

ARCHITECTS AND ENGINEERS PROFESSIONAL LIABILITY INSURANCE

Claims - Made and Reported

THIS IS A **CLAIMS - MADE AND REPORTED** POLICY. PLEASE READ THIS POLICY CAREFULLY. OUR LIMIT OF LIABILITY WILL BE REDUCED BY THE AMOUNTS PAID FOR **DAMAGES AND CLAIM EXPENSES** UNDER ALL THE BELOW STATED INSURING AGREEMENTS.

This policy shall not be binding upon the Company unless completed by an Application(s) which is/are made a part of this policy and a Declarations Page, countersigned on the aforesaid Declarations Page by a duly authorized representative of the Company.

Throughout this policy the words you and your refer to the **Named Insured** as defined in Section **II. K**. The words we, us and our refer to Admiral Insurance Company (Company). Words which are in **bold** writing throughout this document are defined terms within the Definitions section of this policy.

In consideration of the premium paid, in reliance upon the statements in the Application(s) which are made a part of this policy and subject to the terms and conditions of this policy, the Company agrees with the **Named Insured** as follows:

I. INSURING AGREEMENTS

A. Architects and Engineers Professional Liability

We will pay on behalf of the **Insured** those amounts, subject to the Limits of Liability and deductible stated in the Declarations, that the **Insured** is legally obligated to pay as **damages** resulting from a **claim** first made against the **Insured** during the **policy period** and reported to us in writing during the **policy period**, or any applicable extended reporting period as described in Section **VIII. EXTENDED REPORTING PERIOD** provided that:

1. The **claim** results from a **professional incident** or a **pollution incident** that takes place in the Policy Territory; and
2. the **claim** results from a **professional incident** or **pollution incident** that takes place subsequent to the retroactive date and prior to the expiration or termination date of this policy; and
3. prior to the inception date of this policy stated in the Declarations, no **Insured** knew or could have reasonably foreseen or expected that the **professional incident** or **pollution incident** or circumstance might give rise to a **claim**.

B. Architects and Engineers Network Security and Privacy Wrongful Act Liability

We will pay on behalf of the **Insured** those amounts, subject to the Sub-Limit of Liability and deductible stated in the Declarations, that the **Insured** is legally obligated to pay as **damages** resulting from a **claim** first made against the **Insured** during the **policy period** and reported to us in writing during the **policy period**, or any applicable extended reporting period as described in Section **VIII. EXTENDED REPORTING PERIOD**, provided that:

1. the **claim** results from a **Network Security and Privacy Wrongful Act** that takes place in the Policy Territory; and
2. the **claim** results from a **Network Security and Privacy Wrongful Act** that takes place subsequent to the retroactive date and prior to the expiration or termination date of this policy; and
3. prior to the inception date of this policy stated in the Declarations, no **Insured** knew or could have reasonably foreseen or expected that the **Network Security and Privacy Wrongful Act** or circumstance might give rise to a **claim**.

C. Media Wrongful Act Liability

We will pay on behalf of the **Insured** those amounts, subject to the Limits of Liability and deductible stated in the Declarations, that the **Insured** is legally obligated to pay as **damages** resulting from a **claim** first made against the **Insured** during the **policy period** and reported to us in writing during the **policy period** or any applicable extended reporting period, as described in Section VIII. EXTENDED REPORTING PERIOD provided that:

1. the **claim** results from a **Media Wrongful Act** that takes place in the Policy Territory; and
2. the **claim** results from a **Media Wrongful Act** that takes place subsequent to the retroactive date and prior to the expiration or termination date of this policy; and
3. prior to the inception date of this policy stated in the Declarations, no **Insured** knew or could have reasonably foreseen or expected that the **Media Wrongful Act** or circumstance might give rise to a **claim**.

D. Privacy Breach Expenses Coverage:

We will pay to the **Insured Privacy Breach Expenses** that it incurs, directly resulting from a **Privacy Breach Event**, subject to the Sub-Limit of Liability and deductible stated in the Declarations, provided that:

1. the **Privacy Breach Event** takes place within the Policy Territory; and
2. the **Privacy Breach Event** first occurs on or after the retroactive date and prior to the expiration or termination date of this Policy; and
3. the **Privacy Breach Event** is first discovered by the **Insured** during the **Policy Period**; and
4. the **Privacy Breach Event** is reported to us in writing as soon as practicable but in no event longer than the minimum time period required by any applicable **Privacy Law**.

Our duty to pay such **privacy breach expenses** ends when we have used up the applicable Sub-Limits of Liability in the payment of **privacy breach expenses**. We have no obligation or duty to respond to or pay for any **privacy breach expenses** directly relating to, in connection with or arising from a **privacy breach event** for which coverage is excluded or otherwise not afforded by this policy.

- E. We have the right and duty to defend any **claim** brought against the **Insured** seeking **damages** caused by a **professional incident, pollution incident, network security and privacy wrongful act or media wrongful act** to which this insurance applies, including the right to appoint counsel to defend the **Insured**. We will defend even if any of the allegations of the **claim** are groundless, false or fraudulent. We may make such investigation of any **claim** as we deem expedient. Our right and duty to defend ends when we have used up the applicable Limits of Liability in the payment of **damages** and/or **claim expenses**, or have tendered the applicable Limits of Liability to a court of competent jurisdiction. We have no obligation or duty to defend any **claim** for which coverage is excluded or not afforded by this policy and we are not obligated to pay any **claim expenses** incurred by the **Insured** in the defense of any **claim** not covered by this policy.
- F. We will have the right to settle a **claim** under this policy subject to the consent of the **Named Insured**, which consent shall not be unreasonably withheld. If the **Named Insured** refuses to consent to a settlement within the policy's applicable Limits of Liability that is recommended by us in writing and acceptable to the claimant(s), then the Limits of Liability under this policy will be reduced to the sum of the amount of **damages** for which the **claim** could have been settled, plus all **claim expenses** incurred up to the time we made our recommendation. Additionally, we shall pay fifty percent (50%) of all **claim expenses** and **damages** incurred after the **Named Insured's** refusal to consent, subject at all times to the applicable Limits of Liability as specified in Section IX. LIMITS OF LIABILITY AND DEDUCTIBLE. In the event that the **Named Insured** does not consent to our settlement recommendation, we shall retain the right and duty to defend any **claim** brought against the **Insured** seeking **damages** caused by a **professional incident, pollution incident, network security and privacy wrongful act or media wrongful act** to which this insurance applies, including the right to appoint counsel.

