



ALLIED WORLD NATIONAL ASSURANCE COMPANY (U.S.) INC.  
199 Water Street, New York, NY 10038 • Tel. (646) 794-0500 • Fax (646) 794-0611

---

**TECHTONIC//5.0**  
**TECHNOLOGY, MISCELLANEOUS PROFESSIONAL LIABILITY,  
PRIVACY LIABILITY AND NETWORK RISK INSURANCE POLICY**

---

In consideration of the payment of the premium and in reliance upon the **Application**, which shall be deemed to be attached to, incorporated into, and made a part of this Policy, ALLIED WORLD ASSURANCE COMPANY (U.S.) INC. (the “**Insurer**”) and the **Named Insured**, on behalf of all **Insureds**, agree as follows:

**I. INSURING AGREEMENTS**

Subject to the applicable Limit of Liability set forth in Item 3. of the Declarations and the applicable Retention, the **Insurer** shall pay on behalf of the **Insured**, **Loss** from **Claims** first made against the **Insured** during the **Policy Period**, or any applicable Extended Reporting Period, for any of the following **Wrongful Acts**, which take place on or after the **Retroactive Date**:

- A. **Technology Wrongful Acts;**
- B. **Privacy Wrongful Acts;**
- C. **Network Security Wrongful Acts;**
- D. **Media and Intellectual Property Wrongful Acts; and**
- E. **Professional Services Wrongful Acts.**

As part of and subject to the applicable Limit of Liability set forth in the Declarations, the **Insurer** will have the right and duty to defend any **Claim** for a **Wrongful Act** which is covered in whole or in part under this Policy, even if such **Claim** is groundless, false, or fraudulent.

**II. ADDITIONAL COVERAGES**

- A. **Disciplinary Proceedings Coverage**

The **Insurer** shall reimburse the **Insured**, **Loss** and **Defense Expenses** incurred, with respect to any **Disciplinary Proceeding** which is both initiated against the **Insured** and reported to the **Insurer** during the **Policy Period**. The maximum aggregate amount payable under this Policy for **Loss** and **Defense Expenses** for all **Disciplinary Proceedings**, regardless of the number of **Insureds**, shall be \$5,000. Any payment made by the **Insurer** under this provision shall be in addition to the Limits of Liability and shall not be subject to any Retention.

- B. **Crisis Management Coverage**

Subject to the applicable Limits of Insurance set forth in Item 3. of the Declarations and the applicable Retention, the **Insurer** will reimburse the **Named Insured**, those **Crisis**

**Management Expenses** incurred by the **Named Insured** in connection with **Material Events** which first take place or are reasonably anticipated to first take place during the **Policy Period**.

In order to be eligible for this Additional Coverage:

1. the public relations firm, crisis management firm or law firm selected by the **Named Insured** to perform services must be approved in writing by the **Insurer**, prior to incurring any **Crisis Management Expenses**;
2. the actual or anticipated **Material Event** shall be reported to the **Insurer** as soon as practicable, but in no event later than thirty (30) days after the Expiration Date of the **Policy Period**; and
3. **Crisis Management Expenses** must be reported to the **Insurer** as soon as practicable but in no event later than thirty (30) days after the **Named Insured** first incurs such **Crisis Management Expenses**.

C. Network Extortion Coverage

Subject to the applicable Limits of Insurance set forth in Item 3. of the Declarations and the applicable Retention, the **Insurer** will reimburse the **Named Insured**, amounts which the **Named Insured** actually pays to a third party to avert, prevent or stop a **Network Extortion** first occurring during the **Policy Period** and reported to the **Insurer** as soon as practicable, but in no event later than thirty (30) days after the **Named Insured** first receives notice of the **Network Extortion**.

D. Notification and Credit Monitoring Costs Coverage

Subject to the applicable Limits of Insurance set forth in Item 3. of the Declarations and the applicable Retention, the **Insurer** will reimburse the **Named Insured**, costs incurred by the **Named Insured** for notification to third parties or credit monitoring arising from a **Privacy Wrongful Act**, which takes place during the **Policy Period**.

In order to be eligible for this Additional Coverage:

1. the **Named Insured** must have purchased the coverage available under Insuring Agreement I.B. of this Policy for **Privacy Wrongful Acts**;
2. the costs must be incurred by the **Named Insured** pursuant to a federal or state statutory mandate, and are not eligible for coverage as **Loss** from a **Claim** under Insuring Agreement I.B.; and
3. the notice or credit monitoring costs must be reported to the **Insurer** as soon as practicable after the **Privacy Wrongful Act** takes place, but in no event later than thirty (30) days after the **Named Insured** first incurs such costs.

There shall be no requirement that a **Claim** be made against the **Insured** for coverage under this Section II.D. to be effective.

E. Data Forensics Coverage

Subject to the applicable Limits of Insurance set forth in Item 3. of the Declarations and the applicable Retention, the **Insurer** will reimburse the **Named Insured** for **Data Forensic Expenses** resulting from a **Data Breach** which first occurs during the **Policy Period** and which the **Insured** reasonably believes might result in a **Claim** for a **Privacy Wrongful Act** or a **Network Security Wrongful Act**.

In order to be eligible for this Additional Coverage:

1. the forensics firm selected by the **Named Insured** to perform data forensic services in connection with such **Data Breach** must be approved in writing by the **Insurer**, prior to the **Named Insured** incurring any **Data Forensic Expenses**;
2. the **Data Breach** shall be reported to the **Insurer**, as soon as practicable after it is discovered by the **Insured**, but in no event later than thirty (30) days after the Expiration Date of the **Policy Period**; and
3. **Data Forensic Expenses** must be reported to the **Insurer** as soon as practicable but in no event later than thirty (30) days after the **Named Insured** first incurs such **Data Forensic Expenses**.

