Definitions**

With respect to the Dependent Business Interruption **Coverage Module**, the definition of **Security Breach** in the General Terms and Conditions is amended and is as follows:

**Security Breach** means a failure of an **Information Technology Provider Computer System** (including the theft of a password or other credentials) to prevent:

1. the access or use of an **Information Technology Provider Computer System** in a manner not authorized by the **Information Technology Provider**;
2. a denial of service attack;
3. infection of an **Information Technology Provider Computer System** by malicious code; or
4. the transmission of malicious code from an **Information Technology Provider Computer System**.

In addition, the following additional definitions apply to the Dependent Business Interruption **Coverage Module**:

#### **A. Business Interruption Loss** means:

1. **Income Loss**; and
2. **Extra Expenses**,

actually sustained during the **Period of Restoration** as a result of a **Material Interruption** of an **Information Technology Provider Computer System** caused by a **Security Breach** or **System Failure**.

**Business Interruption Loss** does not include:

1. loss arising out of any liability to any third party;
2. legal costs or legal expenses;
3. loss incurred as a result of unfavorable business conditions;
4. loss of market or any other consequential loss; or

5. costs incurred by the **Insured Organization** to regain access to, replace, or restore **Data**.

B. **Extra Expenses** means reasonable and necessary expenses (including overtime of employees) which are over and above normal operating expenses:

1. in order to ensure continuation of the normal business operations of an **Insured Organization**; and
2. to reduce **Income Loss**.

Provided that **Extra Expenses** will not exceed the reduction in **Income Loss** that would have been sustained had the **Insured Organization** not incurred such expenses.

C. **Income Loss** means an **Insured Organization's** actual loss sustained resulting from the reduction in business income calculated by taking either Network Loss Option 1 or Network Loss Option 2 (as set forth in the Conditions of this **Coverage Module**).

D. **Information Technology Provider Computer System** means any computer hardware, any software or firmware stored on such hardware, and any associated device or equipment, data storage device, mobile device, networking equipment, or electronic data backup facility, that is operated by and either owned by or leased to an **Information Technology Provider**. **Information Technology Provider Computer System** does not include any SCADA or other operational control systems.

E. **Material Interruption** means the actual and full or partial interruption of an **Information Technology Provider Computer System** which causes the **Insured Organization** to be unable to continue normal business operations.

F. **Period of Restoration** means the period of time that begins upon the **Material Interruption** of an **Information Technology Provider Computer System** and ends on the date on which an **Information Technology Provider Computer System** is restored with reasonable speed to the same functionality and level of service that existed prior to the interruption. In no event will the **Period of Restoration** exceed 180 days.

H. **System Failure** means an unintentional and unplanned full or partial interruption of an **Information Technology Provider Computer System**. **System Failure** will not include any full or partial interruption resulting from a **Security Breach**.

G. **Waiting Period** means the number of hours stated in the Declarations, and begins upon the **Material Interruption** of an **Information Technology Provider Computer System**. Coverage for **Business Interruption Loss** will apply only after the **Waiting Period** has elapsed.

### III. Exclusions

In addition to the Exclusions set forth in the General Terms and Conditions, with respect to the Dependent Business Interruption **Coverage Module** only, there will be no coverage for any **Loss** arising out of:

1. Any failure of computer security to prevent a breach of **Computer Systems** operated by and either owned by or leased to the **Insured Organization**; or
2. Any voluntary and intentional interruption or shutdown of an **Information Technology Provider Computer System** by an **Information Technology Provider**.

#### IV. Conditions

##### A. Retention

With respect to the Dependent Business Interruption Loss **Coverage Module**, Section VI. Retentions of the General Terms and Conditions is amended to include the following additional term:

Coverage for **Business Interruption Loss** will apply after the **Waiting Period** has elapsed and the **Insurer** will then indemnify the **Insured Organization** for all **Business Interruption Loss** sustained during the **Period of Restoration** in excess of the Retention.