II. DEFINITIONS

- A. **Advertising Activities** means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purpose of this definition:

1. Notice includes material placed on the Internet or on similar electronic means of communication; and
 2. Only that part of a web-site that promotes your goods, products or services for the purpose of attracting customers or supporters shall be considered **Advertising Activities**.
- B. Advertising Injury** means injury arising out of one or more of the following offenses committed in the course of the **Named Insured's Advertising Activities**:
1. Libel, slander or defamation;
 2. Disparaging a person's or organization's goods, products or services;
 3. Misappropriation of advertising ideas or style of doing business;
 4. Piracy or unfair competition;
 5. Use of another's advertising ideas; or
 6. Infringing upon another's copyright, title, slogan, trademark, trade name, trade dress or service mark.
- C. Automobile** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads (including any machinery or apparatus attached thereto). **Automobile** also includes vehicles commonly described as mobile equipment, whether or not self-propelled, subject to vehicle registration or designed for use principally off public roads.
- D. Bodily Injury** means physical injury, sickness, disease, mental anguish, or emotional distress sustained by a person, including death resulting from any of these at any time.
- E. Claim** means:
1. a written demand received for money or services, received by any **Insured**, resulting from a **professional incident, pollution incident, network security and privacy wrongful act** or **media wrongful act**.
 2. service of **suit** against an **Insured**.
 3. a **Regulatory Proceeding** that results from a **Network Security and Privacy Wrongful Act**.
With respect to such a **Regulatory Proceeding**, we will pay on behalf of the **Insured** those **claim expenses**, subject to the Limits of Liability and deductible stated in the Declarations, incurred in defending a **Regulatory Proceeding**.
- Claim** includes **Related Claims**. **Related Claims** means two or more **Claims** arising out of:
1. **professional incidents** that are logically or causally connected; or
 2. **pollution incidents** that are logically or causally connected; or
 3. **network security and privacy wrongful acts** that are logically or causally connected; or
 4. **media wrongful acts** that are logically or causally connected; or
 5. **professional incident(s), pollution incident(s), network security and privacy wrongful act(s) or media wrongful act(s)** that are logically or causally connected.
- F. Claim Expenses** means:
- For covered **claims** other than a **regulatory proceeding**, **claim expenses** means:
1. Fees, costs and expenses resulting from the investigation, adjustment, settlement and defense of a **claim**.
 2. Reasonable and necessary expenses charged by a vendor designated or approved in writing by us to investigate the **unauthorized access** to or **unauthorized use** of the **Named Insured's** computer system or network from which **protected information** has been accessed in order to determine the manner in which such information was accessed or used. Such expenses do not include (a) salaries, wages, fees, remuneration, overhead, benefits or expenses of our or an **Insured's** employees or officials, or (b) costs or expenses incurred to prevent future **unauthorized access** to or **unauthorized use** of the **Named Insured's** computer system or network.
 3. Allowable expenses of \$250 per day but no more than \$5,000 in total for the compensation of all **Insureds** for personally attending any legal proceeding at our request. These allowable expenses shall not be included in the applicable Limits of Liability or to the deductible.
 4. Premiums for appeal, attachment or similar bonds, but only for bond amounts within the applicable Limits of Liability. We do not have to furnish these bonds.

5. Prejudgment interest awarded against the **Insured** on that part of any covered judgment we pay. If we recommend a settlement pursuant to Section I. INSURING AGREEMENTS F., **Claim Expenses** will not include any prejudgment interest for the period of time after such settlement recommendation.
6. All interest on the full amount of any covered judgment that accrues after entry of the judgment and before we have paid, offered to pay, or have tendered or deposited to a court of competent jurisdiction the part of the judgment that is within the applicable and available Limits of Liability.

The foregoing definition of **Claim Expenses** does not apply to **regulatory proceedings**.

For a covered **regulatory proceeding**, **claim expenses** means:

1. Reasonable and necessary legal fees, costs and expenses directly resulting from the investigation and/or defense of a covered **regulatory proceeding**; and
2. Reasonable and necessary expenses charged by a vendor designated or approved in writing by us to investigate the **unauthorized access** to or **unauthorized use** of the **Named Insured's** computer system or network from which **protected information** has been accessed in order to determine the manner in which such information was accessed or used. Such expenses do not include (a) salaries, wages, fees, remuneration, overhead, benefits or expenses of our or an **Insured's** employees or officials, or (b) costs or expenses incurred to prevent future **unauthorized access** to or **unauthorized use** of the **Named Insured's** computer system or network.

Under no circumstances will Claim Expenses include:

1. salaries or expenses of our regular employees or officials;
 2. fines, penalties, or taxes levied against an **Insured**;
 3. fees, costs, or expenses incurred by any **Insured** without our prior written consent. Any such unilaterally incurred fees, costs, or expenses will not be reimbursed by us nor reduce the deductible under the policy;
 4. the costs incurred or to be incurred by or on behalf of an **Insured** in connection with the inspection, investigation, withdrawal, alteration, recall, reprocessing, restoration, replacement, retraction, amendment, reprinting, reproduction, remediation, correction, enhancement, upgrading or other modification of audio, visual, digital or informational material;
 5. the costs of inspecting, investigating, correcting, performing, re-performing, modifying or improving an **Insured's professional services** when an **Insured** had the opportunity to inspect, investigate, correct, perform, re-perform, modify or improve on the conduct or service that gave rise to the **claim**; or
 6. the costs and expenses required to comply with any injunctive or other non-monetary equitable, declaratory, regulatory or administrative relief, including specific performance, or any agreement to provide such relief.
- G. Clean-Up Costs** means costs, charges and expenses incurred in the investigation, removal or neutralization of a **pollution incident**, provided that such **pollution incident** arises out of the performance of **professional services**.
- H. Damages** means a monetary and compensatory judgment, award or settlement. **Damages** also include punitive or exemplary **damages** to the extent such amounts are insurable under applicable law. **Damages** also include **Clean-Up Costs**.

However, **damages** shall not include:

1. any **damages**, other than punitive or exemplary **damages**, which are a multiple of compensatory **damages**, taxes or fees;
2. amounts an **Insured** is required to pay or return as restitution;
3. fines, penalties, sanctions, taxes or fees, other than punitive or exemplary **damages**, assessed against an **Insured**;
4. judgments or awards arising from acts deemed uninsurable by law;
5. fees or charges, including over-charges or cost overruns incurred by any **Insured**;
6. the cost of collecting fees of an **Insured** from a third party;
7. the return by an **Insured** of fees or other compensation paid to an **Insured**;
8. non-pecuniary relief;