### III. DEFINITIONS

When used in this Policy:

- A. **Advertising** means electronic promotional material and media publicly disseminated on any **Website**, or material and media disseminated by any other means, either by and on behalf of the **Insured** or by the **Insured** on behalf of others. **Advertising** includes banners and buttons, beacons and tracking, branding, click tags and cookies, co-branding, directory listings, flash sites, metatags and coded media, rectangles and pop-ups, search engine endorsements, sponsorships, skyscrapers, endorsements and testimonials.
- B. **Application** means the application submitted to the **Insurer**, any and all materials and information submitted to the **Insurer** in connection with such application, in connection with the underwriting of this Policy, or any other policy of which this is a renewal, replacement, or which it succeeds in time.
- C. **Bodily Injury** means injury to the body, sickness, disease or death of any person. **Bodily Injury** also means mental injury, mental anguish, mental tension, emotional distress, pain and suffering or shock, whether or not resulting from injury to the body, sickness, disease or death of any person.
- D. **Business Operations** means the **Named Insured's** normal business activities that produce revenue for the **Insured** from the sale of goods or services.
- E. **Claim** means:
  1. any written demand for monetary, non-monetary or injunctive relief;
  2. any civil proceeding in a court of law or equity, including any appeal therefrom, which is commenced by the filing of a complaint, motion for judgment or similar proceeding;

3. any formal administrative or regulatory investigation or proceeding, which is commenced by the filing or issuance of a notice of charges, formal investigative order or similar document identifying an **Insured** as a person or entity against whom a judicial, administrative or regulatory proceeding may be commenced;
4. any arbitration proceeding;
5. any governmental action related to **Privacy Wrongful Acts**; or
6. any written request to toll or waive a statute of limitations.

A **Claim** does not include a **Disciplinary Proceeding**.

F. **Content** means any data, e-mails, graphics, images, net or web casting, sounds, text, or similar matter disseminated electronically on the **Insured's Website, Network** or the Internet, or matter disseminated by any other means.

G. **Crisis Management Expenses** means the following amounts, when incurred during the pendency, of or within ninety (90) days prior to, and in anticipation of, a **Material Event**:

1. amounts for which the **Named Insured** becomes legally liable for those services performed by a public relations firm, crisis management firm or law firm selected by the **Named Insured** and approved in advance in writing by the **Insurer**, to minimize potential harm to the **Named Insured** arising from a **Material Event**, including, without limitation, maintaining and restoring public confidence in the **Named Insured**, and providing advice to the **Named Insured** or any of its directors, officers, partners or **Employees**; and
2. amounts for which the **Named Insured** becomes legally liable for the reasonable and necessary printing, advertising, mailing of materials, or travel by directors, officers, partners, **Employees** or the firm rendering services as referenced above.

**Crisis Management Expenses** shall not include compensation, fees, benefits, overhead or the charges or expenses of any **Insured** or any **Third Party Contractor**.

H. **Data Breach** means the unauthorized misappropriation or disclosure of **Personally Identifiable Information** that is in the physical possession of the **Insured** or which is stored on, transmitted or received by the **Named Insured's Network**.

I. **Data Forensic Expenses** means the reasonable and necessary costs incurred by the **Named Insured** to retain a qualified forensics firm to:

1. determine the cause, source and extent of a **Network Attack**; or
2. investigate, examine and analyze the **Named Insured's Network**, to find the cause, source and extent of a **Data Breach**.

J. **Defense Expenses** means reasonable legal fees and expenses incurred by or on behalf of the **Insured** by the **Insurer** in the defense or appeal of a **Claim**, including the cost of any bond or appeal bond required in any civil suit; provided that the **Insurer** shall not be obligated to apply for or furnish any such bond. **Defense Expenses** will not include the **Insured's** overhead expenses or any salaries, wages, fees or benefits paid to its

**Employees.**

- K. **Denial of Service Attack** means an intentional attack that targets the **Named Insured's Network**, or any part of such **Network**, and which operates by sending an excessive volume of data to that **Network** and thereby prevents authorized users of that **Network** from gaining access to or using it.
- L. **Digital Assets** means software and electronic data that is stored on or within the **Named Insured's Network**. **Digital Assets** shall include the capacity of the **Named Insured's Network** to store and process data and information and electronically disseminate data and information over the Internet.
- M. **Disciplinary Proceeding** means any proceeding by a regulatory, disciplinary or licensing official, board, or agency which regulates or oversees the **Insured's** conduct of **Professional Services**, as set forth in Item 5. of the Declarations, to investigate charges of professional misconduct by an **Insured** in the performance of or failure to perform **Professional Services**.
- N. **Employee** means any individual whose labor or service is engaged by and directed by the **Insured Entity**. This includes part-time, seasonal, leased and temporary employees and volunteers, but only to the extent that they are acting under the direction and control of the **Insured Entity**. A **Third Party Contractor** is not an **Employee**.
- O. **Executive Officer** means the **Insured Entity's** Chairman, President, Chief Executive Officer, Chief Operating Officer, Chief Compliance Officer, Chief Financial Officer, Chief Information Officer, Chief Technology Officer, Chief Privacy Officer, Risk Management Officer, General Counsel or any individual in a functionally equivalent position.
- P. **External Source** includes only:
1. a person or organization that was not authorized to use the **Named Insured's Network** during the thirty (30) days immediately preceding the **Network Attack**; or
  2. a retail customer of the **Insured**, other than an **Employee** or **Third Party Contractor**, using the **Insured's Website** for the purposes of browsing, purchasing or selling goods or services.
- Q. **Identity Theft** means the misappropriation of the **Personally Identifiable Information** that is in the **Insured's** care, custody and control and stored in the **Insured's Network**, which has resulted in the wrongful or fraudulent use of such **Personally Identifiable Information**, including but not limited to, fraudulently emulating the identity of an individual or corporation.
- R. **Insured** means all **Insured Persons** and **Insured Entities**.
- S. **Insured Entity** means the **Named Insured** listed in Item 1. of the Declarations and any **Subsidiary** that was created or acquired on or before the Inception Date of this Policy or, subject to Condition V.H., during the **Policy Period**.
- T. **Insured Person** means:

1. if the **Insured Entity** is a corporation, all past, present, and future directors, officers and **Employees** of the corporation;
2. if the **Insured Entity** is a sole proprietorship, all past, present and future owners, officers and **Employees** of such sole proprietorship;
3. if the **Insured Entity** is a partnership, all past, present, and future partners and **Employees** of such partnership;
4. if the **Insured Entity** is a limited liability company, all past, present, and future members, managers, officers and **Employees** of such limited liability company.

