



## Specialty Risk Protector®

### **CyberEdge<sup>SM</sup> Network Interruption Insurance** **("NETWORK INTERRUPTION COVERAGE SECTION")**

#### **THIS IS AN OCCURRENCE COVERAGE SECTION AND A FIRST PARTY COVERAGE SECTION**

Notice: Pursuant to Clause 1 of the **General Terms and Conditions**, the **General Terms and Conditions** are incorporated by reference into, made a part of and are expressly applicable to this **Network Interruption Coverage Section**, unless otherwise explicitly stated to the contrary in the **General Terms and Conditions** or in this **Network Interruption Coverage Section**.

#### **1. INSURING AGREEMENTS**

With respect to the **NETWORK INTERRUPTION INSURING AGREEMENT** of this Clause 1., solely with respect to a **Security Failure** first occurring during the **Policy Period** and reported to the **Insurer** pursuant to the terms of this policy, this **Network Interruption Coverage Section** affords the following coverage:

##### **NETWORK INTERRUPTION INSURING AGREEMENT**

The **Insurer** shall pay all **Loss** in excess of the **Remaining Retention** that an **Insured** incurs after the **Waiting Hours Period** and solely as a result of a **Security Failure**.

#### **2. DEFINITIONS**

- (a) **"Bodily Injury"** means physical injury, sickness or disease and, if arising out of the foregoing, mental anguish, mental injury, shock, humiliation or death at any time.
- (b) **"Computer System"** means any computer hardware, software or any components thereof that are linked together through a network of two or more devices accessible through the Internet, internal network or connected with data storage or other peripheral devices (including, without limitation, wireless and mobile devices), and are under the ownership, operation or control of, or leased by, a **Company**.

For this **Coverage Section**, **"Computer System"** also means computer hardware, software or any components thereof that are under the ownership, operation or control of an **Outsource Provider**.

- (c) **"First Party Event"** means any **Security Failure**.
- (d) **"Insured"** means a **Company**.
- (e) **"Loss"** means the below listed costs incurred from the beginning of a **Material Interruption**

through the 120<sup>th</sup> day after the end of the **Material Interruption** (or 120 days after the **Material Interruption** would have ended if an **Insured** exercised due diligence and dispatch):

- (1) costs that would not have been incurred but for a **Material Interruption**; and
- (2) the sum of all of following, which shall be calculated on an hourly basis:
  - (a) Net Income (Net Profit or Loss before income taxes) that would have been earned; and
  - (b) Continuing normal operating expenses incurred, including payroll.

- (f) "**Material Interruption**" means the actual and measurable interruption or suspension of an **Insured's** business directly caused by a **Security Failure**.
- (g) "**Outsource Provider**" means an entity not owned, operated or controlled by an **Insured** that such **Insured** depends on to conduct its business.
- (h) "**Pollutants**" means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. "Waste" includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.
- (i) "**Property Damage**" means damage to, loss of use of or destruction of any tangible property. For purposes of this definition, "tangible property" shall not include electronic data.
- (j) "**Remaining Retention**" means the Retention set forth in Item 6 of the Declarations for this **Network Interruption Coverage Section** less the amount of **Loss** incurred by any **Insured** during the **Waiting Hours Period**. If the **Loss** incurred by any **Insured** during the **Waiting Hours Period** is greater than the applicable Retention set forth in the Declarations, the **Remaining Retention** equals zero.
- (k) "**Security Failure**" means a failure or violation of the security of a **Computer System**, including, without limitation, that which results in or fails to mitigate any unauthorized access, unauthorized use, denial of service attack or receipt or transmission of a malicious code. "**Security Failure**" includes any such failure or violation resulting from the theft of a password or access code from a **Company's** premises, a **Company's Computer System**, or an officer, director or employee of a **Company** by non-electronic means.
- (l) "**Waiting Hours Period**" means the number of hours set forth in Item 6 of the Declarations that must elapse once a **Material Interruption** has begun.

### 3. EXCLUSIONS

The **Insurer** shall not be liable to make any payment for **Loss**:

- (a) arising out of, based upon or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law, if committed by any:
  - (1) past or present director, officer, trustee, general or managing partner or principal (or the equivalent positions) of a **Company**, whether acting alone or in collusion with other persons;

