

**CYBER LIABILITY AND DATA BREACH
RESPONSE ENDORSEMENT**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This Endorsement modifies insurance provided under the following:

INSURING AGREEMENTS 1., 3., 4. AND 5. OF THIS ENDORSEMENT PROVIDE COVERAGE ON A CLAIMS MADE AND REPORTED BASIS AND APPLY ONLY TO “CLAIMS” FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR OPTIONAL EXTENSION PERIOD, IF APPLICABLE, AND REPORTED TO US DURING THE POLICY PERIOD OR AS OTHERWISE PROVIDED IN SECTION VIII. AMOUNTS INCURRED AS “CLAIMS EXPENSES” UNDER THIS ENDORSEMENT SHALL REDUCE AND MAY EXHAUST THE LIMIT OF LIABILITY AND ARE SUBJECT TO RETENTIONS.

INSURING AGREEMENTS 2., 6., 7. AND 8. OF THIS ENDORSEMENT PROVIDE FIRST PARTY COVERAGE ON AN INCIDENT DISCOVERED AND REPORTED BASIS AND APPLY ONLY TO INCIDENTS FIRST DISCOVERED BY THE INSURED AND REPORTED TO THE US DURING THE “POLICY PERIOD”.

This Cyber Liability and Data Breach Response Endorsement is added to the Policy and the terms and conditions of this Endorsement govern the scope of coverage and your and our duties.

Throughout this Endorsement, the words “you” and “your” refer to the “named insured(s)” shown in the Policy declarations and any other person(s) or organization(s) qualifying as a “named insured” under this Endorsement. The words “we”, “us” and “our” refer to the company providing this coverage. The word “insured” means any person or organization qualifying as such under **SECTION III – WHO IS AN INSURED**. The term “Policy” refers to the primary policy to which this Endorsement is attached.

This Endorsement amends the Policy to provide cyber liability and data breach response coverage on a claims made and reported or incidents discovered and reported basis. Various provisions in this Endorsement restrict coverage. Read the entire Endorsement carefully to determine your rights and duties and what is and is not covered. The terms, conditions, exclusions, and limits of liability set forth in this Endorsement apply only to the coverage provided by this Endorsement.

Words and phrases that appear in quotation marks have special meaning. Refer to **SECTION XI – DEFINITIONS**. To the extent any words or phrases used in this Endorsement are defined elsewhere in the Policy, such definitions provided elsewhere do not apply to give meaning to the words or phrases used in this Endorsement. The terms and conditions of the Cancellation provision of the Policy, and any amendment to such terms, are incorporated herein and shall apply to coverage as is afforded by this Endorsement, unless specifically stated otherwise in an endorsement(s) attached hereto.

This coverage applies from MM/DD/YYYY to MM/DD/YYYY at 12:01A.M. standard time at the “named insured’s” mailing address shown on the declarations page of the endorsement or policy.

2017-08-08 ed.

	1-10 Attorneys	11 + Attorneys
Endorsement Aggregate Limit of Liability	\$100,00	\$250,00
Aggregate for all loss, including “claims expenses”, subject to the following:		
Information Security and Privacy Liability Limit:	\$100,00	\$100,00
Regulatory Defense and Penalties Aggregate Sublimit:	\$50,00	\$50,00
Website Media and Content Liability Limit:	\$100,00	\$100,00
PCI Fines, Expenses and Costs Aggregate Sublimit:	\$5,000	\$5,000
Cyber Extortion Aggregate Sublimit:	\$10,000	\$10,000
Data Protection	\$10,000	\$25,000
Business Interruption	\$10,000	\$25,000
Liability Retention Per “Claim” or Incident		
Information Security and Privacy Liability:	\$0	\$0
Regulatory Defense and Penalties:	\$0	\$0
Website Media and Content Liability:	\$0	\$0
PCI Fines, Expenses and Costs:	\$0	\$0
Cyber Extortion:	\$2,000	\$2,000
Data Protection	\$1,000	\$2,000
Business Interruption:	\$2,000	\$2,000
Privacy Breach Response Services Limit of Coverage		
“Computer Expert Services”, “Legal Services” and “Public Relations and Crisis Management Expenses” Limit:	\$50,000	\$50,000
Notified Individuals - “Notification Services”, “Call Centre Services” and “Breach Resolution and Mitigation Services” Limit	10,000	20,000
Privacy Breach Response Services Retention		
“Computer Expert Services”, “Legal Services” and “Public Relations and Crisis Management Expenses”:	\$0	\$0
Notified Individuals Threshold:	100	100
Retroactive Date	MM/DD/YY	MM/DD/YY

SECTION I – INSURING AGREEMENTS

Coverage is provided under the following insuring agreements for which limits of liability are shown in the supplemental declarations:

1. Information Security and Privacy Liability

We will pay on behalf of the insured, “damages” and “claims expenses”, in excess of the retention, which the insured shall become legally obligated to pay because of any “claim”, including a “claim” for a violation of a “privacy law”, first made against any insured during the “policy period” or optional extension period, if applicable, and reported in writing to us during the “policy period” or as otherwise provided in **SECTION VIII – NOTICE AND DUTIES IN THE EVENT OF A CLAIM, LOSS OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM** for:

- A.** theft, loss, or “unauthorized disclosure” of “personally identifiable information” or “third party information” that is in the care, custody or control of the “insured organization”, or a third party for whose theft, loss or “unauthorized disclosure” of “personally identifiable information” or “third party information” the “insured organization” is legally liable (a third party shall include a business associate as defined by the Health Insurance Portability and Accountability Act (HIPAA)), provided such theft, loss or “unauthorized disclosure” first takes place on or after the “retroactive date” and before the end of the “policy period”;
- B.** one or more of the following acts or incidents that directly result from a failure of “computer security” to prevent a “security breach”, provided that such act or incident first takes place on or after the “retroactive date” and before the end of the “policy period”:
 - i.** the alteration, corruption, destruction, deletion, or damage to data stored on “computer systems”;
 - ii.** the failure to prevent transmission of “malicious code” from “computer systems” to computer or network systems that are not owned, operated or controlled by an insured; or
 - iii.** the participation by the “insured organization’s” “computer systems” in a “denial of service attack” directed against a computer or network systems that are not owned, operated or controlled by an insured;
- C.** the “insured organization’s” failure to timely disclose an incident described in paragraphs A. or B. of this section in violation of any “breach notice law”; provided such incident giving rise to the “insured organization’s” obligation under a “breach notice law” must first take place on or after the “retroactive date” and before the end of the “policy period”;
- D.** failure by the insured to comply with that part of a “privacy policy” that specifically:
 - i.** prohibits or restricts the “insured organization’s” disclosure, sharing or selling of a person’s “personally identifiable information”;
 - ii.** requires the “insured organization” to provide access to “personally identifiable information” or to correct incomplete or inaccurate “personally identifiable information” after a request is made by a person; or
 - iii.** mandates procedures and requirements to prevent the loss of “personally identifiable information”; provided the acts, errors or omissions that constitute such failure to comply with a “privacy policy” must first take place on or after the “retroactive date” and before the end of the “policy period”, and the “insured organization” must, at the time of such acts, errors or omissions, have in force a “privacy policy” that addresses those subsections above that are relevant to such “claim”; or
- E.** failure by the insured to administer:
 - i.** an identity theft prevention program as required by regulations and guidelines promulgated pursuant to 15 U.S.C. §1681m(e), as amended, or
 - ii.** an information disposal program required by regulations and guidelines promulgated pursuant to 15 U.S.C §1681W, as amended;provided the acts, errors or omissions that constitute such failure must first take place on or after the “retroactive date” and before the end of the “policy period”.

2. Privacy Breach Response Services

We will provide privacy breach response services to the “insured organization, in excess of the retention, because of an incident, or a reasonably suspected incident, described in paragraphs A. or B. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability**, that first takes place on or after the “retroactive date” and before the end of the “policy period” and is discovered by the insured and is reported to us during the “policy period” or as otherwise provided in **SECTION VIII – NOTICE AND DUTIES IN THE EVENT OF A CLAIM, LOSS OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM**.

Privacy breach response services means the following:

- A. "computer expert services";
- B. "legal services";
- C. "public relations and crisis management expenses";

paragraphs A.-C. are subject to a monetary limit in excess of the retention as noted in the supplemental declarations;

D. "notification services" to provide notification to:

- i. individuals who are required to be notified by the "insured organization" under the applicable "breach notice law"; or
- ii. in our discretion, individuals affected by an incident in which their "personally identifiable information" has been subject to theft, loss, or "unauthorized disclosure" in a manner which compromises the security or privacy of such individual by posing a significant risk of financial, reputational or other harm to the individual;

E. "call center services"; and

F. "breach resolution and mitigation services";

paragraphs D.-F. are subject to a maximum notified individual limit and the threshold noted in the supplemental declarations.

Privacy breach response services will be provided subject to the terms and conditions of this endorsement, subject to the applicable retentions and limitations set forth in the supplemental declarations and shall not include any internal salary or overhead expenses of the "insured organization". Privacy breach response services will be provided by service providers from our panel selected by us in consultation with the "insured organization".

