

MARKET REFORM CONTRACT

RISK DETAILS

UMR: B1552LPIRLA2018

TYPE: Tech Errors & Omissions including Cyber Liability

ATTACHING TO LINESLIP: LPIRLA2018/001

THE INSURED: EB Technologies Inc. dba CMIT Solutions of Twin Cities SE

INSURED'S ADDRESS: 860 Blue Gentian Rd, Ste 200 Eagan, MN 55121

PERIOD OF INSURANCE: From: 00:00:00 5/10/2018
To: 23:59:59 5/9/2019 (both days inclusive)
Local Standard Time at the Address of the Insured

INTEREST: Technology errors & omissions including cyber liability

BUSINESS: Technology Company and as more fully defined in the proposal form dated 3/30/2018

LIMITS:

- (a) Total Aggregate Limit of Liability: USD 1,000,000
- (b) Insuring Agreements Limits of Liability:

Section I – First Party Insuring Agreements and Limits of Liability

- A. Privacy Notification Costs: USD 1,000,000
- A. Legal and Forensic Expense: USD 250,000
- A. Public Relations & Crisis Management Expense: USD 250,000
- B. First Party Costs: USD 1,000,000
- C. Income Loss and Extra Expenses: USD 250,000
- D. Cyber Extortion Loss: USD 250,000

Section II – Third Party Insuring Agreements and Limits of Liability

- A. Professional and Technology Services Coverage: USD 1,000,000
- B. Technology Products Coverage: USD 1,000,000
- C. Network Security and Privacy Liability: USD 1,000,000
- D. Media Liability: USD 1,000,000
- E. Withheld Fees: USD 250,000



MARKET REFORM CONTRACT

RETENTION:

Retentions:

- a. Each Claim Retention (including each Claim in the form of a Regulatory Claim), includes Defense Costs:

USD 1,000

- b. Each incident, event or related incidents or events giving rise to an obligation to pay Privacy Notifications Costs, Legal and Forensic Expense, or Public Relations & Crisis Management Expense:

USD 2,500

- c. Each incident, event or related incidents or events giving rise to an obligation to pay First Party Costs, Loss and Extra Expenses, Cyber Extortion Loss or Withheld Fees:

USD 2,500

TIME RETENTION: 24 Hours

RETROACTIVE DATE: 5/10/2018

CONTINUITY DATE: 5/10/2018

"THIS INSURANCE IS ISSUED PURSUANT TO THE MINNESOTA SURPLUS LINES INSURANCE ACT. THE INSURER IS AN ELIGIBLE SURPLUS LIUNES INSURER BUT IS NOT OTHERWISE LICENSED BY THE STATE OF MINNESOTA. IN CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED." (M.S.A. §60A.207).



MARKET REFORM CONTRACT

**PREMIUM FOR
ADDITIONAL EXTENDED
REPORTING PERIOD:**

100% of the premium for this Policy

**LENGTH OF ADDITIONAL
EXTENDED REPORTING
PERIOD:**

12 months

TERRITORIAL LIMITS:

This Insurance applies to **Claims** made and acts, errors, or omissions committed anywhere in the world.

CONDITIONS:

TechRug TechMal policy (as attached)
NMA1256 Nuclear Incident Exclusion Clause
NMA1477 Radioactive Contamination Exclusion Clause
E02804 032011ed Sanction & Limitation Exclusion Clause
NMA4646 War & Civil War Exclusions
LSW585 Premium Payment Warranty
LMA3333 (Re)Insurers Liability Clause
NMA1998 Service of Suit Clause (U.S.A)
Additional Insured for Vicarious Liability
Additional Defence Limit

CHOICE OF LAW:

Minnesota

PREMIUM:

USD 700 (Excluding taxes and Fees)

**TAXES PAYABLE BY
INSURED AND
ADMINISTERED BY
INSURERS:**

None

**INSURER CONTRACT
DOCUMENTATION:**

This document details the contract terms entered into by Insurer(s), and constitutes the contract document.

This contract is subject to US state surplus lines requirements. It is the responsibility of the surplus lines broker to affix a surplus lines notice to the contract document before it is provided to the Assured. In the event that the surplus lines notice is not affixed to the contract document the Assured should contact the surplus lines broker.

**NOTIFICATION OF
CLAIMS :**

Samantha L. Riley,
Nicolaides Fink Thorpe Michaelides Sullivan LLP
10 South Wacker Drive, Floor 21
Chicago, IL 60606
914 440-3102
claims@nicolaidesllp.com



MARKET REFORM CONTRACT
INFORMATION

INSURED APPLICATION 3/30/2018
FORM DATED:

ADDITIONAL 1:

ADDITIONAL 2:

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MARKET REFORM CONTRACT

SECURITY DETAILS

WRITTEN LINES: 100% MS Amlin Syndicate 2001

ORDER HEREON: 100% of 100%

BASIS OF WRITTEN LINES: Percentage of whole

BASIS OF SIGNED LINES: Percentage of order

SIGNING PROVISIONS: In the event that the written lines hereon exceed 100% of the order, any lines written "to stand" will be allocated in full and all other lines will be signed down in equal proportions so that the aggregate signed lines are equal to 100% of the order without any further agreement of any of the (re)insurers.

However:

- a) In the event that the placement of the order is not completed by the commencement date of the period of the lineslip then all lines written by that date will be signed in full.
- b) The signed lines resulting from the application of the above provisions can be varied, before or after the commencement date of the period of the lineslip, by the documented agreement of the lineslip holder and all (re)insurers whose lines are to be varied. The variation to the lineslip will take effect only when such (re)insurers have agreed, with the resulting variation in signed lines commencing from the date set out in that agreement.




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FISCAL AND REGULATORY

TAX PAYABLE BY UNDERWRITER(S): None

COUNTRY OF ORIGIN: USA

US CLASSIFICATION: Surplus Lines

OVERSEAS BROKER: McCormick & Reinmuth Insurance Agency Inc
250 W. Old Wilson Bridge Rd
Suite 350
Worthington, Ohio 43085

SURPLUS LINES BROKER: RLA Insurance Intermediaries
75 Federal Street, Suite 1250, Boston, MA 02110
License number : 40202212

STATE OF FILING: Minnesota

NAIC CODES: N/A

ALLOCATION TO CODING: PREMIUM F4 80%
CY 20%

REGULATORY CLIENT CLASSIFICATION: Commercial

IS THE BUSINESS SUBJECT TO DISTANCE MARKETING DIRECTIVE?: No




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NUCLEAR INCIDENT EXCLUSION CLAUSE-LIABILITY-DIRECT (BROAD) (U.S.A.)

For attachment to insurances of the following classifications in the U.S.A., its Territories and Possessions, Puerto Rico and the Canal Zone:

Owners, Landlords and Tenants Liability, Contractual Liability, Elevator Liability, Owners or Contractors (including railroad) Protective Liability, Manufacturers and Contractors Liability, Product Liability, Professional and Malpractice Liability, Storekeepers Liability, Garage Liability, Automobile Liability (including Massachusetts Motor Vehicle or Garage Liability),

not being insurances of the classifications to which the Nuclear Incident Exclusion Clause-Liability-Direct (Limited) applies.

This Policy* does not apply:

- I. Under any Liability Coverage, to injury, sickness, disease, death or destruction:
 - a. with respect to which an insured under the Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - b. resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- II. Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.
- III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if:
 - a. the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;
 - b. the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
 - c. the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.
- IV. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or by-product material; "source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act 1954 or in any law amendatory thereof; "spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor; "waste" means any waste material (1) containing by-product material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof; "nuclear facility" means:



MARKET REFORM CONTRACT

- a. any nuclear reactor
- b. any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
- c. any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- d. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. With respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this clause is subject to the terms, exclusions, conditions and limitations of the Policy to which it is attached.

* NOTE: As respects policies which afford liability coverages and other forms of coverage in addition, the words underlined should be amended to designate the liability coverage to which this clause is to apply.

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MARKET REFORM CONTRACT

RADIOACTIVE CONTAMINATION EXCLUSION CLAUSE-LIABILITY-DIRECT (U.S.A.)

For attachment in addition to the appropriate Nuclear Incident Exclusion Clause-Liability-Direct) to liability insurances affording worldwide coverage.

In relation to liability arising outside the U.S.A., its Territories or Possessions, Puerto Rico or the Canal Zone, this Policy does not cover any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

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SANCTION LIMITATION AND EXCLUSION CLAUSE

This endorsement modifies insurance provided under the following:

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, law or regulations of the European Union, United Kingdom or United States of America.

All other terms and conditions of this Policy remain unchanged.

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WAR AND CIVIL WAR EXCLUSION CLAUSE

Notwithstanding anything to the contrary contained herein this Policy does not cover Loss or Damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

N.M.A. 4646

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The logo consists of a blue circle with the text "AML" on the top line and "2001" on the bottom line in white capital letters.

**MARKET REFORM CONTRACT
PREMIUM PAYMENT WARRANTY**

IT IS WARRANTED that all Premiums due to the Underwriters under this Policy are paid within 45 days from Inception.

Non-receipt by Underwriters of such premiums by Midnight on the Premium Due date shall render this Insurance Policy void with effect from Inception.

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MARKET REFORM CONTRACT
(RE)INSURERS LIABILITY CLAUSE

(Re)insurer's liability several not joint

The liability of a (re)insurer under this contract is several and not joint with other (re)insurers party to this contract. A (re)insurer is liable only for the proportion of liability it has underwritten. A (re)insurer is not jointly liable for the proportion of liability underwritten by any other (re)insurer. Nor is a (re)insurer otherwise responsible for any liability of any other (re)insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by a (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp. This is subject always to the provision concerning "signing" below.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is a (re)insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other (re)insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

Proportion of liability

Unless there is "signing" (see below), the proportion of liability under this contract underwritten by each (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp and is referred to as its "written line".

Where this contract permits, written lines, or certain written lines, may be adjusted ("signed"). In that case a schedule is to be appended to this contract to show the definitive proportion of liability under this contract underwritten by each (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together). A definitive proportion (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of a Lloyd's syndicate taken together) is referred to as a "signed line". The signed lines shown in the schedule will prevail over the written lines unless a proven error in calculation has occurred.

Although reference is made at various points in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

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MARKET REFORM CONTRACT

SERVICE OF SUIT CLAUSE (U.S.A.)

It is agreed that in the event of the failure of the Underwriters hereon to pay any amount claimed to be due hereunder, the Underwriters hereon, at the request of the Insured (or Reinsured), will submit to the jurisdiction of a Court of competent jurisdiction within the United States. Nothing in this Clause constitutes or should be understood to constitute a waiver of Underwriters' rights to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States or any State in the United States. It is further agreed that service of process in such suit may be made upon FLWA Service Corp., c/o Foley & Lardner LLP, 555 California Street, Suite 1700, San Francisco, California 94104-1520, United States of America, and that any suit instituted against any one of them upon this contract, Underwriters will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

The above-named are authorized and directed to accept service of process on behalf of Underwriters in any such suit and/or upon the request of the Insured (or Reinsured) to give a written undertaking to the insured (or Reinsured) that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, Underwriters hereon hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Insured (or Reinsured) or any beneficiary hereunder arising out of this contract of insurance (or reinsurance), and hereby designate the above-named as the person to whom the said officer is authorized to mail such process or a true copy thereof.

