

Information And Network Technology Errors Or Omissions

Contract

Please read the entire policy carefully. The terms and conditions of this insurance include the various sections of this contract: Coverages; Investigation, Defense And Settlements; Supplementary Payments; Deductible; Coverage Territory; Who Is An Insured; Limits Of Insurance; Exclusions; Extended Reporting Periods; Conditions; and Definitions, as well as the Declarations, Common Policy Conditions and any Endorsements and Schedules made a part of this insurance.

Throughout this contract the words "you" and "your" refer to the Named **Insured** shown in the Declarations and other persons or organizations qualifying as a Named **Insured** under this contract. The words "we," "us" and "our" refer to the Company providing this insurance.

In addition to the Named **Insured**, other persons or organizations may qualify as **insureds**. Those persons or organizations and the conditions under which they qualify are identified in the Who Is An Insured section of this contract.

Words and phrases that appear in **bold** print have special meanings and are defined in the Definitions section of this contract.

THIS INSURANCE PROVIDES CLAIMS-MADE COVERAGE. EXCEPT AS OTHERWISE PROVIDED, SUCH COVERAGE APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE **INSURED** DURING THE POLICY PERIOD.

CLAIM ADJUSTMENT EXPENSES, INCLUDING ATTORNEY FEES AND INVESTIGATION COSTS OR EXPENSES, WILL REDUCE THE LIMITS OF INSURANCE.

Coverage

Information And Network Technology Errors Or Omissions Liability Coverage

Subject to all of the terms and conditions of this insurance, we will pay **loss** by reason of liability:

- imposed by law; or
- assumed in an **insured contract**;

for **financial injury**, caused by a **wrongful act**:

- that results in the failure of **your product** to perform the function or to serve the purpose intended; or
- in the performance of or failure to perform **your service**;

to which this coverage applies.

This coverage applies only to such **financial injury** caused by a **wrongful act** first committed on or after the Retroactive Date shown in the Declarations and only if a claim for damages is first made against any **insured** during the policy period. However, this insurance does not apply to **financial injury** arising out of any **wrongful act** first committed after such policy period.

Coverage

Information And Network Technology Errors Or Omissions Liability Coverage (continued)

For purposes of this insurance:

- a claim by a person or organization seeking damages will be deemed to have been made when notice of such claim is received and recorded by any **insured**, our licensed agent, or by us, whichever comes first; and
- all claims for damages for **financial injury** as a result of a **wrongful act** will be deemed to have been made at the time the first of those claims is made against any **insured**.

The amount we will pay for **loss** under this insurance is subject to the:

- Deductible as described in the Deductible section of this contract;
- Coinsurance Percent, if any, shown in the Declarations; and
- Limits Of Insurance as described in the Limits Of Insurance section of this contract.

The **insureds** will bear uninsured and at their own risk that percentage of **loss** specified as the Coinsurance Percent in the Declarations, and our obligations under this insurance apply only to the remaining percentage of such **loss**. You are required to pay the **insureds'** share, as incurred.

Other than as provided in the Investigation, Defense And Settlement and Supplementary Payments sections of this contract, we have no other obligation or liability to pay sums or perform acts or services under this coverage.

Investigation, Defense And Settlements

Subject to all of the terms and conditions of this insurance, we will have the right and, subject to the Limits Of Insurance provisions of this contract, the duty to defend the **insured** against a **suit**, even if such **suit** is false, fraudulent or groundless.

If such **suit** is brought, we will pay **claim adjustment expenses** to defend:

- the **insured**; and
- if applicable, the indemnitee of the **insured**, provided the obligation to defend, or the cost of the defense of, such indemnitee has been assumed by such **insured** in an **insured contract**.

With our consent, you may select the attorney to represent the **insured**. Such consent may not be unreasonably withheld.

We have no duty to defend any person or organization against any **suit** to which this insurance does not apply.

We may, at our discretion, investigate any **wrongful act** regardless of whether any claim has been made. We may at our discretion settle any claim or **suit**.

The amount we will pay for **claim adjustment expenses** is limited as described in the Limits Of Insurance section of this contract.

Our duty to defend any person or organization ends when we have used up the applicable Limits Of Insurance.

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Supplementary Payments

Subject to all of the terms and conditions of this insurance, we will pay, with respect to a claim we investigate or settle, or a **suit** against an **insured** we defend:

- reasonable expenses (other than **claim adjustment expenses**) incurred by the **insured** at our request to assist us in the investigation, contest, defense or appeal of such claim or **suit**, including actual loss of earnings up to \$1,000 a day because of time off from work.
- prejudgment interest awarded against the **insured** on that part of a judgment or award we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- interest on the amount of a judgment or award that accrues after entry of the judgment or award and before we have paid, offered to pay or deposited in court the part of the judgment or award that is within the applicable limit of insurance.