9. past, present and future earned and unearned royalties, profits, fees, costs, expenses, commissions, and profits unlawfully or unjustly held or obtained, including the return, offset, disgorgement or restitution of such royalties, profits, fees, costs, expenses, commissions, and profits unlawfully or unjustly held or obtained;
 10. the costs incurred or to be incurred by or on behalf of an **Insured** in connection with the inspection, investigation, withdrawal, alteration, recall, reprocessing, restoration, replacement, retraction, amendment, reprinting, reproduction, remediation, correction, enhancement, upgrading or other modification of audio, visual, digital or informational material;
 11. the costs of inspecting, investigating, correcting, performing, re-performing, modifying or improving an **Insured's professional services**, whether by an **Insured** or another person or entity, when an **Insured** had the opportunity to inspect, investigate, correct, perform, re-perform, modify or improve on the conduct or service that gave rise to the **claim**;
 12. discounts, prizes, awards, coupons or other incentives offered to an **Insured's** clients or customers.
- I. Disciplinary Proceeding** means any proceeding by an administrative, regulatory or disciplinary official, board, or agency to investigate charges of professional misconduct in the performance of or failure to perform **professional services**. However, **Disciplinary Proceeding** shall not include a criminal proceeding.
- J. Insured** means:
1. the **Named Insured**;
 2. your current and former principals, partners, executive officers, directors, members, managers, stockholders, trustees, and current and former employees while acting on your behalf within the course and scope of their duties as such;
 3. in the event of death or incapacity of any **Insured**, their legal representative in his or her capacity as such, for any **claim** against the **Insured**;
 4. leased personnel under your supervision, but only while acting on your behalf within the course and scope of their lease agreement and only if the **Named Insured** has agreed in writing to provide insurance to leased personnel;
 5. a temporary worker under your supervision, who is furnished to you to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions;
 6. any **Subsidiary**;
 7. A retired partner, principal, officer, director, member or employee of the **Named Insured**, while acting within the scope of their duties as a consultant for the **Named Insured**.
 8. Your lawful spouse or legally recognized domestic partner solely by reason of their legal status, or their ownership interest in property or assets that are sought as recovery. This shall not apply to the extent a **claim** alleges any **professional incident, network security and privacy wrongful act or media wrongful act** by such spouse or legally recognized domestic partner who does not otherwise qualify as an **Insured**.
- K. Intellectual Property** means property that is created through the intellectual efforts of its creator which is claimed to be protected by law.
- L. Malicious Code** means an unauthorized, unwanted or harmful program, code or script, including, but not limited to, viruses, Trojan horses, worms, time or logic bombs, spyware, malware, spiderware or other infections or contaminants.
- M. Media** means printed, audio, visual, digital or informational material and content of websites owned and operated by the **Insured**, but does not include published books or periodical publications or software code.
- N. Media activities** mean the display, broadcast, dissemination, distribution or release of **media** by an **Insured** in the rendering of **professional services**. **Media Activities** also includes **advertising activities**.
- O. Mediation** means the voluntary and nonbinding process by which the **Insured** and claimant(s) agree to use a neutral and qualified third party to intercede between the **Insured** and claimant(s) with the intention to reconcile the **Insured** and claimant(s) to resolve a **claim**. Court ordered or imposed mediation or other court ordered dispute resolution are specifically excluded from this definition.

P. Media Wrongful Act means any of the following acts committed by an **Insured** while performing **media activities**:

1. dilution or infringement of copyright, title, slogan, trademark, trade name, trade dress, service mark or service name;
2. **advertising injury**;
3. plagiarism or unauthorized use of literary or artistic titles, formats, characters, performances or other similar material.

All **media wrongful acts** which are logically or causally connected will be deemed one **media wrongful act** that for purposes of determining coverage under this policy, will be deemed to have occurred at the time of the earliest logically or causally connected **media wrongful act**.

Q. Named Insured means the entity or individual named in the Declarations.

R. Network Security and Privacy Wrongful Act means:

1. the **Insured's** actual or alleged unintentional and unknowing failure to safeguard **protected information**, but only if such **protected information** was legally and permissibly in the **Insured's** possession in the course of the **Insured's professional services** at the time such **Network Security and Privacy Wrongful Act** occurred and such failure was directly related to or in connection with, or arose from the **Insured's professional services** and was in violation of a **privacy law**.
2. the **Insured's** unintentional and unknowing failure to prevent an **unauthorized access** or **unauthorized use** of the **Named Insured's** computer system or network that directly results in:
 - a) the inability of an authorized third party user to access the **Named Insured's** computer system or network;
 - b) the inability of an authorized third party user to access its own computer system or network;
 - c) the failure or corruption of a third party's computer system or network;
 - d) the transmittal or distribution of **malicious code** by the **Insured** to a third party's computer system or network; or
 - e) the perpetuation of a denial of service attack on a third party's computer system or network.

All **Network Security and Privacy Wrongful Acts** which are logically or causally connected will be deemed one **Network Security and Privacy Wrongful Act** that, for the purpose of determining coverage under this policy, shall be deemed to have occurred at the time of the earliest logically or causally connected **Network Security and Privacy Wrongful Act**.

S. Newly Acquired Subsidiary means any entity newly formed or acquired by the **Named Insured** during the **policy period** in which the **Named Insured** has more than 50% of the legal or beneficial interest, but only if each of the following conditions have been satisfied:

1. Within 90 days of such formation or acquisition, the **Named Insured** has provided the Company with full particulars of such **newly acquired subsidiary** and the Company has agreed in writing to insure such **newly acquired subsidiary**, but the Company shall not be required to insure such **newly acquired subsidiary**; and
2. The **Named Insured** has paid the additional premium, if any, charged by the Company and has agreed to any amendment of the provisions of this policy.

Coverage for any **newly acquired subsidiary** is limited to **claims** arising out of a **professional incident, pollution incident, network security and privacy wrongful act** or **media wrongful act** that is committed on or after the date such **newly acquired subsidiary** became a **newly acquired subsidiary** and prior to the date such **newly acquired subsidiary** ceased to be a **newly acquired subsidiary**.

An entity ceases to be a **newly acquired subsidiary** under this policy on the date during the **policy period** that the **Named Insured's** legal or beneficial interest in such entity becomes less than 50%.

T. Other Insurance includes, but is not limited to, coverage or benefits available to an **Insured** pursuant to any insurance policy, self-insurance arrangements, pools, self-insurance trusts, captive insurance companies, inter-insurance exchanges, mutual insurance companies, stock insurance companies, risk retention groups, reciprocal exchanges, mutual benefit or assistance programs, or any other plan or agreement of risk assumption.

- U. **Personal Injury** means injury arising out of one or more of the following offenses:
1. false arrest, detention or imprisonment;
 2. malicious prosecution;
 3. wrongful entry or wrongful eviction;
 4. invasion of right of private occupancy;
 5. oral or written publication of material that slanders or libels a person or organization or defames or disparages a person's or organization's goods, products or services;
 6. oral or written publication of material that violates a person's right of privacy.

V. **Policy Period** means the period from the inception date stated in the Declarations to the expiration date stated in the Declarations, or its earlier termination date, if any.

W. **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. **Pollutants** does not mean heat, smoke, vapor, soot or fumes from a hostile fire or explosion.

X. **Pollution Incident** means the actual or alleged discharge, dispersal, seepage, migration, release or escape of **Pollutants** into or upon land, the atmosphere or any watercourse or body of water, which results in **bodily injury** or **property damage**.