3. **Regulatory Defense and Penalties**

We will pay on behalf of the insured, "claims expenses" and "penalties" , in excess of the retention, which the insured shall become legally obligated to pay because of any "claim" in the form of a "regulatory proceeding", first made against any insured during the "policy period" or the optional extension period, if applicable, and reported in writing to us during the "policy period" or as otherwise provided in **SECTION VIII – NOTICE AND DUTIES IN THE EVENT OF A CLAIM, LOSS OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM**, for a violation of a "privacy law" and caused by an incident described in paragraphs A., B. or C. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability** that first takes place on or after the "retroactive date" and before the end of the "policy period".

4. **Website Media Content Liability**

We will pay on behalf of the insured, "damages" and "claims expenses", in excess of the retention, which the insured becomes legally obligated to pay resulting from any "claim" first made against any insured during the "policy period" or the optional extension period, if applicable, and reported in writing to us during the "policy period", or as otherwise provided in **SECTION VIII – NOTICE AND DUTIES IN THE EVENT OF A CLAIM, LOSS OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM**, for one or more of the following acts first committed on or after the "retroactive date" and before the end of the "policy period" in the course of the "insured organization's" display of "media material" on its website or on social media web pages created and maintained by or on behalf of the "insured organization":

- A. defamation, libel, slander, trade libel, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;
- B. a violation of the rights of privacy of an individual, including false light and public disclosure of private facts;
- C. invasion of or interference with an individual's right of publicity, including commercial appropriation of name, persona, voice or likeness;
- D. plagiarism, piracy or misappropriation of ideas under implied contract;
- E. infringement of copyright;
- F. infringement of domain name, trademark, trade name, trade dress, logo, title, metatag, slogan, service mark, service name; or
- G. improper deep-linking or framing within electronic content.

5. **PCI Fines, Expenses and Costs**

We will indemnify the insured for "PCI fines, expenses, and costs", in excess of the retention, which the insured shall become legally obligated to pay because of a "claim" first made against any insured during the "policy period" or optional extension period, if applicable, and reported in writing to us during the "policy

period” or as otherwise provided in **SECTION VIII – NOTICE AND DUTIES IN THE EVENT OF A CLAIM, LOSS OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM**. Coverage under this insuring agreement is sublimited to the amount set forth in the supplemental declarations and we have no duty to defend any “claim” or pay any “claims expenses” with respect to any “claim” under this insuring agreement.

6. Cyber Extortion

We will indemnify the “named insured” for “cyber extortion loss”, in excess of the retention, incurred by the “insured organization” as a direct result of an “extortion threat” first made against the “insured organization” during the “policy period” and reported in writing to us during the “policy period” or as otherwise provided in **SECTION VIII – NOTICE AND DUTIES IN THE EVENT OF A CLAIM, LOSS OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM**. We will not pay for “cyber extortion loss” which is part of a series of related “extortion threats” that began prior to the “policy period”.

7. Data Protection

We will indemnify the “named insured” for “data protection loss”, in excess of the retention, incurred by the “insured organization” as a direct result of:

- A.** alteration, corruption, destruction, deletion or damage to a “data asset”, or
- B.** inability to access a “data asset”,

that is directly caused by a failure of “computer security” to prevent a “security breach”; provided that such “security breach” must take place on or after the “retroactive date” and before the end of the “policy period” and be reported in writing to us during the “policy period” or as otherwise provided in **SECTION VIII – NOTICE AND DUTIES IN THE EVENT OF A CLAIM, LOSS OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM**.

8. Business Interruption

We will indemnify the “named insured” for the actual “business interruption loss”, in excess of the applicable retention, the “insured organization” sustains during the “period of restoration” as a direct result of an actual and necessary interruption of “computer systems” caused directly by a failure of “computer security” to prevent a “security breach”; provided that such “security breach” must first take place on or after the “retroactive date” and before the end of the “policy period” and be reported in writing to us during the “policy period” or as otherwise provided in **SECTION VIII – NOTICE AND DUTIES IN THE EVENT OF A CLAIM, LOSS OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM**.

SECTION II – DEFENSE AND SETTLEMENT OF CLAIMS

1. We shall have the right and duty to defend:

- A.** any “claim” against the insured seeking “damages” which are payable under the terms of this Endorsement, even if any of the allegations of the “claim” are groundless, false or fraudulent; or
- B.** under **SECTION I – INSURING AGREEMENTS, 3. Regulatory Defense and Penalties**, any “claim” in the form of a “regulatory proceeding”.

Selection of defense counsel shall be mutually agreed upon between the “named insured” and us; however, in the absence of such agreement, our decision shall be final.

2. With respect to any “claim” against the insured seeking “damages” or “penalties” which are payable under this Endorsement, we will pay “claims expenses” incurred with our prior written consent. The limit of liability available to pay “damages” and “penalties” shall be reduced and may be completely exhausted by payment of “claims expenses”. “Damages”, “penalties” and “claims expenses” shall be applied against each claim retention payable by the insured.

3. If the insured refuses to consent to any settlement or compromise recommended by us and acceptable to the claimant and elects to contest the “claim”, our liability for any “damages”, “penalties”, and “claims expenses” shall not exceed:

- A.** the amount for which the “claim” could have been settled, less the remaining retention, plus the “claims expenses” incurred up to the time of such refusal; plus
- B.** fifty percent (50%) of any “claims expenses” incurred after the date such settlement or compromise was recommended to the insured plus fifty percent (50%) of any damages above the amount for which the “claim” could have been settled. The remaining fifty percent (50%) of such “claims expenses” and “damages” must be borne by the “insured” at their own risk and uninsured;

or the applicable limit of liability, whichever is less, and we shall have the right to withdraw from further defense thereof by tendering control of said defense to the insured. The portion of any proposed settlement or compromise that requires the insured to cease, limit or refrain from actual or alleged infringing or otherwise

injurious activity or is attributable to future royalties or other amounts that are not “damages” (or “penalties” for “claims” covered under **SECTION I – INSURING AGREEMENTS, 3. Regulatory Defense and Penalties**) shall not be considered in determining the amount for which a “claim” could have been settled.

4. We agree that the insured may settle any “claim” where the “damages”, “penalties” and “claims expenses” do not exceed the retention, provided that the entire “claim” is resolved and the insured obtains a full release on behalf of all insureds from all claimants.

SECTION III – WHO IS AN INSURED

Whether expressed in the singular or plural, insured shall mean:

1. The “named insured” and any “subsidiaries” of the “named insured” (together the “insured organization”);
2. A director, manager of a limited liability company (“manager”) or officer of the “insured organization”, but only with respect to the performance of his or her duties as such on behalf of the “insured organization”;
3. An “employee” of the “insured organization”, but only for work done while acting within the scope of his or her employment and related to the conduct of the “insured organization’s” business;
4. A principal if the “named insured” is a sole proprietorship, or a partner if the “named insured” is a partnership, but only with respect to the performance of their duties as such on behalf of the “insured organization”;
5. Any person previously qualified as an insured under paragraphs 2., 3. or 4. of this section prior to the termination of the required relationship with the “insured organization”, but only with respect to the performance of his or her duties as such on behalf of the “insured organization”;
6. The estate, heirs, executors, administrators, assigns and legal representatives of any insured in the event of such insured’s death, incapacity, insolvency or bankruptcy, but only to the extent that such insured would otherwise be provided coverage under this Endorsement; and
7. The lawful spouse, including any natural person qualifying as a domestic partner under the provisions of any applicable federal, state, or local law in the United States, of any insured, but solely by reason of any act, error or omission of an insured other than such spouse or domestic partner.

SECTION IV – EXCLUSIONS

This coverage does not apply to any “claim” or “loss”:

1. For, arising out of or resulting from:
 - A. physical injury, sickness, disease or death of any person, including any mental anguish or emotional distress resulting from such physical injury, sickness, disease or death; or
 - B. physical injury to or destruction of any tangible property, including the loss of use thereof; provided that electronic data shall not be considered tangible property for purposes of this exclusion.
2. For, arising out of or resulting from any employer-employee relations, policies, practices, acts or omissions, or any actual or alleged refusal to employ any person, or misconduct with respect to employees, whether such “claim” is brought by an employee, former employee, applicant for employment, or relative or domestic partner of such person; provided, that this exclusion shall not apply to an otherwise covered “claim” under paragraph A. or B. under **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability** by a current or former “employee” of the “insured organization”, or to the providing of privacy breach response services involving current or former “employees” of the “insured organization”.
3. For, arising out of or resulting from any actual or alleged act, error or omission or breach of duty by any director, officer or “manager” in the discharge of their duty if the “claim” is brought by or on behalf of the “named insured”, a “subsidiary”, or any principals, directors, officers, “managers”, stockholders, members or “employees” of the “named insured” or a “subsidiary” in his or her capacity as such.
4. For, arising out of or resulting from any contractual liability or obligation or arising out of or resulting from breach of contract or agreement, either oral or written; however, this exclusion will not apply:
 - A. with respect only to the coverage provided pursuant to paragraph A. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability**, to any obligation of the “insured organization” to maintain the confidentiality or security of “personally identifiable information” or of “third party information”;
 - B. with respect only to paragraph D. of **SECTION I – INSURING AGREEMENTS, 4. Website Media Content Liability**, for misappropriation of ideas under implied contract;
 - C. to “computer expert services” or “legal services” covered under **SECTION I – INSURING AGREEMENTS, 2. Privacy Breach Response Services**;