NMA 1998 (24/4/86) Form approved by Lloyd's Underwriters' Non-Marine Association.



MARKET REFORM CONTRACT

ADDITIONAL INSURED FOR VICARIOUS LIABILITY ENDORSEMENT

This endorsement changes the Policy.

For purposes of this endorsement, **III. THE INSURED AND THE INSURED ORGANIZATION** is amended to add the following:

- I. An **Additional Insured**, but only for a **Claim, Loss or Damages** arising solely from a negligent act, error, or omission or any unintentional breach of contract of the **Insured Organization**.

As a condition to Insurers indemnification of any **Additional Insured**:

1. shall prove to Insurers satisfaction that the **Claim, Loss or Damages** arose solely from a negligent act, error, or omission, or any unintentional breach of contract committed by the **Insured Organization**
2. shall fully comply with **XX. ASSISTANCE AND COOPERATION OF THE INSURED**

For purposes of this endorsement, **VI. DEFINITIONS** is amended to add the following:

XX. Additional Insured means:

1. any natural person or entity that the **Insured Organization** has expressly agreed in writing to add as an **Additional Insured** under this Policy prior to the commission or occurrence of any act, error or omission for which such person or entity would be provided coverage for under this Policy; and
2. any other person or entity added as an **Additional Insured** by endorsement to this Policy;

but only to the extent the **Insured Organization** would have been liable and coverage would have been afforded under this Policy had such **Claim** been made against the **Insured Organization**.

For purposes of this endorsement, Item **P.** under **V. EXCLUSIONS** is deleted in its entirety and replaced with the following:

- P.** By or on behalf of one or more **Insureds** under this Policy against any other **Insured or Insureds** under this Policy; *provided, however,* this exclusion shall not apply to an otherwise covered **Claim** under Insuring Clause C.1.(b)(2.) or C.2.(a) made by an employee of the **Insured Organization**; nor shall this exclusion apply to any otherwise covered **Claim** made by an **Additional Insured**.

All other terms and conditions of this Policy remain unchanged.



MARKET REFORM CONTRACT

ADDITIONAL DEFENSE LIMIT

The applicable amount shown below shall be the Additional Defense Limit of Underwriters applicable only to Claims Expenses, which Limit shall be separate and in addition to any other limit shown in Item 3. of the Declarations. Payment of Claims Expenses shall erode the Additional Defense Limit first and will not erode any other limit shown in Item 3. until the Additional Defense Limit is exhausted

Additional Defense Limit of Liability \$250,000

All other terms and conditions of this Policy remain unchanged.

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THE POLICY

IMPORTANT NOTICE: AS MORE FULLY SET FORTH IN THE INSURING AGREEMENTS, THE THIRD PARTY COVERAGES PROVIDED BY THIS POLICY COVER ONLY CLAIMS FIRST MADE AND REPORTED TO UNDERWRITERS DURING AND BEFORE THE END OF THE POLICY PERIOD OR ANY EXTENDED REPORTED PERIOD, IF APPLICABLE.

AS MORE FULLY SET FORTH IN THE INSURING AGREEMENTS, THE FIRST PARTY COVERAGES, EXCEPT FOR INSURING AGREEMENT I.D. (CYBER EXTORTION), COVER ONLY LOSS DISCOVERED AND REPORTED TO UNDERWRITERS DURING AND BEFORE THE END OF THE POLICY PERIOD OR AN EXTENDED REPORTING PERIOD, IF APPLICABLE, AND OCCURRING AFTER THE RETROACTIVE DATE.

COVERAGE PROVIDED BY INSURING AGREEMENT I.D. (CYBER EXTORTION) COVERS ONLY CYBER EXTORTION DEMANDS FIRST MADE DURING THE POLICY PERIOD OR AN EXTENDED REPORTING PERIOD, IF APPLICABLE, AND OCCURRING AFTER THE RETROACTIVE DATE.

ALL CLAIMS OR ANY OTHER AMOUNTS PAYABLE UNDER THIS POLICY ARE SUBJECT TO THE APPLICABLE LIMITS OF LIABILITY AND THE APPLICABLE RETENTION(S). PLEASE BE ADVISED THAT, WHERE NOTED, THE LIMITS OF LIABILITY INCLUDE DEFENSE COSTS.

Unless otherwise expressly provided below, the Insured shall not admit liability, make any payment, assume any obligation, incur any expense, enter into any settlement, stipulate to any judgment or award, or dispose of any loss or Claim without Underwriters' prior written consent.

WORDS AND TERMS THAT APPEAR IN BOLD FACE TYPE BELOW ARE DEFINED TERMS IN THIS POLICY. PLEASE READ THIS POLICY CAREFULLY.

The **Named Insured** has purchased some or all of the Insuring Agreements listed below. Please refer to the Policy Schedule, which is considered to be part of this Policy, which shows the Insuring Agreements that have been purchased. If an Insuring Agreement has not been purchased, that portion of this Policy is not applicable.

In consideration of the payment of Premium by the **Named Insured** to **Underwriters** hereunder, and subject to the terms, conditions and exclusions of this Policy, as well as the Insuring Agreements purchased, the **Named Insured** and the **Underwriters** agree as follows:

Section I - First Party Insuring Agreements

This Policy provides the **Insured** with coverage for loss as more fully and specifically described in the following Insuring Agreements:

A. Breach Costs

Underwriters will indemnify the **Named Insured** for:

Privacy Notification Costs, Legal and Forensics Expense, and Public Relations & Crisis Management Expense, in excess of the Retention and incurred by the **Insured Organization** with **Underwriters'** prior written consent, resulting from an incident (or reasonably suspected incident) described in Section V.II.1.(b). or Section V.MM.1. that first takes place on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**; provided such incident or suspected incident must be reported to **Underwriters** during the **Policy Period**.

Privacy Notification Costs means reasonable and necessary:

- (a) costs to provide notification to:
 - 1. individuals who are required to be notified by the applicable **Breach Notice Law**; and
 - 2. in **Underwriters'** discretion, to individuals affected by an incident in which their **Personally Identifiable Non-Public Information** has been subject to theft, loss, or unauthorized disclosure in a manner which compromises the security or privacy of such individual by posing a significant risk of financial, reputational or other harm to the individual; and
- (b) costs in connection with a credit file monitoring program, to be approved by **Underwriters**, consisting of:
 - 1. the offering of one (1) year of credit monitoring services to those individuals whose **Personally Identifiable Non Public Information** was compromised or reasonably believed to be compromised as a result of the theft or unauthorized disclosure of information giving rise to the notification requirement; and
 - 2. mailing and other reasonable third party administrative costs associated with such program;

Provided all such costs under this subsection (b) must be incurred within one (1) year of discovery of such theft or unauthorized disclosure of information, and be for the purpose of mitigating potential **Damages** resulting from such theft or unauthorized disclosure of information.

Legal and Forensic Expense means reasonable and necessary:

- (a) fees charged by an attorney to determine the applicability of and actions necessary by the **Insured Organization** to comply with a **Breach Notice Law** due to an actual or reasonably suspected theft, loss or unauthorized disclosure of **Personally Identifiable Non-Public Information**; and
- (b) costs to hire a computer security expert to determine the existence and cause of any

electronic data breach resulting in an actual or reasonably suspected theft, loss or unauthorized disclosure of **Personally Identifiable Non-Public Information** which may require the **Insured Organization** to comply with a **Breach Notice Law** and to determine the extent to which such information was accessed by an unauthorized person or persons.

Public Relations & Crisis Management Expense means reasonable and necessary costs of a public relations consultancy for the purpose of averting or mitigating material damage to the **Insured Organization's** reputation.

Privacy Notification Costs, Legal and Forensic Expense and Public Relations & Crisis Management Expense shall not include any internal salary or overhead expenses or any internal costs or expenses related to public relations management of the **Insured Organization**.

B. Costs for Damage to Data or Programs

Underwriters will indemnify the **Named Insured** for:

First Party Costs in excess of the Retention incurred by the **Insured Organization** as a direct result of:

1. alteration, corruption, destruction, loss, deletion or damage to the **Insured's Data** or the **Insured's Programs**, or
2. inability to access the **Insured's Data** or the **Insured's Programs**;

that first takes place during the **Policy Period** and is directly caused by a failure of **Computer Security** to prevent a **Network Security Breach**, or a **Cloud Service Provider's** system failure or impairment due to a **Network Security Breach**; provided that such **Network Security Breach**, system failure or impairment must take place on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**.

C. Network Failure - Income Loss and Extra Expenses

Underwriters will indemnify the **Named Insured** for:

Income Loss and Extra Expenses in excess of the Retention incurred by the **Insured Organization** during the **Period of Restoration** or the **Extended Interruption Period** (if applicable) as a direct result of the actual or necessary interruption or suspension of the **Insured's Network** that first takes place during the **Policy Period** and is directly caused by a failure of **Computer Security** to prevent a **Network Security Breach**; provided that such **Network Security Breach** must first take place on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**.

D. Cyber Extortion

Underwriters will indemnify the **Named Insured** for:

Cyber Extortion Loss in excess of the Retention incurred by the **Insured Organization** as a direct result of an **Cyber Extortion Demand** first made against the **Insured Organization** during the **Policy Period** by a person, other than the **Insured Organization's** current or former employees, directors, officers, principals, trustees, governors, members, management committee members, members of the management board, partners, contractors, outsourcers, or any person in collusion with any of the foregoing. Coverage under this Insuring Agreement is subject to the applicable conditions and reporting requirements of this Policy, including those set forth in Section IX.B. Obligations in the Event of a Cyber Extortion Demand.

Section II - Third Party Insuring Agreements

This Policy provides the **Insured** with coverage for **Claims** made under the following Insuring Agreements, as more fully described below:

A. Professional and Technology Services Coverage

Underwriters will pay on behalf of any **Insured**:

Damages and **Defense Costs**, in excess of the Retention, which the **Insured** shall become legally obligated to pay because of any **Claim** first made against any **Insured** arising out of any negligent act, error, or omission, or any unintentional breach of contract, in rendering or failing to render **Professional Services** or **Technology Services** on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**, by the **Insured** or by any person, including an independent contractor, for whose negligent act, error, or omission or unintentional breach of contract the **Insured Organization** is legally responsible.

B. Technology Products Coverage

Underwriters will pay on behalf of any **Insured**:

Damages and **Defense Costs**, in excess of the Retention, which the **Insured** shall become legally obligated to pay because of any **Claim** first made against any **Insured** arising out of any negligent act, error, or omission, or any unintentional breach of contract, by the **Insured** on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**, that results in the failure of **Technology Products** to perform the function or serve the purpose intended.

C. Network Security and Privacy Liability

1. Network Security Liability

Underwriters will pay on behalf of the **Insured**:

Damages and **Defense Costs**, in excess of the Retention, which the **Insured** shall become legally obligated to pay because of any **Claim** first made against any **Insured** arising out of any act, error, or omission on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**, in the course of providing or managing the **Insured's Network** security, by the **Insured** or by any person, including an independent contractor, for whose act, error, or omission the **Insured Organization** is legally responsible, that results in a **Network Security Breach**.