A **Third Party Contractor** is not an **Insured Person**.

- U. **Insurer** means the company identified in the Declarations.
- V. **Loss** means **Defense Expenses**, monetary damages, pre-judgment interest, post-judgment interest, judgments, settlements, punitive or exemplary damages where insurable under applicable law, or other amounts that an **Insured** becomes legally obligated to pay as a result of a **Claim** or **Disciplinary Proceeding**.

For the purpose of determining the insurability of punitive or exemplary damages under this Policy, the laws of the jurisdiction most favorable to the insurability of such damages shall control if that jurisdiction:

1. is the location of the court that awarded or imposed such punitive damages;
2. is where the **Insured** is incorporated or otherwise organized or has a place of business; or
3. is where the **Insurer** is incorporated or otherwise organized or has its principal place of business.

**Loss** does not include:

- a. fines, penalties, taxes or the multiplied portion of multiple damages, except for fines and penalties assessed against the **Insured** for **Privacy Wrongful Acts**;
- b. future profits, future royalties, costs of licensing or other costs of obtaining future use; restitution or disgorgement by any **Insured**;
- c. the costs to comply with orders granting injunctive, declaratory or administrative relief or other non-monetary relief, including specific performance, or the costs to comply with any agreement to provide such relief;
- d. return or offset of fees, charges, royalties or commissions for goods or services, including **Professional Services**;
- e. sums due pursuant to any contract, including any contractual provision for liquidated damages, agreed penalties or similar remedy;
- f. the costs or expenses incurred in connection with the recall, replacement, repair, correction or upgrade of **Technology Hardware Products**;

- g. the costs incurred by an **Insured** to correct, re-perform or complete any **Professional Services**;
  - h. the return, reinvestment, reimbursement or replacement of funds, monies or securities or anything of monetary value that an **Insured** holds, receives or transfers, or fails to hold, receive or transfer, including any interest that accrued or failed to accrue;
  - i. any amount which the **Insured** is not legally obligated to pay; or
  - j. amounts which are uninsurable under applicable law.
- W. **Malicious Code** means unauthorized and either corrupting or harmful software code, including but not limited to computer viruses, trojan horses, worms, logic bombs, spy ware or spider ware.
- X. **Material Event** means the publication, in media of widespread distribution, of unfavorable information relating to a **Network Attack** on the **Named Insured**, or the **Wrongful Acts** of an **Insured**, which can be reasonably considered to lessen public confidence in the competence, integrity or viability of the **Named Insured** to conduct business.
- Y. **Media and Intellectual Property Wrongful Act** means any actual or alleged act, error, misstatement, misleading statement, omission, neglect or breach of duty committed by any **Insured** or **Third Party Contractor**, in connection with the **Named Insured's Advertising or Content**, which results in:
1. defamation, slander or libel or other tort related to disparagement or harm to the reputation or character of any natural person;
  2. unfair competition, dilution, deceptive trade practices, false or deceptive advertising or misrepresentation, wrongful publication, defamation, slander or libel, product or service disparagement, trade libel or other tort related to disparagement or harm to the reputation or character of any organization;
  3. misappropriation or misdirection of messages or media of third parties, including metatags, **Website** domains and names, and related cyber content; or
  4. plagiarism, piracy or misappropriation of ideas, infringement of copyright, domain name, trade dress, title or slogan, or the dilution or infringement of trademark, service mark, service name or trade.
- Media and Intellectual Property Wrongful Act** also means plagiarism, piracy or misappropriation of ideas, infringement of copyright, domain name, trade dress, title or slogan, or the dilution or infringement of trademark, service mark, service name or trade name in connection with the **Insured's Technology Hardware Products and Technology Services**.
- Z. **Named Insured** means the organization set forth in Item 1. of the Declarations.
- AA. **Network** means computer hardware, software, firmware and components thereof, including **Digital Assets** stored thereon, which are connected through two or more computers, including such networks accessible through the Internet, intranets, extranets



or virtual private networks. **Network** shall not include the computer hardware, software, firmware or components thereof, of any third party provider of telephone, telecommunications, cable, Internet or satellite services.

BB. **Network Attack** means:

1. the intentional and unauthorized gaining of access to or use of the **Named Insured's Network**, or any portion thereof, which arises from a breach of the **Named Insured's Network Security**;
2. the **Insured's** receipt of **Malicious Code** from an **External Source**; or
3. a **Denial of Service Attack** by an **External Source**;

which alters, copies, misappropriates, corrupts, destroys, disrupts or deletes **Digital Assets** or damages, prevents, restricts or hinders access to the **Named Insured's Network** and which materially interrupts, suspends or impairs the **Named Insured's** ability to conduct its **Business Operations**.

CC. **Network Extortion** means a credible threat or connected series of credible threats, by an individual other than an **Employee** or **Third Party Contractor**, to commit or to continue a **Network Attack** against the **Insured**, or to disclose **Personally Identifiable Information** obtained through a breach of the **Insured's Network Security**, for the purpose of obtaining payment from the **Named Insured**.

DD. **Network Security** means the use of hardware, software and firmware, including, without limitation, firewalls, filters, routers, intrusion detection software, antivirus software, automated password management applications and other authentication mechanisms, which are designed to control or restrict the access to a **Network**, or parts thereof.