These payments will not reduce the Limits Of Insurance.

Our obligation to make these payments ends when we have used up the applicable Limit Of Insurance.

Deductible

Our obligations under this insurance apply only to amounts of **loss** in excess of the Deductible shown in the Declarations.

The Deductible applies to **loss** to which this insurance would otherwise apply.

The Deductible applies separately to each claim.

The terms and conditions of this insurance, including those with respect to:

- our right and duty to defend the **insured**; and
- your duties in the event of **wrongful act**, claim or **suit**;

apply irrespective of the application of the Deductible.

We may pay any part of the Deductible to effect settlement of any claim or **suit** and, upon notification of such action taken, the first named **insured** shall promptly reimburse us in full for any such part of the Deductible and related costs and expenses paid by us. Failure to promptly reimburse us shall be deemed a request by the first named **insured** to cancel this insurance as of the date such reimbursement is due.

The Deductible shall be applied to the amount of **loss** prior to the application of any Coinsurance Percent shown in the Declarations.

Deductible payments by the **insured** will not reduce the Limits Of Insurance.

Coverage Territory

This insurance applies anywhere, provided the **insured**'s responsibility to pay damages, to which this insurance applies, is determined in a **suit** on the merits brought in the United States of America (including its possessions and territories), Canada or Puerto Rico, or in a settlement to which we agree.

Who Is An Insured

Sole Proprietorships

If you are an individual, you and your spouse are **insureds**, but you and your spouse are **insureds** only with respect to the conduct of a business of which you are the sole owner.

If you die:

- persons or organizations having proper temporary custody of your property are **insureds**, but they are **insureds** only with respect to the maintenance or use of such property and only for acts until your legal representative has been appointed; and
- your legal representatives are **insureds**, but they are **insureds** only with respect to their duties as your legal representatives. Such legal representatives will assume your rights and duties under this insurance.

Partnerships Or Joint Ventures

If you are a partnership (including a limited liability partnership) or a joint venture, you are an **insured**. Your members, your partners and their spouses are **insureds**, but they are **insureds** only with respect to the conduct of your business.

Limited Liability Companies

If you are a limited liability company, you are an **insured**. Your members and their spouses are **insureds**, but they are **insureds** only with respect to the conduct of your business. Your managers are **insureds**, but they are **insureds** only with respect to their duties as your managers.

Other Organizations

If you are an organization (including a professional corporation) other than a partnership, joint venture or limited liability company, you are an **insured**. Your directors and **officers** are **insureds**, but they are **insureds** only with respect to their duties as your directors or **officers**. Your stockholders and their spouses are **insureds**, but they are **insureds** only with respect to their liability as your stockholders.

Employees

Your **employees** are **insureds**, but they are **insureds** only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

Subsidiary Or Newly Acquired Or Formed Organizations

If there is no other insurance available, the following organizations will qualify as named **insureds**:

- a subsidiary organization of the first named **insured** shown in the Declarations of which, at the beginning of the policy period and at the time of loss, such first named **insured** controls, either directly or indirectly, more than fifty (50) percent of the interests entitled to vote generally in the election of the governing body of such organization; or
- a subsidiary organization of the first named **insured** shown in the Declarations that such first named **insured** acquires or forms during the policy period, if at the time of loss such first named **insured** controls, either directly or indirectly, more than fifty (50) percent of the interests entitled to vote generally in the election of the governing body of such organization. However, coverage under this provision is afforded only for **wrongful acts** first committed within ninety (90) days after the first named **insured** acquires or forms the organization or the end of the policy period, whichever is earlier.

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Who Is An Insured

(continued)

Limitations On Who Is An Insured

- A. Except to the extent provided under the Subsidiary Or Newly Acquired Or Formed Organizations provision above, no person or organization is an **insured** with respect to the conduct of any person or organization that is not shown as a named **insured** in the Declarations.
- B. No person or organization is an **insured** with respect to the:
1. ownership, maintenance or use of any assets; or
 2. conduct of any person or organization whose assets, business or organization; you acquire, either directly or indirectly, for any **financial injury** arising out of a **wrongful act** first committed, in whole or in part, before you, directly or indirectly, acquired such assets, business or organization.
- C. No person or organization is an **insured** with respect to the:
1. ownership, maintenance or use of any assets you acquire;
 2. conduct of any person or organization whose assets, business or organization you acquire; or
 3. conduct of any organization you form; either directly or indirectly, during the policy period, for any **financial injury** arising out of a **wrongful act** first committed more than ninety (90) days after you, directly or indirectly:
 - acquired such assets, business or organization; or
 - formed such organization.