2. Privacy Liability

Underwriters will pay on behalf of the **Insured**:

Damages and **Defense Costs**, in excess of the Retention, which the **Insured** shall become legally obligated to pay because of any **Claim**, including a **Claim** for violation of a privacy law, first made against any **Insured** arising out of any act, error, or omission on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**, for a **Privacy Breach**.

3. Network Security and Privacy Liability (Regulatory)

Underwriters will pay on behalf of the Insured:

Defense Costs and **Regulatory Penalties** in excess of the Retention, which the **Insured Organization** shall become legally obligated to pay because of any **Regulatory Claim** first made against any **Insured** resulting from a violation of a **Privacy Law** and caused by an incident described in Section V.MM.1. or 2. that takes place on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**.

D. Media Liability

Underwriters will pay on behalf of any Insured:

Damages and **Defense Costs**, in excess of the Retention, which the **Insured** shall become legally obligated to pay because of liability imposed by law or **Assumed Under Contract** resulting from any **Claim** first made against any **Insured**, arising out of one or more of the following acts committed on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**, in the course of the **Insured Organization's** performance of **Professional Services, Media Activities** or **Technology Services**:

1. defamation, libel, slander, product disparagement, trade libel, prima facie tort, infliction of emotional distress, outrage, outrageous conduct, or other tort;
2. invasion of or interference with the right to privacy or of publicity;
3. misappropriation of any name or likeness for commercial advantage;
4. false arrest, detention or imprisonment or malicious prosecution;
5. invasion of or interference with the right to private occupancy, including trespass, wrongful entry or wrongful eviction;
6. plagiarism, piracy or misappropriation of ideas under implied contract;
7. infringement of copyright;
8. infringement of trade dress, domain name, title or slogan, or the dilution or infringement of trademark or service mark;
9. negligence regarding the content of any **Media Communication**, including harm caused through any reliance or failure to rely upon such content; and
10. misappropriation of trade secret;

provided, this Insuring Agreement II.D. shall not apply to any **Claim** for or arising out of the disclosure, misuse or misappropriation of any ideas, trade secrets or confidential information that came into the possession of any person prior to the date he or she became an employee, officer, director, principal or partner of the **Insured Organization**.

E. Payment of Withheld Fees

Underwriters agree to pay to an **Insured**, in excess of the Retention, any fee (other than any part of the fee that represents the **Insured's** profit, markup or liability for taxes) due under a contract entered into by an **Insured** on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**, that an **Insured's Client** refuses to pay ("**Withheld Fees**"), in the event such **Client** threatens to bring a **Claim** against an **Insured** that would be covered under Insuring Agreement II.A. for an amount greater than the **Withheld Fees** if the **Insured** attempts to recover the withheld fees from such **Client**. Prior to payment of the **Withheld Fees**, the **Insureds** must obtain, and provide to **Underwriters**, written confirmation from such **Client** that it will not bring a **Claim** against the **Insureds** if the **Insureds** agree not to pursue such **Client** for the **Withheld Fees**.

Section III - Exclusions

The coverage under this Policy does not apply to **Damages, Regulatory Penalties or Defense Costs** in connection with or resulting from any **Claim**, or to any **Privacy Notification Costs, Legal and Forensic Expense, Public Relations & Crisis Management Expense** or other **Loss**:

- A. Arising out of or resulting from any criminal, deliberately dishonest, or fraudulent act, error, or omission committed by any **Insured**; *provided, however*, this Policy shall apply to **Defense Costs** incurred in defending any such **Claim** alleging the foregoing until such time as there is a final, non-appealable adjudication against the **Insured**, or formal written admission by the **Insured**, establishing such criminal, deliberately dishonest, or fraudulent conduct, at which time the **Named Insured** shall reimburse **Underwriters** for all **Defense Costs** incurred defending the **Claim** and **Underwriters** shall have no further liability for **Defense Costs**; *provided, further*, that this exclusion shall not apply to Insuring Agreements I.B. (Costs for Damage to Data or Programs), I.C. (Network Failure - Income Loss and Extra Expenses), and I.D. (Cyber Extortion).
- B. Arising out of or resulting from any act, error, or omission committed prior to the inception date of this Policy in respect of which any **Insured** has given notice of a circumstance which might lead to a **Claim** to the insurer of any other policy in force prior to the inception date of this Policy;
- C. Arising out of any related or continuing acts, errors, or omissions where the first such act, error, or omission was committed prior to the Retroactive Date set forth in Item 6.(A) of the Policy Schedule;
- D. For or arising out of or resulting from **Bodily Injury or Property Damage**; *provided, however*, this exclusion shall not apply to: (i) any **Claim** for mental anguish or emotional distress with respect to any otherwise covered **Claim** arising out of a **Privacy Breach**; (ii) any **Claim** under Insuring Agreements I.B.; or (iii) any **Claim** for mental injury, mental anguish or emotional distress with respect to any otherwise covered **Claim** under Insuring Agreement II.D.
- E. Arising out of or resulting from any breach of a written contract or agreement, except:
 - 1. with respect to Insuring Agreement II.A. for breach of an agreement by the **Insured Organization** to perform **Professional Services or Technology Services**; or Insuring Agreement II.B. for breach of an agreement by the **Insured Organization** to manufacture, develop, create, distribute, license, lease or sell **Technology Products**; *provided*, this exception III.E.1. shall not apply to breach of any hold harmless or indemnity agreement;
 - 2. with respect to Insuring Agreement II.D. for liability:

- (a) Assumed under Contract; or
 - (b) misappropriation of ideas under an implied contract;
 - 3. to the extent the **Insured** would have been liable in the absence of such contract or agreement; or
 - 4. with respect to Insuring Agreement II.E.
- F.** For or arising out of or resulting from:
- 1. breach of any express warranty or representation except for an agreement to perform within a reasonable standard of care or skill consistent with applicable industry standards, or breach of any other contractual obligation which goes beyond an express or implied duty to exercise a degree of care or skill as is consistent with applicable industry standards;
 - 2. breach of guarantee or any promises of cost savings, profits, or return on investment; or
 - 3. delay in delivery or performance, or failure to deliver or perform at or within an agreed upon period of time; *provided, however*, this exclusion shall not apply if such delay or failure to deliver or perform is a consequence of a negligent act, error, or omission committed during the course of providing **Professional Services** or **Technology Services**;
- G.** For or arising out of or resulting from:
- 1. inaccurate, inadequate, or incomplete description of the price of goods, products or services;
 - 2. cost guarantees, cost representations, or contract price estimates of probable costs or cost estimates actually or allegedly being exceeded;
 - 3. the failure of goods, products, or services to conform with any represented quality or performance contained in **Advertising**; or
 - 4. any actual or alleged gambling, contest, lottery, promotional game or other game of chance;
- H.** Arising out of or resulting from any actual or alleged obligation to make licensing fee or royalty payments, including but not limited to the amount or timeliness of such payments;
- I.** For or arising out of or resulting from any costs or expenses incurred or to be incurred by the **Insured** or others for:
- 2. the reprinting, recall, removal or disposal of any **Media Material**, including any media or products containing such **Media Material**; or
 - 3. the withdrawal, recall, inspection, repair, replacement, reproduction, removal or disposal of:
 - (a) **Technology Products**, including any products or other property of others that incorporate **Technology Products**;
 - (b) work product resulting from or incorporating the results of **Professional**

Services or Technology Services; or

- (c) any products or other property on which **Professional Services** or **Technology Services** are performed;

however, this exclusion shall not apply to third party **Claims** for the resulting loss of use of such **Media Material, Technology Products**, products or other property, or loss of use of the work product resulting from such **Professional Services** or **Technology Services**;

J. Arising out of, resulting from or alleging:

1. any failure or malfunction of electrical or telecommunications infrastructure or services, unless under the **Insured Organization's** operational control; or
2. fire, flood, earthquake, volcanic eruption, explosion, lighting, wind, hail, tidal wave, landslide, act of God or other physical event;

K. For or arising out of any actual or alleged antitrust violation, restraint of trade, unfair competition, violation of the Sherman Anti-Trust Act, the Clayton Act, the Robinson-Patman Act, as amended, violation of consumer protection laws (except consumer privacy protection laws for **Claims** under Insuring Agreement II.C.) or false, deceptive or unfair trade practices, or false or deceptive or misleading advertising;

L. Brought by or on behalf of the Federal Trade Commission, the Federal Communications Commission, or any similar governmental entity, in such entity's regulatory or official capacity; *provided, however*, this exclusion shall not apply to: (i) a **Claim** by a government entity brought in its capacity as a customer of the **Insured Organization** arising in the course of the **Insured Organization's** provision of **Professional Services, Technology Services, Media Activities** or **Technology Products** to such government entity pursuant to a written agreement between such government entity and the **Insured Organization**; or (ii) coverage provided under Insuring Agreement II.C.3.;

M. For or arising out of actual or alleged:

1. infringement of patent or patent rights or misuse of patent; or
2. infringement of copyright or misappropriation of trade secrets arising out of or related to **Technology Products**;

provided, however, this exclusion shall not apply to coverage provided under Insuring Agreement II.D.

N. For or arising out of the actual or alleged violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced And Corrupt Organizations Act or RICO), as amended, or any regulation promulgated thereunder or any similar federal law or legislation, or law or legislation of any state, province or other jurisdiction similar to the foregoing, whether such law is statutory, regulatory or common law;

O. For or arising out of the actual or alleged violation of any securities law, regulation or legislation, including but not limited to the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Act of 1940, the Sarbanes-Oxley Act of 2002, any state or provincial blue sky or securities law, any other federal securities law or legislation, or any or similar law or legislation of any state, province or other jurisdiction, or any amendment to the above laws, or any violation of any order, ruling or regulation issued pursuant to the above laws;

- P.** By or on behalf of one or more **Insureds** under this Policy against any other **Insured** or **Insureds** under this Policy; *provided, however*, this exclusion shall not apply to an otherwise covered **Claim** arising out of an incident defined in Section V.II.1.(b). or Section V.MM.1. made by an employee of the **Insured Organization**;
- Q.** Made by any business enterprise in which any **Insured** has greater than a fifteen percent (15%) ownership interest or made by any parent company or other entity which owns more than fifteen percent (15%) of the **Named Insured**, or arising out of or resulting from any **Insured's** activities as a trustee, partner, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than that of the **Insured Organization**;
- R.** Arising out of **Professional Services, Media Activities** or **Technology Services** performed for any entity, or **Technology Products** provided to any entity which:
1. is operated, managed or controlled by an **Insured** or in which any **Insured** has an ownership interest in excess of fifteen percent (15%); or in which any **Insured** is an officer or director; or
 2. operates, controls or manages the **Named Insured**, or has an ownership interest of more than fifteen percent (15%) in the **Named Insured**;
- S.** Arising out of or resulting from the insolvency or bankruptcy of any **Insured** or of any other entity including but not limited to the failure, inability, or unwillingness to pay **Claims**, losses, or benefits due to the insolvency, liquidation or bankruptcy of any such individual or entity;
- T.** For or arising out of or resulting from:
1. any employer-employee relations, policies, practices, acts or omissions, or any actual or alleged refusal to employ any person, or misconduct with respect to employees, whether such **Claim** is brought by an employee, former employee, applicant for employment, or relative of such person;
 2. any actual or alleged violation of the Fair Labor Standards Act of 1938, the National Labor Relations Act, the Worker Adjustment and Retraining Act of 1988, the Certified Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act of 1970, any similar law or legislation of any state, province or other jurisdiction, or any amendment to the above law or legislation, or any violation of any order, ruling or regulation issued pursuant to the above laws or legislation;
 3. any actual or alleged discrimination of any kind including but not limited to age, color, race, sex, creed, national origin, marital status, sexual preference, disability or pregnancy;
 4. any actual or alleged acts, errors, or omissions related to any pension, healthcare, welfare, profit sharing, mutual or investment plans, funds or trusts; or any violation of any provision of the Employee Retirement Income Security Act of 1974 or any similar federal law or legislation, or similar law or legislation of any state, province or other jurisdiction, or any amendment to the Act or any violation of any regulation, ruling or order issued pursuant to the Act or such similar laws or legislation; or
 5. any actual or alleged act, error, or omission or breach of duty by any director or officer in the discharge of their duty if the **Claim** is brought by the **Named**

