



**Cyber Tech PROtect<sup>SM</sup>**  
**Privacy, Security, Miscellaneous Professional,  
 Technology and Media Insurance Policy**

**DECLARATIONS**

**NOTICE: CERTAIN INSURING AGREEMENTS OF THIS POLICY ARE WRITTEN ON A  
 CLAIMS MADE AND REPORTED BASIS.**

**PLEASE READ THE POLICY CAREFULLY.**

**IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS AND  
 CONDITIONS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS  
 STATED IN THIS POLICY.**

<b>Insurer:</b>	<Carrier Name> <Street, Suite> <City, State Zip>	<b>Producer:</b>	<Broker Name> <Broker Code> <Street, Suite> <City, State Zip>
<b>Policy Number:</b>			
<b>Renewal of Policy Number:</b>			
<b>Item 1. NAMED INSURED:</b>			
<b>Mailing Address:</b>	<Street, Suite> <City, State Zip>		
<b>Item 2. POLICY PERIOD:</b>	(a) Inception Date:	00/00/0000	(b) Expiration Date: 00/00/0000
<i>Both dates at 12:01 a.m. at the Named Insured's Mailing Address shown in Item 1 above.</i>			
<b>Item 3. INSURING AGREEMENTS:</b>			<b>Purchased</b>
			<b>Not Purchased</b>
<b>A – Privacy Coverage</b>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>B – Security Coverage</b>			
(i.) <b>Business Interruption Waiting Period: 12 Hours</b>	<input type="checkbox"/>	<input type="checkbox"/>	
(ii.) <b>Maximum Restoration Period: 60 Days</b>	<input type="checkbox"/>	<input type="checkbox"/>	
(iii.) <b>Sublimit for Business Interruption Expense from a Dependent Business Interruption Event: \$1,000,000</b>	<input type="checkbox"/>	<input type="checkbox"/>	

<b>C</b> – Miscellaneous Professional Liability	<input type="checkbox"/>	<input type="checkbox"/>
<b>Miscellaneous Professional Services:</b> <Enter Schedule>		
<b>D</b> – Technology Products and Services Liability	<input type="checkbox"/>	<input type="checkbox"/>
<b>E</b> – Media Liability	<input type="checkbox"/>	<input type="checkbox"/>
Item 4. <b>LIMITS OF LIABILITY AND RETENTIONS:</b>	<b>Limit</b>	<b>Retention</b>
Maximum Aggregate Limits of Liability under this <b>Policy:</b>	\$	\$
Item 5. <b>RETROACTIVE DATE:</b>	00/00/0000	
Item 6. <b>POLICY PREMIUM:</b>	\$	
Item 7. <b>EXTENDED REPORTING PREMIUM OPTIONS:</b>		
12 months at      % of Policy Premium	24 months at      % of Policy Premium	
36 months at      % of Policy Premium	48 months at      % of Policy Premium	
60 months at      % of Policy Premium	72 months at      % of Policy Premium	

These Declarations along with the completed and signed application and the insurance policy attached hereto constitute the contract of insurance between the **Named Insured** and <Carrier Name>.

SPECIMEN

## **Cyber Tech PROtect<sup>SM</sup>** **Privacy, Security, Miscellaneous Professional, Technology and Media Insurance Policy**

**CERTAIN INSURING AGREEMENTS OF THIS POLICY ARE WRITTEN ON A CLAIMS MADE AND REPORTED BASIS. PLEASE READ THIS POLICY CAREFULLY.**

Various provisions in this **Policy** restrict coverage. Read the entire **Policy** carefully to determine rights, duties and what is and is not covered.

Words and phrases that appear in bold are defined and may be used in the singular or plural, as appropriate; please refer to SECTION III – DEFINITIONS.

In consideration of the payment of the premium, and in reliance on all statements made and information furnished to the **Insurer**, and subject to all of the terms and conditions of this **Policy** (including all endorsements hereto), the **Insurer** agrees with the **Insured** to provide insurance as stated in this **Policy**.

### SECTION I - COVERAGES

Insuring Agreements (to the extent purchased by the **Insured**, as indicated in the Declarations):

#### A. Insuring Agreement A – Privacy Coverage

1. The **Insurer** agrees to pay, on behalf of the **Insured**, **First Party Privacy Breach Exposure** arising out of or resulting from any actual, alleged, or reasonably suspected **Privacy Breach** first discovered during the **Policy Period** and reported during the **Policy Period** or any applicable Extended Reporting Period.
2. The **Insurer** agrees to pay, on behalf of the **Insured**, **Loss** that results from a **Claim** first made and reported during the **Policy Period**, or any applicable Extended Reporting Period, arising out of or resulting from any actual or alleged **Privacy Wrongful Act** committed before the end of the **Policy Period**.

#### B. Insuring Agreement B – Security Coverage

1. The **Insurer** agrees to pay, on behalf of the **Insured**, **First Party Security Event Exposure** arising out of or resulting from any actual, alleged, or reasonably suspected **Security Event** first discovered during the **Policy Period** and reported during the **Policy Period** or any applicable Extended Reporting Period.
2. The **Insurer** agrees to pay, on behalf of the **Insured**, **Loss** that results from a **Claim** first made and reported during the **Policy Period**, or any applicable Extended Reporting Period, arising out of or resulting from any actual or alleged **Security Wrongful Act** committed before the end of the **Policy Period**.

#### C. Insuring Agreement C – Miscellaneous Professional Liability

The **Insurer** agrees to pay, on behalf of the **Insured**, **Loss** that results from a **Claim** first made and reported during the **Policy Period**, or any applicable Extended Reporting Period, arising out of or resulting from any actual or alleged **Miscellaneous Wrongful Act** committed before the end of the **Policy Period** and on or after the **Retroactive Date**, if any.

D. Insuring Agreement D –Technology Products and Services Liability

The **Insurer** agrees to pay, on behalf of the **Insured**, **Loss** that results from a **Claim** first made and reported during the **Policy Period**, or any applicable Extended Reporting Period, arising out of or resulting from any actual or alleged **Technology Wrongful Act** committed before the end of the **Policy Period** and on or after the **Retroactive Date**, if any.

E. Insuring Agreement E – Media Liability

The **Insurer** agrees to pay, on behalf of the **Insured**, **Loss** that results from a **Claim** first made and reported during the **Policy Period**, or any applicable Extended Reporting Period, arising out of or resulting from any actual or alleged **Media Wrongful Act** committed by the **Insured**, or a third party for the benefit of the **Insured**, before the end of the **Policy Period** and on or after the **Retroactive Date**, if any.

## SECTION II – LIMITS OF LIABILITY AND RETENTIONS

A. Limits of Liability

1. The Maximum Aggregate Limits of Liability as shown in Item 4. LIMITS OF LIABILITY AND RETENTIONS of the Declarations is the most the **Insurer** will pay in the aggregate for all amounts recoverable under this **Policy** under any and all Insuring Agreements, and upon exhaustion of the Maximum Aggregate Limits of Liability set forth in Item 4. LIMITS OF LIABILITY AND RETENTIONS of the Declarations, the **Insurer** shall have no further obligation to any **Insured** with respect to any Insuring Agreement of the **Policy**.
2. Unless otherwise expressly stated, the **Insurer's** aggregate liability for any coverage subject to a sub-limit of liability shall be the stated sub-limit for such coverage, which shall be part of, and not in addition to, the Limits of Liability set forth in Item 4. LIMITS OF LIABILITY AND RETENTIONS of the Declarations.
3. **Defense Costs** are part of and not in addition to the Limits of Liability. Payment of **Defense Costs** by the **Insurer** will reduce, and may exhaust, the Limits of Liability.
4. The number of **Insureds** covered by this **Policy** shall not operate to increase the Limits of Liability, nor shall the number of **Claims, Privacy Breaches, Security Events** or **Social Engineering Events**.
5. If any acts, errors or omissions, or series of related acts, errors or omissions, give rise to **Claims, Privacy Breaches, Security Events** or **Social Engineering Events** that may be covered under more than one Insuring Agreement, the maximum amount payable with respect thereto shall not exceed the Maximum Aggregate Limits of Liability.

B. Retentions

1. Subject to the Limits of Liability, the **Insurer's** liability under this **Policy** applies only to amounts covered hereunder which are in excess of the Retention which is stated in Item 4. LIMITS OF LIABILITY AND RETENTIONS of the Declarations.
2. Regarding the coverage provided by this **Policy** under any of the Insuring Agreements purchased by the **Insured**, the Retention shown in Item 4. LIMITS OF LIABILITY AND RETENTIONS of the Declarations must be paid or incurred by the **Insured** as a condition precedent to any payment by the **Insurer**. The **Insured** must pay the applicable Retention for each **Claim, Privacy Breach, Security Event** or **Social Engineering Event** regardless of the number of **Claims, Privacy Breaches, Security Events** or **Social**

**Engineering Events** covered by this **Policy**. Retentions shall be borne by the **Insured** and shall be uninsured.

3. The **Insured's** Retention obligation for each **Claim** will be reduced by 50%, subject to a maximum aggregate reduction of all Retentions of \$25,000 if the **Insurer** agrees and the **Insured** consents to the final settlement of a **Claim** during a voluntary mediation. This reduction does not apply to any **Claim** resolved through court-mandated mediation or voluntary or involuntary arbitration.