- D. to “PCI fines, expenses & costs” covered under **SECTION I – INSURING AGREEMENTS, 5. PCI Fines, Expenses and Costs**, or
 - E. to the extent the insured would have been liable in the absence of such contract or agreement.
5. For, arising out of or resulting from any actual or alleged antitrust violation, restraint of trade, unfair competition, or false, deceptive or misleading advertising or violation of the Sherman Antitrust Act, the Clayton Act, or the Robinson-Patman Act, as amended.
 6. For, arising out of or resulting from any actual or alleged false, deceptive or unfair trade practices; however, this exclusion does not apply to:
 - A. any “claim” covered under paragraphs A., B. or C. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability** or **SECTION I – INSURING AGREEMENTS, 3. Regulatory Defense and Penalties**; or
 - B. the provision of privacy breach response services covered under **SECTION I – INSURING AGREEMENTS, 2. Privacy Breach Response Services**; that results from a theft, loss or “unauthorized disclosure” of “personally identifiable information” provided that no member of the “control group” participated or colluded in such theft, loss or “unauthorized disclosure”.
 7. For, arising out of or resulting from:
 - A. the actual or alleged unlawful collection, acquisition or retention of “personally identifiable information” (except as otherwise covered under paragraph e. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability**) or other personal information by, on behalf of, or with the consent or cooperation of the “insured organization”; or the failure to comply with a legal requirement to provide individuals with the ability to assent to or withhold assent (e.g. opt-in or opt-out) from the collection, disclosure or use of “personally identifiable information”; provided that this exclusion shall not apply to the actual or alleged unlawful collection, acquisition or retention of “personally identifiable information” by a person or entity that is not a “related party” and without the knowledge of the “insured organization”; or
 - B. the distribution of unsolicited email, text messages, direct mail, or facsimiles, wiretapping, audio or video recording, or telemarketing, if such distribution, wiretapping or recording is done by or on behalf of the “insured organization”.
 8. For, arising out of or resulting from
 - A. that which was the subject of written notice given to us or to any other insurer prior to the inception date of this coverage; or
 - B. which was the subject of any prior and/or pending written demand made against any insured or a civil administrative or arbitration proceeding commenced against any insured, prior to the inception date of this coverage, or that involved the same or substantially the same fact, circumstance or situation underlying or alleged in such prior demand or proceeding.
 9. For, arising out of or resulting from any related or continuing acts, errors, omissions, incidents or events where the first such act, error, omission, incident or event was committed or occurred prior to the “retroactive date”.
 10. For, arising out of resulting from any of the following:
 - A. any actual or alleged violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced and Corrupt Organizations Act or RICO), as amended;
 - B. any actual or alleged violation of any securities law, regulation or legislation, including but not limited to the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Act of 1940, the Sarbanes-Oxley Act of 2002 or any “Blue Sky” laws;
 - C. any actual or alleged acts, errors or omissions related to any of the “insured organization’s” pension, healthcare, welfare, profit sharing, mutual or investment plans, funds of trusts, including any violation of any provision of the Employee Retirement Income Security Act of 1974 (ERISA);
 - D. any actual or alleged violation of a regulation promulgated under any of the laws described in paragraphs A., B. or C. above; or
 - E. any actual or alleged violation of a federal, state, local or foreign laws or legislation similar to the laws described in paragraphs A., B. or C. above;
 however, this exclusion does not apply to any otherwise covered “claim” under paragraph A., B. or C. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability** or to providing privacy breach response services covered under **SECTION I – INSURING AGREEMENTS, 2. Privacy Breach Response Services**, that results from a theft, loss or “unauthorized disclosure” of “personally

identifiable information”, provided that no member of the “control group” participated or colluded in such theft, loss or “unauthorized disclosure”.

11. Any actual or alleged discrimination of any kind including but not limited to age, color, race, sex, creed, national origin, marital status, sexual preference, disability or pregnancy.
12. Arising out of or resulting from any criminal, dishonest, fraudulent, or malicious act, error or omission, any intentional “security breach”, intentional violation of a “privacy policy”, or intentional or knowing violation of the law, if committed by such insured, or by others if the insured colluded or participated in any such conduct or activity; provided this exclusion shall not apply to:
 - A. “claims expenses” incurred in defending any “claim” alleging the foregoing until such time as there is a final non-appealable adjudication, judgment, binding arbitration decision or conviction against the insured, or written admission by the insured, establishing such conduct, or a plea of nolo contendere or no contest regarding such conduct, at which time the “named insured” shall reimburse us for all “claims expenses” incurred defending the “claim” and we shall have no further liability for “claims expenses; or
 - B. a “claim” or “loss” against a natural person insured if such insured did not personally commit, participate in or know about any act, error, omission, incident or event giving rise to such “claim” or “loss”.For purposes of this exclusion, only acts, errors, omissions or knowledge of a member of the “control group” will be imputed to the “insured organization”.
13. For, arising out of or resulting from any actual or alleged:
 - A. infringement of patent or patent rights or misuse or abuse of patent or patent rights;
 - B. infringement of copyright arising from or related to software code or software products other than infringement resulting from a theft or “unauthorized access or use” of software code by a person who is not a “related party”;
 - C. use or misappropriation of any ideas, trade secrets or third party corporate information by, or on behalf of, the “insured organization”, or by any other person or entity if such use or misappropriation is done with the knowledge, consent or acquiescence of a member of the “control group”;
 - D. disclosure, misuse or misappropriation of any ideas, trade secrets or confidential information that came into the possession of any person or entity prior to the date the person or entity became an employee, officer, director, “manager”, principal, partner or “subsidiary” of the insured; or
 - E. under paragraph b. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability**, theft of or “unauthorized disclosure” of a “data asset”.
14. In connection with or resulting from a “claim” brought by or on behalf of any state, federal, local or foreign governmental entity, in such entity’s regulatory or official capacity; provided, this exclusion shall not apply to an otherwise covered “claim” under **SECTION I – INSURING AGREEMENTS, 3. Regulatory Defense and Penalties** or to the provision of privacy breach response services under **SECTION I – INSURING AGREEMENTS, 2. Privacy Breach Response Services** to the extent such services are legally required to comply with a “breach notice law”.
15. For, arising out of or resulting from a “claim” by or on behalf of one or more insureds under this Endorsement against any other insured or insureds under this Endorsement, provided this exclusion shall not apply to an otherwise covered “claim” under paragraphs A., B. or C. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability** made by a current or former “employee” of the “insured organization”.
16. For, arising out of or resulting from:
 - A. any “claim” made by any business enterprise in which any insured has greater than a fifteen percent (15%) ownership interest or made by any parent company or other entity which owns more than fifteen percent (15%) of the “named insured”; or
 - B. the insured’s activities as a trustee, partner, member, “manager”, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than that of the “insured organization”.
17. For, arising out of or resulting from any of the following:
 - A. trading losses, trading liabilities or change in value of accounts;
 - B. any loss, transfer or theft of “monies”, “securities” or tangible property of others in the care, custody or control of the “insured organization”;
 - C. the monetary value of any transactions or electronic fund transfers by or on behalf of the insured which is lost, diminished, or damaged during transfer from, into or between accounts; or

- D. the value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount.
18. For, arising out of or resulting from:
- A. the actual or alleged obligation to make licensing fees or royalty payments;
 - B. any costs or expenses incurred or to be incurred by the insured or others for the reprinting, reposting, recall, removal or disposal of any "media material" or any other information, content or media, including any media or products containing such "media material", information, content or media;
 - C. any "claim" brought by or on behalf of any intellectual property licensing bodies or organizations;
 - D. the actual or alleged inaccurate, inadequate or incomplete description of the price of goods, products or services, cost guarantees, cost representations, or contract price estimates, the authenticity of any goods, products or services, or the failure of any goods or services to conform with any represented quality or performance;
 - E. any actual or alleged gambling, contest, lottery, promotional game or other game of chance; or
 - F. any "claim" made by or on behalf of any independent contractor, joint venture or venture partner arising out of or resulting from disputes over ownership of rights in "media material" or services provided by such independent contractor, joint venture or venture partner.
19. For, arising out of or resulting from, directly or indirectly occasioned by, happening through or in consequence of: war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority; provided that this exclusion will not apply to cyber terrorism. For purposes of this exclusion, cyber terrorism means the premeditated use of disruptive activities, or threat to use disruptive activities, against a computer system or network with the intention to cause harm, further social, ideological, religious, political or similar objectives, or to intimidate any person(s) in furtherance of such objectives.
20. Either in whole or in part, directly or indirectly arising out of or resulting from or in consequence of, or in any way involving:
- A. asbestos, or any materials containing asbestos in whatever form or quantity;
 - B. the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind; any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins; and any governmental or regulatory order, requirement, directive, mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins; we will have no duty or obligation to defend any insured with respect to any "claim" or governmental or regulatory order, requirement, directive, mandate or decree which either in whole or in part, directly or indirectly, arises out of or results from or in consequence of, or in any way involves the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind;
 - C. the existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment, or that affects the value, marketability, condition or use of any property; or
 - D. the actual, alleged or threatened discharge, dispersal, release or escape of pollutants; or any governmental, judicial or regulatory directive or request that the insured or anyone acting under the direction or control of the insured test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants. Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant including gas, acids, alkalis, chemicals, heat, smoke, vapor, soot, fumes or waste. Waste includes but is not limited to materials to be recycled, reconditioned or reclaimed.
21. With respect to **SECTION I – INSURING AGREEMENTS, 6. Cyber Extortion**, for, arising out of or resulting from:
- A. any threat to physically harm or kidnap any person; or
 - B. any threat to harm, take, or transfer property other than any "data asset", even if such threat is made in conjunction with a threat to a "data asset".