The **Pollution Incident** must result from the rendering of or failure to render **professional services**.

Pollution Incident does not include transportation, shipment, delivery or disposal of **pollutants**, contaminants, waste, products or materials.

All **pollution incidents** which are logically or causally connected will be deemed one **pollution incident** that, for the purpose of determining coverage under this policy, will be deemed to have occurred at the time of the earliest logically or causally connected **pollution incident**.

Y. **Privacy Breach Event** means the theft or unintentional and unauthorized disclosure of **protected information** directly resulting from the **Insured's** unintentional and unknowing failure to safeguard such **protected information**, but only to the extent such **protected information** was legally and permissibly in the **Insured's** possession at the time such **privacy breach event** occurred.

All **Privacy Breach Events** which are logically or causally connected will be deemed one **Privacy Breach Event** that, for the purpose of determining coverage under this policy, will be deemed to have occurred at the time of the earliest logically or causally connected **Privacy Breach Event**.

Z. **Privacy Breach Expenses** mean the following reasonable and necessary expenses incurred by or for the **Insured** and which are required to comply with applicable **privacy laws** or to minimize **damages** otherwise covered under this Policy:

1. **Notification Expense**

Reasonable and necessary expenses charged by a vendor designated or approved in writing by us to comply with a **privacy law** which requires the **Insured** to notify a **protected person** of an **unauthorized access** or **unauthorized use** of the **protected person's protected information**;

2. **Credit Monitoring Expense**

Reasonable and necessary expenses charged by a vendor designated or approved in writing by us to provide credit monitoring services to a **protected person**, to the extent required by **privacy law** or to minimize any **damages** otherwise covered under this Policy;

3. **Cyber Investigation Expense**

Reasonable and necessary expenses charged by a vendor designated or approved in writing by us to investigate the **unauthorized access** or **unauthorized use** of the computer system or network in the **Insured's** possession from which **protected information** has been accessed in order to determine whether the **Insured** has an obligation to provide notice under **privacy law**. Such costs do not include:

- a) salaries, wages, fees, remuneration, overhead, benefits or expenses of our or an **Insured's** employees or officials; or

- b) costs or expenses incurred to prevent future or subsequent **unauthorized access** or **unauthorized use** of the computer system or network in the **Insured's** possession following the first **privacy breach event**.

Cyber investigation expense does not mean the costs or expenses charged or incurred to restore, replace, remediate, repair, correct, enhance, upgrade or otherwise modify, improve or make changes to the computer system, network or other hardware or software in the **Insured's** possession following or as a result of an actual or attempted **unauthorized access** or **unauthorized use**;

4. Crisis Management Expense

- a) Reasonable and necessary expenses charged by a public relations firm, law firm or crisis management firm designated or approved in writing by us to perform crisis management services to minimize the potential harm resulting from a **privacy breach event**.
- b) Such expenses may include extortion or ransom amounts paid to a person demanding such payment in return for a promise not to disclose **protected information** which has been wrongfully accessed as the result of the **Insured's** unintentional and unknowing failure to safeguard such **protected information**, but only if the law enforcement authorities having jurisdiction over the theft of the information have been advised of and do not object to such payment. Such costs do not include salaries, wages, fees, remuneration, overhead, benefits or expenses of our or an **Insured's** employees or officials.

Provided, however, **crisis management expense** shall be subject to the Crisis Management Sub-Limit of Liability as described in the Declarations.

AA. Privacy Law means United States or Canadian federal, state or provincial privacy protection statutes, rules and regulations that require organizations that lawfully and permissibly obtain or possess **protected information** to post privacy policies, adopt specific privacy or security controls and/or notify individuals in the event that **protected information** has potentially been unlawfully used or accessed.

BB. Professional Incident means:

1. **personal injury** committed by the **Insured** in the rendering of or failure to render **professional services** by the **Insured** or a person acting under the **Insured's** direction, control or supervision and for whose acts, errors or omissions the **Insured** is legally liable; or
2. a negligent act, error or omission in the rendering of or failure to render **professional services** by the **Insured** or a person acting under the **Insured's** direction, control or supervision and for whose acts, errors or omissions the **Insured** is legally liable; or

All **professional incidents** which are logically or causally connected will be deemed one **professional incident** that, for the purpose of determining coverage under this policy, shall be deemed to have occurred at the time of the earliest logically or causally connected act, error or omission.

CC. Professional Services means services, performed by an **Insured** for others involving specialized training, knowledge and skill while in the pursuit of the business stated in the Declarations.

DD. Property Damage means:

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

EE. Protected Information means an individual's name, social security number, protected health information, drivers license number, state identification number, credit card number, debit card number, address, telephone number, account number, account history, password, or other nonpublic personal information as defined in **privacy law**. **Protected information** does not include records, documents or other information that are lawfully available to the general public for any reason, including but not limited to information from federal, state or local government records.

FF. Protected Person means a person whose **protected information** is protected from unauthorized disclosure or access by a **privacy law**.

GG. Regulatory Proceeding means a formal request to the **Insured** made by a governmental regulatory body or regulator for documentation of and/or participation in an investigation or civil proceeding directly arising from a **Network and Privacy Wrongful Act**. **Regulatory Proceeding** includes **Related Regulatory Proceedings**. **Related Regulatory Proceedings** means two or more **regulatory proceedings** arising out of a **Network Security and Privacy Wrongful Act(s)** that are logically or causally connected.

HH. Subsidiary means:

1. any entity of which the **Named Insured** owns, either legally or beneficially, more than a fifty percent (50%) interest on or before the inception date of this policy;
2. any **Newly Acquired Subsidiary**.

II. Suit means a civil proceeding in which **damages** resulting from a **professional incident, pollution incident, network security and privacy wrongful act** or **media wrongful act** are alleged. **Suit** includes an arbitration proceeding to which the **Insured** is required to submit or to which the **Insured** has submitted with our written consent.

JJ. Unauthorized Access or Unauthorized Use means access to or the use of a computer system and network in the **Insured's** possession by a person or organization that is not authorized to do so, or the access to or use of a computer system and network in the **Insured's** possession by an authorized person in an unauthorized manner.

III. INCIDENT REPORTING PROVISIONS

If during the **Policy Period**, you first become aware of any specific and identifiable **professional incident, pollution incident, network security and privacy wrongful act** or **media wrongful act** and during the **Policy Period** you must give written notice to us during the **Policy Period** of:

1. The specific **professional incident, pollution incident, network security and privacy wrongful act** or **media wrongful act** including the date(s) and parties involved; and
2. The **damages** which did or may result from such **professional incident, pollution incident, network security and privacy wrongful act** or **media wrongful act**; and
3. The circumstances by which you first became aware of such **professional incident, pollution incident, network security and privacy wrongful act** or **media wrongful act**.