### SECTION III – DEFINITIONS

1. **Additional Insured** means any person or entity added as an **Insured** under this **Policy** by endorsement issued and attached hereto by the **Insurer**.
2. **Application** means the written statements and representations made by any **Insured** under this **Policy** or an applicant for this insurance and provided to the **Insurer** during the negotiation(s) of this **Policy**, or contained in any application or other materials or information provided to the **Insurer** in connection with the underwriting of this **Policy** or in connection with the underwriting of any policy providing coverage for which this **Policy** is a renewal or replacement, or public filing by or on behalf of any **Insured** and submitted to the **Insurer** during the application process.
3. **Bodily Injury** means physical injury, sickness, disease or death of any person, including any mental anguish or emotional distress arising therefrom.
4. **Breach Coach** means an attorney or other specialist retained to respond on the **Insured's** behalf to a **Privacy Breach** or **Security Event**.
5. **Breach Mitigation Expenses** means those reasonable and necessary expenses incurred with the **Insurer's** consent as a direct result of a covered **Privacy Breach** to engage:
  - a. ta **Breach Coach**;
  - b. a computer forensics and/or incident response firm to:
    - (i) identify how the **Privacy Breach** occurred;
    - (ii) identify what data was accessed and/or stolen;
    - (iii) contain and/or remove malware from the **Inside Computer System**;
    - (iv) preserve evidence for governmental authorities;
    - (v) lawfully manage, store, destroy or otherwise control **Non-public Personal Information**;
    - (vi) comply with privacy regulations following a **Privacy Breach**; or
    - (vii) provide new account numbers, identification numbers and security codes to affected persons;
  - c. credit monitoring services, identity restoration services, medical records restoration services or identity theft insurance; or
  - d. other services as the **Insurer** deems appropriate, for the purpose of protecting individuals whose **Non-public Personal Information** was compromised, or reasonably understood to have been compromised, as the direct result of a **Privacy Breach**.

**Breach Mitigation Expenses** shall not include costs to upgrade or otherwise improve the **Insured's Computer System**, or perform penetration testing, following a **Privacy Breach**.

The **Insurer** shall not be obligated to pay for any **Breach Mitigation Expenses** not consented to in advance by the **Insurer** or incurred prior to the notification of the **Insurer** of a **Privacy Breach**.

6. **Breach Notification Expenses** means those reasonable and necessary expenses incurred with the **Insurer's** prior written consent, as a direct result of a covered **Privacy Breach**, to develop and mail, or otherwise communicate, materials notifying persons whose **Non-public Personal Information** was compromised, or reasonably understood to have been compromised, as the direct result of a covered **Privacy Breach**, voluntarily, or to the extent necessary to comply with any **Breach Notification Law** or a Business Associate Agreement under the Health Insurance Portability and Accountability Act of 1996 (as amended) (HIPAA) or similar contract, and the costs of establishing and maintaining a call center for such persons.

Unless otherwise required to comply with applicable **Breach Notification Law**, the **Insurer** shall pay **Breach Notification Expenses** incurred up to twelve (12) months following the **Insured's** first having knowledge of the **Privacy Breach** covered under this **Policy**. The **Insurer** shall not be obligated to pay for any **Breach Notification Expenses** not consented to in advance by the **Insurer** or incurred prior to the notification of the **Insurer** of a **Privacy Breach**.

7. **Breach Notification Law** means any current or future federal, state, local or foreign law or regulation addressing the maintenance, custody, security, collection, storage, dissemination or disclosure of **Non-public Personal Information**.
8. **Business Income** means: (i) the net income (net profit or net loss before income taxes) that would have been earned or incurred during the **Restoration Period** in the absence of a **Security Event**; plus (ii) normal operating expenses (including payroll) that would have been incurred during the **Restoration Period**.
9. **Business Interruption Event** means the **Insured's** or a third party's inability to access the **Inside Computer System**, or the material impairment of access to the **Inside Computer System**, that is caused by either (i) a **Rogue Party**, or (ii) actions taken by the **Insured** in order to mitigate damages caused by a **Rogue Party**.
10. **Business Interruption Expense** means the actual loss of **Business Income** caused by a **Security Event**. **Business Interruption Expenses** will only be considered for the **Restoration Period** after a **Security Event**. **Business Interruption Expense** only applies in the event the **Insured** incurs a material loss of its **Business Income** that would have otherwise been earned or incurred during that period of time in the absence of a **Security Event**.

Notwithstanding the above, the **Insurer's** maximum liability for all **Business Interruption Expense** arising from a **Dependent Business Interruption Event** shall be the amount listed in Item 3.(iii) of the Declarations.

11. **Business Interruption Waiting Period** means the amount of time indicated in Item 3.(i) of the Declarations
12. **Claim** means:
- a. a written demand received by any **Insured** for monetary, non-monetary or injunctive relief, including a written demand that the **Insured** toll or waive a statute of limitations pertaining to a **Privacy Wrongful Act**, **Security Wrongful Act**, **Miscellaneous Professional Wrongful Act**, **Technology Wrongful Act** or **Media Wrongful Act**;

- b. a civil proceeding against any **Insured** commenced by the service of a complaint or similar pleading;
  - c. a **Privacy Regulatory Action** against any **Insured**;
  - d. the institution of an arbitration, mediation or other alternate dispute resolution proceeding against any **Insured**;
  - e. a demand received by any **Insured** to fulfill that **Insured's** contractual obligation to provide notification of a covered **Privacy Breach** or **Security Event** to affected persons;
  - f. the **Insured's** obligation to comply with any **Breach Notification Law** following a covered **Privacy Breach** or **Security Event**;
  - g. a criminal proceeding commenced by an arrest, or a return of an indictment, information or similar document, against any **Insured** for a **Privacy Wrongful Act, Security Wrongful Act, Miscellaneous Professional Wrongful Act, Technology Wrongful Act, or Media Wrongful Act**, including any appeal therefrom; or
  - h. a **Rogue Party's** demand for money, digital currency, or other consideration arising from a covered **Privacy Breach** or **Security Event**.
13. **Company** means the **Named Insured** and any of its **Subsidiaries**.
14. **Content** means:
- a. any printed, audio, visual, digital, electronic or informational material, which shall include any user generated material posted to the **Insured's** social media sites or accounts;
  - b. software code created or published by any **Insured**; or
  - c. material posted to third party websites, mobile applications and/or social media applications by an employee (which shall include any independent contractor, intern, or volunteer) in the performance of his or her duties on behalf of the **Company**.
15. **Crisis Management Expenses** means those reasonable and necessary public relations expert expenses and related advertising expenses approved in advance by the **Insurer**, including a public relations or crisis management consultant to: (i) manage relationships with governmental regulatory authorities; or (ii) manage press coverage, publicity and press relationships, solely for the purpose of protecting and restoring the **Insured's** reputation.
16. **Cyberattack** means a malicious action intended to affect the **Inside Computer System**, resulting in a **Privacy Breach** or **Security Event**.
17. **Cyberterrorism** means any act that disrupts an **Inside Computer System**, or an explicit threat to do so, by a **Rogue Party** with the intent to profit, or cause harm or fear, or done under the guise of social, ideological, religious, political or similar objectives, or to intimidate the **Insured** under the veil of such objectives. **Cyberterrorism** does not include any such activities which are part of or in support of any military action, war or warlike operation.
18. **Data Integrity Incident** means a **Rogue Party's** alteration, corruption, destruction or causing the loss of electronic data maintained on or accessed by the **Inside Computer System**.
19. **Data Restoration Expenses** means those reasonable and necessary expenses approved in advance by the **Insurer** and incurred by the **Insured** as a direct result of a **Security Event** to repair, restore or replace damaged or destroyed electronic data, computer programs or software

stored within the **Inside Computer System** to substantially the form in which it existed immediately prior to the **Security Event**. **Data Restoration Expenses** shall include the cost of data entry, reprogramming, computer consultants or other expenses agreed to in writing by the **Insurer**. **Data Restoration Expenses** shall not include the costs of, or associated with, the repair or replacement of any tangible components of the **Inside Computer System** or the cost to duplicate or recreate research or development of any data, formulas or computer programs. The **Insurer** shall not be obligated to pay for any **Data Restoration Expenses** not consented to in advance by the **Insurer** or incurred prior to the notification of the **Insurer** of a **Claim**.

20. **Defense Costs** means:

- a. reasonable and necessary fees, costs and expenses charged by any lawyer consented to or designated by the **Insurer** to defend any **Insured** against a **Claim**;
- b. all other reasonable and necessary fees, costs and expenses resulting from the investigation, discovery, adjustment, defense, settlement or appeal of a **Claim** as authorized by the **Insurer**; and
- c. the cost of a bond or appeal bond, required as a result of a **Claim**, and consented to by the **Insurer**, including bonds to release attachments, but only for bond amounts not exceeding the applicable Limits of Liability; However, the **Insurer** has no obligation to apply for, guarantee or furnish any such bond.

**Defense Costs** do not include the remuneration, salaries, overhead, fees or expenses of either the **Insured's** or the **Insurer's** regular employees or officials or any fees or expenses incurred prior to the time that a **Claim** is first made against any **Insured**. The **Insurer** shall not be obligated to pay for any **Defense Costs** not consented to in advance by the **Insurer** or incurred prior to the notification of the **Insurer** of a **Claim**.

**Defense Costs** will be paid first and will reduce, and may exhaust, the applicable Limits of Liability shown in the Declarations.