Insured, a Subsidiary, or any directors, officers, stockholders, or employees of the Named Insured or a Subsidiary in his or her capacity as such; and

- U.** Either in whole or in part, directly or indirectly, arising out of or resulting from or in consequence of, or in any way involving:
1. asbestos, or any materials containing asbestos in whatever form or quantity;
 2. the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind; any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins; and any governmental or regulatory order, requirement, directive, mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins;

Underwriters will have no duty or obligation to defend any **Insured** with respect to any **Claim** or governmental or regulatory order, requirement, directive, mandate or decree which either in whole or in part, directly or indirectly, arises out of or results from or in consequence of, or in any way involves the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind;

3. the existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment, or that affects the value, marketability, condition or use of any property; or
 4. the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants; or any governmental, judicial or regulatory directive or request that the **Insured** or anyone acting under the direction or control of the **Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize Pollutants. Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant including gas, acids, alkalis, chemicals, heat, smoke, vapor, soot, fumes or waste. Waste includes but is not limited to materials to be recycled, reconditioned or reclaimed.
- V.** For, arising out of or resulting from any actual or alleged eavesdropping, wiretapping or unlawful audio or video recording if done by or on behalf of the **Insured Organization**.

W. Arising out of or resulting from:

1. any financial auditing, accounting, architectural, actuarial or non-software or non-information technology engineering services;
2. any legal services, including, but not limited to:
 - (a) services performed for others which by law can only be performed by licensed attorneys; regardless of whether any such services were performed by a licensed attorney;
 - (b) services performed for others by a licensed attorney as an administrator,

conservator, executor, trustee, guardian or committee or in any similar fiduciary capacity incidental to the practice of law; and

- (c) services performed for others by a licensed attorney as a notary public;
 - 3. any advice relating to investments and/or mergers or acquisitions;
 - 4. the performance of, or failure to perform, **Professional Services** in connection with any entity engaged in the manufacture, sale or advertising of any tobacco products or firearms;
 - 5. any nuclear waste, nuclear facility, nuclear systems, nuclear weapons, or any products or services related thereto;
 - 6. any air traffic control facility, or any products or services related thereto; or
 - 7. any weapons systems, or any products or services related thereto.
- X.** Arising out of or resulting from any Act of Terrorism, strike or similar labour action, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, or any action taken in controlling, preventing or suppressing any of these things. *Provided, however,* that for all coverage parts except Coverage I.B, Costs for Damage to Data or Programs, an Act of Terrorism is deemed to not include *Cyber Terrorism*. *Cyber Terrorism*, for the purposes of this exclusion, shall mean an act or series of acts of any person or group(s) or persons, whether acting alone or on behalf of or in connection with any organization(s), committed for political, religious or ideological purposes including but not limited to the intention to influence any government and/or to put the public in fear for such purposes by using activities perpetrated electronically that are directed towards the destruction, disruption or subversion of communication and information systems, infrastructure, computers, telecommunications or electronic networks and/or its content thereof or sabotage and/or threat there from. *Cyber Terrorism* does not include losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

The coverage under Insuring Agreements I.A., II.C.2. and II.C.3. does not apply to **Damages, Regulatory Penalties or Defense Costs** in connection with or resulting from any **Claim**, or to any **Privacy Notification Costs, Legal and Forensic Expense or Public Relations & Crisis Management Expense**:

- Y.** Arising out of or resulting from:
- 1. the distribution of unsolicited email, direct mail, or facsimiles;
 - 2. telemarketing; or
 - 3. the collection of information by means of electronic “spiders”, “spybots”, “spyware” or similar means, wire tapping or bugging, video cameras, or radio frequency identification tags;

by or on behalf of the **Insured Organization**;

- Z.** Against the **Insured Organization** if the **Claim** (or obligation to comply with a **Breach Notice Law**) arises out of or results from any intentional violation of a **Privacy Policy, Privacy Law or Breach Notice Law** if committed by any of the **Insured Organization’s** principals, directors, officers, partners, or trustees or any person in participation or collusion with any of

the **Insured Organization's** principals, directors, officers, partners, or trustees.

- AA.** Against any individual **Insured** if the **Claim** (or obligation to comply with a **Breach Notice Law**) arises out of or results from any intentional violation of a **Privacy Policy, Breach Notice Law** or **Privacy Law** if committed by such **Insured** or by others if the **Insured** colluded or participated in any such conduct or activity.

The coverage under Insuring Agreements I.B., I.C., and I.D. does not apply to any failure of **Computer Security** to prevent a **Network Security Breach, Cyber Extortion Demand** or **Loss**:

- BB.** Arising out of or resulting from any criminal, deliberately dishonest, or fraudulent act, error, or omission, or any **Network Security Breach, Cyber Extortion Demand**, or intentional violation of the law, if committed by any of the **Insured Organization's** directors, principals, officers, partners, or trustees or any person in participation or collusion with any of the **Insured Organization's** principals, directors, officers, partners, or trustees;
- CC.** Arising out of or resulting from any seizure, nationalization, confiscation, or destruction of the **Insured's Network** or **Insured's Data** or **Insured's Programs** by order of any governmental or public authority;
- DD.** Arising out of or resulting from any act, error, omission, failure of **Computer Security**, or **Network Security Breach** committed or occurring prior to the inception date of this Policy:
1. if the Chief Executive Officer, Chief Financial Officer, Chief Technology Officer, General Counsel or any members of the legal department or any members of the risk management department of the **Insured Organization**, on or before the later of the Retroactive or Continuity Dates (per Item 6 of the Policy Schedule), knew or could have reasonably foreseen that such act, error, or omission, failure of **Computer Security**, or **Network Security Breach** would be the basis of **Loss** or an **Extortion Threat**; or
 2. in respect of which any **Insured** has given notice of a circumstance which might lead to a **Cyber Extortion Demand** or **Loss** to the insurer of any other policy in force prior to the inception date of this Policy;
- EE.** Arising out of any related or continuing acts, errors, omissions, **Cyber Extortion Demands**, or **Network Security Breaches**, where the first such act, error, omission or failure or breach was committed or occurred prior to the Retroactive Date set forth in Item 6.(A) of the Policy Schedule;
- FF.** Arising out of or resulting from:
1. any failure or malfunction of electrical or telecommunications infrastructure or services, provided that this exclusion shall not apply to any otherwise covered **Claim** or **Loss** arising out of failure of **Computer Security** to prevent a **Network Security Breach** that was caused by a failure or malfunction of electrical infrastructure or services under the **Insured Organization's** operational control;
 2. fire, flood, earthquake, volcanic eruption, explosion, lighting, wind, hail, tidal wave, landslide, act of God or other physical event; or
 3. any satellite failures;
- GG.** Arising out of or resulting from the failure to, within a reasonable period of time, install customary software product updates and releases, or apply customary security related software patches, to computers and other components of the **Insured's Network**;

- HH.** Arising out of or resulting from any trading losses or trading liabilities; monetary value of any electronic fund transfers or transactions by or on behalf of the **Insured** which is lost, diminished, or damaged during transfer from, into or between accounts; or the value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount;

The coverage under Insuring Agreement I.D. (Cyber Extortion) does not apply to **Cyber Extortion Loss**:

- II.** Arising out of or resulting from:
1. any failure or malfunction of electrical or telecommunications infrastructure or services, provided that this exclusion shall not apply to any otherwise covered **Claim** or **Loss** arising out of failure of **Computer Security** to prevent a **Network Security Breach** that was caused by a failure or malfunction of electrical infrastructure or services under the **Insured Organization's** operational control;
 2. fire, flood, earthquake, volcanic eruption, explosion, lighting, wind, hail, tidal wave, landslide, act of God or other physical event; or

Section IV - Defense, Settlement and Investigation of Claims

- A.** **Underwriters** shall have the right and duty to defend, subject to the Limit of Liability, exclusions and other terms and conditions of this Policy:
1. any **Claim** against the **Insured** seeking **Damages** which are payable under the terms of this Policy, even if any of the allegations of the **Claim** are groundless, false or fraudulent; and
 2. under Insuring Agreement II.C.3., any **Regulatory Claim**.
- B.** **Underwriters** shall have the right and duty to defend, subject to the Limit of Liability, exclusions, and other terms and conditions of this Policy, any **Claim** in the form of a civil suit against the **Insured** that seeks injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction) for one or more of the acts listed in Insuring Agreement II.D. if:
1. the **Claim** is first made and reported to **Underwriters** during the **Policy Period** or **Additional Extended Reporting Period** (if applicable); and
 2. the act or acts were committed on or after the Retroactive Date and before the end of the **Policy Period** in the course of the **Insured's** performance of **Professional Services, Media Activities** or **Technology Services**.
- C.** When **Underwriters** defend a **Claim**, they will pay **Defense Costs** incurred with their prior written consent. The Limit of Liability available to pay **Damages, Regulatory Penalties, Privacy Notification Costs, Legal and Forensic Expense** or **Public Relations & Crisis Management Expense** shall be reduced and may be completely exhausted by payment of **Defense Costs, Damages, Regulatory Penalties, Privacy Notification Costs, Legal and Forensic Expense** or **Public Relations & Crisis Management Expense**. Such amounts shall be applied against the Retention.
- D.** **Underwriters** shall have the right to make any investigation they deem necessary, including, without limitation, any investigation with respect to the **Application** and statements made in the **Application** and with respect to coverage.

However, notwithstanding the above, the **Insured's** rights under this Policy shall not be prejudiced

by any refusal to disclose the identity of any confidential source of information, or to produce any documentation or information obtained in the course of **Media Activities** in respect of which the **Insured** has asserted a claim of reporter's privilege or any other privilege regarding the protection of news-gathering activities.