22. With respect to **SECTION I – INSURING AGREEMENTS, 6. Cyber Extortion**, for, arising out of or resulting from an “extortion threat” first made against the “insured organization” during the “policy period” by any of the “insured organization’s” directors, officers, principals, trustees, governors, “managers”, members, management committee members, members of the management board, partners, or any person in collusion with any of the foregoing.
23. Arising out of or resulting from any seizure, nationalization, confiscation or destruction of “computer systems” or “data assets” by order of any governmental or public authority.
24. With respect to **SECTION I – INSURING AGREEMENTS, 7. Data Protection** and **8. Business Interruption**, arising out of or resulting from:
 - A. any failure or malfunction of electrical or telecommunications infrastructure or services, provided that this exclusion shall not apply to any otherwise covered “claim” or “loss” arising out of failure of “computer security” to prevent a “security breach” that was solely caused by a failure or malfunction of telecommunications infrastructure or services under the “insured organization’s” direct operational control;
 - B. fire, flood, earthquake, volcanic eruption, explosion, lighting, wind, hail, tidal wave, landslide, act of God or other physical event; or
 - C. any satellite failures.

SECTION V – LIMIT OF LIABILITY AND COVERAGE

1. The policy aggregate limit of liability set forth in the supplemental declarations is our combined total limit of liability for all “damages”, “penalties”, “PCI fines, expenses and costs”, “cyber extortion loss”, “data protection loss”, “business interruption loss” and “claims expenses” payable under this Endorsement.
2. The Information Security and Privacy Liability limit of liability stated in the supplemental declarations is the aggregate limit of liability payable under **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability** of this Endorsement and is part of and not in addition to the policy aggregate limit of liability.
3. The Regulatory Defense and Penalties sublimit of liability stated in the supplemental declarations is the aggregate sublimit of liability payable under **SECTION I – INSURING AGREEMENTS, 3. Regulatory Defense and Penalties** of this Endorsement and is part of and not in addition to the policy aggregate limit of liability.
4. The Website Media Content Liability limit of liability stated in the supplemental declarations is the aggregate limit of liability payable under **SECTION I – INSURING AGREEMENTS, 4. Website Media Content Liability** of this Endorsement and is part of and not in addition to the policy aggregate limit of liability.
5. The PCI Fines, Expenses and Costs sublimit of liability stated in the supplemental declarations is the aggregate sublimit of liability payable under **SECTION I – INSURING AGREEMENTS, 5. PCI Fines, Expenses and Costs** of this Endorsement and is part of and not in addition to the policy aggregate limit of liability.
6. The Cyber Extortion sublimit of liability stated in the supplemental declarations is the aggregate sublimit of liability payable under **SECTION I – INSURING AGREEMENTS, 6. Cyber Extortion** of this Endorsement and is part of and not in addition to the policy aggregate limit of liability. Multiple related or continuing “extortion threats” shall be considered a single “extortion threat” for purposes of this Endorsement and shall be deemed to have occurred at the time of the first such “extortion threat”. Prior to the payment of any “extortion payment”, the “insured organization” shall make every reasonable effort to determine that the “extortion threat” is not a hoax, or otherwise not credible. The “insured organization” shall take all steps reasonable and practical to avoid or limit the payment of an “extortion payment”.
7. The **Data Protection** sublimit of liability stated in the supplemental declarations is the aggregate limit of liability payable under **SECTION I – INSURING AGREEMENTS, 7. Data Protection** of this Endorsement and is part of and not in addition to the policy aggregate limit of liability. A “data protection loss” will be deemed to occur at the time such alteration, corruption, destruction, deletion or damage to or inability to access a “data asset” is first discovered by the insured. All “data protection loss” that arises out of the same or a continuing “security breach”, from related or repeated “security breaches”, or from multiple “security breaches” resulting from a failure of “computer security” shall be deemed to be a single “data protection loss”.
8. The **Business Interruption** sublimit of liability stated in the supplemental declarations is the aggregate limit of liability payable under **SECTION I – INSURING AGREEMENTS, 8. Business Interruption** of this Endorsement and is part of and not in addition to the policy aggregate limit of liability. All “business interruption loss” resulting from multiple covered interruptions of “computer systems” that arise out of the

same or a continuing “security breach”, from related or repeated “security breaches”, or from multiple “security breaches” resulting from a failure of “computer security” shall be deemed to be a single “business interruption loss”; provided, however, that a separate “waiting period” shall apply to each “period of restoration”.

9. Neither the inclusion of more than one insured under this Endorsement, nor the making of “claims” by more than one person or entity shall increase the sublimit of liability or policy aggregate limit of liability.
10. The limit of liability for the optional extension period shall be part of and not in addition to the policy aggregate limit of liability.
11. We shall not be obligated to pay any “damages”, “penalties”, “PCI Fines, Expenses and Costs” or “claims expenses”, or to undertake or continue defense of any suit or proceeding after the policy aggregate limit of liability has been exhausted by payment of “damages”, “penalties”, “PCI Fines, Expenses and Costs”, “cyber extortion loss” or “claims expenses”, or after deposit of the policy aggregate limit of liability in a court of competent jurisdiction. Upon such payment, we shall have the right to withdraw from further defense of any “claim” under this Endorsement by tendering control of said defense to the insured.
12. The “notified individuals” limit stated in the supplemental declarations is the maximum total number of “notified individuals” to whom notification will be provided or attempted for all incidents or series of related incidents giving rise to an obligation to provide “notification services”, “call center services” or “breach resolution and mitigation services”.
13. The aggregate limit of coverage stated for “computer expert services”, “legal services” and “public relations and crisis management expenses” in the supplemental declarations is the aggregate limit of coverage for all “computer expert services”, “legal services” and “public relations and crisis management expenses” combined. This is a separate limit, apart from and in addition to the policy aggregate limit of liability.
14. If the total number of notifications made pursuant to paragraph D. of **SECTION I – INSURING AGREEMENTS, 2. Privacy Breach Response Services** aggregates to more than the “notified individuals” limit of coverage stated in the supplemental declarations, the “insured organization” will be responsible for paying for privacy breach response services with respect to any excess notification, and such costs will not be covered under this Endorsement. If an incident involves notifications made pursuant to paragraph C. of **SECTION I – INSURING AGREEMENTS, 2. Privacy Breach Response Services** both within the “notified individuals” limit of coverage stated in the supplemental declarations and in excess of such limit, all excess notifications will be provided by the same service provider that provides “notification services” covered under this Endorsement, and the costs will be allocated between us and the “insured organization” pro rata based on the number of covered and non-covered notifications.
15. To the extent privacy breach response services costs are covered pursuant to a “claim” as described in paragraph 5.D. of **SECTION XI – DEFINITIONS**, such “costs” shall be covered solely under **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability**.

SECTION VI – RETENTION

1. The retention amount set forth in the supplemental declarations applies separately to each incident, event or related incidents or events giving rise to a “claim”. The retention shall be satisfied by monetary payments by the “named insured” of “damages”, “claims expenses”, “penalties” or “PCI Fines, Expenses & Costs”.
2. For “notification services”, “call center services” and “breach resolution and mitigation services” for each incident, the “notified individuals” threshold amount set forth in the supplemental declarations applies separately to each incident, event or related incidents or events giving rise to an obligation to provide such services.
3. For all “computer expert services”, “legal services” and “public relations and crisis management services”, the retention amount set forth in the supplemental declarations apply separately to each incident, event or related incidents or events, giving rise to an obligation to provide such services; and the applicable retention stated in the supplemental declarations shall be satisfied by monetary payments by the “named insured” for such services.
4. With respect to **SECTION I – INSURING AGREEMENTS, 6. Cyber Extortion**, the retention set forth in the supplemental declarations applies separately to each “extortion threat”. The retention shall be satisfied by monetary payments by the “named insured” of covered “cyber extortion loss”.
5. With respect to **SECTION I – INSURING AGREEMENTS, 7. Data Protection**, the retention set forth in the supplemental declarations applies separately to each “security breach”. The retention shall be satisfied by monetary payments by the “named insured” of covered “data protection loss”.

6. With respect to **SECTION I – INSURING AGREEMENTS, 8. Business Interruption**, the retention set forth in the supplemental declarations applies separately to each “security breach”. The retention shall be satisfied by monetary payments by the “named insured” of covered “business interruption loss”. The retention applicable to **Business Interruption** shall be reduced on a dollar-for-dollar basis by the amount of “income loss” that was sustained by the “insured organization” during the “waiting period”.
7. In the event that “damages”, “claims expenses”, “penalties”, “PCI Fines, Expenses and Costs”, privacy breach response services, “cyber extortion loss”, “data protection loss” or “business interruption loss” arising out of a single “claim” or incident are subject to more than one retention, the applicable retention amount shall apply to such “damages”, “claims expenses”, “penalties”, “PCI Fines, Expenses and Costs”, privacy breach response services, “cyber extortion loss”, “data protection loss” or “business interruption loss”, provided, that the sum of such retention amounts shall not exceed the largest applicable retention amount.
8. Satisfaction of the applicable retention is required prior to the payment by us of any amounts or providing of any services hereunder, and we shall be liable only for the amounts in excess of such retention subject to our total liability not exceeding the policy aggregate limit of liability or limit for privacy breach response services set forth in the supplemental declarations. The “named insured” shall make direct payments within the retention to appropriate other parties designated by us.

