

# NETWORK SECURITY AND PRIVACY COVERAGE POLICY

PLEASE READ THE ENTIRE POLICY CAREFULLY

**THIS POLICY PROVIDES CLAIMS MADE AND REPORTED COVERAGE. CLAIMS MUST FIRST BE MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD UNLESS AN EXTENDED REPORTING PERIOD APPLIES. THE PAYMENT OF CLAIM EXPENSES REDUCES THE APPLICABLE LIMIT(S) OF LIABILITY**

Various provisions in this Policy restrict coverage. Read the entire Policy carefully to determine rights, duties and what is and is not covered. **Words and phrases that appear in capital letters, other than the captioned titles, have special meaning set forth in SECTION II – DEFINITIONS.**

In consideration of the payment of premium by the INSURED and in reliance upon the statements in the INSURED's Application attached hereto and made a part hereof, the Company agrees with the INSURED, subject to all terms, exclusions, Limits of Liability and conditions of this Policy, as follows:

## I. INSURING AGREEMENTS

### A. Internet Media Liability Coverage ("Coverage A")

The Company will pay on behalf of the INSURED all sums, in excess of the DEDUCTIBLE, that the INSURED is legally obligated to pay as DAMAGES and CLAIM EXPENSES arising from each CLAIM first made against the INSURED during the POLICY PERIOD or the Extended Reporting Period if applicable, provided that:

1. the CLAIM is for an INTERNET MEDIA PERIL that first occurred on or after the RETROACTIVE DATE; and
2. the INSURED gives prompt written notice of the CLAIM, but no later than sixty (60) days after expiration or termination of this Policy, in accordance with the Notice of Claims (VIII.A.) condition of this Policy.

### B. Network Security Liability Coverage ("Coverage B")

The Company will pay on behalf of the INSURED all sums, in excess of the DEDUCTIBLE, that the INSURED is legally obligated to pay as DAMAGES and CLAIM EXPENSES arising from each CLAIM first made against the INSURED during the POLICY PERIOD or the Extended Reporting Period if applicable, provided that:

1. the CLAIM is for a NETWORK SECURITY BREACH that first occurred on or after the RETROACTIVE DATE; and
2. the INSURED gives prompt written notice of the CLAIM, but no later than sixty (60) days after expiration or termination of this Policy, in accordance with the Notice of Claims (VIII.A.) condition of this Policy.

### C. Privacy Violation Liability Coverage ("Coverage C")

The Company will pay on behalf of the INSURED all sums, in excess of the DEDUCTIBLE, that the INSURED is legally obligated to pay as DAMAGES and CLAIM EXPENSES arising from each CLAIM first made against the INSURED during the POLICY PERIOD or the Extended Reporting Period if applicable, provided that:

1. the CLAIM is for a PRIVACY VIOLATION that first occurred on or after the RETROACTIVE DATE; and
2. the INSURED gives prompt written notice of the CLAIM, but no later than sixty (60) days after expiration or termination of this Policy, in accordance with the Notice of Claims (VIII.A.) condition of this Policy.

**D. Computer Network Business Interruption Coverage (“Coverage D”)**

The Company will indemnify the INSURED ORGANIZATION for BUSINESS INTERRUPTION LOSS (including SERVICE PROVIDER BUSINESS INTERRUPTION LOSS, if applicable), in excess of the DEDUCTIBLE, that:

1. is incurred by the INSURED ORGANIZATION during the PERIOD OF RECOVERY (or EXTENDED INTERRUPTION PERIOD, if applicable); and
2. is the direct result of a NETWORK INTERRUPTION that:
  - a. is the direct result of a NETWORK SECURITY BREACH that first occurred during the POLICY PERIOD;
  - b. exceeds the WAITING PERIOD; and
  - c. is reported in accordance with the applicable Notice of Loss (VIII.C.1.) condition of this Policy.

**E. Data Loss Coverage (“Coverage E”)**

The Company will indemnify the INSURED ORGANIZATION for DATA LOSS, in excess of the DEDUCTIBLE, that is the direct result of a NETWORK SECURITY BREACH that first occurred during the POLICY PERIOD and that directly results in:

1. MALICIOUS ENCRYPTION of a DATA ASSET; or
2. the CORRUPTION of a DATA ASSET;

provided that such MALICIOUS ENCRYPTION or CORRUPTION first occurred during the POLICY PERIOD and is reported in accordance with the applicable Notice of Loss (VIII.C.2.) condition of this Policy.

**F. Cyber Extortion Coverage (“Coverage F”)**

The Company will indemnify the INSURED ORGANIZATION for CYBER EXTORTION LOSS, in excess of the DEDUCTIBLE, that is the direct result of a CYBER EXTORTION THREAT that first occurred during the POLICY PERIOD and is reported in accordance with the applicable Notice of Loss (VIII.C.3.) condition of this Policy.

**G. Security Breach Notice Coverage (“Coverage G”)**

The Company will indemnify the INSURED ORGANIZATION for BREACH NOTIFICATION COSTS, in excess of the DEDUCTIBLE, that are the direct result of a NETWORK SECURITY BREACH that:

1. exposed PERSONAL INFORMATION and is required to be reported under a BREACH NOTICE LAW;

2. first occurred during the POLICY PERIOD; and
3. is reported in accordance with the applicable Notice of Loss (VIII.C.4.) condition of this Policy.

**H. Crisis Management Coverage (“Coverage H”)**

The Company will indemnify the INSURED ORGANIZATION for CRISIS MANAGEMENT EXPENSES, in excess of the DEDUCTIBLE, that are the direct result of a NETWORK SECURITY BREACH or PRIVACY VIOLATION that:

1. first occurred during the POLICY PERIOD and is reported in accordance with the applicable Notice of Loss (VIII.C.5.) condition of this policy; and
2. resulted in or is reasonably likely to result in a covered CLAIM or LOSS under Coverages B, C, D, E, F or G (if purchased).

**II. DUTY TO DEFEND**

- A. The Company has the right and the duty to defend any CLAIM against the INSURED seeking DAMAGES to which this insurance applies, even if such CLAIM is groundless, false or fraudulent. CLAIM EXPENSES reduce the applicable Limits of Liability identified in the Declarations as described in Policy Section VI – LIMITS OF LIABILITY AND DEDUCTIBLES. The Company may investigate the CLAIM and, with written consent of the INSURED, shall settle or compromise any CLAIM as it deems expedient. If the INSURED shall refuse to consent to any settlement or compromise recommended by the COMPANY and acceptable to the claimant, and shall elect to contest the CLAIM, then the Company's liability shall not exceed the amount which the Company would have paid for DAMAGES and CLAIM EXPENSES at the time the CLAIM could have been settled or compromised.
- B. The Company shall not be obligated to pay any DAMAGES and/or CLAIM EXPENSES or undertake to continue defense of any CLAIM after the Company's Limits of Liability have been tendered into court or exhausted by payment of DAMAGES and/or CLAIM EXPENSES.
- C. The INSURED shall not, except at the INSURED's own cost voluntarily make any payment, assume any obligation, incur any expenses, admit any liability or settle any CLAIM without the prior written consent of the Company.

**III. DEFINITIONS**

- A. BODILY INJURY means injury to the body, sickness, or disease sustained by a person, including death resulting therefrom, and, if arising out of the foregoing, BODILY INJURY also means mental injury, mental anguish, mental tension, emotional distress, pain and suffering, or shock.
- B. BREACH NOTIFICATION COSTS means following necessary and reasonable expenses paid by the INSURED ORGANIZATION, with the Company's prior written consent, for purposes of complying with a BREACH NOTICE LAW:
  1. attorney fees for an outside attorney (selected from the Company's panel of lawyers) to determine whether any BREACH NOTICE LAW(s) apply and the obligations of any such applicable laws, and assist the INSURED ORGANIZATION to comply with such laws, including but not limited to drafting notice letters; and

2. service provider fees for a third party information security professional to:
  - a. conduct an investigation to identify the PERSONAL INFORMATION that was impacted by the applicable NETWORK SECURITY BREACH, and determine the extent to which such information was exposed to or accessed or used by, a malicious third party;
  - b. send the notices required by any applicable BREACH NOTICE LAW;
  - c. set up and manage a call center to provide information about the NETWORK SECURITY BREACH to individuals that were affected.

BREACH NOTIFICATION COSTS do not include salaries of employees, directors or officers of the INSURED.

- C. BREACH NOTICE LAW means any local, state, federal or foreign law requiring notice to individuals whose PERSONAL INFORMATION was, or is reasonably believed to have been, accessed by, or exposed to, an malicious third party.
- D. BUSINESS INTERRUPTION LOSS means:
  1. INCOME LOSS during the PERIOD OF RECOVERY;
  2. EXTRA EXPENSE during the PERIOD OF RECOVERY; and
  3. EXTENDED INCOME LOSS, but only if INCOME LOSS and EXTRA EXPENSE during the PERIOD OF RECOVERY exceed the DEDUCTIBLE;

provided, however that BUSINESS INTERRUPTION LOSS shall not mean and Coverage D shall not cover any of the following: 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 and remove software program errors or vulnerabilities.