Limits Of Insurance

The Limits Of Insurance shown in the Declarations and the rules below fix the most we will pay, regardless of the number of:

- **insureds;**
- claims made or **suits** brought; or
- persons or organizations making claims or bringing **suits**.

The Limits Of Insurance apply separately to each consecutive annual period and to any remaining period of less than twelve (12) months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than twelve (12) months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits Of Insurance.

Aggregate Limit

The Aggregate Limit is the most we will pay for the sum of all **loss** for **financial injury**.

Exclusions

Adjustment, Inspection, Recall Or Replacement Expenses

This insurance does not apply to any loss, cost or expense incurred by any **insured** or others for any loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- **your product;**
- any property containing or incorporating **your product;** or
- any property on which **your service** is or was performed.

This exclusion does not apply to **financial injury**, sustained by others, resulting from the loss of use of:

- **your product;**
- property containing or incorporating **your product;** or
- property on which **your service** was performed.

Asbestos

A. This insurance does not apply to any liability arising out of the actual, alleged or threatened contaminative, pathogenic, toxic or other hazardous properties of **asbestos**

B. This insurance does not apply to any loss, cost or expense arising out of any:

1. request, demand, order or regulatory or statutory requirement that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **asbestos**, or
2. claim or proceeding by or on behalf of a governmental authority or others for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **asbestos**.

Bodily Injury

This insurance does not apply to any:

- physical injury, sickness or disease; or
- humiliation, mental anguish, mental injury or shock;

sustained by any person at any time, including any resulting death at any time.

Ceasing Support

This insurance does not apply to **financial injury** arising out of any actual, alleged or threatened decision by any **insured**:

- not to provide or support; or
- to cease to provide or support;

your product or **your service**.

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Exclusions

(continued)

Contracts

This insurance does not apply to **financial injury** for which the **insured** is obligated by reason of assumption of liability in a contract or agreement.

This exclusion does not apply to the liability for **loss**:

- that such **insured** would have in the absence of such contract or agreement; or
- assumed in a contract or agreement that is an **insured contract** (for **financial injury**), provided the injury, to which this insurance applies, is caused by a **wrongful act** first committed by you or on your behalf after the execution of such contract or agreement.

Delay In Delivery Of Or Failure To Deliver Your Product

This insurance does not apply to **financial injury** arising out of any actual, alleged or threatened:

- delay in delivery of; or
- failure to deliver;

your product or any part or phase of **your product**.

Delay In Performance Of Or Failure To Begin Your Service

This insurance does not apply to **financial injury** arising out of any actual, alleged or threatened:

- delay in performance of; or
- failure to begin;

your service or any part or phase of **your service**.

Dishonesty

This insurance does not apply to **financial injury** arising out of any dishonest, criminal, fraudulent or malicious conduct committed by or with the consent or knowledge of the **insured**.

Employment-Related Practices

A. This insurance does not apply to any damages sustained at any time by any person, whether or not sustained in the course of employment by any **insured**, arising out of any employment-related act, omission, policy, practice or representation directed at such person, occurring in whole or in part at any time, including any:

1. arrest, detention or imprisonment;
2. breach of any express or implied covenant;
3. coercion, criticism, humiliation, prosecution or retaliation;
4. defamation or disparagement;
5. demotion, discipline, evaluation or reassignment;
6. discrimination, harassment or segregation;
7.
 - a. eviction; or
 - b. invasion or other violation of any right of occupancy;

Exclusions

Employment–Related Practices (continued)

8. failure or refusal to advance, compensate, employ or promote;
 9. invasion or other violation of any right of privacy or publicity;
 10. termination of employment; or
 11. other employment–related act, omission, policy, practice, representation or relationship in connection with any **insured** at any time.
- B. This insurance does not apply to any damages sustained at any time by the brother, child, parent, sister or spouse of such person at whom any employment–related act, omission, policy, practice or representation is directed, as described in paragraph A. above, as a consequence thereof.

This exclusion applies:

- whether the **insured** may be liable as an employer or in any other capacity; and
- to any obligation to share damages with or repay someone else who must pay damages because of any of the foregoing.

Enhancement, Maintenance Or Prevention Expenses

This insurance does not apply to any loss, cost or expense incurred by any **insured** or others for any:

- enhancement or maintenance of any property; or
- prevention of any **financial injury** to any person or organization.

This exclusion does not apply to **financial injury**, sustained by others, resulting from the loss of use of:

- **your product**;
- property containing or incorporating **your product**; or
- property on which **your service** was performed.

Expected Or Intended Injury

This insurance does not apply to **financial injury** arising out of a **wrongful act**, committed by or on behalf of the **insured**, that:

- is intended by such **insured**; or
- would be expected from the standpoint of a reasonable person in the circumstances of such **insured**;

to cause injury.