##### B. POL Requirement

With respect to any potential **Business Interruption Loss**, the **Insured Organization** must provide the **Insurer** with proof of loss with full particulars (including backup documentation) as soon as practicable after discovery of the **Cyber Incident**, but no later than six (6) months after the end of the **Policy Period**. The **Insurer** will reimburse the **Insured Organization** for reasonable and necessary costs, not to exceed the sublimit in the Declarations (USD), that the **Insured Organization** incurs to contract with a third party to prepare such proof. If a **Cyber Incident** implicates coverage under more than one **Coverage Module**, only one sublimit for the preparation of a proof of loss will apply to such **Cyber Incident**.

The **Insurer** may make interim payments of undisputed **Business Interruption Loss** at the sole discretion of the **Insurer**, at any time.

##### C. Network Loss Options

Network Loss Option 1 (Net Profit and Continuing Fixed Costs Calculation) is calculated as follows:

Take the net profit or loss which would have been earned or incurred had the **Material Interruption** not occurred and add the costs (including ordinary payroll) which necessarily continue during the **Material Interruption**.

Network Loss Option 2 (Gross Profits Calculation) is calculated as follows:

Take the revenue which would have been derived from the operation of the business had the **Material Interruption** not occurred and subtract the variable costs, and any other costs, which do not necessarily continue during the **Material Interruption**.

Under both Network Loss Options 1 and 2, due consideration will be given to:

- (1) the experience of the business before the date of the **Material Interruption** and the probable experience during the **Period of Interruption** had no **Material Interruption** occurred;
- (2) the continuation of only those necessary charges and expenses that would have existed had no **Material Interruption** occurred; and
- (3) **Business Income Loss** which is made up within a reasonable period of time (no less than one year) after the expiration of the **Period of Restoration**.

Under both Network Loss Options 1 and 2, due consideration will not be given to income that might have been earned as a result of favorable business conditions caused by the impact of the **Cyber Incident** or similar events on other businesses.

#### **D. Miscellaneous Provisions and Conditions**

Coverage provided under this **Coverage Module** will not exceed the actual loss sustained by an **Insured**. In addition, each **Insured** agrees to:

- (1) use any resource owned or controlled by such **Insured**, or available to such **Insured** from other sources (including any other **Insured**), in order to continue its business and reduce **Business Interruption Loss**; and
- (2) take reasonable efforts to seek recovery from any vendor or other third party that is likely to have a contractual or other legal obligation to indemnify the **Insured** for **Business Interruption Loss**.

## **FIRST PARTY COVERAGE MODULE - CYBER EXTORTION**

### **I. Insuring Agreement**

The **Insurer** will indemnify the **Insured Organization** for **Cyber Extortion Loss** that the **Insured Organization** incurs as a result of an **Extortion Threat** made against the **Insured Organization** during the **Policy Period**.

### **II. Definitions**

The following additional definitions apply to the Cyber Extortion **Coverage Module**:

- A. **Cyber Extortion Loss** means the following reasonable and necessary expenses incurred by the **Insured Organization** with the **Insurer's** prior written consent:
1. legal or consulting services and related fees provided by an **Approved Response Provider** to assist the **Insured Organization** in responding to or investigating an **Extortion Threat**; and
  2. payment made by the **Insured Organization** to terminate the **Extortion Threat**.
- B. **Extortion Threat** means a demand for the payment of money, cryptocurrency, securities, or other property of value made against the **Insured Organization** accompanied by a threat or series of related threats to intentionally perform or continue one or more of the following acts unless payment is made:
1. release, disclose, steal, disseminate, destroy, or use **Confidential Information** stored on a **Computer System**;
  2. perpetrate a **Security Breach**;
  3. alter, corrupt, damage, manipulate, misappropriate, encrypt, delete, or destroy **Data**;
  4. restrict or inhibit access to a **Computer System** or **Data**; or
  5. interrupt or suspend a **Computer System**.