21. **Dependent Business Interruption Event** means the **Insured's** or a third party's inability to access the **Inside Computer System**, or the material impairment of access to the **Inside Computer System**, that is caused by the failure or outage of an **Outside Computer System**, caused by a **Security Breach**, that enables access to the **Inside Computer System** by the **Insured** or a third party.
22. **Disciplinary Proceeding** means a proceeding before a disciplinary board or similar entity or official to determine violations of disciplinary rules or rules of professional conduct, professional misconduct or other matters relating to licensing and discipline. **Disciplinary Proceeding** does not include charges, investigations or actions filed with a regulatory agency or official, including, without limitation, the Securities and Exchange Commission, the U.S. Patent & Trademark Office or the Internal Revenue Service.
23. **Executive Officer** means the president, chairman of the board of directors, chief executive officer, chief financial officer, general counsel, risk manager, chief information officer, chief technology officer, or chief information security officer (or functionally equivalent position) of the **Company**.
24. **Extortion Expenses** means those reasonable and necessary expenses approved by the **Insurer** and then paid by either the **Insurer** or the **Insured** to a **Rogue Party** in response to the **Rogue Party's** request for money, digital currency or other consideration, in order to prevent, limit or terminate a **Privacy Breach** or **Security Event**. In order for **Extortion Expenses** to be considered for coverage under this **Policy**, an **Executive Officer** must inform the **Insurer** in



writing that the **Insured** believes there is an immediate and probable danger of a **Privacy Event** or **Security Event**. **Extortion Expenses** do not include: (i) payments otherwise precluded by law; or (ii) **Extortion Expenses** to the extent the **Insured** has recovered equivalent expenses or is entitled to reimbursement for them from any other source. The **Insurer** shall not be obligated to pay for any **Extortion Expenses** not consented to in advance by the **Insurer** or incurred prior to the notification of the **Insurer** of a **Privacy Breach** or **Security Event**.

25. **Extra Expense** means those reasonable and necessary expenses approved in advance by the **Insurer** and incurred by the **Insured** after a **Security Event** for the purpose of reducing the amount of the **Insured's Business Interruption Expense** and to resume the **Insured's** normal operations. **Extra Expense** does not include costs to update or upgrade the **Inside Computer System** to a level beyond which existed prior to the **Security Event**, or for penetration testing. **Extra Expense** will only be granted in the **Insurer's** sole discretion. The **Insurer** shall not be obligated to pay for any **Extra Expenses** that are not consented to in advance by the **Insurer** or incurred prior to the notification of the **Insurer** of a **Security Event**.
26. **First Party Privacy Breach Exposure** means those reasonable and necessary expenses incurred with the **Insurer's** consent and related to the investigation and adjustment of a **Privacy Breach**, including, but not limited to, the following:
- a. **Breach Mitigation Expenses;**
  - b. **Breach Notification Expenses;**
  - c. **Extortion Expenses;**
  - d. **Payment Card Expenses;**
  - e. **Privacy Breach Crisis Management Expenses;** or
  - f. **Reward Expenses.**

**First Party Privacy Breach Exposure** shall not include, which is not limited to, the following: (i) the salaries, wages, benefits, fees, costs, expenses or overhead of, or paid to, any **Insured**; (ii) the costs associated with complying with non-pecuniary relief; (iii) expenses incurred prior to a **Privacy Breach** and without the **Insured** first obtaining the **Insurer's** written consent to incur such expenses incurred prior to the notification of the **Insurer** of a **Privacy Breach**; or (iv) the costs to comply with any regulatory orders, settlements or judgments.

27. **First Party Security Event Exposure** means those reasonable and necessary expenses incurred with the **Insurer's** consent, or amounts agreed to by the **Insurer**, and related to the investigation and adjustment of a **Security Event**, including, but not limited to, the following:
- a. **Breach Coach** retention expenses;
  - b. **Business Interruption Expenses;**
  - c. **Data Restoration Expenses;**
  - d. **Extortion Expenses;**
  - e. **Extra Expenses;**
  - f. **Payment Card Expenses;**

g. **Reward Expenses;** or

h. **Theft Loss.**

**First Party Security Event Exposure** shall not include the following: (i) the salaries, wages, benefits, fees, costs, expenses or overhead of, or paid to, any **Insured**; (ii) the costs associated with complying with non-pecuniary relief; (iii) expenses incurred prior to a **Security Event** and without the **Insured** first obtaining the **Insurer's** written consent to incur such expenses incurred prior to the notification of the **Insurer** of a **Security Event**; or (iv) the costs to comply with any regulatory orders, settlements or judgments.

28. **Information Custodian** means any third party that possesses **Non-public Personal Information** or **Proprietary Business Information** on behalf of the **Named Insured** and which is required to maintain the confidentiality and integrity of that information by a written contract with the **Named Insured**.

29. **Inside Computer System** means that network of computers, networking equipment, data storage devices, smartphones, tablets, hardware, software, backup facilities and servers, as well as any associated input or output devices, under the ownership, operation, custody, control or possession of the **Insured**, or operated by a third party to the extent that such operation is for the benefit of the **Insured** pursuant to a written contract, and used in the performance of the **Insured's** business or operations.

30. **Insured** means:

a. the **Company**;

b. any past, present or future owner, principal, officer, director, partner, stockholder, shareholder, member or manager of the **Company**, but only with respect to **Defense Costs** and **Loss** resulting from **Miscellaneous Professional Services, Technology Products and Services** or **Media Services** performed or provided on behalf of the **Company**, and only for acts while employed, under the control of, invested in, or associated with the **Company**;

c. the estate, heirs, executors, administrators, assigns and legal representatives of each of the **Insureds** in the event of the **Insured's** death, incapacity, insolvency or bankruptcy, but only to the extent that such **Insured** would otherwise be provided coverage under this **Policy**;

d. any **Insured's** lawful spouse, including any natural person qualifying as a domestic partner under the provisions of any applicable state, federal or local law in the United States, but only with respect to **Loss** resulting from **Miscellaneous Professional Services, Technology Products and Services** or **Media Services** of the **Company**;

e. any past, present or future employee, intern, volunteer or independent contractor of the **Named Insured**, but only with respect to **Loss** resulting from **Miscellaneous Professional Services, Technology Products and Services** or **Media Services** performed or provided on behalf of the **Company**, and only for acts while employed, under the control of, invested in, or associated with the **Company**.

31. **Insurer** means the insurance company issuing this **Policy** as shown in the Declarations.

32. **Loss** means any monetary judgment or award, or any monetary settlement approved in advance by the **Insurer**, that an **Insured** becomes legally obligated to pay as a result of a **Claim**, including any interest payable thereon, and punitive, exemplary and multiple damages where insurable by

the applicable law which most favors coverage, and **Defense Costs**; however, **Loss** shall not include:

- a. taxes;
- b. any form of restitutionary damages or disgorgement;
- c. any sum which is uninsurable under any law applicable in the jurisdiction in which this **Policy** shall be construed;
- d. the value of any **Miscellaneous Professional Services, Technology Products and Services** or **Media Services** performed or provided by the **Insured**;
- e. any expense incurred by the **Insured** in respect of the modification or correction of any **Miscellaneous Professional Services, Technology Products and Services** or **Media Services** previously performed or provided by the **Insured** where such modification or correction is necessitated by, or consented to as the result of, the settlement or final disposition of any **Claim**.
- f. any costs, expense or damages arising out of:
  - (i) the **Insured's** discontinuance of or withdrawal of support of any **Technology Products and Services**; or
  - (ii) the withdrawal or recall of any of the **Insured's** electronic products or systems or work compiled by or on behalf of any **Insured**, or any property of which such products or work are a part.

33. **Media Event** means any actual or alleged:

- a. libel, slander or any other form of defamation or harm to the character or reputation of any person or entity, including product disparagement or trade libel;
- b. copyright infringement, or misappropriation of property rights, **Content**, information, name, likeness or ideas or dilution or infringement of title, slogan, logo, trademark, trade name, trade dress, service mark or service name, including unauthorized use of titles, formats, performances, style, characters, plots or other protected material;
- c. common law unfair competition or unfair trade practices alleged but only to the extent done in furtherance of the acts described in a. and b. above;
- d. invasion or infringement of the right to privacy or publicity, including the torts of intrusion upon seclusion, publication of private facts, false light, and misappropriation of name or likeness;
- e. breach of agreement, breach of confidentiality or promissory estoppel, in connection with the failure to maintain the confidentiality of a source or materials furnished by a source or the failure to portray a source or a subject in a certain light;
- f. plagiarism, false attribution of authorship, failure to provide credit, piracy or misappropriation of ideas under implied contract;
- g. economic harm to a third party directly resulting from the party's reliance or failure to rely upon the content of matter which is false or erroneous;

- h. economic harm to a third party as a direct result of any **Insured's** acquiring, blogging, broadcasting, collecting, disseminating, distributing, editing, exhibiting, gathering, obtaining, producing, publishing, releasing, researching, recording, tweeting or uttering; or
- i. infliction of emotional distress or mental anguish derived from any of the foregoing listed in a. through h., above.

34. **Media Services** means the following that result in a **Media Event**:

- a. gathering, acquiring, obtaining, researching, developing, editing, preparing, producing, filming, videotaping and recording **Content**;
- b. the dissemination or utterance of **Content**, through any medium and by any means; or
- c. the publication, printing, advertising, marketing, promoting, exhibiting, broadcasting, telecasting, webcasting, cablecasting, syndicating, selling, leasing, licensing, distributing, serializing or releasing, public appearances or performances, blogging, tweeting or other forms of online, digital or electronic dissemination of **Content**.

35. **Media Wrongful Act** means any act, error, omission, misstatement, misleading statement, neglect, or breach of duty by any **Insured**, or a third party for the benefit of the **Insured** and for whose **Media Wrongful Act** the **Insured** is legally responsible, or **Third Party Contractor** in connection with the rendering or failure to render **Media Services**.

36. **Miscellaneous Professional Services** means any services scheduled in Item 3.C. of the Declarations, if purchased by the **Insured**.