Financial Impairment Of Insureds

This insurance does not apply to **financial injury** arising out of any bankruptcy, insolvency or other financial impairment of any **insured**.

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Exclusions

(continued)

Governmental Claims Or Proceedings

This insurance does not apply to any loss, cost or expense arising out of any claim or proceeding made by or on behalf of any governmental authority.

This exclusion does not apply to **financial injury** sustained by a governmental authority resulting from their ownership, maintenance or use of **your product** or **your service**.

Injury To Insureds Or Affiliates

This insurance does not apply to **financial injury** sustained by any:

- A. **insured;**
- B. person or organization that controls, either directly or indirectly, interests entitled to vote generally in the election of the governing body of any organization that is an **insured;**
- C. subsidiary organization of any **insured;**
- D. manager, member or partner of any limited liability company, partnership or joint venture in which any **insured** has any interest;
- E. director, officer, stockholder, employee, custodian of property or legal representative of any organization described above; or
- F. spouse of any person described above.

This exclusion does not apply to **financial injury** sustained by a person or organization described in paragraph A. above, who is:

- an additional **insured** under this insurance by an endorsement made a part of this contract;
- otherwise a third party; and
- not a person or organization described in paragraphs B., C., D., E. or F. above.

Intellectual Property Laws Or Rights

This insurance does not apply to any actual or alleged **financial injury** arising out of, giving rise to or in any way related to any actual or alleged:

- assertion; or
- infringement or violation;

by any person or organization (including any **insured**) of any **intellectual property law or right**, regardless of whether this insurance would otherwise apply to all or part of any such actual or alleged injury in the absence of any such actual or alleged assertion, infringement or violation.

Lapses Of Contracts Or Licenses

This insurance does not apply to **financial injury** arising out of any actual, alleged or threatened cancellation, lapse, modification, non-renewal, revocation, suspension or other impairment of any agreement, contract, lease, license, order or permit, if such impairment is within any **insured**'s control.

Exclusions

(continued)

Nuclear Energy

- A. This insurance does not apply to any liability:
1. with respect to which any **insured** under this policy also has status as an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would have had status as an insured under any such policy but for its termination upon exhaustion of its limit of insurance; or
 2. arising out of the **nuclear hazardous properties of nuclear material** and with respect to which:
 - a. any person or organization is required to maintain financial protection pursuant to the United States of America Atomic Energy Act of 1954, or any law amendatory thereof; or
 - b. the **insured** is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- B. This insurance does not apply to any liability arising out of the **nuclear hazardous properties of nuclear material**:
1. if the **nuclear material**:
 - a. is at any **nuclear facility** owned by, or operated by or on behalf of, any **insured**;
 - b. has been discharged or dispersed therefrom; or
 - c. is contained in **nuclear spent fuel** or **nuclear waste** at any time transported, handled, stored, disposed of, processed, treated, possessed or used by or on behalf of any **insured**; or
 2. in any way related to the furnishing by any **insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**.

Personal Or Reputational Injuries

This insurance does not apply to any actual or alleged **financial injury** arising out of or in any way related to any actual, alleged or threatened:

- A. arrest, detention or imprisonment of any person;
- B. defamation or disparagement;
- C. discrimination, harassment or segregation;
- D.
 1. eviction; or
 2. invasion or other violation of any right of occupancy;
- E. invasion or other violation of any right of privacy or publicity; or
- F. prosecution of any person or organization;

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Exclusions

Personal Or Reputational Injuries (continued)

committed by any person or organization (including any **insured**), regardless of whether this insurance would otherwise apply to all or part of any such actual or alleged injury in the absence of any (such) actual, alleged or threatened offense described above.

Pollution

- A. This insurance does not apply to any liability arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants**
- B. This insurance does not apply to any loss, cost or expense arising out of any:
1. request, demand, order or regulatory or statutory requirement that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants**, or
 2. claim or proceeding by or on behalf of a governmental authority or others for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **pollutants**

This exclusion applies regardless of whether or not the pollution was accidental, expected, gradual, intended, preventable or sudden.

Prior Known Or Reported Circumstances

This insurance does not apply to any **financial injury, wrongful act, claim, suit** or other circumstance:

- known by you prior to the beginning of the policy period of this insurance, which could reasonably be expected to result in any payment under this insurance; or
- reported, in whole or in part, to us or any other insurer prior to the beginning of the policy period of this insurance.

A circumstance will be deemed to be known by you:

- A. if such circumstance is known by, or should have been known from the standpoint of a reasonable person in the circumstances of:
1. you; or
 2. any of your directors, managers, members, **officers** (or their designees) or partners (whether or not an **employee**); and
- B. when any person described in subparagraph A. above:
1. reports all, or any part, of any such circumstance to us or any other insurer;
 2. receives a claim or a demand for damages in connection with any such circumstance; or
 3. becomes aware of any actual, alleged or threatened injury in connection with such circumstance.