For the purposes of this insurance, a **professional incident, pollution incident, network security and privacy wrongful act** or **media wrongful act** reported under this provision shall be deemed a **claim** when a **claim** is actually made during the **policy period** and reported in writing to us during the **policy period**.

IV. POLICY TERRITORY

This policy applies to **professional incidents, pollution incidents, network security and privacy wrongful acts** or **media wrongful acts** anywhere in the world except any location that is subject to trade or other economic sanctions or embargo by the United States of America, or where coverage is otherwise prohibited by the United States Office of Foreign Assets Control.

A. Suits, Regulatory Proceedings and Disciplinary Proceedings Brought Outside of the United States of America, Puerto Rico and Canada

If a **Suit, Regulatory Proceeding or Disciplinary Proceeding** is brought against an **Insured** outside of the United States of America (including its territories and possessions), Puerto Rico or Canada, the following shall apply:

1. We will have the right but not the duty to defend the **Suit, Regulatory Proceeding or Disciplinary Proceeding**;
2. The **Insured** may initiate a defense of the **Suit, Regulatory Proceeding or Disciplinary Proceeding** in accordance with the following conditions:
 - a) We retain the right to assume and control the investigation, adjustment or defense of **Suit, Regulatory Proceeding or Disciplinary Proceeding**.
 - b) In the event we do not exercise our right to defend or are prevented from doing so because we are not licensed or permitted by law in the applicable jurisdiction to defend the **Insured**, we will reimburse the **Insured** for any reasonable and necessary **claim expenses** that we would have paid had we exercised our right

to defend and that are incurred by the **Insured** for the investigation of a **claim** or defense of a **Suit, Regulatory Proceeding** or **Disciplinary Proceeding** seeking **damages** to which this insurance applies. We will not reimburse any **claim expenses** or **damages** incurred and/or paid by any **Insured** without our prior written consent.

B. Payment of Sums Outside of the United States of America, Puerto Rico and Canada

1. If the **Insured** becomes legally obligated to pay sums because of **damages** to which this insurance applies in a part of the policy territory outside of the United States of America (including its territories and possessions), Puerto Rico or Canada, and we are prevented from paying such sums and associated **claim expenses**, if applicable, because we are not licensed or permitted by law in the applicable jurisdiction to pay such sums on the **Insured's** behalf, we will reimburse the **Insured** for such sums to the extent permitted by law.
2. The premium and all payments or reimbursements we make for **damages** and **claim expenses** because of judgments or settlements are payable when due in United States currency unless otherwise specified in the Declarations. If judgment is rendered, settlement is made or another element of sums paid for **damages** or **claim expenses** is stated in a currency other than United States currency, then payment under this insurance shall be made in the currency stated in the Declarations at the prevailing rate of exchange as published on OANDA.com as of the date payment is made. In no event shall we pay more than the Limits of Insurance shown in the Declarations.

C. Coverage Disputes

1. Any legal disputes with us as to whether there is coverage under this insurance must be filed in state or federal courts within the United States of America (including its territories and possessions), Puerto Rico or Canada.

D. Compulsory Coverage

It is the duty of the **Insured** to fully maintain any insurance coverage required by law, regulation or other governmental authority during the **policy period**. We have no duties or obligations in that regard.

1. No Substitute for Compulsory Coverage

This insurance is not a substitute for any insurance coverage that is required by law, regulation or other governmental authority that is required to be in force to satisfy the legal requirements of a given jurisdiction.

2. Failure to Maintain Compulsory Coverage

Failure to maintain such insurance coverage required by law, regulation or other governmental authority will not invalidate this insurance; however, this insurance will apply as if the insurance coverage required by law, regulation or other governmental authority was in full effect.

V. EXCLUSIONS APPLICABLE TO ALL INSURING AGREEMENTS

This policy does not apply to:

- A.** A **claim** or **suit** asserted by an **Insured** against any other **Insured**;
- B.** Any **claim** or **suit** based upon or arising out of, in whole or in part, directly or indirectly, a wrongful, dishonest, fraudulent, criminal or malicious act if a final, non-appealable judgment or adjudication adverse to the **Insured** establishes that the **Insured** in fact committed such wrongful, dishonest, fraudulent, criminal or malicious act.

This exclusion does not apply to **Claim Expenses** incurred in defending any such **Claim** or **Suit** alleging the foregoing until such time as there is a final adjudication, judgment, binding arbitration decision or conviction against any **Insured**, or admission by an **Insured**, establishing such wrongful, criminal, dishonest, fraudulent or malicious conduct or a plea of nolo contendere or no contest regarding such conduct, at which time the **Named Insured** shall reimburse us for all **Claim Expenses** incurred defending the **Claim** and we shall thereafter have no further liability for **Claim Expenses**.

This exclusion does not apply to any liability of the **Named Insured** or any **Insured** that did not personally participate in or personally commit the wrongful, dishonest, fraudulent, criminal or malicious act, if coverage would otherwise be afforded by this policy for the resulting **damages**.

- C.** any **claim** based upon or arising out of, in whole or in part, directly or indirectly, the ownership, maintenance, use, loading, unloading, or entrustment to others, including the loaning thereof, of:
 1. any airplane, helicopter or aircraft;

2. any **automobile**, motorcycle, moped, truck, three-wheeler, snowmobile or other motor vehicle of whatever type or nature, whether designed for travel on or off public roads; or
 3. any motor or sail boats or other watercraft, of whatever type or nature owned, operated, rented by or loaned to any **Insured**.
- D.** any **claim** based upon or arising out of, in whole or in part, directly or indirectly, the insolvency or bankruptcy of any **Insured** or any person, firm or organization;
- E.** any **claim** based upon or arising out of, in whole or in part, directly or indirectly, discrimination, violation of civil rights, or any allegation that a person was subjected to unfair treatment or a denial or reduction of benefits, privileges or accommodation in violation of any law, statute, ordinance or regulation designed to ensure equal access to opportunities, goods, services, facilities, and accommodations;
- F.** any **claim** based upon or arising out of, in whole or in part, directly or indirectly, sexual harassment, coercion, quid-pro-quo offer of **professional services** for sexual favors, or other verbal or physical conduct of a sexual nature;
- G.** any **claim** based upon or arising out of, in whole or in part, directly or indirectly, sexual abuse;
- H.** any **claim** based upon or arising out of, in whole or in part, directly or indirectly, any **Insured's** activities as owner, sole proprietor, superintendent, executive officer, director, partner, trustee or employee of any organization which is not shown as a **Named Insured** on this policy.