37. **Miscellaneous Professional Wrongful Act** means any act, error, omission, misstatement, misleading statement, neglect, or breach of duty by any **Insured**, or a third party for the benefit of the **Insured** and for whose **Miscellaneous Professional Wrongful Act** the **Insured** is legally responsible, or **Third Party Contractor**, or any **Social Engineering Event**, in connection with the rendering or failure to render **Miscellaneous Professional Services**. **Miscellaneous Wrongful Act** also means any actual or alleged **Personal Injury Offense** by any **Insured** in the rendering or failure to render **Miscellaneous Professional Services**.

38. **Named Insured** means the person(s) or entity(ies) designated in Item 1. of the Declarations.

39. **Non-public Personal Information** means any of the following information:

- a. social security number, driver's license or government issued identification number;
- b. credit, debit, bank, credit union or brokerage account numbers;
- c. telephone numbers or telephone records;
- d. account histories or balances;
- e. medical records, health insurance identification numbers or other protected health information; or
- f. any other non-public information that can be used to identify a person as specified by a **Breach Notification Law**.

40. **Outside Computer System** means a network of computers, networking equipment, data storage devices, smartphones, tablets, hardware, software, backup facilities and servers, as well as any associated input or output devices in the custody, control or possession of, and operated for the benefit of, a third party.

41. **Payment Card Expenses** means those reasonable and necessary fees, costs and expenses approved in advance by the **Insurer** and incurred by the **Insured** in response to a **Privacy Breach** or **Security Event** for: (i) the replacement of credit or debit cards whose card numbers were compromised in a breach; (ii) payment card reversals because of the fraudulent use of information obtained through a **Privacy Breach** or **Security Event**; or (iii) fines, penalties, or assessments imposed as a result of a **Privacy Breach** or **Security Event** concerning a credit card, debit card or charge card issued by a financial institution, including such fines, penalties or assessments imposed by the Payment Card Industry Security Standards Council (PCI SSC). The **Insurer** shall not be obligated to pay for any **Payment Card Expenses** not consented to in advance by the **Insurer** or incurred prior to the notification of the **Insurer**.
42. **Personal Injury Offense** means false arrest, humiliation, unlawful detention, false imprisonment, wrongful entry, eviction, abusive litigation, abuse of process or malicious prosecution, including any mental anguish or emotional distress arising therefrom.
43. **Policy** means this Cyber Tech PROtect Privacy, Security, Miscellaneous Professional, Technology and Media Insurance Policy.
44. **Policy Period** means the period from the Inception Date of this **Policy** to the Expiration Date of this **Policy**, as is shown in Item 2. of the Declarations, or its earlier termination date, if any.
- Any extension of the **Policy Period** will not result in an increase or reinstatement of the Limits of Liability.
45. **Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
46. **Privacy Breach** means:
- a. the actual or alleged unauthorized alteration, collection, copying, disclosure, dissemination or viewing of **Non-public Personal Information** or **Proprietary Business Information** in any form, from any source, because of an **Insured's** failure to protect such information from unauthorized access or unauthorized use;
  - b. the actual or alleged accidental release or loss of **Non-public Personal Information** or **Proprietary Business Information**;
  - c. the actual or alleged wrongful collection, use or sale of **Non-public Personal Information** in any form;
  - d. an **Insured's** actual or alleged failure to protect the **Non-public Personal Information** of a third party that is stored on the **Inside Computer System** which has been affected by any of the above once notified by the affected individual or that individual's legal counsel; or
  - e. (i) any act, error, omission, misstatement, misleading statement, neglect, or breach of duty actually or allegedly committed or attempted by any **Insured**, or by someone for whom the **Insured** is legally responsible, or
  - (ii) any act of a **Rogue Party**;
- that results in an actual, alleged, or reasonably suspected violation of any **Breach Notification Law**.

**Privacy Breach** includes the **Named Insured's** vicarious liability for the **Privacy Breach**, as defined in paragraphs a. through e. above, of **Non-public Personal Information** or **Proprietary Business Information** in the care, custody or control of an **Information Custodian** to whom the **Named Insured** entrusted that information.

47. **Privacy Breach Crisis Management Expenses** means **Crisis Management Expenses** incurred by the **Insured** as a result of any actual, alleged or potential **Privacy Breach** covered under this **Policy**. The **Insurer** shall reimburse **Privacy Breach Crisis Management Expenses** incurred up to twelve (12) months following the **Insured's** first having knowledge of a **Privacy Breach** covered under this **Policy**. The **Insurer** shall not be obligated to pay for any **Privacy Breach Crisis Management Expenses** not consented to in advance by the **Insurer** or incurred prior to the notification of the **Insurer** of a **Privacy Breach**.

48. **Privacy Regulatory Action** means:

- a. a written request by a federal, state, or local governmental authority or professional body for information received by any **Insured**; or
- b. a demand, hearing, suit, civil investigation or civil proceeding brought by a federal, state, or local governmental authority or professional body that is commenced by the **Insured's** receipt of a subpoena, civil investigative demand, complaint, or similar document; and

which gives rise to, or is reasonably likely to give rise to, liability by the **Insured** caused by a **Privacy Breach**. Provided that **Privacy Regulatory Action** shall not include any of the foregoing related in any way to the failure of any **Insured** to comply with its own privacy policy.

49. **Privacy Wrongful Act** means any:

- a. act, error, omission, misstatement, misleading statement, neglect, or breach of duty by any **Insured**, a third party for the benefit of the **Insured** and for whose wrongful act the **Insured** is legally responsible, or **Third Party Contractor**; or
- b. act of a **Rogue Party**;

that results in an actual, alleged, or reasonably suspected violation of any **Breach Notification Law**.

50. **Property Damage** means physical injury to tangible property, including all resulting loss of use of that property.

For purposes of this **Policy**, electronic data is not considered to be tangible property.

51. **Proprietary Business Information** means business records, customer lists, trade secrets, or any other non-public information entrusted to any **Insured** under a written contract to protect its confidentiality.

52. **Restoration Period** means the period of time beginning after the **Business Interruption Waiting Period** after a **Security Event** and ending at the earlier of the resumption of the **Company's** operations, with due diligence and dispatch to substantially the same level that existed prior to the **Security Event**, or the number of days indicated as the Maximum **Restoration Period** in Item 3.B.(ii) of the Declarations.

53. **Retroactive Date** means the date stated in Item 5. of the Declarations.

54. **Reward Expenses** means that reasonable amount that is pre-approved and consented to by the **Insurer** and subsequently paid by the **Insured** to a person, group or entity, not including the **Insured**, an employee, **Third Party Contractor** or a **Rogue Party**, as a reward for the provision

of non-public or otherwise available information leading to the arrest and conviction of any person, group or entity responsible for a covered **Privacy Breach** or **Security Event**. In the event a **Reward Expense** is not paid by the **Insured** within forty-eight (48) months of the day a **Privacy Breach** or **Security Event** is first reported in writing to the **Insurer** by the **Insured**, the **Insurer** shall have no obligation to reimburse such **Reward Expense**. No more than one **Reward Expense** payment shall be made with respect to any **Privacy Breach** or **Security Event**.

55. **Rogue Party** means entities, groups or individuals that:

- a. intentionally target the **Inside Computer System** for (i) a denial of service attack, brute force attack, phishing, whaling, or similar electronic malicious acts; (ii) to disseminate malicious computer code; or (iii) to cause the alteration, corruption, destruction, or loss of electronic data that is unintended by the **Insured**;
- b. intentionally access and/or use the **Inside Computer System** without authorization or for a purpose unintended by the **Insured**;
- c. intentionally cause the electronic or non-electronic theft of passwords, access codes or other authentication information that would permit access to the **Inside Computer System**;
- d. engages in extortion that threatens the **Inside Computer System**; or
- e. engages in **Cyberterrorism** or a **Cyberattack**.

56. **Security Breach** means:

- a. any failure or violation of the security of the **Inside Computer System** or the **Outside Computer System** that results in **First Party Security Event Exposure** or **Loss**;
- b. a **Rogue Party's** unauthorized use of or access to the **Inside Computer System** to harm the **Outside Computer System**;
- c. the electronic transmission of malicious computer code from the **Inside Computer System** to an **Outside Computer System** that is caused by a **Rogue Party** or unintentionally caused by the **Insured**;
- d. a **Rogue Party** causing the alteration, corruption, destruction or loss of electronic data maintained on and **Inside Computer System** or an **Outside Computer System**;
- e. a **Rogue Party's** electronic or non-electronic theft of passwords, access codes or other authentication information that would permit access to the **Inside Computer System**; or
- f. any of the above resulting from **Cyberterrorism** or a **Cyberattack**.

57. **Security Event** means:

- a. a **Business Interruption Event**;
- b. a **Data Integrity Incident**;
- c. a **Dependent Business Interruption Event**;
- d. a **Security Breach**; or

e. **System Extortion.**

**Security Event** does not include any **System Failure**.

58. **Security Wrongful Act** means any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by:

- a. any **Insured**;
- b. a third party for the benefit of the **Insured** and for whose wrongful act the **Insured** is legally responsible; or
- c. **Third Party Contractor**;

that results in a **Security Event**.

59. **Social Engineering Event** means the following arising from a **Miscellaneous Professional Wrongful Act** taking place on or after the **Retroactive Date**, if any, shown in the Declarations, and discovered by the **Insured** during the **Policy Period**:

An **Insured** having transferred, paid or delivered funds or data as a direct result of a fraudulent written instruction, electronic instruction (including e-mail or web-based instruction) or telephone instruction which is intended to mislead an **Insured** through misrepresentation of a material fact that is relied upon in good faith by such **Insured**.