- E. If the **Insured** shall refuse to consent to any settlement or compromise recommended by **Underwriters** and acceptable to the claimant and elects to contest the **Claim**, **Underwriters'** liability for any **Damages, Regulatory Penalties, Privacy Notification Costs, Legal and Forensic Expense, Public Relations & Crisis Management Expense** and **Defense Costs** shall not exceed:
1. the amount for which the **Claim** could have been settled, less the remaining Retention, plus the **Defense Costs** incurred up to the time of such refusal, and
 2. eighty percent (80%) of any **Damages, Regulatory Penalties, Privacy Notification Costs, Legal and Forensic Expense, Public Relations & Crisis Management Expense** and **Defense Costs** incurred after the date such settlement or compromise was recommended to the **Insured** with the remaining twenty percent (20%) of such amounts to be borne by the **Insureds** at their own risk and uninsured;

or the applicable Limit of Liability, whichever is less. The portion of any proposed settlement or compromise that requires the **Insured** to cease, limit or refrain from actual or alleged infringing or otherwise injurious activity or is attributable to future royalties or other amounts that are not **Damages** (or **Regulatory Penalties** for **Claims** covered under Insuring Agreement II.C.3.) shall not be considered in determining the amount for which a **Claim** could have been settled.

- F. It is further provided that **Underwriters** shall not be obligated to pay any **Damages, Regulatory Penalties, Privacy Notification Costs, Legal and Forensic Expense, Public Relations & Crisis Management Expense** or **Defense Costs**, or to undertake or continue defense of any suit or proceeding after the applicable Limit of Liability has been exhausted by payment of such amounts or after deposit of the applicable Limit of Liability in a court of competent jurisdiction, and that upon such payment, **Underwriters** shall have the right to withdraw from the further defense of any **Claim** by tendering control of said defense to the **Insured**.

Section V - Definitions

- A. “**Additional Extended Reporting Period**” means the twelve (12) month period of time after the end of the **Policy Period** for reporting **Claims** as provided in Section IX.A. of this Policy.
- B. “**Advertising**” means material which promotes the product, service or business of the **Insured Organization** or others.
- C. “**Application**” means all signed applications, including all attachments and other materials submitted therewith or incorporated therein, and any other such documents submitted in connection with the underwriting of this Policy, including any endorsement or other part thereof, or any other professional liability policy issued by **Underwriters**, of which this Policy is a renewal or replacement or which succeeded it in time.
- D. “**Assumed Under Contract**” means liability assumed by the **Insured Organization** under a written hold harmless or indemnity agreement regarding the content of **Media Material** used in a **Media Communication**, but only as respects acts for which insurance is afforded under Insuring Agreement II.D.
- E. “**Bodily Injury**” means physical injury, sickness, disease or death of any person, including any mental anguish or emotional distress resulting therefrom.

F. “**Breach Notice Law**” means any state, federal or foreign statute or regulation that requires notice to persons whose **Personally Identifiable Non-Public Information** was accessed or may reasonably have been accessed by an unauthorized person.

G. “**Claim**” means:

1. a written demand received by any **Insured** for money or services, including the service of suit or institution of arbitration proceedings;
2. a written threat or initiation of a suit against any **Insured** seeking injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction); and
3. with respect to coverage provided under Insuring Agreement II.C.3 only, a **Regulatory Claim** against the **Insured Organization**.

Multiple **Claims** arising from the same or a series of related or repeated acts, errors, or omissions or from any continuing acts, errors, or omissions shall be considered a single **Claim** for the purposes of this Policy, irrespective of the number of claimants or **Insureds** involved in the **Claim**. All such **Claims** shall be deemed to have been made at the time of the first such **Claim**.

H. “**Client**” means any third party with whom the **Insureds** have a contract in place for the supply of **Professional Services** or **Technology Services** in return for a fee, or where a fee would normally be expected to be paid.

I. “**Cloud Service Provider**” means a third party provider of hosted computing services accessed across the Internet, including infrastructure, platform and application level services.

J. “**Computer Security**” means software or computer or network hardware devices, the function or purpose of which is to prevent a **Network Security Breach**. **Computer Security** includes anti-virus and intrusion detection software, firewalls and electronic systems that provide access control to the **Insured’s Network** through the use of passwords, biometric or similar identification of authorized users.

K. “**Crisis Management Expenses**” means the reasonable and necessary charges and fees incurred by the **Insured Organization** within six months of a covered actual and necessary interruption or suspension of the **Insured’s Network** first occurring, for the services of a public relations firm, crisis management firm or law firm hired or appointed by **Underwriters**, or by the **Insured Organization** with **Underwriters’** prior written consent, retained solely for the purpose of restoring the confidence of the **Insured Organization’s** customers and investors in **Computer Security**; *provided, however, Crisis Management Expenses* shall not mean and this Policy shall not cover: any costs or expenses incurred by any person or entity to withdraw or recall the **Insured Organization’s** material, media, medium or professional services from the marketplace, or from loss of use arising out of such withdrawal or recall; the costs and expenses of complying with any injunctive or other form of equitable relief; or matters that may be deemed uninsurable under the law pursuant to which this policy shall be construed.

L. “**Cyber Extortion Demand**” means a threat to breach **Computer Security** in order to:

1. alter, destroy, damage, delete or corrupt any **Insured’s Data** or **Insured’s Programs**;
2. prevent access to the **Insured’s Network** or the **Insured’s Data** or **Insured’s Programs**, including a denial of service attack or encrypting the **Insured’s Data** or **Insured’s Programs** and withholding the decryption key for such **Insured’s Data** or

Insured's Programs;

3. perpetrate a **Theft of Data** through external access;
4. introduce **Malicious Code** into the **Insured's Network** or to third party computers and systems from the **Insured's Network**; or
5. interrupt or suspend the **Insured's Network**;

unless a **Cyber Extortion Payment** is received from or on behalf of the **Insured Organization**.

M. "Cyber Extortion Loss" means:

1. any **Cyber Extortion Payment** that has been made under duress by or on behalf of the **Insured Organization** with **Underwriters'** prior written consent, but solely to prevent or terminate a **Cyber Extortion Demand**;
2. an otherwise covered **Cyber Extortion Payment** that is lost in transit by actual destruction, disappearance or wrongful abstraction while being conveyed by any person authorized by or on behalf of the **Insured Organization** to make such conveyance; and
3. fees and expenses paid by or on behalf of the **Insured Organization** for security consultants retained with **Underwriters'** prior written approval, but solely to prevent or terminate a **Cyber Extortion Demand**;

provided, that **Cyber Extortion Loss** shall not exceed the covered **Loss, Damages and Defense Costs** that the **Insured Organization** would have incurred had the **Cyber Extortion Payment** not been paid.

Any **Cyber Extortion Demand** that arises out of, is the same as, is a continuation of, or is related to, any **Cyber Extortion Demand** that occurred prior to the **Policy Period**, shall be deemed to have first occurred prior to the **Policy Period**, and shall not result in covered **Cyber Extortion Loss** under this Policy.

N. "Cyber Extortion Payment" means cash, marketable goods or services demanded to prevent or terminate a Cyber Extortion Demand.

O. "Damages" means a monetary judgment, award or settlement, punitive or exemplary damages or any damages which are a multiple of compensatory damages (unless uninsurable by law under the law in the applicable venue that most favors coverage). Damages shall also include payment of withheld fees under Insuring Agreement II.E.

The term **Damages** shall not include or mean:

1. future profits, restitution, disgorgement of unjust enrichment or profits by an **Insured**, or the costs of complying with orders granting injunctive or equitable relief;
2. return or offset of fees, charges, or commissions for goods or services already provided or contracted to be provided; but this limitation shall not apply for an offset of fees, charges or commissions that is being used as a contractual measure, cap or limitation of the **Insured's** liability if such amounts are otherwise covered **Damages** caused by a negligent act, error or omission in the course of providing **Professional Services, Media Activities or Technology Services**;
3. costs incurred by the **Insured** to correct, re-perform or complete any

Professional Services, Media Activities or Technology Services; **provided, however, this exclusion shall not apply to damages arising out of the alteration, corruption, destruction, loss, deletion or damage to, or inability to access, Client data resulting from a Network Security Breach or from a negligent act, error, or omission in rendering or failing to render Professional Services or Technology Services;**

4. fines, taxes or loss of tax benefits, sanctions or penalties (however, this provision does not exclude coverage for **Regulatory Penalties** under Insuring Agreement II.C.3.);
5. discounts, coupons, prizes, awards or other incentives offered to the **Insured's** customers or clients;
6. liquidated damages pursuant to a liquidated damages clause in a contract or agreement to the extent that such damages exceed the amount for which the **Insured** would have been liable in the absence of such contract or agreement;
7. any amounts for which the **Insured** is not liable, or for which there is no legal recourse against the **Insured**; or
8. matters deemed uninsurable under the law pursuant to which this Policy shall be construed.

P. "Defense Costs" means:

1. reasonable and necessary fees charged by an attorney designated by **Underwriters**; and
2. all other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a **Claim**, suit or proceeding arising in connection therewith, or circumstance which might lead to a **Claim**, if incurred by **Underwriters**, or by the **Insured** with the prior written consent of **Underwriters**;

Defense Costs shall not include any salary, overhead or other charges of or by an **Insured** for any time spent in cooperating in the defense and investigation of any **Claim** or circumstance that might lead to a **Claim** notified under this Policy.

Q. "Dependent Business" means an entity that the Insured does not own, operate or control, but that the Insured depends on to conduct the Insured's business.

R. "Extended Income Loss" means the Income Loss during the Extended Interruption Period.

S. "Extended Interruption Period" means the period of time that:

1. begins on the date and time that the **Period of Restoration** ends; and
2. terminates on the date and time the **Insured** restores, or would have restored if the **Insured** had exercised due diligence and dispatch, the net profit before income taxes that would have been earned by the **Insured** directly through its business operations had the actual and necessary interruption or suspension of the **Insured's Network** not occurred;

provided that in no event shall the **Extended Interruption Period** mean more than or exceed thirty (30) days.

T. "Extra Expenses" means:

1. reasonable and necessary expenses that are incurred by the **Insured Organization** during the **Period of Restoration** to minimize, reduce or avoid an **Income Loss**, provided:
 - (a) that such expenses are over and above those the **Insured Organization** would have incurred had no interruption or suspension of the **Insured's Network** occurred; and
 - (b) do not exceed the amount by which the **Income Loss** covered under this Policy is thereby reduced; and
2. **Forensic Expenses and Crisis Management Expenses**, subject to the sublimit set forth in Section VII. Limit of Liability.

U. "First Party Costs" means:

1. with respect to any **Insured's Data** or **Insured's Programs** that is altered, corrupted, destroyed, deleted or damaged, the actual, reasonable and necessary costs and expenses (including costs incurred as a result of the use of external consultants, contractors or advisors) incurred by the **Insured Organization** to restore the **Insured's Data** or **Insured's Programs** from back-ups or from originals or to gather, assemble and recreate such **Insured's Data** or **Insured's Programs** from other sources to the level or condition in which it existed immediately prior to its alteration, corruption, destruction, deletion or damage; or
2. with respect to any **Insured's Data** or **Insured's Programs** that the **Insured Organization** is unable to access, the lesser of the actual, reasonable and necessary costs and expenses (including costs incurred as a result of the use of external consultants, contractors or advisors) incurred by the **Insured Organization** to:
 - (a) regain access to such **Insured's Data** or **Insured's Programs**; or
 - (b) restore or recreate such **Insured's Data** or **Insured's Programs** to the level or condition in which it existed immediately prior to the **Insured Organization's** inability to access it;

provided that if such **Insured's Data** or **Insured's Programs** cannot reasonably be accessed, restored or reproduced, then **First Party Costs** means the actual, reasonable and necessary costs and expenses incurred by the **Insured Organization** to reach this determination.