### **III. Conditions**

- A. Coverage for **Cyber Extortion Loss** is contingent upon the **Insured Organization** notifying all law enforcement, regulatory, or any other federal, state, local, or foreign agencies of an **Extortion Threat** as required or recommended by any applicable law, statute, regulation, directive, order, or other proclamation having the force of law.
- B. Coverage for any payment made by the **Insured Organization** to terminate an **Extortion Threat** is contingent upon an **Approved Service Provider** conducting an appropriate review to ensure that such payment is not prohibited under any applicable federal, state, local, or foreign law or regulation,

or directive, order, or other proclamation having the force of law, including requirements by the United States Office of Foreign Assets Control (OFAC) and United Nations resolutions.

## **FIRST PARTY COVERAGE MODULE - CRIME**

### **I. Insuring Agreement**

The **Insurer** will indemnify the **Insured Organization** for any **Crime Loss** that the **Insured Organization** incurs as a result of a **Crime Event** discovered by the **Insured Organization** during the **Policy Period**.

### **II. Definitions**

The following additional definitions apply to the Crime **Coverage Module**:

**A. Crime Event** means:

1. **Fraudulent Instruction**; and
2. **Funds Transfer Fraud**.

**B. Crime Loss** means the actual loss of **Money** or **Securities** incurred by the **Insured Organization** because of a **Crime Event**. However, **Crime Loss** will not include:

1. any indirect or consequential loss of any kind, including any loss of income, interest, or dividends not realized by an **Insured** or any other individual or entity;
2. punitive, exemplary, or multiple damages of any kind or any fines, penalties, or loss of any tax benefit;
3. any liability to any third party or the loss of **Money**, **Securities**, or other property belonging to a third party;
4. any legal costs or legal expenses; or
5. any costs to prove or establish the occurrence of a **Crime Event** or amount of **Crime Loss**.

**C. Employee** means a part time, temporary, leased, or seasonal employee or volunteer or **Individual Contractor** of the **Insured Organization**, but only for work done while acting within the scope of the individual's employment and related to the conduct of the **Insured Organization's** business.

**D. Funds Transfer Fraud** means the theft of the **Insured Organization's Money** or **Securities** at a financial institution as a direct result of a fraudulent electronic instruction from a third party purporting to have come from:

1. an **Insured**; or
2. a person or organization authorized by an **Insured** to issue such instructions to the financial institution.

3. **Fraudulent Instruction** means the transfer of the **Insured Organization's Money** or **Securities** by the **Insured** as a direct result of a fraudulent payment instruction provided in an electronic format to an **Employee** by a third party purporting to be:
  1. a director, officer, partner, member, or sole proprietor of the **Insured Organization** or other **Employee**; or
  2. a customer, supplier, service provider or adviser, or a representative or employee of such person or entity, that has a legitimate written agreement or a pre-existing arrangement to provide goods or services to the **Insured**.
4. **Money** means a medium of exchange in current use authorized or adopted by a domestic or foreign government as part of its currency, but does not include cryptocurrency.
5. **Securities** means negotiable and non-negotiable instruments or contracts representing either **Money** or tangible property that has intrinsic value.

### III. Exclusions

In addition to the Exclusions set forth in the General Terms and Conditions, with respect to the Crime **Coverage Module** only, there will be no coverage for any **Loss** arising out of:

1. any actual or alleged fraudulent, dishonest, or criminal act or omission by, or involving, any natural person **Insured**, including an **Employee**;
2. **Crime Loss** sustained by one **Insured** to the advantage of any other **Insured**;
3. Any theft involving the use of forcible and violent means;
4. the theft, disappearance, destruction of, unauthorized access to, or unauthorized use of confidential information, including a PIN or security code;
5. accounting or arithmetical errors or omissions, or the failure, malfunction, inadequacy, or illegitimacy of any product or service; or
6. any actual or alleged use of or failure to process credit, debit, charge, access, convenience, customer identification, or other cards or the information contained on such cards.

## **THIRD-PARTY COVERAGE MODULE - DATA PRIVACY & SECURITY LIABILITY**

### **I. Insuring Agreements**

#### **A. Data Privacy & Security Liability**

The **Insurer** will pay **Damages** and **Claims Expenses** that the **Insured** is legally obligated to pay because of any **Claim** first made against any **Insured** during the **Policy Period** for:

1. a **Data Breach**;
2. a **Security Breach**;
3. violation of a **Privacy Law** as a result of a **Data Breach**; or
4. the failure to comply with a **Privacy Policy** as a result of a **Data Breach**,

which takes place on or after the **Retroactive Date** and before the end of the **Policy Period**.