60. **Subsidiary** means:

- a. any entity in which more than 50% of the outstanding voting securities or voting rights representing the present right to vote for election of directors, officers, any **Insured Person**, or any equivalent executives, is owned or controlled by the **Named Insured**, either directly or indirectly on or before the Inception Date of this **Policy**, as shown in Item 2. of the Declarations;
- b. any entity after the Inception Date of this **Policy**, as shown in Item 2. of the Declarations, by reason of being created or acquired by the **Named Insured** after such date, if the gross revenues of the created or acquired entity for the prior year is less than 50% of the annual gross revenues of the **Named Insured**, as reflected in the **Named Insured's** most recent audited consolidated financial statement prior to such creation or acquisition; or
- c. any entity after the Inception Date of this **Policy**, as shown in Item 2. of the Declarations, by reason of being created or acquired by the **Named Insured** after such date, other than as described in Paragraph b. above, but such entity shall be a **Subsidiary** only for either (i) a period of sixty (60) days from the date such entity was created or acquired by the **Named Insured**; or (ii) until the end of the **Policy Period**, whichever occurs first.

**Subsidiary** also means any foundation or charitable trust controlled or directly sponsored by the **Named Insured**.

Provided, however, this **Policy** shall only apply to acts, errors or omissions committed or allegedly committed after the effective date an entity becomes a **Subsidiary** and prior to the effective date such entity ceases to be a **Subsidiary**.

61. **Supplementary Crisis Management Expenses** means **Crisis Management Expenses** resulting directly from any **Miscellaneous Professional Wrongful Act** that takes place during the **Policy Period**.



62. **System Extortion** means threats made by a **Rogue Party** to cause, or the refusal to terminate, a covered **Privacy Breach** or **Security Event** unless an **Extortion Expense** is paid.
63. **System Failure** means any unintentional and unplanned outage of an **Inside Computer System** or an **Outside Computer System** other than such an outage caused by a **Security Breach**.
64. **Technology Products and Services** means:
- a. information technology consulting, information technology outsourcing and information technology staffing;
  - b. information technology systems analysis, design, integration, customer support and training;
  - c. data back-up and storage services, data destruction services or electronic data conversion services;
  - d. development, provision, training and support of software including software as a service and application service provider (ASP) services;
  - e. communications systems analysis, design, integration, customer support and training;
  - f. services as an internet access provider, internet service provider or telecommunications services provider;
  - g. the provision of email, chat and bulletin board services;
  - h. web and mobile services including mobile and social media applications, e-commerce transactions, cloud computing, social media, location-based services, website design, web hosting, domain name registrar, public key infrastructure, internet media and web portal, development of computer, mobile and video games;
  - i. network security consulting and managed network security services;
  - j. installation of hardware, software, computer, digitization, digital storage or telecommunications products;
  - k. software as a service (SaaS), platform as a service (PaaS), infrastructure as a service (IaaS), network as a service (NaaS) and computer systems analysis; or
  - l. computer or telecommunications hardware or software products, components, peripherals or electronic products that are (i) created, designed, distributed, manufactured, repaired or sold by or on behalf of any **Insured** for the benefit of any **Insured**; or (ii) leased or licensed by any **Insured** to third parties including software updates, service packs and other maintenance releases provided for such products.
65. **Technology Wrongful Act** means any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by any **Insured**, or a third party for the benefit of the **Insured** and for whose wrongful act the **Insured** is legally responsible, or **Third Party Contractor** in connection with any **Insured's** rendering or failure to render **Technology Products and Services** or the failure of **Technology Products and Services** to perform the function or serve the purpose intended.

66. **Theft Loss** means a transfer or disbursement of the **Insured's** money or securities by a **Rogue Party** to a third party that is not authorized to receive said money or securities as a result of a covered **Privacy Breach** or **Security Event**. **Theft Loss** shall not include a transfer or disbursement of the **Insured's** money or securities by any **Insured** or **Third Party Contractor**. The valuation of securities traded on a public exchange will be the value of those securities as set at the end of the trading day on the date that the **Security Event** first took place. The valuation of securities not traded on a public exchange shall be set in an Endorsement attached to this **Policy**, if applicable, in order to be considered for coverage.
67. **Third Party Contractor** means any person or entity, other than the **Insured** or an employee, that provides goods or performs services for, or on behalf of, the **Insured** pursuant to a written agreement.
68. **Wrongful Act** refers to the following:
- a. **Privacy Wrongful Act;**
  - b. **Security Wrongful Act;**
  - c. **Technology Wrongful Act;**
  - d. **Media Wrongful Act;** or
  - e. **Miscellaneous Professional Wrongful Act.**

#### SECTION IV - EXCLUSIONS

This **Policy** does not apply to any **Claim, First Party Privacy Breach Exposure** or **First Party Security Event Exposure**:

- A. arising out of a **Wrongful Act, Privacy Breach** or **Security Event** occurring prior to the **Policy Period** if, prior to the effective date of the first policy providing Privacy, Security, Miscellaneous Professional, Technology and/or Media coverage issued by the **Insurer** to the **Named Insured** and continuously renewed and maintained in effect prior to the **Policy Period**:
1. any **Insured** gave notice to any prior insurer of any such **Claim, Wrongful Act, Privacy Breach** or **Security Event** (including any act, error, omission, breach, event or offense) that could reasonably give rise to any **Claim, First Party Privacy Breach Exposure** or **First Party Security Event Exposure**; or
  2. any **Executive Officer** had a reasonable basis to believe that any **Insured** had committed a **Wrongful Act**, engaged in any activity likely to result in a **Privacy Breach** or **Security Event** or violated a disciplinary rule, or engaged in professional misconduct.
- B. arising out of any actual or alleged intentional, criminal, dishonest, malicious or fraudulent act, error or omission by any **Insured** if such intentional, criminal, dishonest, malicious or fraudulent act, error or omission is established by an admission by an **Insured** or a final non-appealable adjudication of the **Claim** or a final non-appealable adjudication in any judicial, administrative or alternative dispute resolution proceeding.

This Exclusion does not apply to any **Personal Injury Offense** that results from any **Insured's** rendering or failing to render **Miscellaneous Professional Services**.

For purposes of this Exclusion, no such act of any **Insured** other than the **Company** will be imputed to any other such **Insured**, and only such act of any **Executive Officer** will be imputed to the **Company**.

- C. arising out of **Media Services** or **Miscellaneous Professional Services** performed for any

entity, including an entity held in a personal trust, if at the time of the act or omission giving rise to the **Claim**, any **Insured** was a director, officer or partner of, or had management responsibilities for such entity, or the owner of more than a 15% equity interest in such entity.

- D. arising out of any actual or alleged violation or breach by any **Insured** of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, Telephone Consumer Protection Act (TCPA), Securities Act of 1933, Securities Exchange Act of 1934, the Racketeer Influenced and Corrupt Organizations Act 18 USC Sections 1961 et seq., the Controlling the Assault of Non-Solicited Pornography and Marketing ACT (CAN-SPAM) of 2003, the Fair Credit Reporting Act (FCRA), Fair and Accurate Credit Transactions Act (FACTA), or amendments thereto of any of these, or any similar provision of any federal, state or local statute, regulation, ordinance or common law.

This Exclusion does not apply if any **Insured** is deemed to be a fiduciary solely by reason of **Miscellaneous Professional Services** rendered with respect to any employee benefit plan or to any **Insured's** liability arising from a **Security Event**.

- E. arising out of **Bodily Injury** or **Property Damage** provided that this exclusion will not apply to mental anguish or emotional distress arising from any actual or alleged **Privacy Breach**, **Miscellaneous Professional Wrongful Act**, or **Media Event**.
- F. arising out of any actual or alleged liability assumed by any **Insured** under any written or oral contract or agreement including, without limitation, any indemnification agreement.

This Exclusion does not apply to:

1. any **Loss** the **Insured** would have in the absence of such contract or agreement and is otherwise covered under this **Policy**; or
2. the payment of **Breach Mitigation Expenses** or **Breach Notification Expenses** required under any contract, including any Business Associate Agreement under HIPAA or similar contract.

- G. brought or maintained by or on behalf of, or with the cooperation of:

1. any **Insured**; or
2. any successor or assignee of any **Insured(s)** including any bankruptcy or insolvency trustee, examiner, receiver, similar official or creditors' committee of such person or entity;

however, this exclusion does not apply to:

- a. any **Privacy Breach** or **Security Event** that results in **First Party Privacy Breach Exposure** or **First Party Security Event Exposure**;
- b. any **Claim** brought by an **Additional Insured** solely in such **Additional Insured's** capacity as a bona fide customer of the **Company**; or
- c. any **Claim** arising out of a **Privacy Breach** involving an employee of the **Company** whose **Non-public Personal Information** was alleged to have been compromised while in the care or custody of the **Company** or an **Information Custodian** made by any **Insured** against any other **Insured**.

- H. arising out of the sale or promotion of any investment or security, including any personal financial planning or investment advice provided in connection with such sale, but only if any **Insured** received a commission, fee or other compensation from the issuer or provider of the security or investment as a direct result of the sale.