- E. CLAIM means:
  1. any written demand received by the INSURED for DAMAGES, including the service of suit or other process, alleging an INTERNET MEDIA PERIL (for Coverage A), a NETWORK SECURITY BREACH (for Coverage B) or a PRIVACY VIOLATION (for Coverage C); and
  2. with respect to Coverages B and C only, any REGULATORY ACTION.
- F. CLAIM EXPENSES means those sums other than DAMAGES which are incurred for:
  1. reasonable and necessary attorney's fees, expert witness fees and other reasonable and necessary fees and costs incurred by the Company, or by the INSURED with the Company's prior written consent, in the investigation and defense of covered CLAIMS;
  2. premiums for any appeal bond, attachment bond or similar bond, provided the Company shall have no obligation to apply for or furnish such bond; and
  3. prejudgment and post judgment interest awarded in a CLAIM.

CLAIM EXPENSES do NOT include salaries of employees, directors or officers of the INSURED or the Company, or any expenses incurred in assisting or cooperating with the Company. All CLAIM EXPENSES shall be included in the Limits of Liability and DEDUCTIBLE and shall not be considered as sums payable in addition thereto.

- G. CORRUPTION means alteration, corruption, destruction deletion or damage as the direct result of a NETWORK SECURITY BREACH.
- H. CRISIS MANAGEMENT EXPENSES means necessary and reasonable expenses incurred by the INSURED ORGANIZATION, with the Company's prior written consent, for a public relations firm to communicate with the general public in order to mitigate the reputational damage of the INSURED ORGANIZATION directly resulting from a NETWORK SECURITY BREACH or PRIVACY VIOLATION.
- I. CYBER EXTORTION THREAT means a threat to breach SECURITY and:
1. access or use of the INSURED's COMPUTER SYSTEM without authorization;
  2. infect or implant MALICIOUS CODE on the INSURED's COMPUTER SYSTEM;
  3. launch a DENIAL OF SERVICE ATTACK or otherwise prevent access to the INSURED's COMPUTER SYSTEM or a DATA ASSET residing thereon;
  4. maliciously alter, copy, steal, corrupt, destroy, delete or damage a DATA ASSET;
  5. interrupt or suspend the INSURED's COMPUTER SYSTEM; or
  6. render a DATA ASSET inaccessible or unreadable using strong encryption,
- unless monies or other valuable consideration is paid by the INSURED ORGANIZATION.
- J. CYBER EXTORTION LOSS means:
1. monies or other valuable consideration demanded by an extortionist making a CYBER EXTORTION THREAT, and paid by the INSURED ORGANIZATION, with the Company's prior written consent, for the purpose of terminating such extortion threat; and
  2. necessary and reasonable expenses incurred by the INSURED ORGANIZATION, with the Company's prior written consent:
    - a. to investigate and respond to a CYBER EXTORTION THREAT; and
    - b. for a third party security consultant to prevent or terminate a CYBER EXTORTION THREAT;

provided, however, that CYBER EXTORTION LOSS shall not exceed the LOSS covered under this policy that the INSURED ORGANIZATION reasonably would have incurred if it failed to terminate the EXTORTION THREAT, and the Company in its absolute and sole discretion shall determine the monetary value of any valuable consideration paid to an extortionist.

- K. DAMAGES means monetary judgment or award the INSURED is legally obligated to pay, or a settlement negotiated with the consent of the INSURED and the Company, including punitive or exemplary damages (where insurable by law, and the enforceability of such

coverage shall be governed by such applicable law that most favors coverage for punitive or exemplary damages), but shall not include any of the following:

1. civil or criminal fines or penalties, or trebled or other multiplied damages;
2. the return or restitution of fees, expenses or costs paid to the INSURED;
3. the cost to comply with any injunctive or other non-monetary or declaratory relief or any agreement to provide such relief; or
4. any other damages deemed uninsurable by law.

L. DATA ASSET means any electronic data existing in the INSURED's COMPUTER SYSTEM that is subject to regular back up procedures, including but not limited to any databases, software or trade secrets stored thereon.

M. DATA LOSS means:

1. with respect to the CORRUPTION of any DATA ASSET, RESTORATION COSTS; and
2. with respect to any DATA ASSET that is rendered inaccessible or unreadable as a result of MALICIOUS ENCRYPTION, the lesser of RESTORATION COSTS or the actual, necessary and reasonable costs and expense to regain access to such DATA ASSET or render it readable;

provided, however, that if such DATA ASSET cannot reasonably be accessed, restored, rendered readable, gathered, assembled or recollected, then DATA LOSS means the actual, reasonable and necessary costs and expenses incurred by the INSURED ORGANIZATION to reach this determination.

DATA LOSS shall not mean, and there shall be no coverage under Coverage E for:

1. costs or expenses incurred by the INSURED ORGANIZATION to identify or remediate software program errors or vulnerabilities or update, replace, restore, gather, assemble, reproduce, recollect or enhance a DATA ASSET to a level beyond that which existed prior to its CORRUPTION or MALICIOUS ENCRYPTION.
2. costs or expenses to research or develop any DATA ASSET, including but not limited to trade secrets or other proprietary information;
3. the monetary value of, or 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;
4. loss arising out of any liability to third-parties for whatever reason;
5. salaries of employees, directors or officers of the INSURED; or
6. legal costs or legal expenses of any type.

N. DEDUCTIBLE means the applicable deductible(s) set forth in column (B) of Item 6. of the Declarations.

- O. DENIAL OF SERVICE ATTACK means a malicious attack intended by the perpetrator to overwhelm the capacity of the INSURED's COMPUTER SYSTEM by sending an excessive volume of electronic data to such computer system in order to prevent authorized access to such computer system.
- P. EXTENDED INTERRUPTION PERIOD means that period of time that begins on the date and time the PERIOD OF RECOVERY ends, and terminates on the date and time the INSURED ORGANIZATION restores, or would have restored if the INSURED ORGANIZATION had exercised due diligence and dispatch, the net profit before income taxes that would have been earned by the INSURED ORGANIZATION directly through its business operations had the NETWORK INTERRUPTION not occurred; provided, however, that in no event shall the EXTENDED INTERRUPTION PERIOD mean more than, or exceed, thirty (30) days.
- Q. EXTENDED INCOME LOSS means INCOME LOSS during the EXTENDED INTERRUPTION PERIOD.
- R. EXTRA EXPENSE means the reasonable and necessary expenses incurred during the PERIOD OF RECOVERY by the INSURED ORGANIZATION:
1. to reduce INCOME LOSS provided that such expenses:
    - a. are over and above the total reasonable and necessary expenses that the INSURED ORGANIZATION would have incurred had no NETWORK INTERRUPTION occurred;
    - b. do not exceed the amount by which the INCOME LOSS covered under this policy is thereby reduced; and
    - c. do not include FORENSIC EXPENSES;
  2. to minimize or shorten the duration of a NETWORK INTERRUPTION and continue the INSURED ORGANIZATION's business, which would not have been incurred had no NETWORK INTERRUPTION occurred; provided, however, that such expenses shall not include FORENSIC EXPENSES; and
  3. as FORENSIC EXPENSES, which would not have been incurred had no NETWORK INTERRUPTION occurred;
- provided that EXTRA EXPENSE shall not mean, and there shall be no coverage under Coverage D for: expenses incurred by the INSURED to update, upgrade, enhance or replace the INSURED's COMPUTER SYSTEM to a level beyond that which existed prior to NETWORK INTERRUPTION; or LOSS covered under Coverage E.
- S. FORENSIC EXPENSES means the reasonable and necessary expenses incurred by the INSURED ORGANIZATION to investigate the cause of a NETWORK SECURITY BREACH.
- T. INCOME LOSS means the:
1. net profit (or net loss) before income taxes that the INSURED ORGANIZATION is prevented from earning as the direct result of a NETWORK INTERRUPTION; and
  2. normal operating expenses incurred by the INSURED ORGANIZATION (including payroll), but only to the extent that such expenses:

- a. must continue during the PERIOD OF RECOVERY (or EXTENDED INTERRUPTION PERIOD, if applicable); and
- b. would have been incurred by the INSURED ORGANIZATION had such NETWORK INTERRUPTION not occurred.

INCOME LOSS will be calculated on an hourly basis based on the INSURED ORGANIZATION's net profit (or loss) and operating expenses as set forth above. INCOME LOSS shall be reduced to the extent the INSURED or SERVICE PROVIDER (if applicable) is able, with reasonable dispatch and due diligence, to reduce or limit such NETWORK INTERRUPTION or conduct its business operations by other means. In determining INCOME LOSS, due consideration shall be given to the prior experience of the INSURED ORGANIZATION's business operations before the beginning of the PERIOD OF RECOVERY and to the probable business operations the INSURED ORGANIZATION could have performed had no NETWORK INTERRUPTION occurred.