Exclusions

(continued)

Prior Wrongful Acts

This insurance does not apply to **financial injury** arising out of any **wrongful act** first committed before the Retroactive Date shown in the Declarations.

Property Damage

This insurance does not apply to:

- A. any physical injury to any tangible property, including any resulting loss of use at any time; or
- B. **financial injury** arising out of any physical injury to:
 - 1. **your product**;
 - 2. any tangible property containing or incorporating **your product**; or
 - 3. any tangible property on which **your service** is or was performed.

Tangible property does not include software, data or other information that is in electronic form.

Security Breach Or Unauthorized Access

This insurance does not apply to any actual or alleged **financial injury** arising out of or in any way related to any actual, alleged or threatened security breach of, unauthorized access to or unauthorized use of:

- A. **your product**;
- B. any property containing or incorporating **your product**;
- C. any property on which **your service** is or was performed;
- D. any communication, computer, electronic, Internet, information, network or website:
 - 1. equipment or parts; or
 - 2. programs or systems; or
- E. any software, data or other information:

by any person or organization (including any **insured**), regardless of whether this insurance would otherwise apply to all or part of any such actual or alleged injury in the absence of any such actual, alleged or threatened breach, access or use described above.

Workers' Compensation Or Similar Laws

This insurance does not apply to any obligation of the **insured** under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

Extended Reporting Periods

Basic Extended Reporting Period

A Basic Extended Reporting Period is automatically provided. Under this provision claims first made:

- within sixty (60) days after the end of the policy period; or

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Extended Reporting Periods

Basic Extended Reporting Period (continued)

within five (5) years after the end of the policy period for **financial injury** caused by a **wrongful act** reported to us within sixty (60) days after the end of the policy period; will be deemed to have been made during the policy period of this insurance.

The Basic Extended Reporting Period does not apply to claims that are covered under any subsequent insurance you purchase, or that would be covered, but for exhaustion of the amount of insurance applicable to such claims.

Notification of a **wrongful act** or a claim must be in accordance with paragraphs A. and B. of the Duties In The Event Of Wrongful Act, Claim Or Suit provision of the Conditions.

Supplemental Extended Reporting Period

A Supplemental Extended Reporting Period is available only by an endorsement and for an additional premium, subject to the following provisions.

- A. If purchased, this period starts at the end of the Basic Extended Reporting Period and is for an unlimited time period. Claims first made during this Supplemental Extended Reporting Period will be deemed to have been made during the policy period of this insurance.
- B. You must give us a written request to purchase a Supplemental Extended Reporting Period within sixty (60) days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.
- C. If you comply with paragraph B. above, we will issue the Supplemental Extended Reporting Period Endorsement.
- D. We will determine the additional premium for the Supplemental Extended Reporting Period Endorsement in accordance with our rules and rates. The additional premium will not exceed two-hundred(200) percent of the annual premium for this insurance.
- E. The Supplemental Extended Reporting Period Endorsement will set forth the terms and conditions, not inconsistent with this section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded is excess over any other valid and collectible insurance available under insurance in force after the Supplemental Extended Reporting Period starts.

When Extended Reporting Periods Apply

We will automatically provide a Basic Extended Reporting Period and, if you purchase it, a Supplemental Extended Reporting Period if:

- A. this insurance is canceled or not renewed; or
- B. we renew or replace this insurance with other insurance that:
 1. has a retroactive date later than the Retroactive Date shown in the Declarations of this insurance; or
 2. does not apply on a claims-made basis.

Extended Reporting Periods

(continued)

How Extended Reporting Periods Apply

Extended Reporting Periods:

- A. apply only to claims for damages for **financial injury** caused by **wrongful acts** first committed on or after the Retroactive Date shown in the Declarations and before the end of the policy period.
- B. do not:
 - 1. extend the policy period or change the scope of coverage provided; or
 - 2. reinstate or increase the Limits Of Insurance.
- C. may not be canceled once in effect.

Conditions

Arbitration

We are entitled to exercise all of the **insured's** rights in the choice of arbitrators and in the conduct of any arbitration proceeding, except when the proceeding is between us and the **insured**.

Bankruptcy

Bankruptcy or insolvency of the **insured** or of the **insured's** estate will not relieve us of our obligations under this insurance.

