

# CYBERFIRST COMMUNICATIONS AND MEDIA LIABILITY COVERAGE FORM

**THIS INSURANCE PROVIDES CLAIMS-MADE COVERAGE.  
PLEASE READ THE ENTIRE FORM CAREFULLY.**

Various provisions in this coverage form restrict coverage. Your CyberFirst General Provisions Form also contains provisions that apply to this form, including provisions explaining who is insured under this form and the limits of coverage and deductible that apply to the insurance provided under this form. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the CyberFirst Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II - Who Is An Insured in your CyberFirst General Provisions Form.

The words "policy period" mean the Policy Period for the CyberFirst Communications And Media Liability Coverage Form shown in the CyberFirst Declarations.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section II - Definitions in this form and Section VII - Definitions in your CyberFirst General Provisions Form.

## SECTION I - COMMUNICATIONS AND MEDIA LIABILITY COVERAGE

### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as "damages" because of loss to which this insurance applies. The amount we will pay for "damages" is limited as described in Section III - Limits Of Insurance in your CyberFirst General Provisions Form.
- b. This insurance applies to loss only if:
  - (1) The loss is caused by a "communications and media wrongful act" committed in the "coverage territory";
  - (2) The "communications and media wrongful act" was committed on or after the Communications and

Media Retroactive Date shown in the CyberFirst Declarations and before the end of the policy period; and

- (3) A "claim" or "suit" that seeks "damages" because of the loss is first made or brought against any insured, in accordance with Paragraph e. below, during the policy period or any Extended Reporting Period we provide under Section VI - Extended Reporting Periods in your CyberFirst General Provisions Form.

- c. Each "communications and media wrongful act" in a series of "related communications and media wrongful acts" will be deemed to have been committed on the date the first such wrongful act in that series is committed.
- d. If no Communications and Media Retroactive Date is shown in the CyberFirst Declarations, the Communications and Media Retroactive Date will be deemed to be the first day of the policy period.
- e. A "claim" or "suit" that seeks "damages" will be deemed to have been first made or brought at the earlier of the following times:

- (1) When we or any "described authorized person" first receives written notice of such "claim" or "suit", whichever is first; or
- (2) When we first receive written notice from any insured of a specific "communications and media wrongful act" that caused the loss which resulted in such "claim" or "suit".

All "claims" or "suits" that seek "damages" because of loss caused by the same "communications and media wrongful act" or "related communications and media wrongful acts" will be deemed to have been first made or brought at the time the first of those "claims" or "suits" is first made or brought against any insured.

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f. A "claim" or "suit" that seeks "damages" will be deemed to have been first made or brought at the time we receive written notice from any insured of a specific "communications and media wrongful act" only if that notice contains all of the following information:

- (1) How, when and where the "communications and media wrongful act" was committed;
- (2) A description of what happened;
- (3) A description of what "damages" may result;
- (4) The identity of the person or organization that may make a "claim" or bring a "suit"; and
- (5) The identity of each insured that committed the "communications and media wrongful act".

Notice to us that:

- (1) All or part of one or more of any insured's acts or omissions may in the future be discovered to be a "communications and media wrongful act"; or
- (2) Any insured may in the future receive written notice of a "communications and media wrongful act", "claim" or "suit";

is not notice of a specific "communications and media wrongful act".

**2. Exclusions**

The following exclusions apply only to the coverage provided under this form. These exclusions apply in addition to the exclusions in Paragraph 3. of Section I - Coverage in your CyberFirst General Provisions Form.

This insurance does not apply to:

**a. Bodily Injury**

"Bodily injury".

**b. Claims Or Suits By Independent Contractors**

Loss arising out of any "claim" or "suit" made or brought by or on behalf of any "independent contractor" in connection with material or services supplied to you by that "independent contractor".

**c. Claims Or Suits By Insureds Against Insureds**

Loss for which a "claim" or "suit" is made or brought by or on behalf of any current or former insured against any current or former insured.

This exclusion does not apply to any "claim" or "suit" made or brought by any person or organization that:

- (1) Is an insured under Paragraph 5. of Section II - Who Is An Insured in your CyberFirst General Provisions Form; or
- (2) Has been added as an additional insured by attachment of an endorsement under this policy.

**d. Infringement Of Copyrighted Software**

Loss arising out of any actual or alleged "infringement of copyrighted software".

**e. Patent And Trade Secrets**

Loss arising out of any actual or alleged infringement or violation of any of the following rights or laws:

- (1) Patent; or
- (2) Trade secret.

**f. Profits**

Disgorgement of profits, accounting or award of profits, or any other return of profits.

**g. Property Damage**

"Property damage".

**SECTION II - DEFINITIONS**

1. "Advertising" means the "broadcasting" or publishing, in any manner, of notice to the general public or specific market segments about goods, products or services for the purpose of attracting customers or supporters.
2. "Advertising material" means any material that:
  - a. Is subject to copyright law; and
  - b. Others use and intend to attract customers in their "advertising".
3. "Bodily injury":
  - a. Means any harm, including sickness or disease, to the health of a person.
  - b. Includes mental anguish, injury or illness, or emotional distress.
4. "Broadcasting" means transmitting any audio or visual material for any purpose:
  - a. By radio or television; or
  - b. In, by or with any other electronic means of communication, such as the Internet, if that material is part of:
    - (1) Radio or television programming being transmitted;

- (2) Other entertainment, educational, instructional, music or news programming being transmitted; or
- (3) "Advertising material" transmitted with any such programming.
5. "Communications and media wrongful act" means any of the following committed by or on behalf of an insured in the conduct of your business:
- Unauthorized use of any "advertising material", or any "slogan" or "title", of others in the "advertising" of the business, premises, products, services, work or completed work of others.
  - Infringement of copyright, "title", "slogan", trademark, trade name, trade dress, service mark or service name in your "covered material".
  - Plagiarism or unauthorized use of a literary or artistic format, character or performance in your "covered material".
6. "Copyrighted" means protected by a copyright regardless of whether such copyright is registered with the United States Copyright Office.
7. "Covered material" means any material in any form of expression, including material made known in or with any electronic means of communication, such as the Internet.
8. "Coverage territory" means anywhere in the world, provided that no trade sanction, embargo or similar regulation imposed by the United States of America prohibits us from covering the loss.
9. "Infringement of copyrighted software" means:
- Piracy of a "copyrighted" software product; or
  - Infringement of "copyrighted" software code or any other "copyrighted" element of any part of a software program.
10. "Property damage" means physical damage to tangible property of others, including all resulting loss of use of that property.
- For the purposes of this insurance, data, including information, facts or programs in any electronic or other format, is not tangible property.
11. "Related communications and media wrongful acts" means two or more "communications and media wrongful acts" that have as a common connection, tie or link, any fact, circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions or causes.

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