U. INSURED means the following:

1. the NAMED INSURED(s) designated in Item 1 of the Declarations;
2. any current or former partner, executive, officer or director of the INSURED ORGANIZATION, but solely with respect to the performance of his or her duties as such on behalf of the INSURED ORGANIZATION that are within the scope of his or her position;
3. any current or former employee(s) or independent contractor(s) of the INSURED ORGANIZATION, but solely with respect to the performance of his or her duties on behalf of the INSURED ORGANIZATION that are within the scope of his or her employment or contract; and
4. the heirs, executors, administrators, assigns and legal representatives of each of the above INSURED(s) in the event of death, incapacity or bankruptcy.

V. INSURED's COMPUTER SYSTEM means any computer hardware, software or firmware, and components thereof including data stored thereon, that is owned or leased by the INSURED ORGANIZATION, and is under the direct operational control of the INSURED ORGANIZATION or a SERVICE PROVIDER for or on behalf of the INSURED ORGANIZATION.

W. INSURED's INTERNET SITE means:

1. any Internet website accessible by the general public that is hosted and controlled by the INSURED; and
2. any Internet website accessible by the general public that is controlled by the INSURED and hosted by a service provider that has contractually agreed in writing to:
  - a. fully indemnify the INSURED for any claim or liability arising out of the service provider's acts, errors or omissions; or
  - b. to purchase an insurance policy naming the INSUREDS as additional insureds with respect to any claim arising out the service provider's acts, errors or omissions;



provided, however, that INSURED's INTERNET SITE shall not include or mean any: (a) weblog, bulletin board, message board or online forum; (b) intranet or internal network of the INSURED or any other person or entity; or (c) any website hosted or controlled by the INSURED for or on behalf of its clients, customers or others.

- X. INSURED ORGANIZATION means the NAMED INSURED, and any SUBSIDIARY, but only if the Policy has been amended to provide coverage for SUBSIDIARIES.
- Y. INSURED's PRIVACY POLICY means written documents provided to individuals that set forth the INSURED ORGANIZATION's policies, standards and procedures for the disclosure, sharing, sale, correction or access to PERSONAL INFORMATION.
- Z. INTERNET MEDIA PERIL means the display of ONLINE CONTENT on the INSURED's INTERNET SITE that results in any of the following:
  - 1. defamation, libel, slander, product disparagement or trade libel, including emotional distress, outrage or outrageous conduct directly resulting from the foregoing;
  - 2. invasion of an individual's right of privacy or publicity, including false light, intrusion upon seclusion, commercial misappropriation of likeness and public disclosure of private facts;
  - 3. plagiarism or misappropriation of ideas under an implied contract;
  - 4. infringement of copyright, trademark, trade name, trade dress, title, slogan, service mark or service name; or
  - 5. domain name infringement or improper deep-linking or framing.
- AA. LOSS means DAMAGES, CLAIM EXPENSES, DATA LOSS, BUSINESS INTERRUPTION LOSS, SERVICE PROVIDER BUSINESS INTERRUPTION LOSS, CYBER EXTORTION LOSS, BREACH NOTIFICATION COSTS and CRISIS MANAGEMENT EXPENSES.
- BB. MALICIOUS CODE means any virus, Trojan, worm or other similar malicious software program, code or script intentionally designed to infect, and harm a computer system, harm data on a computer system, or steal data from a computer system.
- CC. MALICIOUS ENCRYPTION means the strong encryption of a DATA ASSET by a malicious person that renders such DATA ASSET inaccessible or unreadable to the INSURED ORGANIZATION.
- DD. NAMED INSURED means the named insureds (s) designated in Item 1 of the Declarations.
- EE. NETWORK INTERRUPTION means the actual and measurable interruption or suspension of INSURED's COMPUTER SYSTEM.
- FF. NETWORK SECURITY BREACH means:
  - 1. the actual failure and inability of SECURITY to prevent:
    - a. unauthorized access to or unauthorized use of the INSURED's COMPUTER SYSTEM;
    - b. the transmission of MALICIOUS CODE from the INSURED's COMPUTER SYSTEM;

- c. the theft or unauthorized copying of data on the INSURED's COMPUTER SYSTEM;
  - d. the infection or implantation of MALICIOUS CODE on the INSURED's COMPUTER SYSTEM;
  - e. DENIAL OF SERVICE ATTACK; or
  - f. the intentional and malicious alteration, corruption, destruction, deletion or damage to electronic data on the INSURED's COMPUTER SYSTEM; or
- 2. the actual failure and inability of physical SECURITY to prevent the theft of data as a result of the physical theft by a person other than an INSURED of the INSURED's computer hardware or storage media from a premises occupied and controlled by the INSURED ORGANIZATION; or
  - 3. the theft of data as a result of the physical theft by a person of a laptop computer provided by the INSURED ORGANIZATION to an employee or independent contractor of the INSURED ORGANIZATION.
- GG. ONLINE CONTENT means any information in electronic form that is created, owned or licensed by the INSURED ORGANIZATION for its own business use; provided, however, that ONLINE CONTENT does not include or mean any:
- 1. computer software or code; or
  - 2. information, advertisement or content created by the INSURED for or on behalf of a client, customer or other person or entity, or licensed or provided by the INSURED to a client, customer or other person or entity; or
  - 3. information, advertisement or content (including any copies thereof) that is displayed or published in any medium (including without limitation, newspaper, magazine, television, radio or a third party Internet site) other than the INSURED's INTERNET SITE
- HH. PAYMENT CARD COMPANY RULES means any payment card company programs, rules, by-laws, policies, procedures, regulations or requirements, including but not limited to VISA's CISP, Mastercard's SDP, Discover Card's DISC and AMEX's DSOP, as amended.
- II. PCI STANDARD means the Payment Card Industry Data Security Standard, as amended, and any frequently asked questions, assessments, guidance documents, glossaries and any other supporting or interpretative documents related to such standard, as amended.
- JJ. PERIOD OF RECOVERY means time period that begins on the date and time that a NETWORK INTERRUPTION first occurs, and ends on the date and time that the NETWORK INTERRUPTION ends, or would have ended if the INSURED ORGANIZATION had exercised due diligence and dispatch; provided, however, in no event shall the PERIOD OF RECOVERY mean more than, or exceed, thirty (30) days.
- KK. PERSONAL INFORMATION means any:
- 1. individual's name in combination with any one or more of the following:
    - a. social security number;

- b. drivers license number or any other state identification number;
  - c. medical or healthcare data including protected health information; or
  - d. any account number, credit or debit card number in combination with any required password, access code or other security code that would permit access to the financial account; or
2. non-public personal information as defined in any PRIVACY REGULATION.
- LL. PERSONAL INJURY means any actual or alleged:
- 1. false arrest, humiliation, detention or imprisonment;
  - 2. wrongful entry or eviction or other invasion of private occupancy;
  - 3. malicious prosecution;
  - 4. libel, slander or other defamatory or disparaging material; or
  - 5. a publication or an utterance in violation of an individual's right of privacy.
- MM. POLICY PERIOD means the period from 12:01 A.M. (standard time at the address show in Item 2. of the Declarations) on the inception date of this policy to 12:01 A.M. on the policy expiration date as set forth in Item 3. of the Declarations, or its earlier termination, cancellation or non-renewal date, if any.
- NN. POLLUTANTS means any solid, liquid, gaseous, or thermal irritant or contaminant including smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- OO. PRIVACY REGULATION means those parts of the following statues or regulations regulating the use and protection of non-public personal information (as defined in such statutes or regulation):
- 1. Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the rules and regulations promulgated thereunder, as amended;
  - 2. Gramm-Leach Bliley Act of 1999 (GLBA) and the rules and regulations promulgated thereunder, as amended;
  - 3. consumer protection and unfair and deceptive trade practice laws enforced by state Attorneys General or the Federal Trade Commission, including but not limited to Section 5(a) of the Federal Trade Commission Act, 15. U.S.C § 45 (a), as amended;
  - 4. security breach notification laws that require notice to individuals of the actual or potential theft of their non-public personal information, including but not limited to the California Security Breach Notification Act of 2003 (CA SB1386); or
  - 5. other state, federal or foreign privacy laws requiring reasonable SECURITY for non-public personal information, or a privacy policy limiting the sale, disclosure or sharing of non-public personal information or providing individuals with the right to access or correct non-public personal information.