Duties In The Event Of Wrongful Act, Claim Or Suit

- A. You must see to it that we and any other insurers are notified as soon as practicable of any **wrongful act** that may result in a claim, if the claim may involve us or such other insurers. To the extent possible, notice should include:
 - 1. how, when and where the **wrongful act** happened;
 - 2. the names and addresses of any injured persons and organizations and any witnesses; and
 - 3. the nature of any injury arising out of the **wrongful act**.Notice of a **wrongful act** is not notice of a claim.
- B. If a claim is made or **suit** is brought against any **insured**, you must:
 - 1. immediately record the specifics of the claim or **suit** and the date received;
 - 2. notify us and other insurers as soon as practicable; and
 - 3. see to it that we receive written notice of the claim or **suit** as soon as practicable.
- C. You and any other involved **insured** must:
 - 1. immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or **suit**;
 - 2. authorize us to obtain records and other information;
 - 3. cooperate with us and other insurers in the:
 - a. investigation or settlement of the claim; or

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Conditions

Duties In The Event Of Wrongful Act, Claim Or Suit (continued)

- b. defense against the **suit**; and
 4. assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the **insured** because of loss to which this insurance may also apply.
- D. No **insured** will, except at that **insured**'s own cost, make any payment, assume any obligation or incur any expense without our consent.

Legal Action Against Us

No person or organization has a right under this insurance to:

- join us as a party or otherwise bring us into a **suit** seeking damages from an **insured**; or
- sue us on this insurance unless all of the terms and conditions of this insurance have been fully complied with.

A person or organization may sue us to recover on an **agreed settlement** or on a final judgment against an **insured** obtained after an actual:

- trial in a civil proceeding; or
- arbitration or other alternative dispute resolution proceeding;

but we will not be liable for damages that are not payable under the terms and conditions of this insurance or that are in excess of the applicable Limits Of Insurance.

Notice Of Circumstances

If, prior to the end of the policy period of this insurance, you become aware of circumstances in connection with a **wrongful act** (that has resulted or could result in **financial injury**) first committed on or after the Retroactive Date and before the end of such policy period, a claim for damages for such **financial injury** will be deemed to have been made during the policy period of this insurance, provided:

- A. you see to it that we receive written notice of such circumstance as soon as practicable and during the policy period of this insurance; and
- B. such claim is first made against any **insured** before the later of the end of:
 1. the policy period of this insurance;
 2. the policy period of a subsequent, continuous renewal or replacement of this insurance, that:
 - a. is issued to you by us or by an affiliate of ours;
 - b. remains in force while such claim is first made; and
 - c. would otherwise apply to **financial injury**; or
 3. any extended reporting period exercised under the insurance described in subparagraph B.1. or B.2. above.

Notification must be in accordance with paragraphs A. and B. of the Duties In The Event Of Wrongful Act, Claim Or Suit provision of the Conditions.

Conditions

(continued)

Other Insurance

If other valid and collectible insurance or any bond is available to the **insured** for loss we would otherwise cover under this insurance, our obligations are limited as follows.

Excess Insurance

This insurance is excess over any other insurance and any bond, whether primary, excess, contingent or on any other basis:

- provided to you by any person or organization working under contract or agreement for you.
- under which you are included as an insured.
- that has a policy period which continues after the Retroactive Date shown in the Declarations of this insurance.

We will have no duty to defend the **insured** against any **suit** if any provider of any other insurance has a duty to defend such **insured** against such **suit**.

We will pay only our share of the amount of **loss**, if any, that exceeds the sum of the total:

- amount that all other insurance and all bonds would pay for loss in the absence of this insurance; and
- of all deductible and self-insured amounts under all other insurance and all bonds.

We will share the remaining **loss**, if any, with any other insurance or any bond that is not described in this Excess Insurance provision and was not negotiated specifically to apply in excess of the Limits Of Insurance shown in the Declarations of this insurance.

Method of Sharing

If all of the other insurance and all bonds permit contribution by equal shares, we will follow this method also. Under this method each contributes equal amounts until it has paid its applicable limits or none of the loss remains, whichever comes first.

If any of the other insurance or any bonds do not permit contribution by equal shares, we will contribute by limits. Under this method, each party's share is based on the ratio of its applicable limits to the total applicable limits of all.

Non Accumulation Of Limits Of Insurance

If this contract is one of several contracts issued by us or other member companies of the Chubb Group of Insurance Companies to you, and/or your subsidiary organizations, any claim or **suit** which could be covered under two or more contracts will be subject to the limits of insurance under the contract with the highest applicable limit of insurance or, if the limits are the same, under the limits of insurance of one contract.

Premium Audit

We will compute all premiums for this insurance in accordance with our rules and rates.

In accordance with the Estimated Premiums section of the Premium Summary, premiums shown with an asterisk (*) are estimated premiums and are subject to audit.

In addition to or in lieu of such designation in the Premium Summary, premiums may be designated as estimated premiums elsewhere in this policy. In that case, these premiums will also be subject to audit, and the second paragraph of the Estimated Premiums section of the Premium Summary will apply.