EE. **Network Security Wrongful Act** means any actual or alleged act, error, misstatement, misleading statement, omission, neglect or breach of duty committed by an **Insured** or **Third Party Contractor**, which causes a breach of the **Insured's Network Security**, the consequences of which are:

1. unauthorized access to, use of or tampering with a third party's **Network**;
2. the inability of an authorized third party to gain access to the **Insured's** services;
3. denial or disruption of Internet service to an authorized third party;
4. **Identity Theft** or credit/debit card fraud;
5. the inadvertent transmission of **Malicious Code**; or
6. the unauthorized release of a third party's confidential and proprietary business information.

FF. **Personally Identifiable Information** means:

1. information from which an individual may be uniquely and reliably identified, including, but not limited to, an individual's name, address, telephone number, in



combination with their social security number account relationships, account numbers, passwords, PIN numbers, credit card numbers or biometric information;

2. “nonpublic personal information” as defined by Title V of the Gramm-Leach Bliley Act of 1999 (Public Law 106-102, 113 Stat. 1338)(“G-L-B”), as amended, and any regulations promulgated thereto;
3. “protected health information” as defined by the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) (“HIPAA”), or the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH”) (Public Law 111-5) as amended, and any regulation promulgated thereto; or
4. “personal information” as defined in the California Database Protection Act of 2003 (Cal. SB 1386) and California A.B. 1950, as amended, and any regulations promulgated thereto;
5. “customer” information held by a “creditor” or “financial institution,” as defined by and protected under the “FTC Red Flag Rule” (Public Law 108-159) (16 C.F.R. 681.1); or
6. “personal information” as defined in any U.S. federal or state privacy protection law governing the control and use of an individual’s personal and confidential information, including any regulations promulgated thereunder, or any similar or related laws or regulations of any foreign jurisdiction.

GG. **Policy Period** means the period from the Inception Date to the Expiration Date shown in Item 2. of the Declarations or to any earlier cancellation date.

HH. **Pollution** means:

1. any actual, alleged, or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, escape, treatment, removal or disposal of, any smoke, vapors, soot, fumes, acids alkalis, toxic chemicals, liquids or gases, water materials (including medical or pharmaceutical supplies and materials which are intended to be or have been recycled, reconditioned or reclaimed) or other irritants, pollutants, or contaminants;
2. any actual, alleged or threatened discharge, dispersal, seepage, migration, release, growth, infestation, spread, or escape of mold(s), mildew(s), fungi and/or spore(s); or any materials, goods, or products containing, harboring, or nurturing any such mold(s), mildew(s), fungi and/or spore(s);
3. lead, silica, or asbestos, whether or not airborne as a particle, contained in, or formed as a part of a product, structure, or other real or personal property, ingested or inhaled or transmitted in any fashion, or found in any form whatsoever; or
4. planning, construction, maintenance, operation or use of any nuclear reactor, nuclear waste, storage or disposal site, or any other nuclear facility; the

transportation of nuclear material, or any nuclear reaction or radiation, or radioactive contamination, regardless of its cause.

- II. **Privacy Wrongful Act** means any actual or alleged act, error, misstatement, misleading statement, omission, neglect or breach of duty committed by any **Insured** or **Third Party Contractor**, which results in:
1. the misappropriation or disclosure of **Personally Identifiable Information** that is in the **Insured's** care, custody and control; or
  2. a breach or violation of U.S. federal or state statutes and regulations associated with the control and use of **Personally Identifiable Information**, or any similar or related laws or regulations of any foreign jurisdiction.
- JJ. **Professional Services** means the services scheduled in Item 5. of the Declarations performed by an **Insured** for others for a fee or other business consideration.
- KK. **Professional Services Wrongful Act** means any actual or alleged act error, misstatement, misleading statement, omission, neglect or breach of duty committed by an **Insured** or **Third Party Contractor**, in performance of or failure to perform **Professional Services**.
- LL. **Property Damage** means physical injury to, loss or destruction of, or loss of use of tangible property.
- MM. **Related Claims** means all **Claims** for **Wrongful Acts** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the same or related series of facts, circumstances, situations, transactions or events, whether related logically, causally, or in any other way.
- NN. **Retroactive Date** means the date specified in Item 8. of the Declarations.
- OO. **Subsidiary** means any entity during any time which the **Named Insured** or any **Insured Entity**:
1. owns more than fifty percent (50%) of its outstanding voting shares, partnership interest or member units;
  2. controls, directly or indirectly, the right to elect or appoint more than fifty percent (50%) of such entity's directors or trustees; or
  3. has sole control over the management and operations of the entity through a written agreement.
- PP. **Technology Hardware Products** means computer, telecommunications and wireless hardware and devices and the components thereof, including any peripheral hardware.
- QQ. **Technology Services** means the following:
1. information technology consulting, including the analysis, design, installation, programming, integration, maintenance or repair of information systems and networks;

2. database design and the caching, collecting, compiling, processing, mining or recording or analysis of data;
3. archiving, browser, directory and search engine and storage consulting, design, operation or work;
4. information system outsourcing;
5. information technology training and education;
6. **Website** design, programming or maintenance;
7. information system or **Website** hosting, including Internet Service Providers and Application Service Providers;
8. the design, development, installation, integration, programming, servicing, repair or maintenance of software;
9. training in the use of or providing technical service and support for software; or
10. marketing, licensing, leasing, selling and distribution of software.

RR. **Technology Wrongful Act** means any actual or alleged act, error, misstatement, misleading statement, omission, neglect or breach of duty committed by an **Insured** or **Third Party Contractor**, in the performance of or failure to perform **Technology Services** to others for a fee or other business consideration.

SS. **Third Party Contractor** means a person or organization which provides services to or on behalf of an **Insured** pursuant to a written agreement in circumstances where: (1) the person or organization acts within the scope of the agreement, and (2) the agreement requires the person or organization to indemnify the **Insured** for liability arising from the services provided by the **Third Party Contractor**.

TT. **Website** means the software, content and other materials accessible via the Internet at a designated Uniform Resource Locator address.

UU. **Wrongful Act** means a **Technology Wrongful Act**, a **Privacy Wrongful Act**, a **Network Security Wrongful Act**, a **Media and Intellectual Property Wrongful Act**, or a **Professional Services Wrongful Act**.