PP. PRIVACY VIOLATION means any:

1. theft or misappropriation of PRIVATE INFORMATION while in the care, custody or control of an INSURED;
2. unintentional violation of that part of the INSURED's PRIVACY POLICY that:
  - a. prohibits or limits the INSURED ORGANIZATION's sale, disclosure or sharing of PERSONAL INFORMATION;
  - b. provides a person with a choice as to the scope and limits of INSURED ORGANIZATION's disclosure or use of their PERSONAL INFORMATION, including, but not limited to, opt-in and opt-out choices; and
  - c. provides a person with the ability to access their PERSONAL INFORMATION or correct their PERSONAL INFORMATION if it is incomplete or inaccurate;

provided, that the foregoing acts or omissions described in 2.a., 2.b. and 2.c. above shall not be considered a PRIVACY VIOLATION unless the INSURED ORGANIZATION had an INSURED's PRIVACY POLICY in force at the time of such acts or omissions that specifically addressed the areas as described in 2.a., 2.b. and 2.c. above; or

3. violation of a PRIVACY REGULATION for the acts or omissions described in III.PP.1. and III.PP.2.

QQ. PRIVATE INFORMATION means any of the following information in the care, custody and control of any INSURED:

1. PERSONAL INFORMATION; or
2. confidential or proprietary business information owned by any person or entity other than an INSURED and identified as confidential or proprietary, which is protected under a written non-disclosure or similar written agreement between such person or entity and the INSURED ORGANIZATION.

RR. PROPERTY DAMAGE means:

1. physical injury to, loss or destruction of tangible property, including loss of use thereof; or
2. loss of use of tangible property which has not been physically injured or destroyed.

SS. REGULATORY ACTION means a civil investigative demand or civil request for information, or a civil administrative or regulatory proceeding commenced by service of a complaint or pleading, brought or made by a governmental agency or authority that alleges violation of a PRIVACY REGULATION, and which may reasonably be expected to give rise to a lawsuit covered under Coverage B or C. REGULATORY ACTION shall not mean or include any criminal demands, requests or proceedings.

TT. RESTORATION COSTS means the actual, reasonable and necessary costs and expenses incurred by the INSURED ORGANIZATION to restore a DATA ASSET from back-ups or from originals, or to gather, assemble and recollect such DATA ASSET from other sources, to the level or condition in which it existed immediately prior to its CORRUPTION or MALICIOUS ENCRYPTION (as applicable).

- UU. RETROACTIVE DATE means the applicable retroactive date set forth in Item 4. of the Declarations.
- VV. SECURITY means:
1. with respect to all Coverages except Coverages D and E, the technical and physical controls, and policies and procedures, intended to prevent unauthorized access or unauthorized use of the INSURED's COMPUTER SYSTEM, or data stored thereon, by malicious persons; and
  2. with respect to Coverages D and E only, the computer or network hardware or software intended to prevent unauthorized access or unauthorized use of the INSURED's COMPUTER SYSTEM, or data stored thereon, by a malicious person.
- WW. SERVICE PROVIDER means any company hosting computer hardware, software or firmware for or on behalf of the INSURED ORGANIZATION pursuant to a written contract with the INSURED ORGANIZATION that requires such service provider to either:
1. Indemnify the INSUREDs for any NETWORK SECURITY BREACH of such computer hardware, software or firmware; or
  2. Purchase an insurance policy covering liability and defense costs arising out of an act error or omission or NETWORK SECURITY BREACH.
- XX. SERVICE PROVIDER BUSINESS INTERRUPTION LOSS means covered BUSINESS INTERRUPTION LOSS as defined in III.D.1. that was the direct result of a NETWORK INTERRUPTION caused by a NETWORK SECURITY BREACH with respect to the SECURITY of a SERVICE PROVIDER, and such NETWORK INTERRUPTION, NETWORK SECURITY BREACH and BUSINESS INTERRUPTION LOSS would have been covered under this policy had the SERVICE PROVIDER been an INSURED.
- YY. WAITING PERIOD means the period of time that begins when the PERIOD OF RECOVERY begins and ends when the number of hours identified as "Waiting Period" as set forth in Item 6.D.(A) of the Declarations elapses. A WAITING PERIOD shall apply to each PERIOD OF RECOVERY.

#### **IV. POLICY TERRITORY**

The insurance afforded by this policy applies worldwide. Where suits are brought or CLAIMS are made outside of the United States of America and its territories and possessions, Puerto Rico, or Canada, the following additional provisions apply:

- A. The Company shall have the right but not the duty to investigate, defend or settle any such CLAIMS brought against an INSURED;
- B. If the Company elects not to investigate, defend or settle any such CLAIM, the INSURED shall, under the Company's supervision, arrange for such investigation and defense thereof as is reasonably necessary and subject to the Company's prior authorization, shall effect such settlement thereof as the Company and the INSURED deem expedient;
- C. The Company will reimburse the INSURED for the reasonable cost of such investigation and defense and the amount of any settlement or judgment in excess of the DEDUCTIBLE amount stated in the Declarations, all subject to and within the Limits of Liability stated in the Declarations; and

- D. Such reimbursement shall be made in United States currency at the rate of exchange prevailing on the date the judgment is rendered or the date that the amount of the settlement is agreed upon or the date expenditure is made.

## V. EXCLUSIONS

This Policy does not apply to any CLAIM or LOSS alleging, based upon, arising out of, or resulting from, directly or indirectly:

- A. any dispute or obligation to pay licensing fees, royalties or contingent compensation;
- B. discrimination on any basis, including without limitation race, creed, color, religion, ethnic background, national origin, age, handicap, disability, gender, sexual orientation or pregnancy;
- C. any PERSONAL INJURY; provided, however, this exclusion shall not apply with respect to any otherwise covered CLAIM under:
  - 1. Coverage A, for an INTERNET MEDIA PERIL as defined in III.Z.1 or III.Z.2; or
  - 2. Coverage B, for a PRIVACY VIOLATION;
- D. BODILY INJURY or PROPERTY DAMAGE;
- E. any NETWORK SECURITY BREACH, CYBER EXTORTION THREAT, INTERNET MEDIA PERIL or PRIVACY VIOLATION committed or experienced by:
  - 1. any organization or business enterprise not identified in the Declarations which either owns or has an ownership interest in any INSURED;
  - 2. any organization or business enterprise not identified in the Declarations in which any INSURED has a financial interest in, or in which any INSURED is an officer, director, partner, trustee or employee;
  - 3. any INSURED for any organization or business enterprise not identified in the Declarations which controls, operates or manages any INSURED; or
  - 4. any INSURED for any organization or business enterprise not identified in the Declarations which any INSURED controls, operates or manages;
- F. any liability of others assumed by the INSURED under any contract or agreement, unless such liability:
  - 1. would have attached to the INSURED by law even in the absence of such agreement; or
  - 2. with respect to Coverage C only, arises out of any otherwise covered CLAIM for a PRIVACY VIOLATION arising out of the breach of a written non-disclosure agreement with respect to PRIVATE INFORMATION as defined in III.QQ.2;
- G. any uploading, downloading, piracy or file-sharing of digitized music, photos, movies, software or video games;
- H. any act, error or omission, or breach of duty, by any of the INSURED ORGANIZATION's partners, officers or directors, but only where such CLAIM is brought by the INSURED

ORGANIZATION or any shareholder, partner, member, officer or director of the INSURED ORGANIZATION in his or her capacity as such, including but not limited to, derivative suits;

- I. any actual or alleged:
  - 1. price fixing, restraint of trade, monopolization, including violations of the Sherman Anti-Trust Act, the Clayton Act, or any similar provision of any federal, state, or local statutory law or common law anywhere in the world;
  - 2. unfair trade practices or violation of consumer protection laws; provided, however that this exclusion does not apply to any otherwise covered CLAIM under Coverage B or C; or
  - 3. violation of the Employee Retirement Income Security Act of 1974, as amended; the Securities Act of 1933, as amended; the Securities Exchange Act of 1934 as amended; or any state Blue Sky or securities law or similar state, foreign or federal statute, including any regulation or order issued pursuant to any of the foregoing statutes;
- J. any actual or alleged infringement, misappropriation or violation of any patent, copyright, trademark, service mark, trade dress or trade name; provided, however, that this exclusion shall not apply to any otherwise covered CLAIM under Coverage A for a copyright or trademark infringement;
- K. any actual or alleged copyright infringement arising out of or related to software, software product or computer code; however, this exclusion shall not apply to CLAIM EXPENSES or the Company's duty to defend any such CLAIM until there is a judgment against, binding arbitration against, adverse admission by, finding of fact against either by a court of law, binding arbitration or regulatory authority, or plea of no contest by the INSURED, at which time the INSURED shall reimburse the Company for any CLAIM EXPENSES paid by the Company. Only facts pertaining to any knowledge possessed by any principal, partner, officer or director of an INSURED shall be imputed to other INSUREDS
- L. any actual or alleged copying, infringement, misappropriation, display or publication of any trade secret; provided, however, this exclusion shall not apply to any otherwise covered CLAIM under Coverage B or C arising out of the misappropriation of a trade secret by any individual who is not an INSURED or a former employee, shareholder, member, independent contractor, director, officer, partner or trustee of an INSURED);
- M. any costs or expenses for the reprinting, reposting, recall, removal or disposal of any ONLINE CONTENT or any other information, content or media, including any media or products containing such ONLINE CONTENT, information, content or media;
- N. any warranty, guarantee, service level agreement or promise unless liability would have attached to the INSURED even in the absence of such contract, warranty, guarantee, service level agreement or promise;
- O. any act, error, omission, NETWORK SECURITY BREACH, PRIVACY VIOLATION, CYBER EXTORTION THREAT or INTERNET MEDIA PERIL actually or allegedly committed or occurring prior to the beginning of the POLICY PERIOD, if, on or before the earlier of the effective date of this Policy or the effective date of any Policy issued by the Company to which this Policy is a continuous renewal or replacement, the INSURED knew or reasonably could have foreseen that such act, error, omission, NETWORK SECURITY BREACH, PRIVACY VIOLATION, CYBER EXTORTION THREAT or INTERNET MEDIA PERIL did or could lead to a CLAIM or LOSS;