A loss under Insuring Agreement I.B. will be deemed to occur at the time such alteration, corruption, destruction, deletion or damage to or inability to access the **Insured's Data** or **Insured's Programs** is first discovered by the **Insured**. Any alteration, corruption, destruction, deletion or damage to any **Insured's Data** or **Insured's Programs** that arises out of, is the same as, is a continuation of, or is related to, any alteration, corruption, destruction, deletion or damage to any **Insured's Data** or **Insured's Programs** that occurred prior to the **Policy Period**, shall be deemed to have first occurred prior to the **Policy Period**, and shall not result in **First Party Costs** covered under this Policy. All **First Party Costs** that arises out of the same or a continuing **Network Security Breach**, from related or repeated **Network Security Breaches**, or from multiple **Network Security Breaches** resulting from a failure of **Computer Security** shall be deemed to be a single loss.

First Party Costs shall not mean, and there shall be no coverage under Insuring Agreement I.B. (Costs for Damage to Data or Programs) for:

1. costs or expenses incurred by the **Insured Organization** to identify or remediate

software program errors or vulnerabilities or to update, replace, restore, gather, assemble, reproduce, recreate or enhance the **Insured's Data** or **Insured's Programs** or **Insured's Network** to a level beyond that which existed prior to the alteration, corruption, destruction, deletion or damage of such **Insured's Data** or **Insured's Programs**;

2. costs or expenses to research or develop any **Insured's Data** or **Insured's Programs**, including but not limited to trade secrets or other proprietary information;
3. the monetary value of profits, royalties, or lost market share related to the **Insured's Data** or **Insured's Programs**, including but not limited to trade secrets or other proprietary information or any other amount pertaining to the value of the **Insured's Data** or **Insured's Programs**;
4. loss arising out of any liability to third- parties for whatever reason; or
5. legal costs or legal expenses of any type.

V. "Forensic Expenses" mean those additional expenses incurred by the **Insured Organization** to conduct an investigation of the **Insured's Network** to determine the source or cause of the failure of **Computer Security** to prevent a **Network Security Breach**.

W. "Income Loss" means:

1. the net profit before income taxes that the **Insured Organization** is prevented from earning through its business operations or the net loss before income taxes that the **Insured Organization** is unable to avoid through its business operations as a direct result of the actual and necessary interruption or suspension of the **Insured's Network**; and
2. fixed operating expenses incurred by the **Insured Organization** (including payroll), but only to the extent that:
 - (a) such operating expenses must necessarily continue during the **Period of Restoration** (or **Extended Interruption Period**, if applicable); and
 - (b) such expenses would have been incurred by the **Insured Organization** had such interruption or suspension not occurred.

Income Loss shall be reduced to the extent the **Insured** or **Dependent Business** (if applicable) is able, with reasonable dispatch and due diligence, to reduce or limit such interruption or suspension of the **Insured's Network** or conduct its business operations by other means.

In determining **Income Loss**, due consideration shall be given to the prior experience of the **Insured Organization's** business operations before the beginning of the **Period of Restoration** and to the probable business operations the **Insured Organization** could have performed had no actual and necessary interruption or suspension occurred as result of a failure of **Computer Security** to prevent a **Network Security Breach**.

Income Loss will be calculated on an hourly basis based on the **Insured Organization's** net profit (or loss) and fixed operating expenses.

X. "Income Loss and Extra Expenses" means the total of:

1. **Income Loss and Extra Expenses** during the **Period of Restoration**; and

2. **Extended Income Loss** if the combination of **Income Loss** and **Extra Expenses** during the **Period of Restoration** is in excess of the applicable Retention.

Income Loss and Extra Expenses shall be calculated on an hourly basis and is subject to the Retention; provided that **Income Loss and Extra Expenses** shall not mean and Insuring Agreement I.C. (Network Failure - Income Loss and Extra Expenses) shall not cover any of the following: loss arising out of any liability to third-parties for whatever reason; legal costs or legal expenses of any type; loss incurred as a result of unfavorable business conditions, loss of market or any other consequential loss; or costs or expenses the **Insured Organization** incurs to identify and remove software program errors or vulnerabilities.

All loss resulting from multiple covered interruptions or suspensions of the **Insured's Network** that arise out of the same or a continuing **Network Security Breach**, from related or repeated **Network Security Breaches**, or from multiple **Network Security Breaches** resulting from a failure of **Computer Security** shall be deemed to be a single **Income Loss and Extra Expenses**; *provided, however*, that a separate **Time Retention** shall apply to each **Period of Restoration**. Any interruption or suspension of the **Insured's Network** that arises out of, is the same as, is a continuation of, or is related to, any interruption or suspension of the **Insured's Network** that occurred prior to the **Policy Period**, shall be deemed to have first occurred prior to the **Policy Period**, and shall not result in **Income Loss and Extra Expenses** covered by this Policy. All covered **Income Loss and Extra Expenses** must be both sustained by the **Insured Organization** and reported to **Underwriters** (in accordance with Sections VIII.B. Notice and Proof of Loss and Section VIII.C. Appraisal of Loss) no later than six months after the end of the **Policy Period**.

Y. **"Independent Contractor"** means any natural person independent contractor who performs labor or service for the **Insured Organization** pursuant to a written contract or agreement, where such labor or service is under the exclusive direction of the **Insured Organization**. The status of an individual as an **Independent Contractor** shall be determined as of the date of an alleged act, error, or omission by any such **Independent Contractor**.

Z. **"Insured"** means:

1. The **Named Insured** and any **Subsidiaries** of the **Named Insured** (together the **"Insured Organization"**);
2. A director or officer of the **Insured Organization**, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organization**;
3. An employee of the **Insured Organization**, but only for work done while acting within the scope of his or her employment and related to the conduct of the **Insured Organization's** business;
4. Any **Independent Contractor**;
5. A principal if the **Named Insured** is a sole proprietorship, or a partner if the **Named Insured** is a partnership, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organization**;
6. Any person who previously qualified as an **Insured** under 2., 3., or 4. above prior to the termination of the required relationship with the **Insured Organization**, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organization**;
7. The lawful spouse, including any natural person qualifying as a domestic partner under the provisions of any applicable federal, state, or local law in the United States, of any **Insured**, but solely by reason of any act, error, or omission of an

Insured other than such spouse or domestic partner; and

8. The estate, heirs, executors, administrators, assigns and legal representatives of any **Insured** in the event of such **Insured's** death, incapacity, insolvency or bankruptcy, but only to the extent that such **Insured** would otherwise be provided coverage under this Policy.
- AA.** “**Insured’s Data**” means any software or electronic data that exists in the **Insured’s Network** and that is subject to regular back up procedures, including account information, customer information including private or personal information, marketing information, financial information and any other information necessary for use in the **Insured Organization’s** ordinary course of business.
- BB.** “**Insured’s Network**” means computers and associated input and output devices, data storage devices, networking equipment, back up facilities, operating systems, software, hardware, communication and open system networks, and any data or websites wheresoever hosted, including **Cloud Service Providers**, off-line media libraries and data back-ups:
1. under the ownership, operation, or control of, or leased by, the **Insured Organization**, either for its own behalf or on behalf of a **Client**; or
 2. operated by a third party service provider and used for the purpose of providing hosted computer application services to the **Insured Organization** or for processing, maintaining, hosting or storing the **Insured Organization’s** electronic data, pursuant to written contract with the **Insured Organization** for such services; or
 3. with respect to Insuring Agreement I.B. only, operated by a **Dependent Business** for the purpose of providing hosted computer application services to the **Insured Organization** or for processing, maintaining, hosting or storing the **Insured Organization’s** electronic data, pursuant to a written contract with the **Insured Organization** for such services.
- CC.** “**Insured’s Programs**” means: (i) **Programs** owned by the **Insured**; and (ii) **Programs** licensed to the **Insured** by any **Third party** or **Outside Service Provider**.
- DD.** “**Loss**” means **Privacy Notification Costs, Legal and Forensics Expense, Public Relations & Crisis Management Expense, Cyber Extortion Loss, First Party Costs, Income Loss and Extra Expenses and Withheld Fees**.
- EE.** “**Malicious Code**” means any virus, Trojan Horse, worm or other similar software program, code or script intentionally designed to insert itself into computer memory or onto a computer disk and spread itself from one computer to another.
- FF.** “**Media Activities**” means **Media Communication** and/or the gathering, collection or recording of **Media Material** for inclusion in any **Media Communication** in the ordinary course of the **Insured Organization’s** business.
- GG.** “**Media Communication**” means the display, broadcast, dissemination, distribution or release of **Media Material** to the public by the **Insured Organization**.
- HH.** “**Media Material**” means information in the form of words, sounds, numbers, images, or graphics in electronic, print or broadcast form, including **Advertising**, but does not mean computer software.
- II.** “**Network Security Breach**” means:

1. **Unauthorized Access of the Insured's Network** resulting in:
 - (a) the destruction, deletion or corruption of electronic data on the **Insured's Network**;
 - (b) **Theft of Data** from the **Insured's Network**; or
 - (c) denial of service attacks against Internet sites or computers;
2. A denial of service attack against the **Insured's Network**; or
3. Infection of the **Insured's Network** by **Malicious Code** or transmission of **Malicious Code** from the **Insured's Network**;

whether any of the foregoing is a specifically targeted attack or a generally distributed attack.

A series of continuing **Network Security Breaches**, related or repeated **Network Security Breaches**, or multiple **Network Security Breaches** resulting from a failure of **Computer Security** shall be considered a single **Network Security Breach** and be deemed to have occurred at the time of the first such **Network Security Breach**.

JJ. “**Period of Restoration**” means the time period that:

1. begins on the specific date and time that the actual and necessary interruption or suspension of the **Insured's Network** first occurred; and
2. ends on the specific date and time that the actual and necessary interruption or suspension of the **Insured's Network** ends, or would have ended had the **Insured** or **Dependent Business** (if applicable) acted with due diligence and dispatch;

provided that in no event shall the **Period of Restoration** mean more than or exceed thirty (30) days.

KK. “**Personally Identifiable Non-Public Information**” means an individual's name in combination with one or more of the following:

1. information concerning the individual that constitutes “non-public personal information” as defined in the Gramm-Leach Bliley Act of 1999, as amended, and regulations issued pursuant to the Act;
2. medical or health care information concerning the individual, including “protected health information” as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations issued pursuant to the Act; or
3. the individual's social security number, driver's license or state identification number, credit, debit or other financial account numbers and associated security codes, access codes, passwords or pins that allows access to the individual's financial account information.

LL. “**Policy Period**” means the period of time between the inception date shown in the Policy Schedule and the effective date of termination, expiration or cancellation of this Insurance and specifically excludes any **Additional Extended Reporting Period** or any prior policy period or renewal period.