#### **B. Data Privacy Regulatory Liability**

The **Insurer** will pay **Penalties** and **Claims Expenses** that the **Insured** is legally obligated to pay because of any **Regulatory Proceeding** first made against any **Insured** during the **Policy Period** for a violation of **Privacy Law** as a result of a **Data Breach** which takes place on or after the **Retroactive Date** and before the end of the **Policy Period**.

#### **C. PCI Liability**

The **Insurer** will pay **PCI Loss** and **Claims Expenses** that the **Insured** is legally obligated to pay because of a **Claim** made against any **Insured** during the **Policy Period** for a **Data Breach** which takes place on or after the **Retroactive Date** and before the end of the **Policy Period**.

### **II. Definitions**

With respect to the Data Privacy & Security Liability **Coverage Module**, the definition of **Claims Expenses** in the General Terms and Conditions is amended and is as follows:

**Claims Expenses** means:

1. all reasonable and necessary legal costs and expenses resulting from the investigation, defense, appeal, and settlement of a **Claim**, if incurred by the **Insurer**, or by the **Insured** with the prior written consent of the **Insurer**; and
2. the premium cost for appeal bonds for covered judgments or bonds to release property used to secure a legal obligation, if required in any **Claim** against an **Insured**; provided the **Insurer** will have no obligation to appeal or to obtain such bonds,

However, with respect to the PCI Liability Insuring Agreement, **Claims Expenses** will not include any costs to appeal **PCI Loss**.

**Claims Expenses** will not include any wages, salary, overhead, or compensation paid to any **Insured**, or other charges by the **Insured** for any time spent cooperating in the defense and investigation of any **Claim** or circumstance that might lead to a **Claim** notified under this Policy.

In addition, the following additional definitions apply to the Data Privacy & Security Liability **Coverage Module**:

- A. **Privacy Policy** means the **Insured Organization's** publicly available written policies or procedures regarding the collection, use, disclosure, sharing, dissemination, and correction or supplementation of, and access to, **Personally Identifiable Information**.
- B. **PCI Loss** means the monetary amount owed by the **Insured Organization** under the terms of a **Merchant Services Agreement** as a direct result of a suspected **Data Breach**. **PCI Loss** will not include any charge backs, interchange fees, discount fees, or other service-related fees, rates, or charges, nor any costs or expenses in connection with a PCI certification or PCI self-assessment (including any increases in such fees, rates, or charges).
- C. **Penalties** means
  1. any monetary civil fine or penalty payable to a governmental entity that was imposed in a **Regulatory Proceeding**; and
  2. amounts which the **Insured Organization** is legally obligated to deposit in a fund as equitable relief for the payment of consumer claims due to an adverse judgment or settlement of a **Regulatory Proceeding** (including such amounts required to be paid into a "Consumer Redress Fund");

however, **Penalties** will not include:

1. monetary civil fines or penalties that are not insurable by law;
2. criminal fines, disgorgement, or the multiple portion of any multiple damage award;
3. costs to remediate or improve a **Computer System**;
4. costs to establish, implement, maintain, improve, or remediate security or privacy practices, procedures, programs, or policies;
5. audit, assessment, compliance, or reporting costs; or
6. costs to protect the confidentiality, integrity, or security of **Confidential Information** or other information.

The insurability of **Penalties** will be in accordance with the law in the applicable venue that most favors coverage for such **Penalties**.

### III. Exclusions

With respect to the Data Privacy & Security Liability **Coverage Module** only, the following exclusions in the Policy's General Terms and Conditions are amended and are as follows:

- **Contractual Liability (Section IV.E)**

the breach of any express, implied, actual, or constructive contract, warranty, guarantee, or promise, or for any actual or alleged liability assumed by an **Insured** under contract. However, this exclusion will not apply to:

1. liability that the **Insured** would have in absence of such agreement;
2. any unintentional violation by an **Insured** to comply with a **Privacy Policy**;
3. a contractual obligation to provide notice of a **Data Breach** pursuant to a **Privacy Law**;
4. a contractual obligation that the **Insured** has to protect **Confidential Information**; or
5. a **Claim** arising from a **Data Breach** under the PCI Liability Insuring Agreement.