- P. any seizure, confiscation, destruction or nationalization of INSURED's COMPUTER SYSTEM or any DATA ASSET by or on behalf of any governmental or public authority;
- Q. any inaccurate, inadequate or incomplete description of the price of good, products or services, the authenticity of any goods, products or services, or the failure of any goods or services to conform with any represented quality or performance;
- R. any wear and tear or gradual deterioration of any DATA ASSET or INSURED's COMPUTER SYSTEM;
- S. any interruption, suspension, failure or outage of any component of the Internet, including without limitation any hardware or software infrastructure supporting the Internet;
- T. any injury or damage which would have not occurred in whole or in part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants, including but not limited to asbestos, at any time;
  - 1. any request, demand, or order 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. any action brought by or on behalf of a governmental authority 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.
- U. any:
  - 1. fire, smoke, explosion, lightning, wind, water ,flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God or other physical event, however caused;
  - 2. strikes or similar action, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against these actions; or
  - 3. electrical, mechanical or telecommunications failures including any electrical power interruption, surge, brownout or blackout; provided that this exclusion shall not apply to any otherwise covered CLAIM under Coverage B arising out of a NETWORK SECURITY BREACH that was solely the result of telecommunications infrastructure under the INSURED ORGANIZATION's control;
- V. with respect to any independent contractor, joint venture, venture partner, any employee of the forgoing, or any employee of an INSURED, any:
  - 1 ownership or exercise of rights in ONLINE CONTENT, content or services; or
  - 2. services supplied by such independent contractor, joint venture, venture partner or employee;
- W. or attributable to any costs or expenses incurred by any INSURED or others:
  - 1. to recall, repair, withdrawal, replace, upgrade, supplement or remove the INSURED's ONLINE CONTENT, products or services from the marketplace, including but not



limited to products or services which incorporate the INSURED's ONLINE CONTENT, products or services;

2. for any loss of use by any INSURED or others that arises out of such recall, repair,
- X. any fine or penalty arising out of any agreement by any INSURED to comply with or follow the PCI STANDARD or any PAYMENT CARD COMPANY RULES, or implement, maintain or comply with any security measure(s) or standards related to any payment card data; or
- AA. any CLAIM against, or LOSS suffered by, any subsidiary, assets or other entity acquired by INSURED, whether by merger, consolidation, or otherwise, or against any employee, director, officer or other person of such subsidiary, assets or other entity in his or her capacity as such, for any NETWORK SECURITY BREACH, INTERNET MEDIA PERIL, CYBER EXTORTION THREAT or PRIVACY VIOLATION committed or occurring during any time in which such entity is not a subsidiary, or at any time before the INSURED's acquisition of such asset or entity.

With respect to Coverages A, B and C only, this Policy does not apply to any CLAIM:

- BB. alleging, based upon, arising out of, or resulting from, directly or indirectly, any prior or pending litigation, CLAIM, demand, arbitration, administrative, or regulatory action, proceeding or investigation against any INSURED, of which any INSURED had notice on or before the earlier of the inception date of this Policy or any other policy of which this Policy is a renewal, replacement or succeeds in time, or alleging from the same or substantially the same fact, circumstance or situation underlying or alleged in such prior or pending litigation, CLAIM, demand, arbitration, administrative, or regulatory action, proceeding or investigation;
- CC. alleging, based upon, arising out of, or resulting from, directly or indirectly, any unsolicited electronic faxes, emails, telephone calls or unsolicited communications, including but not limited to CLAIMS arising out of unsolicited electronic messages, chat room postings, bulletin board postings, newsgroup postings, "pop-up" or "pop-under" Internet advertising or fax-blasting, direct mailing or telemarketing, or CLAIMS alleging violations of the Telephone Consumer Protection Act, of 1991, as amended, the CAN-SPAM Act of 2003, as amended, and any other federal, foreign or state anti-spam statutes, or federal, foreign or state statute, law or regulation relating to a person's right to seclusion;
- DD. alleging, based upon, arising out of, or resulting from, directly or indirectly, any unauthorized or illegal collection of PERSONAL INFORMATION, including but not limited to the collection of PERSONAL INFORMATION using cookies, spyware, or other malicious code, or the failure to provide adequate notice that PERSONAL INFORMATION is being collected; however, this exclusion shall not apply if the collection of PERSONAL INFORMATION is committed by a ROGUE EMPLOYEE and not at the direction of the INSURED;
- EE. alleging, based upon, arising out of, or resulting from, directly or indirectly, any actual or alleged wrongful employment practice, including, but not limited to, any harassment, hostile work environment, wrongful dismissal, discharge or termination, retaliation, wrongful disciplinary action, deprivation of career opportunity, failure to employ or promote, inadequate work place, policies or procedures, or negligent evaluation of employees;
- FF. alleging, based upon, arising out of, or resulting from, directly or indirectly, to section 605 (requirements relating to information contained in consumer reports) or 616 (civil liability for willful noncompliance) of the Fair Credit Reporting Act, or any other similar federal, state or local laws or regulations, including but not limited to any laws or regulations requiring truncation of payment card numbers on, or the removal of the expiration date from, payment card receipts; or

GG. brought by any INSURED against any other INSURED; provided, however, with respect to Coverage C only, this exclusion shall not apply any otherwise covered CLAIM brought by or on behalf of an independent contractor or an employee of the INSURED ORGANIZATION alleging a PRIVACY VIOLATION involving their PERSONAL INFORMATION, provided that such employee or independent contractor is not involved in any manner with the unauthorized access to, theft of or copying of such PERSONAL INFORMATION.

With respect to Coverage A only, this Policy does not apply to any CLAIM against any INSURED:

HH. alleging, based upon, arising out of or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, any intentional or knowing violation of the law by an INSURED or any gaining of any profit or advantage to which the INSURED is not legally entitled. However this exclusion shall not apply to CLAIM EXPENSES or the Company's duty to defend any such CLAIM until there is a judgment against, binding arbitration against, adverse admission by, finding of fact against either by a court of law, binding arbitration or regulatory authority, or plea of no contest by the INSURED, at which time the INSURED shall reimburse the Company for any CLAIM EXPENSES paid by the Company. Only facts pertaining to any knowledge possessed by any principal, partner, officer or director of an INSURED shall be imputed to other INSUREDS;

II. brought by or on behalf of any intellectual property licensing or royalty bodies, organizations or trade groups, including but not limited to Broadcast Music, Inc., the American Society of Composers, Authors and Publishers, the Society of European Stage Authors and Composers, the Recording Industry Association of America and the Motion Picture Association of America;

JJ. brought by or on behalf of any state, federal, local or foreign governmental entity or regulator, including but not limited to, the Federal Trade Commission and the Federal Communications Commission; or

KK. alleging, based upon, arising out of or attributable to any PRIVACY VIOLATION or NETWORK SECURITY BREACH.

With respect to Coverages B and C only, this Policy does not apply to any CLAIM against:

LL. the INSURED ORGANIZATION alleging, based upon, arising out of or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, any intentional or knowing violation of the law by an INSURED, any gaining of any profit or advantage to which the INSURED ORGANIZATION is not legally entitled, or any breach of SECURITY, theft or intentional PRIVACY VIOLATION by the INSURED ORGANIZATION. However this exclusion shall not apply to CLAIM EXPENSES or the Company's duty to defend any such CLAIM until there is a judgment against, binding arbitration against, adverse admission by, finding of fact against either by a court of law, binding arbitration or regulatory authority, or plea of no contest by the INSURED, at which time the INSURED shall reimburse the Company for any CLAIM EXPENSES paid by the Company. Only facts pertaining to any knowledge possessed by any principal, partner, officer or director of an INSURED shall be imputed to other INSUREDS; or

MM. any individual INSURED alleging, based upon, arising out of or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, any intentional or knowing violation of the law, any gaining of any profit or advantage to which an INSURED is not legally entitled, or any breach of SECURITY, theft or intentional PRIVACY VIOLATION by such individual INSURED.