MM. “**Privacy Breach**” means:

1. the theft, loss or unauthorized disclosure of **Personally Identifiable Non-Public Information** or **Third Party Corporate Information** that is in the care, custody or control of the **Insured Organization**, or an **Independent Contractor** of the **Insured Organization** that is holding, processing or transferring such information on behalf of the **Insured Organization**, provided such theft, loss or unauthorized disclosure first takes place on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**;
2. the **Insured Organization's** failure to timely disclose a **Network Security Breach** in violation of any **Breach Notice Law**; provided such **Network Security Breach** must take place on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**;
3. the failure by the **Insured** to comply with that part of a **Privacy Policy** that specifically:
 - (a) prevents or prohibits improper or intrusive collection of **Personally Identifiable Non-Public Information** from a person;
 - (b) requires notice to a person of the **Insured Organization's** collection or use of, or the nature of the collection or use of his or her **Personally Identifiable Non-Public Information**;
 - (c) provides a person with the ability to assent to or withhold assent for (e.g. opt-in or opt-out) the **Insured Organization's** collection or use of his or her **Personally Identifiable Non-Public Information**;
 - (d) prohibits or restricts the **Insured Organization's** disclosure, sharing or selling of a person's **Personally Identifiable Non-Public Information**;
 - (e) requires the **Insured Organization** to provide access to **Personally Identifiable Non-Public Information** or to correct incomplete or inaccurate **Personally Identifiable Non-Public Information** after a request is made by a person; or
 - (f) mandates procedures and requirements to prevent the loss of **Personally Identifiable Non-Public Information**;

provided the acts, errors, or omissions that constitute such failure to comply with a **Privacy Policy** must take place on or after the Retroactive Date set forth in Item 6.(A) of the Policy Schedule and before the end of the **Policy Period**, and the **Insured Organization** must, at the time of such acts, errors, or omissions, have in force a **Privacy Policy** that addresses those subsections above that are relevant to such **Claim**.

- NN.** “**Privacy Law**” means a federal, state or foreign statute or regulation (including Massachusetts 201 CMR 17) requiring the **Insured Organization** to protect the confidentiality and/or security of **Personally Identifiable Non-Public Information**.
- OO.** “**Privacy Policy**” means the internal or publicly accessible written documents that set forth the **Insured Organization's** policies, standards and procedures for collection, use, disclosure, sharing, dissemination and correction or supplementation of, and access to, **Personally Identifiable Non-Public Information**.
- PP.** “**Professional Services**” means professional services performed for others by or on behalf of the **Insured Organization** for a fee, but does not include **Technology Services**, **Media Activities**, any services involving the creation, development, sale, distribution, installation, licensing or manufacturing of **Technology Products**, or work or activities

performed by or on behalf of the **Insured Organization** or for the **Insured Organization** as an accountant, architect, surveyor, health care provider, lawyer, insurance or real estate agent or broker, or civil or structural engineer.

- QQ.** “**Programs**” means fully functional software, applications, coding and operating instructions that interfaces with hardware to perform tasks.
- RR.** “**Property Damage**” means physical injury to or destruction of any tangible property, including any resulting loss of use thereof.
- SS.** “**Regulatory Claim**” means a request for information, civil investigative demand, or civil proceeding commenced by service of a complaint or similar proceeding brought by or on behalf of the Federal Trade Commission, Federal Communications Commission, or any federal, state, local or foreign governmental entity in such entity’s regulatory or official capacity in connection with such proceeding.
- TT.** “**Regulatory Penalties**” means any civil fine or money penalty payable to a governmental entity that was imposed in a **Regulatory Claim** by the Federal Trade Commission, Federal Communications Commission, or any other federal, state, local or foreign governmental entity, in such entity’s regulatory or official capacity.
- UU.** “**Subsidiary**” means any corporate entity while more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of such entity’s directors are owned by the **Named Insured** directly or indirectly, if such entity was so owned on the inception date of this Policy; or:
1. was so owned prior to the inception date of this Policy and was insured under a policy issued by **Underwriters** of which this Policy is a renewal;
 2. becomes so owned after the inception date of this Policy provided the revenues of the entity do not exceed ten percent (10%) of the **Named Insured’s** annual revenues as set forth in their most recent **Application**; or
 3. becomes so owned after the inception date of this Policy provided that if the revenues of the entity exceed ten percent (10%) of the **Named Insured’s** annual revenues as set forth in their most recent **Application**, the provisions of Section IX.G., Mergers and Acquisitions, must be fulfilled.

Provided that this Policy only provides coverage for acts, errors, or omissions taking place while the corporate entity is so owned by the **Named Insured**.

- VV.** “**Technology Products**” means a computer or telecommunications hardware or software product, or related electronic product that is created, manufactured or developed by the **Insured Organization** for others, or distributed, licensed, leased or sold by the **Insured Organization** to others, for compensation, including software updates, service packs and other maintenance releases provided for such products.
- WW.** “**Technology Services**” means computer and electronic technology services, including data processing, Internet services, data and application hosting, computer systems analysis, technology consulting and training, custom software programming for a specific client of the **Insured Organization**, computer and software systems installation and integration, computer and software support, and network management services performed by the **Insured**, or by others acting under the **Insured Organization’s** trade name, for others for a fee, but shall not mean **Technology Products**.
- XX.** “**Theft of Data**” means the unauthorized taking, misuse or disclosure of information on the

Insured's Network, including but not limited to charge, debit, and credit card information, banking, financial, and investment services account information, proprietary information, and personal, private, and confidential information.

- YY.** “**Third Party Corporate Information**” means any trade secret, data, design, interpretation, forecast, formula, method, practice, credit or debit card magnetic strip information, process, record, report or other item of information of a third party not insured under this Policy which is not available to the general public and is provided to the **Insured** subject to a mutually executed written confidentiality agreement or which the **Insured Organization** is legally required to maintain in confidence; however, **Third Party Corporate Information** shall not include **Personally Identifiable Non-Public Information**.
- ZZ.** “**Time Retention**” means the period of time beginning when the **Period of Restoration** begins and expiring after the elapse of the number of hours set forth in Item 7. of the Policy Schedule. A **Time Retention** shall apply to each **Period of Recovery**.
- AAA.** “**Unauthorized Access**” means:
1. the use of or access to the **Insured's Network** by a person not authorized to do so by the **Insured Organization**; or
 2. the authorized use of or access to the **Insured's Network** in a manner not authorized by the **Insured Organization**.

Section VI - Limits of Liability and Retention

A. Limit of Liability

The Limit of Liability stated in Item 3.(A) of the Policy Schedule for “**Each Claim**” is the limit of **Underwriters’** liability for all **Damages** and **Defense Costs** arising out of each **Claim** under Insuring Agreements II.A., II.B., II.C. or II.D.

The Limit of Liability stated in Item 3.(C) of the Policy Schedule is the limit of **Underwriters’** liability for all **First Party Costs** under Insuring Agreement I.B.

The Limit of Liability stated in Item 3.(D) of the Policy Schedule is the limit of **Underwriters’** liability for all **Income Loss and Extra Expenses** under Insuring Agreement I.C.

The Limit of Liability stated in Item 3.(E) of the Policy Schedule is the limit of **Underwriters’** liability for all **Cyber Extortion Loss** under Insuring Agreement I.D.

The Limit of Liability stated in Item 3.(F) of the Policy Schedule is the limit of **Underwriters’** liability for all **Withheld Fees** under Insuring Agreement I.E.

The Limit of Liability stated in Item 3.(H) of the Policy Schedule is the limit of **Underwriters’** liability for all **Privacy Notification Costs** under Insuring Agreement I.A.

The Limit of Liability stated in Item 3.(I) of the Policy Schedule is the limit of **Underwriters’** liability for all **Legal and Forensic Expense** under Insuring Agreement I.A.

The Limit of Liability stated in Item 3.(J) of the Policy Schedule is the limit of **Underwriters’** liability for all **Public Relations & Crisis Management Expense** under Insuring Agreement I.A.

The “**Aggregate for the Policy Period**” stated in Item 3.(B) of the Policy Schedule is

Underwriters’ combined total Limit of Liability for all Damages, Regulatory Penalties, Privacy Notification Costs, Legal and Forensic Expense, Public Relations & Crisis Management Expense, First Party Costs, Income Loss and Extra Expenses, Cyber Extortion Loss, Withheld Fees and Defense Costs arising out of all **Claims**, circumstances which might lead to a **Claim**, incidents or requirements to comply with a **Breach Notice Law**, or **Loss** which is covered under the terms and conditions of this Policy, and neither the inclusion of more than one **Insured** under this Policy, nor the making of **Claims** or incurring of **Loss** by more than one person or entity shall increase the Aggregate for the Policy Period. The Limits of Liability set forth in Items 3.(C) through 3.(J) of the Policy Schedule are part of, and not in addition to, the Aggregate for the Policy Period.

The Limits of Liability for the **Additional Extended Reporting Period** shall be part of and not in addition to the Limits of Liability of **Underwriters** for the **Policy Period**.

B. Retention

The “Each Claim Retention” stated in Item 4.(A) of the Policy Schedule applies separately to each **Claim** under Insuring Agreements II.A., II.B., II.C. and II.D. The Each Claim Retention stated in Item 4.(A) shall be satisfied by monetary payments by the **Named Insured** of **Damages and Defense Costs** resulting from **Claims** first made and reported to **Underwriters** during the **Policy Period** and the **Additional Extended Reporting Period**. The **Named Insured** shall make direct payments within the Each Claim Retention stated in Item 4.(A) to appropriate other parties designated by **Underwriters**.

The Retention stated in Item 4.(B) of the Policy Schedule applies separately to each incident giving rise to an obligation to incur **Privacy Notification Costs, Legal and Forensic Expense or Public Relations & Crisis Management Expense**. The Retention shall be satisfied by monetary payments by the **Named Insured** of **Privacy Notification Costs, Legal and Forensic Expense or Public Relations & Crisis Management Expense**. The **Named Insured** shall make direct payments within the Retention to appropriate other parties designated by **Underwriters**.

The Retention stated in Item 4.(C) of the Policy Schedule applies separately to each incident giving rise to an obligation to incur **First Party Costs, Income Loss and Extra Expenses, Cyber Extortion Loss or Withheld Fees**. The Retention shall be satisfied by monetary payments by the **Named Insured** of **First Party Costs, Income Loss and Extra Expenses, Cyber Extortion Loss or Withheld Fees**. The **Named Insured** shall make direct payments within the Retention to appropriate other parties designated by **Underwriters**.

Satisfaction of the applicable Retentions set forth herein is a condition precedent to the payment by **Underwriters** of any amounts hereunder, and **Underwriters** shall be liable only for the amounts in excess of such applicable Retentions, subject to the Limits of Liability stated in Item 3. of the Policy Schedule.

Underwriters will not reimburse an **Insured** in respect of **Income Loss and Extra Expenses** incurred during the **Time Retention** listed in the Policy Schedule.