SECTION VII – OPTIONAL EXTENSION PERIOD

1. Upon termination of this Endorsement for any reason except for the non-payment of premium, the “named insured” shall have the right, upon payment in full of the of the percentage of the premium set forth in the supplemental declarations, to have issued an Endorsement providing an optional extension period for the period of time set forth in the supplemental declarations for “claims” first made against any insured and reported to us during the optional extension period and arising out of any act, error or omission committed on or after the “retroactive date” and before the end of the “policy period”.
2. In order for the “named insured” to invoke the optional extension period option, the payment of the additional premium for the optional extension period must be paid to us within thirty (30) days of the termination of this Endorsement. If notice of election of the optional extension period is not given to us within such thirty (30) day period, there shall be no right to purchase the optional extension period.
3. The limit of liability for the optional extension period shall be part of, and not in addition to, the applicable policy aggregate limit of liability for the “policy period”. The purchase of the optional extension period does not in any way increase the policy aggregate limit of liability or any sublimit of liability. The optional extension period does not apply to **SECTION I – INSURING AGREEMENTS, 2. Privacy Breach Response Services, 6. Cyber Extortion, 7. Data Protection, 8. Business Interruption** or any other first party coverage.
4. The optional extension period does not extend the policy period or change the scope of coverage provided. The optional extension period only extends the claims reporting period.
5. At the commencement of the optional extension period the entire premium shall be deemed earned, and in the event the “named insured” terminates the optional extension period for any reason prior to its natural expiration, we will not be liable to return any premium paid for the optional extension period.

SECTION VIII – NOTICE AND DUTIES IN THE EVENT OF A CLAIM, LOSS OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM

1. With respect to **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability, 3. Regulatory Defense and Penalties, 4. Website Media Content Liability and 5. PCI Fines, Expenses and Costs**:
 - A. If any “claim” is made against the insured, the insured shall forward as soon as practicable to us written notice of such “claim” by facsimile, email or express or certified mail, together with every demand, notice, summons or other process received by the insured or the insured’s representative. In no event shall we be given notice of a “claim” later than the end of the “policy period”, the end of the optional extension period, if applicable, or sixty (60) days after the expiration date of the “policy period”.
 - B. If, during the “policy period”, the insured becomes aware of any circumstance that could reasonably be the basis for a “claim”, it may give written notice to us in the form of a facsimile, email or express or certified mail as soon as practicable during the “policy period”. Such notice must include:
 - i. the specific details of the act, error, omission, or “security breach” that could reasonably be the basis for a “claim”;
 - ii. the injury or damage which may result or has resulted from the circumstance; and
 - iii. the facts by which the insured first became aware of the act, error, omission or “security breach”.

Any subsequent “claim” made against the insured arising out of such circumstance which is the subject of the written notice will be deemed to have been made at the time written notice complying with the above requirements was first given to us.

- C. A “claim” or legal obligation under paragraph a. of this section shall be considered to be reported to us when written notice is first received by us in the form of a facsimile, email or express or certified mail of the “claim” or legal obligation, or of an act, error, or omission, which could reasonably be expected to give rise to a “claim” if provided in compliance with this paragraph.
 - D. In the event coverage is renewed by us and privacy breach response services are provided because of such incident or suspected incident that was discovered by the insured prior to the expiration of this coverage, and first reported during the sixty (60) day post “policy period” reporting period, then any subsequent “claim” arising out of such incident or suspected incident is deemed to have been made during the “policy period”.
2. With respect to **SECTION I – INSURING AGREEMENT, 2. Privacy Breach Response Services** and **6. Cyber Extortion**, if any incident, or reasonably suspected incident, described in paragraphs a. or b. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability** occurs, or in the event of a cyber extortion threat, the insured must report such incident, or reasonably suspected incident, to us in writing by facsimile, email or express or certified mail as soon as practicable during the “policy period” after discovery by the insured. In no event shall we be given notice of such incident later than the end of the “policy period” or sixty (60) days after the expiration date of the “policy period”.
 3. With respect to **SECTION I – INSURING AGREEMENT, 7. Data Restoration**, the “named insured” must report the alteration, corruption, destruction, deletion or damage to or inability to access a “data asset” to which this Endorsement applies to us in writing by facsimile, email or express or certified mail as soon as practicable during the “policy period” upon discovery by the insured; provided that all covered “data protection loss” must be discovered and reported (in accordance with the **Proof of Loss and Appraisal** section) to us no later than six (6) months after the end of the “policy period”.
 4. With respect to **SECTION I – INSURING AGREEMENT, 8. Business Interruption**, the “named insured” must report the interruption or suspension of “computer systems” to which his endorsement applies to us in writing by facsimile, email or express or certified mail as soon as practicable during the “policy period” upon discovery by the insured; provided that all covered “business interruption loss” must be discovered and reported (in accordance with the **Proof of Loss and Appraisal** section) to us no later than six (6) months after the end of the “policy period”.

SECTION IX – OTHER INSURANCE

The coverage under this Endorsement shall apply in excess of any other valid and collectible insurance available to any insured, including any self-insured retention or deductible portion thereof, unless such other insurance is written, only as specific excess insurance over the policy aggregate limit of liability or any other applicable limit of liability or coverage of this Endorsement.

SECTION X – SUBROGATION

If any payment is made under this Endorsement and there is available to us any of the insured’s rights of recovery against any other party, then we shall maintain all such rights of recovery. The insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The insured shall do nothing after an incident or event giving rise to a “claim” or “loss” to prejudice such rights. Any recoveries shall be applied first to subrogation expenses, second to “loss” paid by us and lastly to the retention. Any additional amounts recovered shall be paid to the “named insured”.

SECTION XI – DEFINITIONS

1. “Breach notice law” means: any federal, state, local or foreign statute or regulation that requires notice to persons whose “personally identifiable information” was accessed or reasonably may have been accessed by an unauthorized person.
2. “Breach resolution and mitigation services” means a credit monitoring, identity monitoring or other solution offered to “notified individuals”. The product offered to “notified individuals” will be selected from our panel by us in consultation with the “insured organization”.
3. “Business Interruption Loss” means the actual “income loss” sustained, and “forensic expenses” and “extra expense” incurred, during the “period of restoration”.

“Business Interruption Loss” shall not include:

- A. “loss” arising out of any liability to any third party for whatever reason; legal costs or legal expenses of any type; “loss” incurred as a result of unfavorable business conditions, loss of market or any other consequential loss; or costs or expenses the “insured organization” incurs to identify or remove software program errors or vulnerabilities; or
 - B. expenses incurred by the “insured” to update, upgrade, enhance or replace “computer systems” to a level beyond that which existed prior to the actual and necessary interruption of “computer systems”; or the costs and expenses incurred by the “insured organization” to restore, reproduce, or regain access to any “data asset” that was altered, corrupted, destroyed, deleted, damaged or rendered inaccessible as a result of the failure of “computer security” to prevent a “security breach”.
4. “Call center services” means the provision of a call center to answer calls during standard business hours for a period of ninety (90) days following notification (or longer if required by applicable law or regulation) of an incident for which notice is provided pursuant to paragraph d. of **SECTION I – INSURING AGREEMENTS, 2. Privacy Breach Response Services**. “Call center services” will be provided by a service provider from our panel selected by us in consultation with the “insured organization”.
5. “Claim” means:
- A. a written demand received by any insured for money or services, including service of a suit or institution of regulatory or arbitration proceedings;
 - B. with respect to coverage provided under **SECTION I – INSURING AGREEMENTS, 3. Regulatory Defense and Penalties** only, institution of a “regulatory proceeding” against any insured;
 - C. a written request or agreement to toll or waive a statute of limitations relating to a potential “claim” described in paragraph A. above; and
 - D. with respect to coverage provided under paragraph a. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability** only, a demand received by any insured to fulfill the “insured organization’s” contractual obligation to provide notice of an incident, or reasonably suspected incident, described in paragraph A. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability** pursuant to a “breach notice law”.

Multiple “claims” arising from the same or a series of related or repeated acts, errors, or omissions, or from any continuing acts, errors, omissions, or from multiple “security breaches” arising from a failure of “computer security” shall be considered a single “claim” for the purposes of this Endorsement, irrespective of the number of claimants or “insureds” involved in the “claim”. All such “claims” shall be deemed to have been made at the time of the first such “claim”.

6. “Claims expenses” means:
- A. reasonable and necessary fees charged by an attorney designated pursuant to paragraph 1. of **SECTION II – DEFENSE AND SETTLEMENT OF CLAIMS**;
 - B. all other legal costs and expenses resulting from the investigation, adjustment, defense and appeal of a “claim”, suit, or proceeding arising in connection therewith, or circumstance which might lead to a “claim” if incurred by us or the insured with our prior written consent;
 - C. the premium cost for appeal bonds for covered judgments or bonds to release property used to secure a legal obligation, if required in any “claim” against an “insured” provided that we shall have no obligation to appeal or to obtain bonds.