## **VI. LIMITS OF LIABILITY AND DEDUCTIBLES**

**A. Aggregate Limit of Liability Each Policy Period**

The liability of the Company for all covered LOSS combined under this Policy shall not exceed the aggregate amount stated in Item 5. of Declarations as "Aggregate Limit of Liability -- Each "POLICY PERIOD." All DAMAGES, CLAIM EXPENSES, DATA LOSS, BUSINESS INTERRUPTION LOSS, SERVICE PROVIDER BUSINESS INTERRUPTION LOSS, CYBER EXTORTION LOSS, BREACH NOTIFICATION COSTS and CRISIS MANAGEMENT EXPENSES are part of and subject to the amount stated in Item 5. of Declarations as "Aggregate Limit of Liability -- Each "POLICY PERIOD" and any applicable sublimit(s).

**B. Sublimits of Liability**

1. With respect to Coverages A, B and C, the liability of the Company for all covered DAMAGES and CLAIMS EXPENSES combined in the aggregate for each Coverage for the POLICY PERIOD shall not exceed the applicable amount stated in column (A) of Item 6. of the Declarations. All CLAIM EXPENSES shall first be subtracted from the limit of liability, with the remainder being the amount available to pay DAMAGES.
2. The liability of the Company for all covered DAMAGES and CLAIM EXPENSES arising out of all covered REGULATORY ACTIONS combined in the aggregate under this Policy for the POLICY PERIOD shall not exceed the applicable amount stated in column (A) row 1. of Item 6. of the Declarations.. The sublimit for REGULATORY ACTIONS is part of, subject to and does not increase the sublimit for Coverages B and C or the Aggregate Limit of Liability stated in Item 5. of Declarations.
3. With respect to Coverage D, the limit of liability of the Company for covered:
  - a. BUSINESS INTERRUPTION LOSS in the aggregate under this Policy for the POLICY PERIOD shall not exceed the amount set forth for Coverage D in column (A) of Item 6. marked as "BI Sublimit";
  - b. BUSINESS INTERRUPTION LOSS per hour shall not exceed the amount set forth for Coverage D in column (A) of Item 6. marked as "Hourly Sublimit";
  - c. SERVICE PROVIDER BUSINESS INTERRUPTION LOSS in the aggregate under this Policy for the POLICY PERIOD shall not exceed the amount set forth for Coverage D in column (A) of Item 6. marked as "Service Provider BI Loss Sublimit"; and
  - d. FORENSIC EXPENSES per NETWORK INTERRUPTION shall not exceed the amount set forth for Coverage D in column (A) of Item 6. marked as "FORENSIC EXPENSE Sublimit:"

The sublimits described in VI.B.3.b., VI.B.3.c. and VI.B.3.d. are part of, subject to and do not increase the sublimit for BUSINESS INTERRUPTION LOSS described in VI.B.3.a or the Aggregate Limit of Liability stated in Item 5. of Declarations.

4. With respect to Coverages E, F, G and H the limit of liability of the Company for all covered LOSS in the aggregate under this Policy for the POLICY PERIOD shall not exceed the applicable amount set forth in column (A) of Item 6.
5. All sublimits are part of, subject to, and do not increase the Aggregate Limit of Liability stated in Item 5. of Declarations. Any limit of liability with respect to any Extended Reporting Period if applicable, are part of, subject to, and do not increase the

Aggregate Limit of Liability stated in Item 5. of Declarations or any applicable sublimit of liability of stated in column (A) of Item 6.

**C. Deductibles**

1. With respect to Coverages A, B and C, as a condition precedent to the Company's liability under this Policy, the applicable DEDUCTIBLE amount as stated in column (B) of Item 6. of the Declarations shall be paid by the INSURED and shall be applicable to each CLAIM and shall include all DAMAGES and CLAIM EXPENSES up to the DEDUCTIBLE amount for each CLAIM. Subject to VI.C.4. below, the INSURED's total DEDUCTIBLE payments, in respect to each CLAIM shall not exceed the DEDUCTIBLE amount stated in Item 6. of the Declarations.
2. The Company may from time to time advance payment for DAMAGES and CLAIM EXPENSES within the DEDUCTIBLE. Any amounts first paid by the Company within the DEDUCTIBLE shall, upon written demand by the Company, be paid by the INSURED to the Company within thirty (30) days.
3. With respect to Coverages D, E, F, G and H, as a condition precedent to the Company's liability under this Policy for each Coverage, the INSURED shall pay the applicable DEDUCTIBLE amount as stated in column (B) of Item 6. The DEDUCTIBLE for Coverage D applies separately to each PERIOD OF RECOVERY. The DEDUCTIBLE for Coverages E, G and H applies separately to each NETWORK SECURITY BREACH. The DEDUCTIBLE for Coverage F applies separately to each CYBER EXTORTION THREAT.
4. With respect to Coverages A, B and C, in the event more than one Coverage applies, the single highest DEDUCTIBLE shall apply between such Coverages. With respect to Coverages D, E, F, G and H, in the event more than one Coverage applies, the single highest DEDUCTIBLE shall apply between such Coverages.

**D. Multiple Insureds, Claims, Occurrences and Claimants**

The limits of liability shown in the Declarations and described herein are the most the Company will pay, regardless of the number of INSUREDS, CLAIMS, individuals or entities making CLAIMS, NETWORK SECURITY BREACHES, CORRUPTIONS, MALICIOUS ENCRYPTIONS, INTERNET MEDIA PERILS, NETWORK INTERRUPTIONS, CYBER EXTORTION THREATS or PRIVACY VIOLATIONS.

**E. Mediation**

If the Company and the INSURED agree to use mediation to resolve a CLAIM brought against the INSURED and if such CLAIM is resolved thereby, the applicable DEDUCTIBLE shall be reduced by 50% for such CLAIM subject to a maximum reduction of \$25,000.

## **VII. EXTENDED REPORTING PERIOD**

### **A. Automatic Extended Claims Reporting Period**

If the Company or the INSURED terminate or non-renew this insurance for any reason, other than nonpayment of premium, the INSURED's failure to comply with any term and condition, or fraud or material misrepresentation, the INSURED shall be entitled to a period of sixty (60) days from the date of Policy termination to report CLAIMS which are made against the INSURED prior to such termination date and that arise out of any NETWORK SECURITY BREACH, PRIVACY VIOLATION or INTERNET MEDIA PERIL first occurring prior to such termination date. This Automatic Extended Claims Reporting Period may not be canceled by the Company and does not require the payment of an additional premium. This Automatic Extended Claims Reporting Period shall be included within the Optional Extended Claims Reporting Period if such is purchased. The fact that the period during which the CLAIMS can be made against the INSURED and reported to the Company is extended by virtue of the Automatic Extended Claims Reporting Period shall not in any way increase the limits of liability of this Policy.

### **B. Optional Extended Claims Reporting Period**

If the INSURED does not renew or replace this insurance, or if the Company cancels or refuses to renew this Policy for reasons other than the nonpayment of premium or DEDUCTIBLE or noncompliance with the terms and conditions of this Policy or fraud or material misrepresentations, upon the payment of an additional premium, the INSURED shall have the option to extend the period by which a CLAIM can be made against the INSURED and reported to the Company. The additional premium to purchase the Optional Extended Claims Reporting Period shall be determined by charging 100% of the annual expiring premium for twelve (12) months. The purchase of an Optional Extended Claims Reporting Period shall be endorsed herein. The INSURED's right to purchase the Optional Extended Claims Reporting Period must be exercised by notice in writing not later than thirty (30) days after the cancellation or termination date of this Policy. Effective notice must include payment of additional premium. If such premium is not mailed to the Company within thirty (30) days then the INSURED shall not, at a later date, be entitled to purchase the Optional Extended Claims Reporting Period. At the commencement of any Optional Extended Claims Reporting Period, the entire premium therefore shall be deemed earned, and in the event the INSURED terminates the Optional Extended Claims Reporting Period before its term for any reason, the Company shall not be obligated to return to the INSURED any portion of the premium. The fact that the period during which the CLAIMS can be made against the INSURED and reported to the Company is extended by virtue of the Optional Extended Claims Reporting Period shall not in any way increase the Limits of Liability of this Policy. The Company's liability shall further be limited to cover only those CLAIMS or CLAIM EXPENSES which arise out INTERNET MEDIA PERILS, NETWORK SECURITY BREACHES or PRIVACY VIOLATIONS that first occur prior to the expiration date of the POLICY PERIOD or any earlier termination date, if applicable, and prior to the Optional Extended Claims Reporting Period.

## **VIII. GENERAL TERMS AND CONDITIONS**

### **A. Notice of Claims**

As a condition precedent to coverage, no obligation will arise on the part of the Company under this Policy unless and until the INSURED gives prompt written notice of a CLAIM to the Company no later than sixty (60) days after the end of the POLICY PERIOD, at the address listed in Item 9. of the Declarations. Written notice must include any and all documents received by the INSURED or by the INSURED's representatives at the time the CLAIM was first made against the INSURED.