or

- (2) past or present employee (other than those referenced in Sub-paragraph (1) above) or independent contractor employed by a **Company** if any of those referenced in Sub-paragraph (1) above participated in, approved of, acquiesced to, or knew or had reason to know prior to the act of, the dishonest, fraudulent, malicious, or criminal act committed by such employee or independent contractor that caused a direct loss to an **Insured** or any other person.
- (b) arising out of, based upon or attributable to any misappropriation or theft of trade secret or infringement of patent, copyright, trademark, trade dress or any other intellectual property right.
- (c) arising out of, based upon or attributable to any (1) presence of **Pollutants**; (2) the actual or threatened discharge, dispersal, release or escape of **Pollutants**; or (3) direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way respond to or assess the effects of **Pollutants**.
- (d) arising out of, based upon or attributable to any **Bodily Injury** or **Property Damage**.
- (e) arising out of, based upon or attributable to any:
  - (1) fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God or any other physical event, however caused;
  - (2) war, invasion, military action (whether war is declared or not), civil war, mutiny, popular or military uprising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against any of these events; or
  - (3) satellite failure.
- (f) arising out of, based upon or attributable to any seizure, confiscation, nationalization, or destruction of a **Computer System** by order of any governmental or public authority.
- (g) arising out of, based upon or attributable to any **Security Failure** or **Related Act** thereto which has been reported, or in any circumstances of which notice has been given, under any policy of which this **Network Interruption Coverage Section** is a renewal or replacement or which it may succeed in time.
- (h) for any profit or advantage to which any **Insured** is not legally entitled.
- (i) arising out of, based upon or attributable to: (1) any liability to third-parties for whatever reason; (2) legal costs or legal expenses of any type; (3) updating, upgrading, enhancing, or replacing any **Computer System** to a level beyond that which existed prior to sustaining **Loss**; (4) unfavorable business conditions; or (5) the removal of software program errors or vulnerabilities.

#### 4. LIMIT OF LIABILITY

The following provisions shall apply in addition to the provisions of Clause 4. **LIMIT OF LIABILITY** of the **General Terms and Conditions**:

Notwithstanding anything in the policy to the contrary, the maximum liability of the **Insurer** for all **Loss** arising from a **Security Failure** of the **Computer System** of an **Outsource Provider** shall be \$100,000. This amount shall be part of and not in addition to the **Limit of Liability** or any applicable **Sublimit of Liability**.

## 5. RETENTION

The following provisions shall apply in addition to the provisions of Clause 5. **RETENTION** of the **General Terms and Conditions**:

Solely with respect to this **Network Interruption Coverage Section**, the applicable Retention shall be the **Remaining Retention**.

## 6. NOTICE

In addition to the applicable items of Clause 6. **NOTICE** of the **General Terms and Conditions**, and before coverage will apply for **Loss** under this **Network Interruption Coverage Section**, each **Insured** must also:

- (a) complete and sign a written, detailed and affirmed proof of loss within ninety (90) days after the discovery of any **Loss** (unless such period has been extended by the **Insurer** in writing) which shall include, among any other pertinent information:
  - (1) a full description of such **Loss** and the circumstances surrounding such **Loss**, which shall include, among any other necessary information, the time, place and cause of the **Loss**;
  - (2) a detailed calculation of any **Loss**; and
  - (4) all underlying documents and materials that reasonably relate to or form a part of the basis of the proof of such **Loss**.
- (b) upon the **Insurer's** request, submit to an examination under oath.
- (c) immediately record the specifics of any **Loss** or **Security Failure** and the date such **Insured** first became aware of such **Loss** or **Security Failure**.
- (d) provide the **Insurer** with any cooperation and assistance that the **Insurer** may request, including assisting the **Insurer** in:
  - (1) any investigation of a **Security Failure**, **Loss** or circumstance;
  - (2) enforcing any legal rights an **Insured** or the **Insurer** may have against anyone who may be liable to an **Insured**;
  - (3) executing any documents that the **Insurer** deem necessary to secure its rights under this policy; and
  - (4) any calculation or appraisal conducted by or on behalf of the **Insurer** pursuant to this **Network Interruption Coverage Section**.

All adjusted claims shall be due and payable thirty (30) days after the presentation and written acceptance by the **Insurer** of satisfactory proof of **Loss** to the address set forth in the **General Terms**

**and Conditions.** The costs and expenses of establishing or proving an **Insured's Loss** under this **Network Interruption Coverage Section**, including, without limitation, those connected with preparing a proof of loss, shall be such **Insured's** obligation, and are not covered under this policy.

## 7. NET PROFIT CALCULATIONS

In determining the amount of net profit (or net loss) and charges and expenses covered hereunder for the purpose of ascertaining the amount of **Loss** (and otherwise) under this **Network Interruption Coverage Section**, due consideration shall be given to the prior experience of an **Insured's** business before the beginning of the **Security Failure** and to the probable business an **Insured** could have performed had no **Security Failure** occurred. Provided, however, that such net profit (or net loss) calculations shall not include, and this policy shall not cover, net income that would likely have been earned as a result of an increase in volume of business due to favorable business conditions caused by the impact of **Security Failures** on other businesses. All such net profit (or net loss) and charges and expenses shall be calculated on an hourly basis and based on such an **Insured's** actual net profit (or net loss) and charges and expenses.

## 8. APPRAISAL

If any **Insured** and the **Insurer** disagree on the amount of **Loss**, either may make a written demand for an appraisal of such **Loss**. If such demand is made, each party will select a competent and impartial appraiser. The appraisers will then jointly select an umpire. If the appraisers cannot agree on an umpire, they may request that selection be made by a judge of a court having jurisdiction. Each appraiser will separately state the amount of **Loss**. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two of these three will be binding.

Such **Insured** and the **Insurer** will:

- (1) pay their respective chosen appraiser; and
- (2) bear the expenses of the umpire equally.

Any appraisal of **Loss** shall be calculated in accordance with all terms, conditions and exclusions of this policy.

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