“Claims expenses” do not include any salary, overhead, or other charges by the insured for any time spent cooperating with the defense and investigation of any “claim”, or circumstance that might lead to a “claim”, under this Endorsement, or costs to comply with any regulatory orders, settlements or judgments.

7. “Computer expert services” means costs for:
- A. a computer security expert to determine the existence and cause of an actual or suspected electronic data breach which may require the “insured organization” to comply with a “breach notice law” and to determine the extent to which such information was accessed by an unauthorized person or persons; and if such breach is actively in progress on the “insured organization’s” “computer systems”, to assist in containing the existing intrusion on such systems from accessing “personally identifiable information”; and
 - B. a Payment Card Industry (PCI) Forensic Investigator that is approved by the PCI Security Standards Council and is retained by the “insured organization” in order to comply with the terms of a “merchant services agreement” to investigate the existence and extent of an actual or suspected compromise of credit card data; and, in our discretion, where a computer security expert described in paragraph a. above

has not been retained, for a computer security expert to provide advice and oversight in connection with the investigation conducted by the PCI Forensic Investigator; and

- C. a computer security expert to demonstrate the insured's ability to prevent a future electronic data breach as required by a "merchant services agreement".

"Computer expert services" will be provided by a service provider from our panel selected by us in consultation with the "insured organization".

- 8. "Computer security" means software, computer or network hardware devices, as well as the "insured organization's" information security policies and procedures, the function or purpose of which is to prevent "unauthorized access or use", a "denial of service attack" against "computer systems", infection of "computer systems" by "malicious code" or transmission of "malicious code" from "computer systems". "Computer security" includes anti-virus and intrusion detection software, firewalls and electronic systems that provide access control to "computer systems" through the use of passwords, biometric or similar identification of authorized users.
- 9. "Computer systems" means computers, any software residing on such computers, and associated input and output devices, data storage devices, networking equipment, and back up facilities:
 - A. operated by and either owned by or leased to the "insured organization", or
 - B. systems operated by a third party service provider and used for the purpose of providing hosted computer application services, including cloud services, to the "insured organization" or for processing, maintaining, hosting or storing the "insured organization's" electronic data, pursuant to written contract with the "insured organization" for such services.
- 10. "Control group" means any principal, partner, corporate officer, director, "manager", general counsel (or most senior legal counsel) or risk manager of the "insured organization" and any individual in a substantially similar position.
- 11. "Cyber extortion loss" means:
 - A. any "extortion payment" that has been made under duress by or on behalf of the "insured organization", with our prior written consent, but solely to prevent or terminate an "extortion threat";
 - B. reasonable and necessary expenses incurred by the "insured organization", with our prior written approval, that directly relate to the insured's efforts to prevent or terminate an "extortion threat".
- 12. "Damages" means a monetary judgment, award or settlement. The term "damages" shall not include or mean:
 - A. future profits, restitution, disgorgement of unjust enrichment or profits by an insured, or the costs of complying with orders granting injunctive or equitable relief;
 - B. return or offset of fees, charges, or commissions charged by or owed to an insured for goods or services already provided or contracted to be provided;
 - C. taxes or loss of tax benefits;
 - D. fines, sanctions or penalties;
 - E. punitive or exemplary damages, or any damages which are a multiple of compensatory damages, unless insurable by law in any applicable venue that most favors coverage for such punitive, exemplary or multiple damages;
 - F. discounts, coupons, prizes, awards or other incentives offered to the insured's customers or clients;
 - G. liquidated damages, but only to the extent that such damages exceed the amount for which the insured would have been liable in the absence of such liquidated damages agreement; or
 - H. any amounts for which the insured is not liable, or for which there is no legal recourse against the insured.
- 13. "Data asset" means any software or electronic data that exists in computer systems and that is subject to regular back up procedures.
- 14. "Data protection loss" means the reasonable and necessary costs and expenses incurred by the "insured organization" to regain access to, replace, restore, re-assemble or recollect any "data asset", or if any "data asset" cannot reasonably be accessed, replaced, restored, re-assembled or recollect, then the actual, reasonable and necessary costs and expenses incurred by the "insured organization" to reach this determination.

"Data protection loss shall not mean, and there shall be no coverage for:

 - A. costs or expenses incurred by the "insured organization" to identify or remediate software program errors or vulnerabilities or update, replace, restore, assemble, reproduce, recollect or enhance a "data asset" or "computer systems" to a level beyond that which existed prior to the alteration, corruption, destruction, deletion or damage of such "data asset";

- B. costs or expenses to research or develop any “data asset”, including but not limited to trade secrets or other proprietary information;
 - C. the monetary value of profits, royalties, or lost market share related to a “data asset”, including but not limited to trade secrets or other proprietary information or any other amount pertaining to the value of the “data asset”;
 - D. loss arising out of any liability to any third party for whatever reason; or
 - E. legal costs or legal expenses of any type.
15. “Denial of service attack” means a cyber-attack where the perpetrator seeks to make a machine or network resource unavailable to its intended users.
16. “Digital currency” means a type of digital currency that:
- A. requires cryptographic techniques to regulate the generation of units of currency and verify the transfer thereof;
 - B. is both stored and transferred electronically; and
 - C. operates independently of a central bank or other central authority.
17. “Employee” means:
- A. A natural person:
 - i. while in the regular service of the “insured organization” in the ordinary course of its business; and
 - ii. whom the “insured organization” has the right to direct and control while performing labor or service for the “insured organization”; and
 - iii. who is compensated directly by the “insured organization” through salary, wages or commissions;
 - B. a natural person who is directed and controlled by the “insured organization” while performing labor or service for the “insured organization” pursuant to a lease or other written contract to which the “insured organization” is a party;
 - C. a natural person volunteer who is directed and controlled by the “insured organization” while performing labor or service for the “insured organization”;
 - D. a natural person who is a director, trustee, officer, administrator, “manager” or partner of the “insured organization”, when performing acts coming within the scope of the usual duties of a director, trustee, officer, administrator, “manager” or partner; or
 - E. a natural person who is:
 - i. a trustee, officer, “employee”, administrator, fiduciary or manager of any Employee Welfare or Pension Benefit Plan, as defined in Employee Retirement Income Security Act of 1974 and any amendments thereto (“ERISA”), which is or becomes solely sponsored by the “insured organization”; or
 - ii. required to be bonded by Title 1 of ERISA.
18. “Extortion payment” means cash, “digital currency”, marketable goods or services demanded to prevent or terminate an “extortion threat”. If an “extortion payment” is made by or on behalf of the “insured organization” in “digital currency”, payment by us shall be made in United States Dollars equal to the US Dollar-value of the “digital currency” at the time the “extortion payment” is made. For purposes of this paragraph, an “extortion payment” using “digital currency” shall be considered “made” at the time that such “digital currency” is first recorded in a public ledger of transactions for such “digital currency”.
19. “Extortion threat” means a threat to:
- A. alter, destroy, damage, delete or corrupt any “data asset”;
 - B. prevent access to “computer systems” or a “data asset”;
 - C. perpetrate a theft or misuse of a “data asset” on “computer systems” through external access;
 - D. introduce “malicious code” into “computer systems” or to third party computer systems from “computer systems”; or
 - E. publicly disclose a “data asset”, “personally identifiable information” or “third party information” that is obtained by “unauthorized access or use” to the “insured organization’s” “computer systems”;
20. “Extra expense” means reasonable and necessary expenses that are incurred by the “insured organization” during the “period of restoration” to minimize, reduce or avoid “income loss”, over and above those expenses the “insured organization” would have incurred had no interruption of “computer systems” occurred. unless an “extortion payment” is received from or on behalf of the “insured organization”.
21. “Forensic expenses” means reasonable and necessary expenses incurred by the “insured organization” to investigate the source or cause of the failure of “computer security” to prevent a “security breach”.

- 22.** "Income loss" means an amount equal to:
- A.** net profit or loss before interest and tax that the "insured organization" would have earned or incurred; and
 - B.** continuing normal operating expenses incurred by the "insured organization" (including payroll), but only to the extent that (a) such operating expenses must necessarily continue during the "period of restoration"; and (b) such expenses would have been incurred by the "insured organization" had such interruption not occurred;

In determining "income loss", due consideration shall be given to:

- i.** the prior experience of the "insured organization's" business operations before the beginning of the "period of restoration";
 - ii.** the probable business operations the "insured organization" could have performed had no actual and necessary interruption of "computer systems" occurred; and
 - iii.** the "insured organization's" ability to reasonably reduce or limit the interruption of "computer systems" or conduct its business operations by other means.
- 23.** "Insured organization" means the "named insured" and any "subsidiaries" of the "named insured".
- 24.** "Legal services" means fees charged by an attorney:
- A.** to determine the applicability of and actions necessary for the "insured organization" to comply with "breach notice laws" due to an actual or reasonably suspected theft, loss or "unauthorized disclosure" of "personally identifiable information";
 - B.** to provide necessary legal advice to the "insured organization" in responding to actual or suspected theft, loss or "unauthorized disclosure" of "personally identifiable information";
 - C.** to advise the "insured organization" regarding the notification of relevant governmental entities of an actual or reasonably suspected theft, loss or "unauthorized disclosure" of "personally identifiable information"; and
 - D.** to advise the "insured organization" in responding to credit card system operating regulation requirements for any actual or suspected compromise of credit card data that is required to be reported to the "insured organization's" merchant bank under the terms of a "merchant services agreement"; however, "legal services" do not include fees incurred in any actual or threatened legal proceeding, arbitration or mediation, or any advice in responding to credit card system operating regulation in connection with an assessment of "PCI fines, expenses, and costs".