- **Governmental Authority (Section IV.G)**

1. any seizure, confiscation, or nationalization of a **Computer System** by order of any state, federal, local, or foreign government entity; or
2. any **Claim** brought by or on behalf of any state, federal, local, or foreign governmental entity in such entity's regulatory or official capacity;

However, part 2. of this exclusion will not apply to a **Regulatory Proceeding** under the **Data Privacy Regulatory Liability** Insuring Agreement.

## **THIRD-PARTY COVERAGE MODULE - MEDIA LIABILITY**

### **I. Insuring Agreement**

The **Insurer** will pay **Damages** and **Claims Expenses** that the **Insured** is legally obligated to pay because of any **Claim** first made against any **Insured** during the **Policy Period** for a **Media Wrongful Act** which takes place on or after the **Retroactive date** and before the end of the **Policy Period**.

### **II. Definitions**

The following additional definitions apply to the Media **Coverage Module**:

- A. **Media Wrongful Act** means any act, error, or omission by or on behalf of the **Insured Organization** in the course of publishing, displaying, or disseminating **Media Content** to the public through a digital platform (including the internet and social media) which results in one or more of the following:
1. copyright infringement, passing-off, plagiarism, piracy, or misappropriation of ideas under implied contract;
  2. infringement of title, logo, slogan, domain name, metatag, trademark, trade name, service mark, or service name;
  3. defamation, libel, slander, or any other form of defamation or harm to the character, reputation, or feelings of any person or entity, including product disparagement, trade libel, outrage, infliction of emotional distress, or prima facie tort;
  4. invasion or infringement of the right of privacy, including intrusion upon seclusion, publication of private facts, or false light;
  5. invasion or infringement of the right of publicity, including misappropriation of name, persona, voice, or likeness;
  6. improper deep linking or framing; or
  7. unfair competition or unfair trade practices, solely when alleged in conjunction with the alleged conduct referenced in parts 1. – 2. above.
- B. **Media Content** means any data, text, sounds, images, graphics, music, photographs, or advertisements, and will include video, streaming content, webcasts, podcasts, blogs, online forums, and chat rooms. However, **Media Content** will not include computer software, software technology, or the actual goods, products, or services described, illustrated, or displayed in such **Media Content**.

### **III. Exclusions**

With respect to the Media Liability **Coverage Module** only, the following exclusions in the Policy's General Terms and Conditions are amended and are as follows:

- **Contractual Liability (Section IV.E.)**

the breach of any express, implied, actual, or constructive contract, warranty, guarantee, or promise, or for any actual or alleged liability assumed by an **Insured** under contract. However, this exclusion will not apply to:

1. misappropriation of ideas under implied contract; or
2. liability that the **Insured** would have in absence of such agreement.

In addition to the Exclusions in the Policy's General Terms and Conditions, with respect to the Media Liability **Coverage Module** only, the Policy will not cover any **Loss** arising out of:

1. the actual or alleged obligation to make licensing fee or royalty payments;
2. any costs or expenses incurred or to be incurred by the **Insured** or others for the reprinting, reposting, recall, removal, or disposal of any **Media Content** or any other information, content, or media, including any media or products containing such **Media Content**, information, content, or media;
3. any **Claim** brought by or on behalf of any intellectual property licensing bodies or organizations;
4. the actual or alleged false, inaccurate, inadequate, or incomplete description of the price of goods, products or services, cost guarantees, cost representations, contract price estimates, or the failure of any goods or services to conform with any represented quality or performance; or
5. any **Claim** made by or on behalf of any independent contractor, joint venture, or venture partner arising out of or resulting from disputes over ownership of rights in **Media Content** or services provided by such independent contractor, joint venture, or venture partner.