#### IV. EXCLUSIONS

A. This Policy does not cover **Loss** from any **Claim** or **Disciplinary Proceeding**:

1. based upon, involving or contributed to by any dishonest, fraudulent, criminal, malicious or intentional act or omission, or any willful violation of any statute, rule or law, by an **Insured**; or
2. based upon, involving or contributed to by the gaining by an **Insured** of any profit, remuneration or advantage to which such **Insured** is not legally entitled.

The applicability of Exclusions A.1. and A.2. may be determined by an admission, final adjudication or finding in the proceeding constituting the **Claim** or in a proceeding separate from or collateral to the **Claim**.

For purposes of determining the applicability of Exclusions A.1. and A.2., no **Wrongful Act** of any **Insured Person** will be imputed to any other **Insured Person**; and only the **Wrongful Act** of an **Executive Officer** shall be imputed to the **Insured Entity**.

If it is determined that an **Insured** in fact engaged in the conduct specified in Exclusions A.1. or A.2., or if such conduct is imputed to the **Insured Entity**, the **Insured** or the **Insured Entity** shall reimburse the **Insurer** for any **Defense Expenses** advanced by the **Insurer**.

B. This Policy does not cover **Loss**, other than **Defense Expenses**, from any **Claim** or **Disciplinary Proceeding**:

1. seeking, in whole or in part, relief or redress against an **Insured** in any form other than money damages, including without limitation the cost of complying with any injunctive, declaratory or administrative relief;

C. This Policy does not cover **Loss**, including **Defense Expenses**, from any **Claim** or **Disciplinary Proceeding** based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving, any of the following:

1. failure, interruption or reduction in supply of utility service or infrastructure, including, without limitation, electrical, gas, water, telephone, Internet, cable, satellite or telecommunications;

2. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), strike, lock-out, riot, civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power;

3. **Pollution**, however caused;

4. intentional transmission of **Malicious Code** by an **Insured**;

5. inability to use or lack of performance of software programs:

a. due to the expiration or withdrawal of technical support by the software vendor; or

b. that are in development, or are in 'beta' or similar testing stage, and/or have not yet been authorized for general commercial release; provided, however, that this Exclusion shall not apply to such **Claims** brought by an Approved Customer of the **Insured**.

An "Approved Customer" is a customer of the **Insured** to whom such software program is provided pursuant to a written contract which: (i) discloses that the software program provided to them is in development, 'beta' or similar testing stage, and (ii) by virtue of indemnification, hold

harmless, limitations of liability or other similar provisions, eliminates or limits the liability of the **Insured**.

6. the manufacture, assembly, design, development, or failure to perform of; defects of deficiencies in; or the withdrawal, recall, replacement, repair, correction or upgrade of:
  - a. **Technology Hardware Products**; or
  - b. any goods or products manufactured, sold or supplied by any **Insured** or supplied by others under license to the **Insured**.

provided, however, that this Exclusion shall not apply to the failure of **Technology Hardware Products** to perform, if resulting directly from the performance of **Technology Services** by the **Insured**;

7. inaccurate, inadequate, or incomplete description of the price of goods, products or services, or as a result of the **Insured's** cost guarantees, cost representations, pricing guarantees or estimates of probable costs or cost estimates being exceeded, or any other product or service guarantee;
8. **Bodily Injury or Property Damage**; provided, however, that this Exclusion shall not apply to any **Claim** for emotional distress, mental injury, mental tension or mental anguish allegedly caused by a **Privacy Wrongful Act**, or a **Media and Intellectual Property Wrongful Act** as defined in Section III., Subsection Y.1.;
9. the ownership, maintenance, operation, use, loading or unloading, or entrustment to others, of any motor vehicle, automobile, aircraft, watercraft or mobile vehicle of any kind.;
10. any fact, circumstance, situation, transaction, event or **Wrongful Act**:
  - a. underlying or alleged in any prior and/or pending litigation or administrative or regulatory proceeding of which any **Insured** had received notice before the Inception Date of the Policy;
  - b. which, before the Inception Date of the Policy, was the subject of any notice given by or on behalf of any **Insured** under any other policy of insurance; or
  - c. which was known to the **Insured** before the Inception Date of the Policy and could reasonably be expected to give rise to a **Claim** or **Disciplinary Proceeding**.

If, however, this Policy is a renewal of one or more policies previously issued by the **Insurer** to the **Insured**, and the coverage provided by such policies to the **Insured** was in effect, without interruption, for the entire time between the inception date of the first such other policy and the Inception Date of this Policy, the references in this Exclusion to the Inception Date will be deemed to refer instead to the inception date of the first such policy.