"Legal services" will be provided in accordance with the terms and conditions set forth in this Endorsement and will be provided by an attorney from our panel selected by us in consultation with the "insured organization".

- 25.** "Loss" means:
- A.** "damages";
 - B.** "claims expenses";
 - C.** privacy breach response services;
 - D.** "PCI fines, expenses and costs";
 - E.** "cyber extortion loss";
 - F.** "penalties";
 - G.** "data protection loss"; and
 - H.** "business interruption loss".
- 26.** "Malicious code" means any virus, Trojan horse, worm or any other similar software program, code or script intentionally designed to insert itself into computer memory or onto a computer disk and spread itself from one computer to another.
- 27.** "Management control" means:
- A.** owning, directly or indirectly, more than fifty percent (50%) of the outstanding securities, representing the present right to vote for the election of an entity's directors, members of the board of managers, management committee members or persons serving in a functionally equivalent role for such an entity operating or organization outside of the United States; or
 - B.** having the right, pursuant to a written contract or bylaws, charter, operating agreement or similar documents of an entity to elect, appoint or designate a majority of:
 - i.** the Board of Directors of a corporation;
 - ii.** the Management Committee of a joint venture or partnership;
 - iii.** the Management Board of a limited liability company; or

- iv. persons serving in a functionally equivalent role for such an entity operating or organized outside of the United States.
28. "Manager" means manager of a limited liability company.
29. "Media material" means any information in electronic form, including words, sounds, numbers, images, or graphics and shall include advertising, video, streaming content, web-casting, online forums, bulletin boards and chat room content, but does not mean computer software or the actual goods, products or services described, illustrated or displayed in such "media material".
30. "Merchant services agreement" means any agreement between an insured and a financial institution, credit/debit company, credit/debit card processor or independent service operator enabling an insured to accept credit card, debit card, prepaid card, or other payment cards for payments or donations.
31. "Named insured" means the individual, partnership, entity or corporation designated as such in the declarations of the policy.
32. "Notification services" means:
- A. notification by first class mail or e-mail to United States, Canadian or Mexican residents; and
 - B. notification by first class mail or e-mail to individuals residing outside the United States, Canada or Mexico, but only to the extent reasonably practicable.
- "Notification services" will be provided by a service provider from our panel selected by us in consultation with the "insured organization".
33. "Notified individual" means an individual person to whom notice is given or attempted to be given under paragraph d. of **SECTION I – INSURING AGREEMENTS, 2. Privacy Breach Response Services** pursuant to a "breach notice law".
34. "PCI fines, expenses and costs" means the direct monetary fines, penalties, reimbursements, fraud recoveries or assessments owed by the "insured organization" under the terms of a "merchant services agreement", but only where such fines, penalties, reimbursements, fraud recoveries or assessments result both from the "insured organization's" actual or alleged noncompliance with published Payment Card Industry (PCI) Data Security Standards and from a data breach caused by an incident, or reasonably suspected incident, described in paragraphs A. and B. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability**; provided, that the term "PCI fines, expenses and costs" shall not include or mean any charge backs, interchangeable fees, discount fees or prospective service fees.
35. "Penalties" means:
- A. any civil fine or punitive sum of money payable to a governmental entity that was imposed in a "regulatory proceeding" by any other federal, state, local or foreign governmental entity, in such entity's regulatory or official capacity; the insurability of "penalties" shall be in accordance with the law in the applicable venue that most favors coverage for such "penalties"; and
 - B. amounts which the insured is legally obligated to deposit in a fund as equitable relief for the payment of consumer claims due to an adverse judgment or settlement of a "regulatory proceeding"; but shall not include payments to charitable organizations or disposition of such funds other than for payment of consumer claims for losses caused by an event covered pursuant to paragraphs A., B., or C. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability**;
 - C. "Penalties" do not mean:
 - i. costs to remediate or improve "computer systems";
 - ii. costs to establish, implement, maintain, improve or remediate security or privacy practices, procedures, programs or policies;
 - iii. audit, assessment, compliance or reporting costs; or
 - iv. costs to protect the confidentiality, integrity and/or security of "personally identifiable information" from theft, loss or disclosure.
36. "Period of restoration" means the time period that:
- A. begins after the expiration of the "waiting period" following the actual and necessary interruption of "computer systems"; and
 - B. ends one hundred twenty (120) days after the actual and necessary interruption of "computer systems" ends (or would have ended with the exercise of due diligence and dispatch);
- provided that in no event shall the "period of restoration" mean a period of time greater than one hundred eighty (180) days; and provided further that restoration of "computer systems" will not end the "period of restoration" if such systems are actually and necessarily interrupted or suspended again within one hour of such restoration due to the

same cause as the original interruption or suspension.

37. "Personally identifiable information" means:
- A. information concerning the individual that constitutes nonpublic personal information as defined in the Gramm-Leach Bliley Act of 1999, as amended, and regulations issued pursuant to this Act;
 - B. medical or health care information concerning the individual, including protected health information as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations issued pursuant to this Act;
 - C. information concerning the individual that is defined as private personal information under statutes enacted to protect such information in foreign countries, for "claims" subject to the law of such jurisdiction;
 - D. information concerning the individual that is defined as private personal information under a "breach notice law";
 - E. education records as defined by the Family Educational Rights and Privacy Act which are directly related to an individual's attendance as a student; or
 - F. the individual's drivers' license or state identification number, social security number, unpublished telephone number, and credit, debit, or other financial account numbers in combination with associated security codes, access codes, passwords or pins; if such information allows an individual to be uniquely and reliably identified or contacted or allows access to the individual's financial account or medial record information.

"Personally identifiable information" does not include publicly available information that is lawfully made available to the general public from government records.

38. "Policy period" means the period of time between the inception date and the effective date of "termination of coverage" and specifically excludes any optional extension period or any prior policy period or renewal period.
39. "Privacy law" means a federal, state or foreign statute or regulation requiring the "insured organization" to protect the confidentiality and/or security of "personally identifiable information".
40. "Privacy policy" means the "insured organization's" public declaration of its policy for collection, use, disclosure, sharing, dissemination and correction or supplementation of, and access to "personally identifiable information".
41. "Property" means tangible property other than "money" or "securities" that has intrinsic value.
42. "Public relations and crisis management expenses" shall mean the following costs, approved in advance by us, which are directly related to mitigating harm to the "insured organization's" reputation or potential "loss" covered by this Endorsement resulting from an incident described in paragraphs A. and B. of **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability** or from a "public relations event":
- A. costs incurred by a public relations or crisis management consultant;
 - B. costs for media purchasing or for printing or mailing materials intended to inform the general public about the incident;
 - C. for incidents or events in which notifications services are not otherwise provided pursuant to **SECTION I – INSURING AGREEMENTS, 1. Information Security and Privacy Liability** and **2. Privacy Breach Response Services**, costs to provide notifications and notices via e-mail or first class mail to affected individuals where such notifications are not required by law (voluntary notifications), including non-affected customers or patients of the "insured organization";
 - D. costs to provide government mandated public notices related to breach events (including such notifications required under the Health Insurance Portability and Accountability Act of 1996 or the Health Information Technology for Economic and Clinical Health Act;
 - E. costs to provide services to restore healthcare records of "notified individuals" residing in the United States whose "personally identifiable information" was compromised as a result of theft, loss or "unauthorized disclosure"; and
 - F. other costs approved in advance by us.

"Public relations and crisis management expenses" must be incurred no later than twelve (12) months following the reporting of such "claim" or breach event to us and, with respect to paragraphs a. and b. above, within ninety (90) days following the first publication of such "claim" or incident. If voluntary notifications are provided, e-mail notification will be provided in lieu of first class mail to the extent practicable.

43. "Public relations event" means the publication or imminent publication in a newspaper (or other general circulation print publication) or on radio, television or a publically accessible website of a covered "claim" or incident under this Endorsement.