- I. arising out of:
1. the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal of **Pollutants** at any time; or
  2. any direction, demand or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of **Pollutants**.
- J. arising out of the commingling, misappropriation, theft, conversion or misuse of funds or securities by an **Insured**; however, this exclusion does not apply to a **Social Engineering Event** under Insuring Agreement C – Miscellaneous Professional Liability, or **Theft Loss** resulting in **First Party Security Event Exposure**, if purchased, respectively.
- K. arising out of any **Insured's** advising, requiring obtaining or failing to advise, require or obtain any bond, suretyship or other insurance.
- L. arising out of any actual or alleged purchase or sale, or offer or solicitation to purchase or sell securities, including, without limitation, any actual or alleged violation of the Securities Act of 1933, the Securities Exchange Act of 1934, any "Blue Sky" law and any federal, state, local, or foreign statute, rule, regulation or common law similar to, or promulgated pursuant to, any of the foregoing or any act, error or omission in connection with an offering or potential offering of securities or which is brought by or on behalf of any security holder of the **Company** in his or her capacity as such whether directly or derivatively.
- M. arising out of:
1. the **Insured's** employment-related practices including any failure or refusal to hire, employ, termination of employment, coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, or actual or alleged violation of the Employee Retirement Security Act of 1974, or any similar statute, law or regulation; or
  2. discrimination against any person made in any context including those made on the basis of age, color, race, sex, creed, religion, national origin, marital status, handicap, physical disability or sexual preference.
- However, this exclusion shall not apply to any **Claim** arising out of a **Privacy Breach** involving an employee of the **Company** whose **Non-public Personal Information** was alleged to have been compromised while in the care or custody of the **Company** or **Third Party Contractor**.
- N. arising out of infringement of patent, misappropriation of trade secret, unfair competition or anti-trust violations; however, this exclusion does not apply to **Claims**: (i) arising from the failure to protect a trade secret belonging to a third party arising out of a **Privacy Breach** or **Security Event**; (ii) alleging unfair competition arising from a **Privacy Breach**; or (iii) **Content** under Insuring Agreement E – Media Liability.
- O. arising out of false advertising, infringement of copyright, trademark, service mark, trade dress or trade name of any tangible product; however, this exclusion does not apply to **Content** under Insuring Agreement E – Media Liability, if purchased by the **Insured**, or to software or material produced for a client as part of **Miscellaneous Professional Services** or **Technology Products and Services**.
- P. arising out of:
1. the failure of any third party to provide services related to public safety, electric power, gas, internet, wireless or wireline communications services to any **Insured** including, but not limited to, blackouts, brown outs, power surges, or power fluctuations; or

2. the failure of any satellite or non-terrestrial based electronics or machine.
- Q. arising out of contractual, ownership, licensing or royalty disputes brought by, in the name of or on behalf of:
1. any client, subcontractor, independent contractor, current or former employee, joint venture partner, licensee or sub-licensee involving any **Insured's Content**; or
  2. any performance rights organization, including, but not limited to, the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), the Society of European Stage Authors and Composers (SESAC), the Society of Composers, Authors and Music Publishers of Canada (SOCAN) or SoundExchange.
- R. arising out of any express warranties, guarantees or cost estimates.
- S. arising out of any regulatory authority, or any federal, state or local governmental agency; however, this exclusion does not apply to:
1. any **Claim** brought by any of these entities, if such entity is also a bona fide client, and if the **Claim** arises from **Technology Products and Services, Media Services or Miscellaneous Professional Services**; or
  2. any **Privacy Regulatory Action**.
- T. arising out of disputes over commissions or fees for services.
- U. arising out of any form of means awards, coupons, price discounts, prizes or any other valuable consideration given in excess of the total contracted or expected amount.
- V. arising out of:
1. war, including undeclared civil war;
  2. warlike action by a military force, including action in hindering or defending against an actual or expected attack by a government, sovereign or other authority using military personnel or other agents;
  3. insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these; or
  4. the seizure of, access to or blockage of any information or communications network by any national, state or local governmental authority.

## SECTION V - EXTENSIONS OF COVERAGE

### A. Supplementary Payments

Solely as respects Insuring Agreement C – Miscellaneous Professional Liability and Insuring Agreement D – Technology Products and Services Liability, to the extent purchased by the **Insured**:

#### 1. Supplemental Crisis Management Expenses

The **Insurer** will reimburse the **Insured's Supplemental Crisis Management Expenses** up to \$25,000 per **Policy Period**.

#### 2. Cost of Bonds

The **Insurer** will pay, with respect to any **Claim** it investigates or settles or any suit against any **Insured** it defends the cost of bonds to release attachments, but only for bond amounts within the applicable Limits of Liability, and provided the **Insurer** has no obligation to furnish these bonds.

#### 3. Disciplinary Proceedings

If, during the **Policy Period**, a **Disciplinary Proceeding** is first brought against any **Insured**, the **Insurer** will reimburse the **Insureds** up to \$25,000 per **Policy Period** for reasonable and necessary legal fees and expenses that the **Insured** incurs in the defense of such matter. Such legal fees and expenses do not include any fines, penalties or restitution paid by the **Insured** as part of or to resolve a **Disciplinary Proceeding**.

The **Insurer** will have no duty to defend the **Insured** in any such **Disciplinary Proceeding**.

Any notice given to the **Insurer** by any **Insured** under this subsection will be deemed notice of potential **Claim**.

#### 3. Subpoena Assistance

a. If, during the **Policy Period**, an **Insured** first receives a subpoena for documents or testimony arising out of **Miscellaneous Professional Services** or **Technology Products and Services** performed by any **Insured**, and the **Insured** requests the **Insurer's** assistance in responding to such subpoena, the **Insurer** will reimburse the **Insured** up to \$25,000 per **Policy Period** reasonable and necessary: (i) legal fees and expenses incurred to provide the **Insured** advice regarding the production of documents; (ii) costs incurred by the **Insured** to produce any documents in response to the subpoena; or (iii) legal fees and expenses to prepare the **Insured** for sworn testimony and to represent the **Insured** at the **Insured's** depositions;

provided that:

- i. the subpoena arises out of a lawsuit to which the **Insureds** are not a party; and
- ii. the **Insureds** have not been engaged to provide advice or testimony in connection with the lawsuit and the **Insureds** have not provided such advice or testimony in the past.

b. The **Insurer** has no duty to defend the **Insured** in connection with any such subpoena assistance. Compliance with a subpoena shall not be considered a **Claim** or **Disciplinary Proceeding** under the **Policy** and the coverage for any subpoena assistance is limited to that provided under this section.

- c. Any notice given to the **Insurer** by any **Insured** under this subsection will be deemed notice of potential **Claim**.
4. No Retention applies to the coverage afforded under SECTION V - EXTENSIONS OF COVERAGE, A. Supplementary Payments.
5. Payments made under SECTION V - EXTENSIONS OF COVERAGE .A. Supplementary Payments will not reduce the Limits of Liability.

B. Extended Reporting Period

In the event this **Policy** is cancelled or non-renewed by either the **Insured** or the **Insurer**, the **Insured** is entitled to the extensions of coverage shown in this Section.

1. Automatic Extended Reporting Period

An Automatic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the **Policy Period** and lasts for sixty (60) days, or the date another similar insurance policy takes effect, whichever occurs first.

- a. There will be no entitlement to this extension if cancellation or non-renewal is due to any **Insured's** non-payment of premium or Retentions(s) due, or failure to comply with the terms and conditions of the **Policy**.
  - b. This extension of coverage will be subject to all the terms and conditions of this **Policy** and will apply to **Claims, Privacy Breaches** or **Security Events** made or occurring after the **Policy Inception Date** or **Retroactive Date**, as applicable, and before the end of the **Policy Period**.
  - c. The fact that the period during which **Claims** may be reported to the **Insurer** under this **Policy** by way of this extension does not in any way increase the Limits of Liability of this **Policy**.
2. An Optional Extended Reporting Period is available, but only by an endorsement made a part of this **Policy**, for the period and additional premium charge as respectively shown in Item 7. of the Declarations..
- a. The **Insured** must give the **Insurer** a written request for the endorsement and pay any premium due within sixty (60) days after the end of the **Policy Period**. The Optional Extended Reporting Period will not go into effect unless the **Named Insured** pays the additional premium promptly when due.
  - b. The Optional Extended Reporting Period is non-cancellable and starts upon the expiration of the **Policy Period**.
  - c. Once coverage is in effect, all premiums paid for the Optional Extended Reporting Period will be deemed fully earned and nonrefundable as of the first day of the Optional Extended Reporting Period.
  - d. There will be no entitlement to this extension if cancellation or non-renewal is due to any **Insured's** non-payment of premium or Retentions(s) due, or failure to comply with the terms and conditions of the **Policy**.
  - e. This extension of coverage will be subject to all the terms and conditions of this **Policy** and will apply to **Claims, Privacy Breaches, Security Events** or **Social**

**Engineering Events** made or occurring after the **Policy** Inception Date or **Retroactive Date**, as applicable, and before the end of the **Policy Period**.

- f. The fact that the period during which **Claims** may be reported to the **Insurer** under this extension does not in any way increase the Limits of Liability of this **Policy**.

## SECTION VI - GENERAL CONDITIONS

### A. Multiple Events, Wrongful Acts, Claims or Claimants

Two or more **Claims**, **Privacy Breaches** or **Security Events** arising out of a single act, error or omission, or any series of related acts, errors or omissions, will be considered a single **Claim**, **Privacy Breach** or **Security Event**. Each act, error or omission in a series of related acts, errors or omissions will be deemed to have occurred on the date of the first such act, error or omission.