11. unsolicited electronic dissemination of faxes, e-mails, text messages or similar communications to actual or prospective customers of the **Insured** or any **Subsidiary**, or to any other third party, including but not limited to any violation of the Telephone Consumer Protection Act, any federal or state anti-spam statute or any other federal or state statute, law or regulation relating to a person's or entity's right of seclusion;
12. discrimination of any kind, including but not limited to, race, creed, religion, age, handicap, sex, marital status or financial condition; refusal to employ, termination of employment, coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or any other employment-related practices, policies, acts, errors or omissions;
13. any actual or alleged violation of: the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Advisors Act of 1940 or any state "blue sky" law or any other federal, state or local securities law; the Racketeering Influenced and Corrupt Organizations Act of 1970; the Federal Trade Commission Act, Sherman Anti-Trust Act, the Clayton Act, the Fair Housing Amendment Act of 1988 or the Fair Credit Reporting Act, 15 USC Section 1681 et seq.; or any similar provision of any federal, state or local statutory law or common law anywhere in the world; the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended;
14. actual or alleged violation of any law or statute protecting any patent, or any rule or regulation promulgated thereunder or of any provision of the common law imposing liability in connection therewith; or the misappropriation, misuse or disclosure of confidential and proprietary business information or trade secrets, other than as specifically described in Section III., Subsection EE.6.;
15. any of the following services or activities: insurance advice or agent or brokerage services; failing to procure or maintain adequate insurance or bonds; financial or investment advice or services, including as to any security, instrument or other investment; advice or services relating to any corporate merger or acquisition, securities offering, restructuring, divestiture, leveraged buyout, tender offer, proxy contest or recapitalization; selecting any investment manager, investment advisor or custodial firm; legal or actuarial services; auditing, certification, review, compilation or attestation of financial statements, or valuation of a firm or business; architectural, engineering or design services, real estate agent or brokerage services; appraising or inspecting; or dentistry, nursing, midwifery or any other medical services;
16. any actual or alleged loss, disappearance, pilferage or shortage of, or commingling or improper use of, or failure to properly segregate or safeguard, any client or customer funds, monies or securities, including any loss resulting from computer theft, computer virus or any electronic transfer or from the insolvency, receivership, bankruptcy or liquidation of any business or organization in which the **Insured** has placed or invested such funds;
17. any actual or alleged warranty, guarantee or promise as to: (i) the future value of any security, financial instrument, real property or other investment, (ii) the rate of return or interest, (iii) potential sales, earnings, profitability or economic value, or (iv) the availability of funds;

18. any actual or alleged formation, promotion, sale, pooling, syndication, securitization, operation, administration or servicing of: (i) any limited or general partnership or interest therein, or (ii) any financial assets, including but not limited to leases, loans, credit cards, real estate mortgages or any form of collateralized debt obligations;
19. the rendering of **Professional Services** by any **Insured** who:
  - (a) was not properly qualified, certified, bonded or licensed to render such **Professional Services**; or
  - (b) misrepresented such **Insured's** qualifications, certifications, licensing, experience, knowledge, education, ability or background;
20. any actual or alleged sexual abuse or molestation of any person, or sexual harassment of any customer, client or business invitee of an **Insured**.

D. This Policy does not cover **Loss**, including **Defense Expenses**, from **Claims**:

1. against any **Subsidiary**, assets, or other entity acquired by the **Insured**, whether by merger, consolidation, or otherwise, or against any **Insured** of such **Subsidiary**, assets, or other entity in his or her capacity as such for any **Wrongful Act** committed during any time in which such entity is not a **Subsidiary** or at any time before the **Insured's** acquisition or such asset or entity; or
2. brought or maintained by, on behalf of, or in the name or right of any **Insured**, or any other natural person or entity for whom or which an **Insured** is legally liable; provided that this Exclusion shall not apply to an otherwise covered **Claim** by an **Employee** alleging a **Privacy Wrongful Act**.

## V. CONDITIONS

A. Limits of Liability; Limits of Insurance

1. Aggregate Limit of Insurance– All Coverages:

Regardless of the number of **Claims**, claimants or events giving rise to coverage under Section II., or the number of persons or entities included within the definition of **Insured**, the **Insurer's** maximum aggregate liability under all Insuring Agreements and under Section II., Additional Coverages, shall be the amount stated in Item 3. of the Declarations.

2. Additional Coverages:

- a. The most the **Insurer** shall reimburse for **Crisis Management Expenses** from all **Material Events** under Section II.B. of the Policy, shall be the amount set forth in Item 3. of the Declarations.



- b. The most the **Insurer** shall reimburse for payments from all **Network Extortion** events under Section II.C. of the Policy, shall be the amount set forth in Item 3. of the Declarations.
- c. The most the **Insurer** shall reimburse for notice and credit monitoring costs under Section II.D. of the Policy shall be the amount set forth in Item 3. of the Declarations.
- d. The most the **Insurer** shall reimburse for **Data Forensic Expenses** from all **Data Breaches** under Section II.E. of the Policy, shall be the amount set forth in Item 3. of the Declarations.

B. Application of Retention:

1. With respect to the coverage provided under all Insuring Agreements, the **Insurer's** obligation to pay **Loss**, including **Defense Expenses**, is in excess of the Retention set forth in Item 4.(a) of the Declarations.
2. With respect to the coverage provided under Section II. Additional Coverages, the **Insurer's** obligation to pay any amounts payable is in excess of the Retentions set forth in Item 4.(b)-(e) of the Declarations, which Retention shall apply to each and every event giving rise to coverage under this Section.

The **Insurer** will have no obligation whatsoever, either to the **Insureds** or to any person or entity, to pay all or any portion of any Retention amount on behalf of any **Insured**, although the **Insurer** will, at its sole discretion, have the right and option to do so, in which event, the **Insureds** agree to repay the **Insurer** any amounts so paid.

C. Defense and Settlement of **Claims** Against an **Insured**:

1. It shall be the duty of the **Insurer** to investigate and defend any **Claim** under this Policy. However, the **Insured** shall have the right to associate with the **Insurer** in the investigation, defense and settlement of any **Claim**. The **Insurer** shall select defense counsel to represent the **Insured** with respect to any **Claim**; subject to the consent of the **Insured**, such consent shall not be unreasonably withheld.
2. No **Insured** may incur any **Defense Expenses** or admit liability for or settle or offer to settle any **Claim** without the **Insurer's** written consent. The **Insurer** will have the right to make investigations and conduct negotiations and, with the consent of the **Insured**, enter into such settlement of any **Claim** as the **Insurer** deems appropriate. If the **Insured** refuses to consent to a settlement acceptable to the claimant in accordance with the **Insurer's** recommendations, then, subject to the **Insurer's** maximum Limit of Insurance set forth in Item 3.(k) of the Declarations, the **Insurer's** liability for such **Claims** will not exceed:
  - a. the amount for which such **Claim** could have been settled by the **Insurer** plus **Defense Expenses** up to the date the **Insured** refused to settle such **Claim**; plus
  - b. fifty percent (50%) of any **Loss** and/or **Defense Expense** in excess of clause a. above, incurred in connection with such **Claim**. The remaining

**Loss** and/or **Defense Expenses** will be carried by the **Insured** at its own risk and will be uninsured.

3. The **Insurer** will have no obligation to pay **Loss**, including **Defense Expenses**, or to defend or continue to defend any **Claim**, or to reimburse any amounts, costs or expenses pursuant to Section II. of the Policy, after the Maximum Aggregate Limit of Insurance stated in Item 3. of the Declarations has been exhausted. If the Limit of Insurance stated in Item 3.(k) of the Declarations is exhausted by the payment of such amounts, the entire premium paid for this Policy will be deemed fully earned.
4. In the event of a finding that no coverage exists under this Policy for any **Claim**, the **Insurer** shall have the right to recover any **Defense Expenses** paid or advanced by the **Insurer** in connection with such **Claim**.