44. "Regulatory proceeding" means a request for information, civil investigative demand or civil proceeding commenced by service of a complaint or similar proceeding brought by or on behalf of any federal, state, local or foreign governmental entity in such entity's regulatory or official capacity in connection with such proceeding.
45. "Related party" means the "insured organization" and any past, present or future employees, directors, officers, "managers", partners or natural person independent contractors of the "insured organization".
46. "Retroactive date" means the date shown on the supplemental declarations next to "retroactive date".
47. "Security breach" means:
- A. "unauthorized access or use" of "computer systems", including "unauthorized access or use" resulting from the theft of a password from a "computer system" or from any insured;
 - B. A "denial of service attack" against "computer systems" or "computer systems" that are not owned, operated or controlled by an insured; or
 - C. infection of "computer systems" by "malicious code" or transmission of "malicious code" from "computer systems".
- A series of continuing "security breaches", related or repeated "security breaches", or multiple "security breaches" resulting from a continuing failure of "computer security" shall be considered a single "security breach" and be deemed to have occurred at the time of the first such "security breach".
48. "Subsidiary" means any corporation, limited liability company, joint venture or partnership while the "named insured" has "management control" over such entity, if the "named insured":
- A. had "management control" over such entity on the inception date of this Endorsement or such entity was an insured under a Policy issued by us of which this Endorsement is a renewal;
 - B. acquires "management control" after the inception date of this Endorsement provided the revenues of the entity do not exceed fifteen percent (15%) of the "named insured's" annual revenues for the four quarterly periods directly preceding inception of the Endorsement; or
 - C. provided that this coverage only provides coverage for acts, errors, omissions, incidents or events that take place while the "named insured" has "management control" over such entity.
49. "Third party information" means any trade secret, data, design, interpretation, forecast, formula, method, practice, credit or debit card magnetic strip information, process, record, report or other item of information of a third party not insured under this Endorsement which is not available to the general public and is provided to the insured subject to a mutually executed written confidentiality agreement or which the "insured organization" is legally required to maintain in confidence; however, "third party information" shall not include "personally identifiable information".
50. "Unauthorized access or use" means the gaining of access to or use of "computer systems" by an unauthorized person or persons or the use of "computer systems" in an unauthorized manner.
51. "Unauthorized disclosure" means the disclosure of (including disclosure resulting from phishing) or access to information in a manner that is not authorized by the "insured organization" and is without knowledge of, consent, or acquiescence of any member of the "control group".
52. "Vendor" means any entity or natural person that provides goods or services to the insured pursuant to a written agreement.
53. "Waiting period" means the period of time beginning when the actual and necessary interruption of "computer systems" caused directly by a failure of "computer security" to prevent a "security breach" begins and expiring after the elapse of the number of twelve (12) hours. A "waiting period" shall apply to each "period of restoration".

SECTION XII – CANCELLATION

1. This Endorsement may be cancelled by the "named insured", by surrender thereof or by mailing or delivering to us, written notice stating when the cancellation shall be effective.
2. This Endorsement may be cancelled by us by mailing or delivering to the "named insured" at the address shown in the declarations, written notice stating when, not less than sixty (60) days thereafter, such cancellation shall be effective. However, if we cancel this Endorsement because the insured has failed to pay a premium when due, this Endorsement may be cancelled by us by mailing a written notice of cancellation to the "named insured" at the address shown in the supplemental declarations stating when, not less than ten (10) days thereafter, such cancellation shall be effective. Mailing of notice shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the "policy period".

3. If the “named insured” cancels this Endorsement, the earned premium shall be computed in accordance with the customary short rate portion of the full premium set forth in the supplemental declarations.
4. If we cancel this Endorsement prior to any “claim” being reported or “loss” incurred under this Endorsement, earned premium shall be computed pro rata.
5. The premium shall be deemed fully earned if any “claim”, or any circumstance that could reasonably be the basis for a “claim” or “loss”, is reported to us on or before the date of cancellation.
6. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

SECTION XIII – ASSISTANCE AND COOPERATION

1. We shall have the right to make any investigation we deem necessary, and the insured shall cooperate with us in all investigations. The insured shall execute or cause to be executed all papers and render all assistance as is requested by us. The insured agrees not to take any action which in any way increases our exposure under this Endorsement.
2. Upon our request, the insured shall assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the insured because of acts, errors or omissions, incidents or events with respect to which insurance is afforded under this Endorsement; and the insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.
3. The insured shall not admit liability, make any payment, assume any obligations, incur any expense, enter into any settlement, stipulate to any judgment or award or dispose of any “claim” without our written consent, except as specifically provided in **SECTION II – DEFENSE AND SETTLEMENT OF CLAIMS**. Compliance with a “breach notice law” will not be considered an admission of liability for purposes of this Clause.
4. Expenses incurred by the insured in assisting and cooperating with us do not constitute “claims expenses” under the Endorsement.

SECTION XIV – ACTION AGAINST US

No action shall lie against us or our representatives unless and until, as a condition precedent thereto, the insured shall have fully complied with all provisions, terms and conditions of this Endorsement and the amount of the insured’s obligation to pay shall have been finally determined either by judgment or award against the insured after trial, regulatory proceeding, arbitration or by written agreement of the insured, the claimant, and us.

No person or organization shall have the right under this Endorsement to join us as a party to an action or other proceeding against the insured to determine the insured’s liability, nor shall we be impleaded by the insured or the insured’s legal representative.

The insured’s bankruptcy or insolvency or of the insured’s estate shall not relieve us of our obligations hereunder.

SECTION XV – ASSIGNMENT

The interest hereunder of any insured is not assignable. If the insured shall die or be adjudged incompetent, such insurance shall cover the insured’s legal representative as the insured as would be permitted under this Endorsement.

SECTION XVI – NAMED INSURED AS AGENT

The “named insured” shall be considered the agent of all insureds, and shall act on behalf of all insureds with respect to the giving of or receipt of all notices pertaining to this Endorsement, the acceptance of any endorsements to this Endorsement, and the “named insured” shall be responsible for the payment of all premiums and Retentions.

SECTION XVII – AUTHORIZATION

By acceptance of this Endorsement, the insureds agree that the “named insured” will act on their behalf with respect to the giving and receiving of any notice provided for in this Endorsement, the payment of premiums and the receipt of any return premiums that may become due under this Endorsement, and the agreement to and acceptance of endorsements.

SECTION XVIII – CHOICE OF LAW

Any disputes involving this Endorsement shall be resolved applying the law of the United States of America.

SECTION XIX – VALUATION AND CURRENCY

All premiums, limits, deductibles, “loss” and other amounts under this Endorsement are expressed and payable in the currency of the United States. If judgment is rendered, settlement is denominated or another element of “loss” under this Endorsement is stated in a currency other than United States dollars or is paid in a currency other than United States dollars, payment under this Endorsement shall be made in United States dollars at the rate of exchange published in the *Wall Street Journal* on the date the judgment becomes final or payment of the settlement or other element of “damages”, “penalties”, or “PCI Fines, Expenses and Costs” is due or, with respect to “claims expenses”, the date they are paid.

If any “extortion payment” is made by or on behalf of the “insured organization” in “digital currency”, payment by us under this endorsement shall be made in United States Dollars equal to the US Dollar-value of the “digital currency” at the time the “extortion payment” is made. For purposes of this paragraph, an “extortion payment” using “digital currency” shall be considered “made” at the time that such “digital currency” is first recorded in a public ledger of transactions for such “digital currency” (for example, the time at which “digital currency” is included in a block on the blockchain).

SECTION XX – TERRITORY

This Endorsement applies to “claims” made, acts committed, or “loss” occurring anywhere in the world.

SECTION XXI – PROOF AND APPRAISAL OF LOSS

- A.** Before coverage under **Data Protection** or **Business Interruption** will apply, the “named insured” must:
- i.** prepare and submit to us a written and detailed proof of loss sworn by an officer of the “named insured” within ninety (90) days after the insured discovers a “data protection loss” or the “insured organization” sustains a “business interruption loss” (as applicable), but in no event later than six (6) months following the end of the “policy period”. Such proof of loss shall include a narrative with full particulars of such “business interruption loss” or “data protection loss”, including the time, place and cause of the “business interruption loss” or “data protection loss”, a detailed calculation of the “business interruption loss” or “data protection loss”, the “insured organization’s” interest and the interest of all others in the property, the sound value thereof, the amount of “business interruption loss” or “data protection loss” or damage thereto, and all other insurance thereon; and
 - ii.** upon our request, submit to an examination under oath and provide copies of the underlying documents, data and materials that reasonably relate to or are part of the basis of the claim for such “data protection loss” or “business interruption loss”. The costs and expenses of preparing and submitting a proof of loss, and establishing or proving “data protection loss”, “business interruption loss” or any other “loss” under this Endorsement shall be the insured’s obligation, and are not covered under this endorsement.
- B.** If the “named insured” and we do not agree on the amount of a “loss”, each party shall select and pay an appraiser or other qualified expert (the “Appraiser”) to state the amount of the loss or reasonable expenses, and the Appraisers shall choose an umpire. If the Appraisers cannot agree on an umpire, the “named insured” or we may request a judge of a court having jurisdiction to make the selection. Each Appraiser shall submit the amount of the “loss” or reasonable expenses to the umpire, and agreement by the umpire and at least one of the Appraisers as to the amount of a “loss” shall be binding on all insureds and us. The “named insured” and we will equally share the costs of the umpire and any other costs other than the cost of the Appraisers. This provision shall govern only the appraisal of the amount of a “loss”, and shall not control the determination of whether such “loss” is otherwise covered by the Endorsement; and compliance with this provision shall have no effect on our rights or ability to deny coverage or enforce any obligation under this Endorsement.

SECTION XXII – RECOVERED PROPERTY

If the insured or we recover any property, money or “data assets” after a loss payment is

made, the party making the recovery must give prompt notice of the recovery to the other party. If the recovered property is money or other funds, the recovery shall be applied first to "loss" payments made by us, second to any retention payment made by the "named Insured", and third to any costs incurred by us in recovering the property. If property other than money or funds is recovered, the "named insured" may (i) keep the recovered property and return the "loss" payment plus all costs of recovery incurred by us, or (ii) keep the "loss" payment less the costs of recovery incurred by us and transfer all rights in the property to us.

2017-08-08 ed.; updated 2020-01-13