## **B. Notice of Circumstance**

As a condition precedent to coverage, with respect to Coverages A, B and C, if during the POLICY PERIOD the INSURED first becomes aware of a circumstance, NETWORK SECURITY BREACH, PRIVACY VIOLATION or INTERNET MEDIA PERIL from which a CLAIM is reasonably anticipated, and if the INSURED shall during the POLICY PERIOD give written notice to the Company of the following:

1. the identity of each INSURED that was impacted by the NETWORK SECURITY BREACH, PRIVACY VIOLATION or INTERNET MEDIA PERIL;
2. a detailed description of the NETWORK SECURITY BREACH, PRIVACY VIOLATION or INTERNET MEDIA PERIL;
3. the DAMAGES which resulted or may result from the NETWORK SECURITY BREACH, PRIVACY VIOLATION or INTERNET MEDIA PERIL;
4. the circumstances by which the INSURED first became aware of the NETWORK SECURITY BREACH, PRIVACY VIOLATION or INTERNET MEDIA PERIL; and
5. the names of all potential claimants,

then any CLAIM made thereafter made against the INSURED arising out of such NETWORK SECURITY BREACH PRIVACY VIOLATION or INTERNET MEDIA PERIL shall be deemed for the purposes of this insurance to have been made on the date which the written notice was mailed to the Company.

## **C. Notice of Loss**

1. With respect to Coverage D, as a condition precedent to coverage, the INSURED shall provide written notice to the Company of the NETWORK INTERRUPTION for which it seeks coverage within sixty (60) days after it discovers such NETWORK INTERRUPTION; provided, however, in all events, as a condition precedent to coverage for a NETWORK INTERRUPTION, the INSURED must provide notice of such NETWORK INTERRUPTION no later than six (6) months from the expiration of the POLICY PERIOD. Any NETWORK INTERRUPTION reported later than six (6) months from the expiration of the POLICY PERIOD shall not be covered under this Policy regardless of whether it occurred during the POLICY PERIOD or when it was discovered.
2. With respect to Coverage E, as a condition precedent to coverage, the INSURED shall provide written notice to the Company of the MALICIOUS ENCRYPTION or CORRUPTION of a DATA ASSET for which it seeks coverage within sixty (60) days after it discovers such MALICIOUS ENCRYPTION or CORRUPTION; provided, however, in all events, as a condition precedent to coverage for such a DATA ASSET, the INSURED must provide notice of such MALICIOUS ENCRYPTION or CORRUPTION no later than six (6) months from the expiration of the POLICY PERIOD. Any MALICIOUS ENCRYPTION or CORRUPTION of a DATA ASSET reported later than six (6) months from the expiration of the POLICY PERIOD shall not be covered under this Policy regardless of whether it occurred during the POLICY PERIOD or when it was discovered.
3. With respect to Coverage F, in the event of a CYBER EXTORTION THREAT, as a condition precedent to coverage, immediately after the INSURED's receipt of such CYBER EXTORTION THREAT, the INSURED shall provide written notice to the

Company of such CYBER EXTORTION THREAT no later than thirty (30) days after receipt of such CYBER EXTORTION THREAT.

4. With respect to Coverage G, as a condition precedent to coverage, the INSURED shall provide written notice to the Company of the NETWORK SECURITY BREACH for which it seeks coverage as soon as practicable and in all events within sixty (60) days after the expiration of the POLICY PERIOD.
5. With respect to Coverage H, as a condition precedent to coverage, the INSURED shall provide written notice to the Company of the NETWORK SECURITY BREACH or PRIVACY VIOLATION for which it seeks coverage as soon as practicable and in all events within sixty (60) days after the expiration of the POLICY PERIOD.
6. All notice required in this Section VIII.C. shall be sent by the INSURED to the address set forth in Item 9. of the Declarations.

**D. Assistance and Cooperation of the INSURED**

1. The INSURED shall, as a condition precedent to any coverage under this Policy:
  - a. fully assist and cooperate with the Company in the investigation, settlement, adjustment and defense of all CLAIMS, NETWORK SECURITY BREACHES, PRIVACY VIOLATIONS, NETWORK INTERRUPTIONS, CORRUPTION or MALICIOUS ENCRYPTION of DATA ASSETS and LOSS;
  - b. at the Company's request, the INSURED shall submit to examination by a representative of the Company under oath, meet with and give written statements to the Company, authorize and provide the Company all necessary records and other information, secure and give evidence, attend hearings and trials and obtain the location of and cooperation of witnesses;
  - c. attend hearings and trials, and assist in the securing and giving of evidence and obtaining of witnesses; and
  - d. fully assist and cooperate with the Company in enforcing any right of contribution or indemnity against any party that may be liable to the INSURED with respect to any actual or alleged CLAIM or LOSS related to this Policy.
2. If the INSURED makes or reports a CLAIM, act, event or occurrence or any LOSS to the Company with knowledge that such CLAIM, act, event or occurrence or LOSS is fraudulent or false, or based on fraudulent or false information of any type, this Policy shall become null and void and there shall be no coverage hereunder for such CLAIM, act, event or occurrence or LOSS.
3. The INSURED shall not take any action, or fail to take any action that prejudices the Company's rights or increases the Company's exposure. The insured shall not admit any liability, make any payment, assume any obligation, incur any expense, enter into any settlement, stipulate to any judgment or award or dispose of any CLAIM without the Company's written consent. The INSURED shall use reasonable efforts to prevent or limit the display and dissemination of ONLINE CONTENT that is erroneous, false or untrue.

**E. Related Acts, Occurrences and Claims**

1. A series of continuing PRIVACY VIOLATIONS, related or repeated PRIVACY VIOLATIONS, or multiple PRIVACY VIOLATIONS resulting from the same, similar, related, repeated, or continuous act(s), omission(s), event(s) or occurrence(s), shall be considered to be a single PRIVACY VIOLATION, and shall be deemed to have occurred at the time of the first such PRIVACY VIOLATION.
2. A series of continuing NETWORK SECURITY BREACHES, related or repeated NETWORK SECURITY BREACHES, or multiple NETWORK SECURITY BREACHES resulting from the same, similar, related, repeated or continuous act(s), omission(s), event(s), occurrence(s), vulnerability(ies), exploit(s), weakness(es) or attack(s), shall be considered to be a single NETWORK SECURITY BREACH and shall be deemed to have occurred at the time of the first such NETWORK SECURITY BREACH.
3. A series of continuing INTERNET MEDIA PERILS, related or repeated INTERNET MEDIA PERILS, or multiple INTERNET MEDIA PERILS resulting from the same, similar, related, repeated or continuous act(s), omission(s), event(s), occurrence(s) or display(s) of content, shall be considered to be a single INTERNET MEDIA PERIL and shall be deemed to have occurred at the time of the first such INTERNET MEDIA PERIL.
4. A series of continuing NETWORK INTERRUPTIONS, related or repeated NETWORK INTERRUPTIONS, or multiple NETWORK INTERRUPTIONS resulting from the same, similar, related, repeated or continuous act(s), omission(s), event(s), occurrence(s), vulnerability(ies), exploit(s), weakness(es) or attack(s) shall be considered to be a single NETWORK INTERRUPTION and shall be deemed to have occurred at the time the first such NETWORK INTERRUPTION began.
5. A series of continuing CYBER EXTORTION THREATS, related or repeated CYBER EXTORTION THREATS, or multiple CYBER EXTORTION THREATS resulting from the same, similar, related, repeated or continuous act(s), omission(s), event(s), occurrence(s), vulnerability(ies), exploit(s), weakness(es) or attack(s) or extortionist(s) shall be considered to be a single CYBER EXTORTION THREAT and shall be deemed to have occurred at the time of the first such CYBER EXTORTION THREAT.
6. All CLAIMS arising out of a single NETWORK SECURITY BREACH, PRIVACY VIOLATION, INTERNET MEDIA PERIL or CLAIM, or arising out of or related to a series of continuous, related or repeated NETWORK SECURITY BREACHES, PRIVACY VIOLATIONS or CLAIMS, shall be considered to be a single CLAIM, and shall be deemed to have been first made against the INSURED at the time the first such CLAIM is made against the INSURED.
7. A series of continuing MALICIOUS ENCRYPTION or CORRUPTION, related or repeated MALICIOUS ENCRYPTION or CORRUPTION, or multiple MALICIOUS ENCRYPTIONS or CORRUPTIONS resulting from the same, similar, related, repeated or continuous act(s), omission(s), event(s), occurrence(s), vulnerability(ies), exploit(s), weakness(es) or attack(s), shall be considered to be a single MALICIOUS ENCRYPTION or CORRUPTION and shall be deemed to have occurred at the time of the first such MALICIOUS ENCRYPTION or CORRUPTION.