Information And Network Technology Errors Or Omissions

Conditions

(continued)

Separation Of Insureds

Except with respect to the Limits Of Insurance, and any rights or duties specifically assigned in this insurance to the first named **insured**, this insurance applies:

- as if each named **insured** were the only named **insured**; and
- separately to each **insured** against whom claim is made or **suit** is brought.

Transfer Or Waiver Of Rights Of Recovery Against Others

We will waive the right of recovery we would otherwise have had against another person or organization, for loss to which this insurance applies, provided the **insured** has waived their rights of recovery against such person or organization in a contract or agreement that is executed before such loss.

To the extent that the **insured**'s rights to recover all or part of any payment made under this insurance have not been waived, those rights are transferred to us. The **insured** must do nothing after loss to impair them. At our request, the **insured** will bring **suit** or transfer those rights to us and help us enforce them.

Your Right To Claim Information

We will provide the first named **insured** shown in the Declarations the following information relating to this and any preceding claims—made liability coverage we have issued to you during the previous three (3) years:

- a list or other record of each **wrongful act**, not previously reported to any other insurer, of which we were notified in accordance with the Duties In The Event Of Wrongful Act, Claim Or Suit condition of this contract. We will include the date and brief description of the **wrongful act** if that information was in the notice we received; and
- a summary by policy year, of payments made and amounts reserved, stated separately, under any applicable Aggregate Limit.

Amounts reserved are based on our judgment. They are subject to change and should not be regarded as ultimate settlement values. You must not disclose this information to any claimant or any claimant's representative without our consent.

We will provide this information only if we receive a written request from the first named **insured** within sixty (60) days after the end of the policy period. Then, we will provide this information within forty-five (45) days of receipt of the request.

We compile claim information for our own business purposes and exercise reasonable care in doing so. In providing this information to the first named **insured**, we make no representations or warranties to **insureds**, insurers or others to whom this information is furnished by or on behalf of any **insured**. Cancellation or non-renewal will be effective even if we inadvertently provide inaccurate information.

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Information And Network Technology Errors Or Omissions

Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

Agreed Settlement

Agreed settlement means a settlement and release of liability signed by us, the **insured** and the claimant or the claimant's legal representative.

Asbestos

Asbestos means asbestos in any form, including its presence or use in any alloy, by-product or other material or waste. Waste includes material to be recycled, reconditioned or reclaimed.

Claim Adjustment Expenses

Claim adjustment expenses means:

- A. reasonable attorney and paralegal fees and salaries (including those of attorneys and paralegals who are our **employees**).
- B. reasonable expenses relating to litigation, arbitration or other dispute resolution proceedings, including the cost of expert witnesses, transcripts, court reporters, research reports and depositions.
- C. the cost of:
 1. bail bonds; or
 2. bonds required to:
 - a. appeal judgments; or
 - b. release attachments;but only for:
 - bonds in connection with litigation, arbitration or other dispute resolution proceedings we defend; and
 - bond amounts within the available Limits Of Insurance.We do not have to furnish these bonds.
- D. costs taxed against the **insured** in litigation, arbitration or other dispute resolution proceedings.
- E. the reasonable cost and expense of any investigation that we undertake at our discretion after receiving notice from you or any other person or organization, regardless of whether such notice constitutes a claim or **suit**.
- F. other reasonable expenses that we allocate to a specific claim or **suit**.

Claim adjustment expenses does not include:

- any fine or other penalty; or
- the salaries or expenses of our **employees** (other than those described in subparagraph A. above) or any salaries or expenses of any **insured's employees** or directors, managers, members, officers, partners or workers (whether or not an **employee**).

Definitions

(continued)

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

Employee

Employee includes a **leased worker**. **Employee** does not include a **temporary worker**.

Financial Injury

Financial injury means economic injury sustained by a person or organization because their property, including software, data and other information that is in electronic form:

- cannot be used; or
- is less useful.

Insured

Insured means a person or an organization qualifying as an **insured** in the Who Is An Insured section of this contract.

Insured Contract

Insured contract means a contract or agreement pertaining to your business in which you assume the liability of another person or organization for **financial injury** sustained by a third person or organization, that is caused by a **wrongful act**, to which this insurance applies, committed by you or on your behalf.

Intellectual Property Law Or Right

Intellectual property law or right means any:

- certification mark, copyright, patent or trademark (including collective or service marks);
- right to, or judicial or statutory law recognizing an interest in, any trade secret or confidential or proprietary non-personal information;
- other right to, or judicial or statutory law recognizing an interest in, any expression, idea, likeness, name, slogan, style of doing business, symbol, title, trade dress or other intellectual property; or
- other judicial or statutory law concerning piracy, unfair competition or other similar practices.