D. Other Insurance:

1. All **Loss** payable under this Policy will be excess of, and will not contribute with, other valid insurance (whether collectible or not), including but not limited to any other insurance, unless such other insurance is specifically stated to be in excess of this Policy. This Policy will not be subject to the terms of any other insurance.
2. Notwithstanding Condition D.1. above, with respect to any **Claim** under this Policy for which any coverage is available under any insurance policy(ies) which applies to **Claims** for **Bodily Injury** and/or **Property Damage**, the **Insurer** will have no duty to defend such **Claim**, or to pay **Defense Expenses** incurred by or on behalf of any **Insured** in connection with such **Claim**, or to contribute to any defense provided to any **Insured** under such other insurance policy(ies), or to reimburse any other insurer, in whole or in part, for **Defense Expenses** incurred in connection with such **Claim**.

E. Cooperation; Subrogation:

In the event of a **Claim**, the **Insured** will provide the **Insurer** with all information, assistance, and cooperation that the **Insurer** reasonably requests, and will do nothing that may prejudice the **Insurer's** position or potential or actual rights of recovery. At the **Insurer's** request, the **Insured** will assist in any actions, suits, or proceedings, including but not limited to attending hearings, trials and depositions, securing and giving evidence, and obtaining the attendance of witnesses, and will also assist in making settlements. In the event of payment, the **Insurer** will be subrogated to the extent of any payment to all of the rights of recovery of the **Insured**. The **Insured** will execute all papers and do everything necessary to secure such rights, including the execution of any documents necessary to enable the **Insurer** effectively to bring suit in their name. Any sums recovered after expenses shall be paid first to reimburse the **Insured** for any sums paid to a claimant and any funds remaining shall be paid to the **Insurer**, although the **Insurer** shall control any recovery action, including settlement, in return for advancing funds for the subrogation action. The obligations of the **Insured** under this Condition E. will survive the expiration or cancellation of the Policy.

F. Extended Reporting Period:

1. If this Policy is cancelled or non-renewed for any reason other than non-payment of premium, the **Insured** shall have the right:
  - a. to an automatic thirty (30) day Extended Reporting Period, beginning on the effective date of such cancellation or non-renewal, for no additional premium charge; and
  - b. to purchase a Extended Reporting Period for the time period as set forth in Item 9. of the Declarations following the effective date of such cancellation or non-renewal.
2. The **Insured's** right to purchase a Extended Reporting Period shall lapse unless written notice of its election to purchase such Extended Reporting Period and the additional premium for such Extended Reporting Period, is received by the **Insurer** within thirty (30) days after such cancellation or non-renewal.
3. The additional premium for a Extended Reporting Period is set forth in Item 9. of the Declarations.
4. During the Extended Reporting Period, the **Insured** may provide the **Insurer** with notice, pursuant to Section V.G. of this Policy, of **Claims** first made during the Extended Reporting Period, for **Wrongful Acts** occurring prior to the effective date of the cancellation or non-renewal, and otherwise covered by this Policy.
5. The election of a Extended Reporting Period shall in no way increase or reinstate any Limit of Liability or Limit of Insurance set forth in Item 3. of the Declarations.
6. The premium for the Extended Reporting Period shall be fully earned at inception of the Extended Reporting Period, and the Extended Reporting Period shall be non-cancellable.

G. Notice of **Claims** and Circumstances; Timing and Interrelationship of **Claims**:

1. As a condition precedent to any right to payment in respect of any **Claim**, the **Insured** must give the **Insurer** written notice of such **Claim**, with full details, as soon as practicable after it is first made and in no event later than sixty (60) days after the expiration date of the **Policy Period**.
2. If, during the **Policy Period**, the **Insured** first becomes aware of a **Wrongful Act** which may subsequently give rise to a **Claim** and, as soon as practicable thereafter, but before the expiration or cancellation of this Policy, the **Insured**:
  - a. gives the **Insurer** written notice of such **Wrongful Act**, including a description of the **Wrongful Act** in question, the identities of the potential claimants, the consequences that have resulted or may result from such **Wrongful Act**, the **Loss** that may result from such **Wrongful Act**; and

- b. requests coverage under this Policy for any subsequently resulting **Claim** for such **Wrongful Act**,

then the **Insurer** will treat any such subsequently resulting **Claim** as if had been first made during the **Policy Period**.

3. All notices under this condition shall be transmitted by certified mail or prepaid courier to the address set forth in Item 6. of the Declarations, or by electronic mail to [noticeofloss@awac.com](mailto:noticeofloss@awac.com). Such notices shall be deemed effective when received by the **Insurer**.
4. All **Related Claims** will be treated as a single **Claim** made when the earliest of such Related **Claim** was first made, or when the earliest of such **Related Claims** is treated as having been made in accordance with this Condition G., whichever is earlier.