This exclusion, however, shall not apply to a **subsidiary**;

- I.** any **claim** for which you or your insurer may be liable, under any Workers' Compensation, Unemployment Compensation, Disability Benefits Law, the Employee Retirement Income Security Act of 1974 and as amended, or under any similar law or regulation, or to any liability of the **Insured** arising out of the injury, sickness, disease or death resulting therefrom of any employee of any **Insured** arising out of and in the course of his employment by the **Insured**;
- J.** any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any nuclear reaction, radiation or contamination, under any circumstances and regardless of cause, within or originating from a nuclear facility;
- K.** any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any misappropriation, infringement, or use of a patent, domain name, trade secret or any violation of an intellectual property right or law.

This exclusion, however, shall not apply to any claim for misappropriation, infringement or use of a copyright, title, slogan, trademark, trade-name, trade dress or service mark, resulting from a **media wrongful act**.

- L.** any **claim** based upon or arising out of, directly or indirectly, in whole or in part, **advertising injury**.

This exclusion, however, shall not apply to a **claim** for **advertising injury** resulting from a **media wrongful act**.

- M.** any **claim** based upon or arising out of, in whole or in part, directly or indirectly, liability you assume under any contract or agreement; however, this exclusion does not apply to liability you would have in the absence of such contract or agreement;
- N.** any **claim** against an **Insured** that is brought by or on behalf of any federal, state or local government agency or professional or trade licensing organization.

This exclusion, however, shall not apply to a **claim** resulting from a **professional incident, pollution incident** or **media wrongful act** or to any matter which this policy affords coverage under Section X. SUPPLEMENTARY PAYMENTS, **B.** ADA, FHA, OSHA, EPA Regulatory / Administrative Actions Reimbursement, or **C.** Disciplinary Proceeding Reimbursement.

Furthermore, this exclusion shall not apply to:

1. to any **claim** arising from a **professional incident** or **network security and privacy wrongful act** when such agency or licensing organization is a client of the **Insured**; or
 2. to a covered **regulatory proceeding**.
- O.** any **claim** alleging, in whole or in part, directly or indirectly, that an **Insured** exceeded a contract price, cost guarantee or cost estimate;
- P.** any **claim** based upon or arising out of, in whole or in part, directly or indirectly, express warranties or guarantees;

- Q. any **claim** based upon or arising out of, in whole or in part, directly or indirectly, fee disputes;
- R. any **claim** based upon or arising out of, in whole or in part, directly or indirectly, the deficiency or malfunction of any product, technique or equipment which is sold, manufactured or furnished by or on behalf of the **Insured**;
- S. any **claim** based upon or arising out of, directly or indirectly, any **claim** or circumstance that is reported to any other insurer by any **Insured** prior to the effective date of this policy;
- T. any **claim** based upon or arising out of, directly or indirectly, any refusal to employ; termination of employment; or coercion, demotion, discipline, evaluation, reassignment or other employment-related act, omission, policy or practice. This exclusion applies whether you are held liable as an employer or in any other capacity;
- U. any **claim** based upon or arising out of, directly or indirectly any construction, demolition, erection, excavation or the assembly or installation of components or equipment;
- V. any **claim** based upon or arising out of, directly or indirectly the failure to provide, obtain or maintain any form of insurance, surety or bond, or to advise or require others to do so;
- W. any **claim** based upon or arising out of, directly or indirectly liability assumed by any **Insured** under any contract or agreement, whether written or oral, including, but not limited to hold harmless and indemnity clauses; however, this exclusion does not apply if such liability exists in the absence of such contract or agreement;
- X. any **claim** based upon or arising out of, directly or indirectly any project for which you are an insured under any other professional liability policy issued for any specific client(s) or specific project(s). Section X. CONDITIONS, C. **OTHER INSURANCE** of this policy is amended accordingly.

VI. EXCLUSIONS APPLICABLE ONLY TO NETWORK SECURITY AND PRIVACY WRONGFUL ACT LIABILITY

This policy does not apply to:

- A. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, **bodily injury**; provided however, that this exclusion shall not apply to any **claim** for mental anguish, or emotional distress sustained by a person, including death resulting from any of these at any time, directly resulting from a **network security and privacy wrongful act**.
- B. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, electrical or mechanical failures, including power interruption, surge, brownout or blackout, or defect of telephone, telecommunications, or data transmission lines, services, equipment or infrastructure.
- C. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, the unsolicited dissemination of any electronic communication to actual or prospective customers of the **Insured** or any third party, including, but not limited to, actions brought under the Telecommunications Act, the Communications Decency Act, or any other federal, state or local legislation, regulation or law protecting a person's or entity's right of seclusion or privacy.
- D. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any seizure, nationalization, confiscation, destruction, or deletion by or on behalf of or in the name or right of any local, state, federal, or foreign administrative, governmental, or regulatory agency, entity, tribunal or similar or equivalent body of any **protected information** or computer or electronic systems held or used by the **Insured**.
- E. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any use, application transmission or creation of **malicious code**.
- F. any **claim** based upon or arising out of, directly or indirectly, in whole or in part any unlawful, unauthorized or undisclosed obtaining, gathering, collecting, acquiring, using, distribution or sale of any information of any type, nature or kind including but not limited to **protected information**.
- G. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any **network security and privacy wrongful act** or **privacy breach event** which was committed or which took place in whole or in part before the retroactive date stated in the Declarations.
- H. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any violation of any federal, state, local or foreign securities-related legislation, regulation or law.
- I. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any war, invasion, acts of foreign enemies, hostilities (whether war is declared or not), rebellion, revolution, insurrection, war-like action, coup, usurped powers or military power.

- J. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any violation of any United States economic or trade sanction, including but not limited to, sanctions administered by The United States Treasury Department's Office of Foreign Assets Control (OFAC).
- K. any **claim** based upon or arising out of, directly or indirectly, in whole or in part any prior or pending litigation, **claim**, fact, circumstance, subject, decision, transaction, event, situation, cause, proceeding or investigation made, presented, transmitted, filed or commenced on or before the inception date of this policy stated in the Declarations, or alleging or derived from the same litigation, **claim** or **related claim**, fact, circumstance, subject, decision, transaction, event, situation, cause, proceeding or investigation underlying or alleged therein.

VII. EXCLUSIONS APPLICABLE ONLY TO **PRIVACY BREACH EXPENSE**

This policy does not apply to:

- A. any **Privacy Breach Event** based upon or arising out of, directly or indirectly, in whole or in part, any false, misleading, deceptive, fraudulent or misrepresenting statements in **advertising activities**.
- B. any **Privacy Breach Event** based upon or arising out of, directly or indirectly, in whole or in part, any inadequate or incomplete description of the price of goods, products or services.
- C. any **Privacy Breach Event** based upon or arising out of, directly or indirectly, in whole or in part, any gambling, contest, lottery, promotion or game of chance.
- D. any **Privacy Breach Event** based upon or arising out of, directly or indirectly, in whole or in part, the actual or alleged failure to make licensing fee or royalty payments.
- E. any **Privacy Breach Event** based upon or arising out of, directly or indirectly, in whole or in part, any costs or expenses incurred in the reprinting, recall, or disposal of any **media** including any content or products containing **media** created by any **Insured**.
- F. any **Privacy Breach Event** based upon or arising out of, directly or indirectly, in whole or in part, brought by or on behalf of the Federal Trade Commission, the Federal Communications Commission or similar governmental entity in such entity's regulatory or official capacity.
- G. any **Privacy Breach Event** based upon or arising out of, directly or indirectly, in whole or in part, any **media activities, media wrongful acts** or circumstances that any **Insured** knew or could have reasonably foreseen or expected to result in a **claim**.