Leased Worker

Leased worker means a person leased to a party by a labor leasing firm, in a contract or agreement between such party and the labor leasing firm, to perform duties related to the conduct of the party's business. **Leased worker** does not include a **temporary worker**.

Loss

Loss:

A. means:

1. damages that the **insured** becomes legally obligated to pay; and
2. **claim adjustment expenses** with respect to a claim we investigate or settle, or a **suit** against an **insured** we defend, that seeks damages.

B. does not include any:

1. a. attorney fees or litigation expenses; or

Information And Network Technology Errors Or Omissions

Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

Loss
(continued)

- b. other loss, cost or expense;
in connection with any injunction or other equitable relief;
2. consideration owed or paid to any **insured** in connection with **your product** or **your service**, including any restitution or return of any charges or fees;
3. loss, cost or expense to perform any obligation assumed by or on behalf of any **insured**; or
4. other loss, cost or expense incurred, or agreed to, by or on behalf of any **insured**, except in an **agreed settlement**.

Nuclear Facility

Nuclear facility means any:

- A. **nuclear reactor**;
- B. equipment or device designed or used for:
 1. separating the isotopes of plutonium or uranium;
 2. processing or utilizing **nuclear spent fuel**; or
 3. handling, processing or packaging **nuclear waste**;
- C. equipment or device used for the processing, fabricating or alloying of **nuclear material**, if at any time the total amount of such material in the custody of the **insured** at the premises where such equipment or device is located consists of or contains more than:
 1. twenty-five(25) grams of plutonium or uranium 233, or any combination thereof; or
 2. two-hundred-fifty(250) grams of uranium 235; or
- D. structure, basin, excavation, premises or place prepared or used for the storage or disposal of **nuclear waste**;

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

Nuclear Hazardous Properties

Nuclear hazardous properties includes radioactive, toxic or explosive properties.

Nuclear Material

Nuclear material means **by-product material**, **source material** or **special nuclear material**.

By-product material, **source material** and **special nuclear material** have the meanings given them in the United States of America Atomic Energy Act of 1954 or in any law amendatory thereof.

Nuclear Reactor

Nuclear reactor means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

Definitions

(continued)

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

Nuclear Spent Fuel

Nuclear spent fuel means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**.

Nuclear Waste

Nuclear waste means any waste material:

- containing **nuclear material**, other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **source material** content; and
- resulting from the operation by any person or organization of any **nuclear facility** described in subparagraphs A. or B. of the definition of **nuclear facility**.

Officer

Officer means a person holding any of the officer positions created by an organization's charter, constitution, by-laws or any other similar governing document.

Pollutants

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Suit

Suit means a civil proceeding in which damages for **financial injury**, to which this insurance applies, are sought. **Suit** includes an arbitration or other dispute resolution proceeding in which such damages for **financial injury** are sought and to which the **insured** must submit or does submit with our consent.

Temporary Worker

Temporary worker means a person who is furnished to a party to substitute for a permanent **employee** on leave or to meet seasonal or short-term workload conditions.

Wrongful Act

Wrongful act:

- means an error, unintentional omission or negligent act.
- includes all related **wrongful acts** and all series of continuous, repeated or related **wrongful acts**.

Your Product

Your product:

- A. means:
 - 1. goods or products, including:
 - a. communication, computer, electronic, Internet, information, network or website:
 - 1) equipment or parts; or
 - 2) programs or systems; or

Information And Network Technology Errors Or Omissions

Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

Your Product (continued)

- b. software, data or other information that is in electronic form; created, developed, installed, leased or licensed (to others) or otherwise manufactured, sold, handled or distributed by:
 - you;
 - others trading under your name; or
 - a person or organization whose assets or business you have acquired; and
- 2. containers (other than vehicles), materials, parts or equipment furnished in connection with :
 - a. such goods or products; or
 - b. **your service.**
- B. includes:
 - 1. representations or warranties made with respect to the fitness, performance, quality or use of **your product**;
 - 2. the providing of or failure to provide instructions or warnings in connection with **your product**; and
 - 3. **your service** performed in connection with **your product**.

Your Service

Your service:

- 1. means analysis, design, integration, management, maintenance, processing, programming, providing, repair or support of:
 - 1. communication, computer, electronic, Internet, information, network or website:
 - a. equipment or parts; or
 - b. programs or systems; or
 - 2. software, data or other information that is in electronic form;services (including related consulting, staffing, training and other support services) performed by you or on your behalf.
- B. includes:
 - 1. representations or warranties made with respect to the fitness, performance, quality or use of **your service**; and
 - 2. the providing of or failure to provide instructions or warnings in connection with **your service.**