H. Adjustments:

If, during the **Policy Period**, the **Named Insured** or any **Insured Entity** acquires any assets, acquires a **Subsidiary**, acquires any entity by merger (each a “New Entity”) and, at the time of the transaction, the assets of the New Entity exceed twenty-five percent (25%) of the total assets of the **Insured** as reflected in the most recent **Application** (a “Transaction”), then for a period of ninety (90) days after the effective date of the Transaction, the New Entity will be included within the definition of **Insured**, but only with respect to **Wrongful Acts** committed or allegedly committed after the effective date of the Transaction. Upon the expiration of the ninety (90) day period, there shall be no coverage under this Policy for **Wrongful Acts** committed or allegedly committed by the New Entity, unless the **Insured** has provided the **Insurer** with written notice of the Transaction, containing full details thereof, and the **Named Insured** and the **Insurer** have agreed to add coverage for the New Entity upon such terms, conditions and limitations of coverage and such additional premium as the **Insurer** may require.

I. Conversion of Coverage under Certain Circumstances:

If, during the **Policy Period**, any of the following events occur:

1. the acquisition of the **Named Insured**, or of all or substantially all of its assets, by another entity, or the merger or consolidation of the **Named Insured** into or with another entity such that the **Named Insured** is not the surviving entity;
2. the appointment of a receiver, conservator, trustee, liquidator, rehabilitator or any similar official, for or with respect to the **Named Insured**; or
3. the obtaining by any person, entity, or affiliated group of persons or entities of the right to elect, appoint or designate at least fifty percent (50%) of the directors or trustees of the **Named Insured**;

then coverage under this Policy will continue in full force and effect with respect to **Claims** for **Wrongful Acts** committed before such event, but coverage will cease with respect to **Claims** for **Wrongful Acts** committed after such event. After any such event, this Policy may not be canceled, regardless of Condition J.2., and the entire premium for the Policy will be deemed fully earned.

J. Cancellation; No Obligation to Renew:

1. The **Insurer** may not cancel this Policy except for failure to pay a premium when due. The **Insurer** will deliver or mail by first class, registered, or certified mail to the **Named Insured** at its last known address, written notice of cancellation at least ten (10) days before the effective date of cancellation. A copy of such notice shall be sent to the agent of record.
2. The **Named Insured** may cancel this Policy by mailing to the **Insurer** written notice stating when, not later than the Expiration Date set forth in Item 2.(b) of the Declarations, such cancellation will be effective. In such event, return premium will be computed as 0.90 times the pro rata unearned premium shown in Item 7. of the Declarations and rounded to the nearest whole dollar. Premium adjustment may be made either at the time cancellation by the **Named Insured** is effective or as soon as practicable thereafter.
3. The **Insurer** will not be required to renew this Policy upon its expiration. If the **Insurer** elects not to renew this Policy, the **Insurer** will deliver or mail by first class, registered, or certified mail to the **Named Insured** at its last known address written notice to that effect at least sixty (60) days before the Expiration Date set forth in Item 2.(b) of the Declarations. Such notice shall state the specific reason(s) for non-renewal.

K. Representations; Severability:

The **Insured** represents that the particulars and statements contained in the **Application** are true, accurate and complete and agrees that this Policy is issued in reliance on the truth of that representation, and that such particulars and statements, which are deemed to be incorporated into and to constitute a part of this Policy, are the basis of this Policy.

In the event of any material untruth, misrepresentation or omission in connection with any of the particulars or statements in the **Application**, the knowledge of one **Insured Person** will not be imputed to any other **Insured Person**, provided, however, that this Policy will be void:

1. with respect to any **Insured Person** who knew of such untruth, misrepresentation or omission; and
2. with respect to the **Named Insured**, if, and only if, an **Executive Officer**, or any person in a functionally equivalent position within the **Named Insured**, knew of such untruth, misrepresentation or omission.

L. Legal Action Against the **Insurer**:

1. No action may be taken against the **Insurer** unless, as conditions precedent thereto, there has been full compliance with all of the terms of this Policy and the amount of the **Insured's** obligation to pay has been finally determined either by judgment against the **Insured** after adjudicatory proceedings, or by written agreement of the **Insured**, the claimant and the **Insurer**.

2. No person or entity will have any right under this Policy to join the **Insurer** as a party to any **Claim** to determine the liability of any **Insured**; nor may the **Insurer** be impleaded by an **Insured** or his, her, or its legal representative in any such **Claim**.

M. Death, Incapacity or Insolvency of an **Insured**:

The **Insurer** will not be relieved of any its obligations under this Policy by the death, incapacity, or insolvency of any **Insured**. In the event of the death, incapacity or insolvency of an **Insured**, any **Claim** against the estate, heirs, legal representatives or assigns of such **Insured** for a **Wrongful Act** of such **Insured**, will be deemed to be a **Claim** against such **Insured**.

N. Spousal Extension:

The coverage afforded under this Policy will, subject to all of its terms, conditions, limitations and exclusions, be extended to apply to **Loss** resulting from a **Claim** against a person who, at the time the **Claim** is made, is a lawful spouse of an **Insured Person**, but only if: (a) the **Claim** against such spouse results from a **Wrongful Act** actually or allegedly committed by the **Insured Person**, to whom the spouse is married; and (b) such **Insured Person** and his or her spouse are represented by the same counsel in connection with such **Claim**.

O. Territory:

This Policy applies to **Wrongful Acts** or events which give rise to coverage under Section II., which take place anywhere in the world and to **Claims** brought against the **Insured** anywhere in the world.

P. Authorization and Notices:

The **Named Insured** will act on behalf of all other **Insureds** with respect to receiving any notices and return premiums from the **Insurer**.

Q. Changes:

Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the **Insurer** will not effect a waiver or change in any part of this Policy or stop the **Insurer** from asserting any right under the terms, conditions and limitations of this Policy. The terms, conditions and limitations of this Policy can be waived or changed only by written endorsement.

R. Assignment:

No assignment of interest under this Policy will bind the **Insurer** without its consent.

S. Entire Agreement:

The **Insureds** agree that this Policy, including the **Application** and any endorsements, constitutes the entire agreement between them and the **Insurer** or any of its agents relating to this insurance.

T. Headings:

The descriptions in the headings and sub-headings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.

**IN WITNESS WHEREOF, the Insurer has caused this Policy to be executed on the Declarations Page.**