VIII. EXTENDED REPORTING PERIOD

As a condition precedent to your obtaining an Automatic Extended Reporting Period (AERP) or an Extended Reporting Period (ERP), the full premium of this policy, premium for endorsements or audits, and payment of deductibles must have been paid in full. Neither the AERP nor the ERP reinstate or increase the Limits of Liability. Neither the AERP nor the ERP extend the **policy period** or change the scope of coverage afforded by this policy.

A. Automatic Extended Reporting Period (AERP)

If we or you cancel or non-renew this policy for any reason other than non-payment of premium, non-payment of deductible, non-compliance with any terms and conditions of this policy, or fraud or material misrepresentation, then you shall be entitled to an Automatic Extended Reporting Period (AERP) period of (60) sixty days from the date of policy expiration or cancellation to report **claims** in writing to us which are first made against the **Insured** during the **policy period** and arise out of a **professional incident, pollution incident, network security and privacy wrongful act, privacy breach event or media wrongful act** which takes place subsequent to the retroactive date and prior to the policy expiration or cancellation date. If the ERP in Section B. below is purchased then this AERP shall be included within such ERP.

B. Extended Reporting Period (ERP)

If we or you cancel or non-renew this policy for any reason other than non-payment of premium, non-payment of deductible, non-compliance with any terms and conditions of this policy, or fraud or material misrepresentation, then you shall be entitled to purchase an ERP from the options below which begins from the date of policy expiration or cancellation to report **claims** in writing to us which are first made against the **Insured** during the **policy period** or ERP and arise out of a **professional incident, pollution incident, network security and privacy wrongful act, privacy breach event or media wrongful act** which takes place subsequent to the retroactive date and prior to the policy expiration or cancellation date.

1. ERP Options
 - a) One year for a premium not to exceed 125% of the annual premium.
 - b) Two years for a premium not to exceed 150% of the annual premium.
 - c) Three years for a premium not to exceed 175% of the annual premium.
2. Your right to purchase the ERP must be exercised by notice in writing to us no later than (30) thirty days after the expiration or cancellation date of this policy and must include payment of premium for the ERP. Upon receipt of the written notice to us and the premium for the ERP, the entire premium is deemed fully earned and is non-refundable.

IX. LIMITS OF LIABILITY AND DEDUCTIBLE

A. The Limits of Liability stated in the Declarations is the maximum we will pay regardless of the number of **Insureds**, individuals or organizations that make a **claim** or number of **claims** made.

B. Limit of Liability – Aggregate

The Limit of Liability – Aggregate, as stated in the Declarations, is the maximum amount we will pay for all **claim expenses** and **damages** for all **claims** covered under this policy.

C. Limit of Liability – Each **Claim**

Subject to the Limit of Liability - Aggregate, the Limit of Liability – Each **Claim**, as stated in the Declarations, is the maximum amount we will pay for **claim expenses** and **damages** attributable to any one **claim** covered under this policy.

D. Our duty to defend will end when our Limits of Liability have been exhausted by payment of **claim expenses** and/or **damages** or when our Limits of Liability have been tendered to a court of competent jurisdiction.

E. Deductible

The deductible amount stated in the Declarations applies to each **claim** and shall be paid by the **Named Insured**. The deductible applies to **claim expenses** and **damages** and the Limits of Liability shall apply in excess of the deductible stated in the Declarations. We may advance payment of part or all of the deductible amount and upon notification of such payment being made, the **Insured** must promptly reimburse the Company for the deductible amounts advanced by us.

F. **Mediation of Claim**

If **mediation** is used as a means to resolve a **claim** made against the **Insured**, and such **claim** is resolved solely, directly and immediately by the **mediation**, then the deductible obligation of the **Insured** shall be reduced by 50%, subject to a maximum credit of \$25,000. We shall reimburse the **Insured** for any applicable payment made prior to the **mediation** as soon as practicable after the conclusion of the **mediation**.

X. SUPPLEMENTARY PAYMENTS

A. Pre **Claim** Assistance

If during the **Policy Period**, you report a **professional incident, pollution incident, network security and privacy wrongful act** or **media wrongful act** to us in accordance with Section **III. INCIDENT REPORTING PROVISIONS** until such time a **Claim** is made, we will pay all costs or expenses that we incur, or that your incur, with our prior written consent, for purposes of investigating, mitigating or avoiding a **Claim**. Any payment made by us under this provision shall be in addition to the applicable Limit of Liability of this Policy and shall not be subject to any retention.

B. ADA, FHA, OSHA, EPA Regulatory / Administrative Actions Reimbursement

We will reimburse the **Insured**, upon written request, for reasonable attorney's fees and expenses incurred by the **Insured** with our prior written consent in responding to a regulatory or administrative action brought directly against the **Insured** during the **Policy Period** by a government agency under the Americans with Disabilities Act of 1990 (ADA), the Fair Housing Act (FHA), the Occupational Safety and Health Act (OSHA) or Environmental Protection Agency (EPA) provided that the regulatory or administrative action arises out of a **professional incident, pollution incident** or **media wrongful act** and:

1. the **professional incident, pollution incident** or **media wrongful act** took place in the Policy Territory; and

2. the **professional incident, pollution incident or media wrongful act** took place subsequent to the retroactive date and prior to the expiration or termination date of this policy; and
3. prior to the inception date of this policy stated in the Declarations, no **Insured** knew or could have reasonably foreseen or expected that the **professional incident, pollution incident or media wrongful act** might give rise to such a regulatory or administrative action.

Our obligation under this section shall be limited to \$30,000 in the aggregate for the **Policy Period**. After the Company has paid \$30,000 under these provisions, the Company shall not be obligated to pay any further attorney's fees, costs and, or expenses for such Regulatory/Administrative Action. Any payment made by us under this provision shall be in addition to the applicable Limit of Liability of this Policy and shall not be subject to any retention.

C. Disciplinary Proceeding Reimbursement

We will reimburse the **Insured** for reasonable attorney's fees, costs and expenses incurred in responding to a **disciplinary proceeding** that is both first brought by a licensing authority against the **Insured** and reported in writing to the **Company** during the **policy period** by reason of:

1. a **professional incident** that took place in the Policy Territory; and
2. a **professional incident** that took place subsequent to the retroactive date and prior to the expiration or termination date of this policy; and
3. prior to the inception date of this policy stated in the Declarations, no **Insured** knew or could have reasonably foreseen or expected that the **professional incident** might give rise to a regulatory or administrative action stated herein.