### B. Defense, Settlement and Cooperation

1. The **Insurer** has the right and duty to defend any **Insured** against any **Claim**, even if the allegations of such **Claim** are groundless, false or fraudulent. The **Insurer** will designate or approve, at the **Insurer's** sole discretion, counsel chosen by the **Insured** to defend the **Claim**. However, the **Insurer** has no duty to defend any **Insured** against any **Claim** to which this insurance does not apply.
2. The **Insurer** has the right to make any investigation the **Insurer** deems necessary and, with the **Insured's** consent, make any settlement of any **Claim** covered by the terms and conditions of this **Policy**. If the **Insured** refuses to consent to any settlement or compromise recommended by the **Insurer** and acceptable to the claimant and the **Insured** elects to contest the **Claim** or continue legal proceedings in connection with such **Claim**, then the **Insurer's** liability under this **Policy** will be limited to the combined total of:
  - a. the amount of such proposed settlement or compromise;
  - b. the amount of **Defense Costs** incurred prior to the date the **Insured** refused to consent to such proposed settlement or compromise; and
  - c. sixty percent (60%) of the amount of **Loss** incurred in excess of the combined total of the amounts set forth in a. and b. of this section.
3. The **Insured** will not, except at the **Insured's** own cost, make any payment, admit any liability, settle any **Claim**, assume any obligation or incur any expense, without the **Insurer's** prior written consent, such consent not to be unreasonably withheld.
4. If the applicable Limits of Liability shown in Item 4. of the Declarations is exhausted by the payment of **First Party Privacy Breach Exposure**, **First Party Security Event Exposures** or **Loss** resulting from any **Claim**, then all of the **Insurer's** obligations under this **Policy** will be completely fulfilled and exhausted, and the **Insurer** will have no further obligations of any kind or nature whatsoever under this **Policy**. If the applicable Limits of Liability shown in Item 4. of the Declarations is exhausted prior to settlement or judgment of any **Claim**, the **Insurer** will have the right to withdraw from further investigation or defense by tendering control of such investigation or defense to the **Insured**, and the **Insured** agrees, as a condition precedent to the issuance of this **Policy**, to accept such tender.
5. The **Insured** must cooperate with the **Insurer** and assist the **Insurer** in investigating and defending any **Claim** or potential **Claim** or investigating any event resulting in coverage under SECTION V - EXTENSIONS OF COVERAGE A. Supplementary Payments. Upon



the **Insurer's** request, the **Insured** must submit to examination and interrogation by the **Insurer's** representatives, under oath if required, and the **Insured** must attend hearings, depositions and trials, and assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits and other proceedings, as well as in the giving of a written statement or statements to the **Insurer's** representatives including investigating and coverage counsel, and meeting with such representatives for the purpose of investigation and defense, including the investigation of coverage issues or defense. The **Insured** must further cooperate with the **Insurer** and do whatever is necessary to secure and effect any rights of indemnity, contribution or apportionment which the **Insured** may have.

C. Allocation

1. In the event any **Insured(s)**:

- a. incur a **Loss** in connection with any **Claim**; or
- b. incur **Reward Expenses, Breach Notification Expenses, Breach Mitigation Expenses, Crisis Management Expenses, Data Restoration Expenses, Extortion Expenses, Extra Expenses, Payment Card Expenses**, or is otherwise required to pay for loss of **Business Interruption Expenses**, in connection with any **First Party Privacy Breach Exposure** or **First Party Security Event Exposure**;

that is both covered and not covered by this **Policy**, either because the applicable **Claim, First Party Privacy Breach Exposure** or **First Party Security Event Exposure** includes both covered and uncovered matters or because the applicable **Claim, First Party Privacy Breach Exposure** or **First Party Security Event Exposure** includes both insured and uninsured parties, the **Insurer** and the **Insured** agree to use all reasonable efforts to determine a fair and equitable allocation of the amounts as between covered and uncovered loss, without any presumption as to a fair and equitable allocation.

2. In the event that the **Insurer** and the **Insured** cannot agree on an allocation of **Defense Costs** to be provided under any Insuring Agreement, the **Insurer** shall provide amounts that it believes to be covered until a different allocation is negotiated by the parties or achieved.

D. Reporting and Notice

1. Reporting of **Claims**

If, during the **Policy Period** or any Extended Reporting Period, any **Claim** for a **Wrongful Act** is first made against any **Insured**, as a condition precedent to the **Insured's** right to coverage under this **Policy**, the **Insured** must give the **Insurer** written notice of such **Claim** as soon as practicable after any **Executive Officer** becomes aware, but in no event later than the later of sixty (60) days after the Expiration Date or earlier termination date of this **Policy**, or the expiration of any Extended Reporting Period, if applicable.

Timely and sufficient notice of a **Claim** by one of the **Insureds** will be deemed timely and sufficient notice for all of the **Insureds** involved in the **Claim**. Such notice must give full particulars of the **Claim**, including, but not limited to: (i) a description of the **Claim** and **Wrongful Act**; (ii) the identity of the **Insured** and all potential claimants involved; (iii) a description of the injury or damages that resulted from such **Wrongful Act**; information on the time, place and nature of the **Wrongful Act**; and (iv) the manner in which the **Insured** first became aware of the **Claim**.

2. Reporting of Potential **Claims**

If, during the **Policy Period**, any **Insured** first becomes aware of any potential **Claim**, the **Insured** shall give the **Insurer** written notice of such potential **Claim** with full particulars as soon as practicable thereafter, but in any event before the end of the **Policy Period**. If such potential **Claim** later becomes a **Claim**, not otherwise excluded by this **Policy**, such **Claim** will be treated as if the **Claim** had been first made during the **Policy Period**. Full particulars include, but are not limited to: (i) a description of the potential **Claim**; (ii) the identity of the **Insured** and all potential claimants involved; (iii) information on the time, place and nature of the potential **Claim**; (iv) the manner in which the **Insured** first became aware of such potential **Claim**; and (v) the reasons the **Insured** believe the potential **Claim** is likely to result in a **Claim**.

3. Notice of **Privacy Breach** or **Security Event**

If, during the **Policy Period**, a **Privacy Breach** or **Security Event** occurs, then as a condition precedent to the **Insured's** right to coverage under this **Policy**, the **Insured** must give the **Insurer** written notice of such **Privacy Breach** or **Security Event** as soon as practicable, but in no event later than the Expiration Date or earlier termination date of this **Policy**.

Such notice must give full particulars of the **Privacy Breach** or **Security Event**, including, but not limited to: (i) a description of the **Privacy Breach** or **Security Event**; (ii) the identity of the **Insured** and all potential claimants involved; and (iii) the manner in which the **Insured** first became aware of such **Privacy Breach** or **Security Event**.

4. Notice regarding **Supplemental Crisis Management Expenses**

If, during the **Policy Period**, a **Miscellaneous Professional Wrongful Act** or a **Technology Wrongful Act** occurs then as a condition precedent to the **Insured's** right to coverage under this policy for **Supplemental Crisis Management Expenses**, the **Insured** must give the **Insurer** written notice of such **Miscellaneous Professional Wrongful Act** or **Technology Wrongful Act** as soon as is practicable, but in no event later than the Expiration Date or earlier termination date of this policy.

Such notice must give full particulars of the **Miscellaneous Wrongful Act** or **Technology Wrongful Act**, including, but not limited to: (i) a description of the **Miscellaneous Wrongful Act** or **Technology Wrongful Act**; (ii) the identity of the **Insured** and all potential claimants involved; and (iii) the manner in which the **Insured** first became aware of such **Miscellaneous Wrongful Act** or **Technology Wrongful Act**.

5. Notice of **Privacy Regulatory Actions, Disciplinary Proceedings** and Subpoenas

If, during the **Policy Period**:

- a. a **Privacy Regulatory Action** is first initiated against any **Insured** and covered by Insuring Agreement A – Privacy Coverage; or
- b. any **Insured** first receives a notice of a **Disciplinary Proceeding** or a subpoena;

then as a condition precedent to the **Insured's** right to coverage under this **Policy**, the **Insured** must give the **Insurer** written notice of such **Privacy Regulatory Action, Disciplinary Proceeding** or subpoena as soon as practicable, but in no event later than

the Expiration Date or earlier termination date of this **Policy**..

Such notice must give full particulars of the **Privacy Regulatory Action, Disciplinary Proceeding** or subpoena, including, but not limited to: (i) a description of the **Privacy Regulatory Action, Disciplinary Proceeding** or subpoena; (ii) the identity of the **Insured** and all potential claimants involved; and (iii) the manner in which the **Insured** first became aware of such **Privacy Regulatory Action, Disciplinary Proceeding** or subpoena.

6. Notices

All written notices required herein must be sent to the **Insurer** at the **Insurer's** physical address or e-mail address shown under this **Policy** by the Notice To Insurer endorsement issued and attached hereto by the **Insurer**.

E. Policy Territory

This **Policy** applies to any **Privacy Breach, Privacy Wrongful Act, Security Event, Security Wrongful Act, Miscellaneous Professional Wrongful Act, Technology Wrongful Act** or **Media Wrongful Act** occurring anywhere in the world where legally permissible; however, no coverage will be available under this **Policy** for any **Claim** brought in any country with which the United States of America does not have active diplomatic relations at the time such **Claim** is made.

All premiums, Limits of Liability, Retentions and other amounts under this **Policy** are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or another element of **Loss** under this **Policy** is stated in a currency other than United States Dollars, payment under this **Policy** will be made in United States Dollars at the rate of exchange on the date the final judgment is reached, the amount of the settlement is agreed upon or the other element of **Loss** is due, respectively.

F. Bankruptcy

Bankruptcy or insolvency of any **Insured** or of any **Insured's** estate will not relieve the **Insurer** of any of the **Insurer's** obligations or deprive the **Insurer** of any of the **Insurer's** rights under this **Policy**.