**F. Proof of Loss and Appraisal**

1. With respect to Coverages D and E, as a condition precedent to any coverage under this Policy, the INSURED shall:



- a. within ninety (90) days of sustaining a DATA LOSS or BUSINESS INTERRUPTION LOSS and no later than six months after the expiration of the POLICY PERIOD, provide the Company with a written, detailed and sworn proof of loss. Such proof of loss shall include the following without limitation: the full particulars of the DATA LOSS or BUSINESS INTERRUPTION LOSS, including but not limited to the time, date and cause of the NETWORK BUSINESS INTERRUPTION, CORRUPTION or MALICIOUS ENCRYPTION of DATA ASSET and LOSS; a detailed calculation of any DATA LOSS or BUSINESS INTERRUPTION LOSS; the INSURED ORGANIZATION's interest and the interest of all others in the property, the sound value thereof and the amount of DATA LOSS or BUSINESS INTERRUPTION LOSS or damage thereto and all other insurance thereon; and the underlying documents, data or materials that reasonably relate to or form the basis of the claim for such DATA LOSS or BUSINESS INTERRUPTION LOSS;
- b. at the Company's request, the INSURED shall submit to examination by a representative of the Company under oath.

The costs and expenses of preparing and submitting a proof of loss, and establishing or proving DATA LOSS, BUSINESS INTERRUPTION LOSS or any other LOSS under this Policy shall be the INSURED's obligation, and are not covered under this Policy.

2. With respect to Coverages D and E, in the event the Company and INSURED do not agree on the amount of DATA LOSS or BUSINESS INTERRUPTION LOSS, each party shall select and pay an appraiser or other qualified expert (the "Appraiser(s)") to state the amount of the DATA LOSS or BUSINESS INTERRUPTION LOSS, and the Appraisers shall choose an umpire. If the Appraisers cannot agree on an umpire, the INSURED or the Company may request a judge of a court having jurisdiction to make the selection. Each Appraiser shall submit the amount of the DATA LOSS or BUSINESS INTERRUPTION LOSS to the umpire, and agreement by the umpire and at least one of the Appraisers as the amount of a DATA LOSS or BUSINESS INTERRUPTION LOSS shall be binding on all INSUREDS and the Company. The INSURED and the Company 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 DATA LOSS or BUSINESS INTERRUPTION LOSS, and shall not control the determination of whether such DATA LOSS or BUSINESS INTERRUPTION LOSS is otherwise covered by the Policy. The Company will still retain and does not waive its rights to deny coverage or enforce any obligation under this Policy.

#### **G. Subrogation**

In the event of any payment under this Policy, the Company shall be subrogated to all the INSURED's rights of recovery against any person or organization. The INSURED shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The INSURED shall do nothing to prejudice such rights without first obtaining the written consent of the Company.

#### **H. Acquisitions, Mergers and Material Changes**

In the event, that after the inception of this Policy, the INSURED:

1. acquires all or substantially all the assets of another entity;
2. merges with another entity such that the INSURED is the surviving entity;

3. creates or acquires a subsidiary; or
4. otherwise changes its business as described in the Application in a manner material to the risk underwritten by the Company,

then no coverage shall be afforded under this Policy for the assets acquired by the INSURED; or the NETWORK SECURITY BREACHES, INTERNET MEDIA PERILS, CYBER EXTORTION THREATS or PRIVACY VIOLATIONS of the entity merged with, acquired by, or created by the INSURED; and/or the changed business activities of the INSURED, unless and until:

- a. the INSURED provides written notice of the aforementioned event to the Company not more than thirty (30) days after the effective date thereof;
- b. the INSURED provides the Company with such information in connection therewith as the Company may deem necessary;
- c. the INSURED accepts any special terms, condition, exclusion, or additional premium charge required by the Company; and
- d. the Company at its sole discretion specifically agrees in writing to provide such coverage.

If the Company does agree to provide coverage for the newly purchased or created entity or subsidiary, and/or for the INSURED's changed business activities, such coverage will only be for NETWORK SECURITY BREACHES, INTERNET MEDIA PERILS, CYBER EXTORTION THREATS and PRIVACY VIOLATIONS first committed or first occurring following the effective date of the aforementioned event.

For purposes of this Section, ENTITY shall mean any corporation, trust, partnership, or other form of organization not identified in the Declarations as a NAMED INSURED.

**I. Application**

By acceptance of this Policy, the NAMED INSURED agrees that the statements in the Application attached hereto and made part hereof, are true and correct representations, that each representation shall be deemed material, that this Policy is issued in reliance upon the truth of such representations, and that this Policy embodies all agreements existing between the NAMED INSURED and the Company or any of its representatives, in connection with this Policy.

**J. Other Insurance**

This insurance shall be in excess of the amount of the applicable DEDUCTIBLE herein, and over any other valid and collectible insurance available to the INSURED whether such other insurance is stated to be primary, pro rata, contributory, excess, contingent or otherwise, unless such other insurance specifically applies as excess insurance over the Limit of Liability provided herein.

**K. Changes**

Neither notice to nor knowledge possessed by any representative acting on behalf of the Company nor any conduct by any such representative shall be construed as a waiver or estoppel against the Company for any reason. No right accruing to the Company nor any

provision of this Policy, shall be waived or changed in any manner other than by express endorsement incorporated into this Policy.

**L. Assignment**

Assignment of any interest by the INSURED under this Policy shall not bind the Company without its written consent.

**M. Cancellation/Non Renewal**

This Policy may be canceled by the INSURED by surrender to the Company, or by mailing to the Company written notice requesting cancellation and stating when thereafter such cancellation shall take effect. If the Policy is canceled by the INSURED, the Company shall retain the customary short rate proportion of the premium. This Policy may also be canceled or non-renewed by the Company by written notice mailed to the NAMED INSURED at the address shown in Item 1 of the Declarations. Said cancellation or non renewal shall take effect not less than thirty (30) days from the date the notice is mailed, unless the Policy is canceled because the INSURED has failed to pay a premium or DEDUCTIBLE when due. In that event, such cancellation shall take effect not less than ten (10) days from the date the notice is mailed. If the Policy is canceled by the Company, the earned premium shall be computed pro rata. Premium adjustment may be made at the time cancellation is effected or as soon as practicable thereafter, but the failure to pay any premium adjustment at, on or around the time of the effective date of cancellation shall not alter the effectiveness of cancellation.

**N. Action Against the Company**

No action shall lie against the Company unless there has been full compliance with all of the terms of this Policy, and:

1. with respect to Coverages A, B and C, both the INSURED's liability and the amount of the INSURED's obligation to pay has been finally determined either by judgment against the INSURED after actual trial or by the agreement of the INSURED, the claimant and the Company, in writing; and
2. with respect to all other Coverages, the INSURED's LOSS has been finally determined by the agreement of the INSURED and the Company, in writing

Any person or organization, or the legal representative thereof, who has secured a judgment or written agreement as referenced in the preceding paragraph, shall thereafter be entitled to recover under this Policy to the extent the Limits of Liability remain available for payment of LOSS and to the extent allowed by law. No person or organization shall have any right under this Policy to join the Company as a party to any action against the INSURED to determine the INSURED's liability, nor shall the Company be impleaded by the INSURED or any legal representatives thereof.

**O. Bankruptcy or Insolvency**

Bankruptcy or insolvency of the INSURED or the INSURED's estate shall not relieve the Company of any of its obligations under this Policy. In the event of the bankruptcy or insolvency of the INSURED, the Company shall have the right to assert any appropriate claim or demand in such proceedings for payment of any obligations of the INSURED, including but not limited to, any amounts which the Company may advance on behalf of the INSURED within the DEDUCTIBLE.

**P. Authorization**

By acceptance of this Policy, the first NAMED INSURED identified in Item 1. of the Declarations agrees to act on behalf of all INSUREDS with respect to giving notices to the Company and receiving communications relating to the Policy or to CLAIMS and LOSS thereunder from the Company.

**Q. Conformity of Statutes**

The terms of this Policy which are in conflict with the statutes of the state wherein this Policy is issued are hereby amended to conform to such statutes.

**R. Governing Law**

The terms of this Policy are to be interpreted in accordance with the laws of the state wherein this Policy is issued.

**S. Arbitration**

Should the INSURED and the Company disagree as to the rights and obligations owed by the Company under the Policy, including the effect on any applicable statutes or common law upon the contractual obligations otherwise owed, either party may request that the dispute be subjected to binding arbitration. In the event the parties cannot mutually agree upon an arbitration forum and process, the American Arbitration Association shall be utilized, with each party selecting an arbitrator from the list of qualified arbitrators for insurance coverage disputes provided by that association. The two chosen arbitrators shall select a third arbitrator from the same list; if they cannot agree to a selection the American Arbitration Association shall make the selection for them. Each party shall bear the costs of its arbitrator, and shall equally share the costs of the third arbitrator and of the arbitration process. In the event the INSURED prevails in the arbitration, and the Company promptly offers to the INSURED's arbitration costs and reasonable attorneys fees incurred in connection therewith in addition to the disputed contract benefit, the INSURED shall have no right to sue the Company for breach of implied covenants or unreasonable withholding of contract benefits. To the extent the Company prevails in the arbitration, the arbitrators may award the Company any LOSS incurred or paid under reservation of rights in excess of the Company's contract obligations as determined by the arbitrators.