The maximum amount payable under this section, regardless of the number of **disciplinary proceedings** or the number of **Insureds**, shall be \$5,000 per **policy period**. The Company shall not be obligated to defend any **disciplinary proceeding**, or pay any fine, penalty or award resulting from any **disciplinary proceeding**. Any payment made by us under this provision shall be in addition to the applicable Limit of Liability of this Policy and shall not be subject to any retention.

XI. CONDITIONS

A. INSURED'S DUTIES IN THE EVENT OF A CLAIM

1. If a **claim** to which this policy applies is made against an **Insured**, you must give us written notice as soon as practicable, but in no event, subject to Section VIII. EXTENDED REPORTING PERIOD, notice must be given no later than policy expiration or cancellation date. Notice must be given to Admiral Insurance Company (A Berkley Company), Attention: Claims Department, Mt. Laurel Corporate Park, 1000 Howard Blvd., P.O. Box 5430, Suite 300, Mt. Laurel, NJ 08054 or e-mail: admclaims@admiralins.com.
2. All **Insureds** must fully cooperate with us in the conduct, defense and investigation of any **claim or suit**. Upon the Company's request, we may require the **Insured** to submit to an examination under oath; provide us with written statements as requested by us or your attendance at meetings with us; produce and make available records, documents and other materials which we deem relevant to the **claim**, attend hearings, depositions and trials; assist in affecting settlements, securing and giving evidence and obtaining the attendance of witnesses.
3. The **Insured** must not make any payment, admit any liability, settle any **claim**, assume any obligations, or accept or reject an arbitration award without our prior written consent.
4. The **Insured** must do whatever is necessary to secure and preserve any rights of indemnity, contribution or apportionment that the **Insured** may have.
5. The **Insured** shall accept our assignment of counsel and the **Insured** shall refrain from discussing any **claim or suit** with anyone other than counsel retained to represent the **Insured** or our representatives.

B. Transfer of Rights of Recovery

If there is a payment made by us, we shall be subrogated to all of the **Insured's** rights of recovery against any person or organization. The **Insured** will cooperate with us and do whatever is necessary to secure these rights. You must not waive or prejudice such rights. We agree to waive this right of subrogation against a client of the **Insured** to the extent that the **Insured** had, prior to the **claim**, entered into a written, duly executed agreement to waive such rights.

C. Other Insurance

This Insurance shall apply in excess of any other valid and collectible insurance available to any **Insured**, whether such insurance is stated to be primary, contributory, excess, contingent or other, including any self-insured retention or deductible portion thereof.

This condition does not apply to **other insurance** that is specifically written to apply in excess of the limits provided by this policy.

D. Changes Made to this Policy

The terms and conditions of this policy cannot be waived or changed except by specific written endorsement issued by us and made part of the policy.

E. Assignment of the Insured's Interest

The interest of the **Insured** under this policy is not assignable to any other person or organization, except with the Company's written consent.

F. Cancellation

This policy may be canceled by the **Named Insured** by returning the policy to us or our authorized representatives with a written expression of its intention to cancel. The **Named Insured** can also cancel this policy by written notice to us stating at what future date cancellation is to be effective. If the **Named Insured** cancels, earned premium shall be computed using the customary short rate table or the amount stated elsewhere in this policy as Minimum Earned Premium, whichever is greater.

We can cancel the policy by providing written notice to the **Named Insured**, at the address last known to us. We will provide written notice at least thirty (30) days before cancellation is to be effective and the earned premium will be computed pro rata. However, if we cancel because you fail to pay a premium or deductible when due, only ten (10) days written notice of cancellation will be given and earned premium will be computed using the customary short rate table.

The mailing of any notice of cancellation shall be sufficient proof of notice.

This policy will terminate on the effective date of the cancellation. Return of unearned premium is not a condition of cancellation. Unearned premium will be returned by us as soon as practicable.

G. Bankruptcy

Bankruptcy or insolvency of the **Insured** or the **Insured's** estate shall not relieve us of any of our obligations under this policy.

H. Application

The statements made in any Application(s) and any supplementary material(s) are deemed to be made on behalf of the **Named Insured** and all other **Insureds** and are deemed material. Upon the binding of coverage, the Application(s) shall be attached and become part of this policy. This policy is issued based upon the truth and accuracy of the representations made in any Application(s) and any supplementary material(s). This policy is void as to the **Named Insured** and all other **Insureds** in any case of fraud and/or misrepresentation made in any Application(s) or any supplementary material(s).

I. Audit

We may examine and audit your books and records at any time during the **policy period** and within three (3) years after the expiration or termination date of this policy, as far as they relate to this policy.

J. Action Against Us

No action shall be brought against us by any **Insured**, unless, as a condition precedent thereto:

1. all **Insureds** have fully complied with all the terms and conditions of this policy; and
2. the amount of **damages** has been fixed or rendered certain:
 - a) by final judgment against the **Insured** after trial of the issues; or
 - b) the time to appeal such judgment has expired without an appeal being taken; or

- c) if appeal is taken, after the appeal has been determined; or
- d) the **claim** is settled in accordance with the terms and conditions of this policy.

In no event shall any action brought by anyone be maintained against us unless such action is brought within twenty-four (24) months from the time the right to bring action first became available.

K. False or Fraudulent Claims

If an **Insured** reports any **claim** knowing such **claim** to be false or fraudulent, this policy shall become void and all insurance coverage hereunder shall be forfeited as of the inception date of this policy.

L. Terms and Conditions of Policy Conformed to Statute

Where necessary, the terms and conditions of this policy will be amended to conform to applicable law.

M. Change in Controlling Interest

If, during the **Policy Period**:

1. a **Named Insured** merges into or consolidates with another entity such that the **Named Insured** is not the surviving entity;
2. another person or entity acquires the **Named Insured**;
3. another person or entity acquires a controlling interest in the **Named Insured**; or
4. there is a divestiture or sale of more than fifty percent of a **Named Insured's** assets and/or liabilities;

then the coverage under this Policy will continue for the **Named Insured**, but only for **professional incidents, pollution incidents, network security and privacy wrongful acts or media wrongful acts** that occur before the date of such Change in Controlling Interest described above. This will apply unless you notify us within thirty (30) days of such event and we issue an endorsement stating otherwise.

N. Premium

The premium amount for this policy is stated in the Declarations and is for coverage for the **policy period**. If during the **policy period** there is a change in coverage afforded, we have the right to adjust the premium as of the date of change. Any premium adjustment shall be made in accordance with our prevailing rules and rates.

Premium shown as advance premium is a minimum and deposit premium. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable by notice to the first **Named Insured**.

If the premium for this policy is a flat premium, it is not subject to adjustment.