G. Action Against the Insurer

No action can be brought against the **Insurer** unless, as a condition precedent, the **Insured** has fully complied with all the terms and conditions of this **Policy**. Nothing contained in this **Policy** gives any person or organization the right to join the **Insurer** as a party to any **Claim** to determine the **Insured's** liability.

H. Other Insurance

This insurance will apply only as excess of the Retention amount shown in Item 4. of the Declarations and the amount of any other valid and collectible insurance available to any **Insured** whether such other insurance is stated to be primary, pro rata, contributory, excess, contingent or otherwise, unless such other insurance is specifically written as excess insurance over the Limits of Liability provided in this **Policy**.

I. Representations

By accepting this **Policy**, all **Insureds** agree that all **Applications**, statements made and information furnished to the **Insurer** are true, accurate and complete, and that this **Policy** has

been issued in reliance upon the truth and accuracy of those representations, subject to all of the terms and conditions of this **Policy**.

J. Authorization Clause

By acceptance of this **Policy**, the **Named Insured** as shown in Item 1. of the Declarations agrees that it shall act on behalf of all **Insureds** with respect to completing the **Application** for this insurance, including representing the truth and completeness of all information as required in SECTION VI – GENERAL CONDITIONS, D. Reporting and Notice, giving or receiving notice of cancellation or non-renewal, paying premium or receiving unearned premium, paying the applicable Retention, consenting to the settlement of any **Claim**, agreeing to any changes in this **Policy**, and electing whether or not to purchase Extended Reporting Period coverage.

All **Insureds** agree that the **Named Insured** shall act on their behalf.

K. Cancellation and Non-Renewal

1. Cancellation

- a. The **Named Insured** may cancel this **Policy** by mailing or delivering advance written notice to the **Insurer** at the **Insurer's** address shown under this **Policy** by the Notice To Insurer endorsement issued and attached hereto by the **Insurer**, stating when cancellation will be effective. If the **Insured** cancels this **Policy**, the **Insurer** will retain the customary short rate portion of the premium.
- b. The **Insurer** may cancel this **Policy** by mailing written notice to the first **Named Insured** shown in Item 1. of the Declarations stating when, not less than thirty (30) days thereafter (or such longer period of time as required by applicable law or amended by an endorsement issued and attached hereto by the **Insurer**), such cancellation will be effective.
- c. However, if the **Insurer** cancels this **Policy** because the **Insured** has failed to pay a premium or Retention when due, the **Insurer** may cancel this **Policy** by mailing written notice of cancellation to the **Named Insured** shown in Item 1. of the Declarations stating when, not less than ten (10) days thereafter (or such longer period of time as required by applicable law or amended by an endorsement issued and attached hereto by the **Insurer**), such cancellation will be effective. Such notice will apply to all of the **Insureds**. If cancelled by the **Insurer**, earned premium will be computed pro rata.

2. Non-Renewal

If the **Insurer** elects not to renew this **Policy**, the **Insurer** will mail to the **Named Insured** shown in Item 1. of the Declarations written notice of non-renewal at least sixty (60) days prior to the Expiration Date of this **Policy**. If the notice is not given at least sixty (60) days prior to the Expiration Date, the **Policy** will continue in force until sixty(60) days after the notice of intent not to renew is received by the **Insured**.

Notice of non-renewal will not be required if the **Insured** has obtained replacement coverage or have requested or agreed to non-renewal.

L. Organizational Changes

1. If, during the **Policy Period**:

- a. the **Named Insured** or any **Subsidiary** are merged with, consolidated into or acquired by or with another entity such that the **Named Insured** is not the surviving entity; or
- b. a receiver, conservator, trustee, liquidator or rehabilitator, or any similar official is appointed for or with respect to the **Named Insured** or any **Subsidiary**;

then coverage under this **Policy** will continue in full force and effect with respect to a **Privacy Breach, Security Event** or **Wrongful Act** occurring or committed before such event, but coverage will cease with respect to any **Privacy Breach, Security Event** or **Wrongful Act** occurring or committed after such event. After any such event, this **Policy** may not be canceled by the **Named Insured** and the entire premium for this **Policy** will be deemed fully earned.

2. If, during the **Policy Period**, the **Named Insured** or any **Subsidiary** merges, consolidates or acquires an entity whose gross revenues for the prior year are equal to or greater than 50% of the annual gross revenues of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statement prior to such merger, consolidation or acquisition, then no coverage will be afforded under this **Policy** for any **Claim** involving such assets or entity unless the following conditions are met:
  - a. The **Named Insured** provides written notice of such merger, consolidation creation, or acquisition to the **Insurer** within sixty (60) days after the effective date of such merger, consolidation, creation or acquisition, or by the end of the **Policy Period**, whichever occurs first;
  - b. The **Named Insured** provides the **Insurer** with such information as the **Insurer** may deem necessary;
  - c. The **Named Insured** accepts any special terms, conditions, exclusions or additional premium charge as may be required; and
  - d. The **Insurer**, at the **Insurer's** sole discretion, agrees to provide such coverage.

M. Alterations and Headings

None of the provisions of this **Policy** will be waived, changed or modified except by a written endorsement issued by the **Insurer** to form a part of this **Policy**.

The titles and headings to the various sections, subsections and endorsements of this **Policy** are included solely for ease of reference and do not in any way limit, expand or otherwise affect the provisions or existence of such sections, subsections or endorsements.

N. Policy Changes

Notice to or knowledge possessed by any broker or other person acting on the **Insured's** behalf will not effect a waiver or change in any part of this **Policy** or prevent or estop the **Insurer** from asserting any right(s) under this **Policy**. This **Policy** can only be altered, waived or changed by written endorsement or agreed to in writing by an authorized representative of the **Insurer**.

O. Subrogation

In the event of any payment made by the **Insurer** under this **Policy**, the **Insurer** will be subrogated to all the **Insured's** rights of recovery against any person, entity or organization, provided that the **Insurer** will not exercise any rights of subrogation against any of the **Insureds** who did not commit the wrongdoing.

The **Insured** will execute and deliver instruments, papers, and do whatever else is necessary to secure such rights, and do nothing to prejudice such rights.

Any amount recovered upon the exercise of such rights of subrogation will be applied as follows: first, to the repayment of expenses incurred in recovery by exercise of such subrogation rights; second, to **Loss** paid by the **Insured** in excess of the Limits of Liability; third, to **Loss** paid by the **Insurer**; fourth, to **Loss** paid by the **Insured** in excess of the Retention amount; and last, to the repayment of any Retention amount paid by the **Insured**.

Notwithstanding the above, the **Insurer** hereby waives such subrogation rights against any **Insured** under this **Policy**, and also against any client of the **Insured**, to the extent that the **Insured** had, prior to any **Claim** or circumstance that might reasonably be expected to be the basis of a **Claim**, a written agreement to waive such rights, provided that prior to such writing no **Insured** had a basis to believe that any matter asserted in such **Claim** or circumstance might reasonably be expected to be the basis of a **Claim**. In no event will the **Named Insured** waive any of its rights of subrogation after it has become aware of any **Claim**, or any circumstances that may give rise to a **Claim**, against any **Insured**.

P. Alternative Dispute Resolution

The **Insurer** and the **Insured** shall submit any dispute or controversy under this **Policy** to either non-binding mediation or binding arbitration as described in this subsection (the "ADR process"). Either the **Insurer** or the **Insured** may initiate the ADR process by sending written notice to the other party designating which type of ADR process is being elected. If within fourteen (14) days after such notice is given, the parties disagree on the type of ADR process, the **Insured's** preference shall control.

Unless otherwise agreed by the parties, any non-binding mediation or binding arbitration shall be administered by the American Arbitration Association in accordance with its then-prevailing Commercial Mediation Rules or Commercial Arbitration Rules, respectively. The **Insurer** and the **Insured** shall each select a disinterested arbitrator, and those two arbitrators shall select a third disinterested arbitrator. A decision by a majority of those three (3) arbitrators shall be final and binding upon the **Insured** and the **Insurer**, but the arbitrators' award shall not include attorneys' fees or other costs incurred in connection with the arbitration.

If the ADR process is non-binding mediation, and if the dispute is not resolved during the mediation process, then either party to the mediation may thereafter commence a judicial proceeding against the other party with respect to such dispute, provided that neither party may commence such a judicial proceeding prior to ninety (90) days following termination of the mediation.

Q. Appearance at Proceedings

In the event of any payment made by the **Insurer** under Insuring Agreement C – Miscellaneous Professional Liability of this **Policy**, the **Insurer** will pay for loss of earnings for the **Insured's** attendance, at the **Insurer's** written request, at a trial, hearing, arbitration or mediation proceeding involving a **Claim** against any **Insured**. The maximum amount the **Insurer** will pay for any one or series of trials, hearings, mediation or arbitration proceedings arising out of the same **Claim** will not exceed \$1,000 per individual **Insured** for each day, or part thereof. The most the **Insurer** will pay under this subsection is \$10,000 each **Claim** and \$50,000 in the aggregate for all **Claims** made during the **Policy Period** or applicable Extended Reporting Period.

R. Assignment

Neither this **Policy** nor any **Insured's** interest in this **Policy** may be assigned without the **Insurer's** written consent.

S. Liberalization

If the **Insurer** adopts any revision to this form that would broaden coverage under this **Policy** without additional premium at any time during the **Policy Period**, the broadened coverage will immediately apply to this **Policy**, except that it will not apply to **Claims** that were first made against any **Insured** prior to the effective date of such revision.

T. Waiver

The **Insurer's** failure to insist on strict compliance with any of the terms or conditions of this **Policy** or the failure to exercise any right or privilege will not operate or be construed as a waiver of any subsequent breach or a waiver of any other terms, conditions, privileges or rights.

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