Section VII - Assistance and Cooperation of the Insured

- A. The **Insured** shall provide such cooperation to **Underwriters** as **Underwriters** shall reasonably require in all investigations, including investigations regarding the **Application** for and coverage under this Policy. The **Insured** shall execute or cause to be executed all papers and render all assistance as is reasonably requested by **Underwriters**. The **Insured** agrees not to take any action following the making of a **Claim** or the discovery or **Loss** which in any way increases **Underwriters’** exposure under the Policy with respect to such **Claim** or **Loss**.

- B. Upon **Underwriters'** reasonable request, the **Insured** shall assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the **Insured** because of acts, errors, or omissions with respect to which insurance is afforded under this Policy; and the **Insured** shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.
- C. The **Insured** shall not admit liability, make any payment, assume any obligations, incur any expense, enter into any settlement, stipulate to any judgment or award or dispose of any **Claim** without the written consent of **Underwriters**, which consent shall not be unreasonably withheld.
- D. Expenses incurred by the **Insured** in assisting and cooperating with **Underwriters**, as described above, do not constitute **Defense Costs** under the Policy.

Section VIII - Notice and Proof of Loss

A. Notice of Claim or Circumstance That Might Lead To a Claim

1. As a condition precedent to coverage, if any **Claim** is made against the **Insured**, the **Insured** shall, as soon as practicable upon knowledge by the Chief Executive Officer, Chief Financial Officer, Chief Technology Officer, General Counsel or Risk Manager of the **Named Insured**, forward to **Underwriters** through persons named in Item 9.(A) of the Policy Schedule written notice of such **Claim** in the form of a telecopy, email or express or certified mail together with every demand, notice, summons or other process received by the **Insured** or the **Insured's** representative; provided all **Claims** made against any **Insured** must be reported no later than the end of the **Policy Period**, in accordance with the requirements of the **Additional Extended Reporting Period** (if applicable), or sixty (60) days after the expiration date of the **Policy Period** in the case of **Claims** first made against the **Insured** during the last sixty (60) days of the **Policy Period**.
2. If during the **Policy Period** the **Insured** first becomes aware of any circumstance that could reasonably be the basis for a **Claim**, it may give written notice to **Underwriters** in the form of a telecopy, email or express or certified mail through persons named in Item 9.(A) of the Policy Schedule of:
 - a) the specific details of the act, error, or omission in the provision of **Professional Services, Media Activities or Technology Services** or relating to **Technology Products** that could reasonably be the basis for a **Claim**;
 - b) the injury or damage which may result or has resulted from the circumstance; and
 - c) the facts by which the **Insured** first became aware of the act, error, or omission.

Any subsequent **Claim** made against the **Insured** arising out of such circumstance which is the subject of the written notice will be deemed to have been made at the time written notice complying with the above requirements was first given to **Underwriters**.

3. A **Claim** shall be considered to be reported to **Underwriters** when written notice is first received by **Underwriters** in the form of an email, telecopy, or express or certified mail through persons named in Item 9.(A) of the Policy Schedule of the **Claim** or of an act, error, or omission, which could reasonably be expected to

give rise to a **Claim** if provided in compliance with Section B above.

B. Notice and Proof of Loss

1. With respect to Insuring Agreement I.B., before coverage will apply for **First Party Costs** sustained by the **Insured Organization** as a direct result of alteration, corruption, destruction, deletion or damage to or inability to access the **Insured's Data** or **Insured's Programs** first occurring during the **Policy Period**, the **Insured** must forward written notice by email, telecopy, or express or certified mail to **Underwriters** through persons named in Item 9.(A) of the Policy Schedule immediately upon discovery of alteration, corruption, destruction, deletion or damage to or inability to access the **Insured's Data** or **Insured's Programs** to which this Policy applies; provided that all covered **First Party Costs** must be discovered and reported to **Underwriters** no later than six months after the end of the **Policy Period**.
2. With respect to Insuring Agreement I.C., before coverage will apply for **Income Loss and Extra Expenses** as a direct result of the actual and necessary interruption or suspension of the **Insured's Network** that first occurs during the **Policy Period**, the **Insured** shall forward immediately to **Underwriters**, through persons named in Item 9.(A) of the Policy Schedule, written notice of the interruption or suspension of the **Insured's Network** to which this Policy applies in the form of an email, telecopy or express or certified mail. Such notice must be provided during the **Policy Period**, or no later than 10 days after the end of the **Policy Period** for interruptions or suspensions occurring within 10 days of the end of the **Policy Period**; provided, all covered **Income Loss and Extra Expenses** must be reported to **Underwriters** no later than six months after the end of the **Policy Period**.
3. With respect to Insuring Agreement I.D., before coverage will apply for **Cyber Extortion Loss** in the event of a **Cyber Extortion Demand** to which this endorsement applies, the **Insured Organization** shall notify **Underwriters**, by contacting the persons specified in Item 9.(A) of the Policy Schedule, by telephone immediately upon receipt of any **Cyber Extortion Demand**, and shall thereafter also provide written notice by email, telecopy or express or certified mail within five (5) days following the **Cyber Extortion Demand**.
4. With respect to Insuring Agreements I.B. and I.C., before coverage will apply, the **Named Insured** must:
 - a) submit, to the persons named in Item 9.(A) of the Policy Schedule, a written, signed detailed and sworn proof of loss within ninety (90) days (unless such period has been extended by **Underwriters'** written consent) after the **Insured Organization** discovers a loss. Such proof of loss shall include a full description of such loss and the circumstances surrounding such loss, including, the time, place and cause of the loss, a detailed calculation of any **First Party Costs** or **Income Loss and Extra Expenses**, the **Insured Organization's** interest and the interest of all others in the property, the sound value thereof and damage thereto and all other insurance thereon. Proof of loss shall also include the underlying documents and materials of whatever media that reasonably relates to or forms a part of the basis of the claim for **First Party Costs** or **Income Loss and Extra Expenses**; and
 - b) upon **Underwriters'** request, submit to an examination under oath.

The costs and expenses of establishing or proving **First Party Costs**, **Income Loss and Extra Expenses** or **Cyber Extortion Loss** for this Policy, including without limitation those connected with preparing a proof of loss, shall be the **Insured's** obligation, and are not covered under this Policy.

5. If the **Insured** shall make or report any **Loss** under this Policy knowing such **Loss** to be false or fraudulent, as regards amounts or otherwise, this Policy shall be come null and void and all coverage hereunder shall be forfeited with respect to such **Loss**.

C. Appraisal of Loss

With respect to Insuring Agreements I.B., I.C. and I.D., if the **Named Insured** and **Underwriters** do not agree on the amount of a **Loss**, each party shall select and pay an appraiser or other qualified expert (the “Appraiser”) to state the amount of the loss or reasonable expenses, and the Appraisers shall choose an umpire. If the Appraisers cannot agree on an umpire, the **Named Insured** or **Underwriters** may request a judge of a court having jurisdiction to make the selection. Each Appraiser shall submit the amount of the **Loss** or reasonable expenses to the umpire, and agreement by the umpire and at least one of the Appraisers as the amount of a **Loss** shall be binding on all **Insureds** and **Underwriters**. The **Named Insured** and **Underwriters** will equally share the costs of the umpire and any other costs, other than the cost of the Appraisers. This provision shall govern only the appraisal of the amount of a **Loss**, and shall not control the determination of whether such **Loss** is otherwise covered by the Policy. **Underwriters** will still retain and do not waive their rights to deny coverage or enforce any obligation under this Policy.

Section IX - Miscellaneous Terms and Conditions

A. Additional Extended Reporting Period

1. If this Policy is cancelled by the **Named Insured** or if **Underwriters** nonrenew this Policy, then the **Named Insured** shall have the right, upon payment of an additional premium calculated at that percentage shown in Item 8.(A) of the Policy Schedule of the total premium for this Policy, to an extension of the coverage granted by this Policy with respect to any **Claim** first made against or **Loss** first discovered by any **Insured** and reported in writing to **Underwriters** during the period of time set forth in Item 8.(B) of the Policy Schedule after the end of the **Policy Period**, but only with respect to any act, error, omission or unintentional breach of contract committed, or **Loss** incurred, on or after the Retroactive Date and before the effective date of cancellation or nonrenewal.
2. As a condition precedent to the right to purchase the **Additional Extended Reporting Period**, the total premium for this Policy must have been paid. The right to purchase the **Additional Extended Reporting Period** shall terminate unless written notice together with full payment of the premium for the **Additional Extended Reporting Period** is given to **Underwriters** within thirty (30) days after the effective date of cancellation or nonrenewal. If such notice and premium payment is not so given to **Underwriters**, there shall be no right to purchase the **Additional Extended Reporting Period**.
3. In the event of the purchase of the **Additional Extended Reporting Period**, the entire premium for the **Additional Extended Reporting Period** shall be deemed earned at its commencement.
4. The exercise of the **Additional Extended Reporting Period** shall not in any way increase the Limits of Liability of **Underwriters**.
5. The offer of renewal terms, conditions or premiums different from those in effect prior to renewal shall not constitute a refusal to renew for purposes of this Section IX.A.

B. Obligations of the Insured in the Event of a Cyber Extortion Demand

1. The **Insured** shall use its best efforts at all times to ensure that knowledge regarding the existence of the **Cyber Extortion** coverage afforded by this Policy is restricted as far as possible. **Underwriters** may cancel this Policy upon ten (10) days written notice to the **Named Insured** if the existence of the **Cyber Extortion** coverage provided by this Policy becomes public knowledge or is revealed to a person making a **Cyber Extortion Demand** through no fault of **Underwriters**.
2. Prior to the payment of any **Cyber Extortion Payment**, the **Insured Organization** shall make every reasonable effort to determine that the **Cyber Extortion Demand** is not a hoax, or otherwise not credible. The **Insured Organization** shall take all steps reasonable and practical to avoid or limit the payment of a **Cyber Extortion Payment**.
3. As a condition to payment of any **Cyber Extortion Payment** under the terms of this Policy, the **Insured Organization** must be able to demonstrate that such **Cyber Extortion Payment** was surrendered under duress.
4. The **Insured Organization** shall allow **Underwriters** or its representative to notify the police or other responsible law enforcement authorities of any **Cyber Extortion Demand**.

C. Other Insurance

This Insurance shall apply in excess of any other valid and collectible insurance available to any **Insured**, including any self-insured retention or deductible portion thereof unless such other insurance is written only as specific excess insurance over the Limit of Liability of this Policy.

D. Subrogation

In the event of any payment under this Insurance, **Underwriters** shall be subrogated to all the **Insureds'** rights of recovery therefore against any person or organization, and the **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing to prejudice such rights. Any recoveries shall be applied first to subrogation expenses, second to **Damages, Defense Costs, Regulatory Penalties, Privacy Notification Costs, Legal and Forensic Expense, Public Relations & Crisis Management Expense** and **Loss** paid by **Underwriters**, and lastly to the Retention (as applicable). Any additional amounts recovered shall be paid to the **Named Insured**.

E. Innocent Insured Provision

1. Whenever coverage under this Insurance would be excluded, suspended or lost because of Exclusions III.A. relating to criminal, dishonest, fraudulent or malicious acts, errors, or omissions by any **Insured**, and with respect to which any other **Insured** did not personally commit or personally participate in committing or personally acquiesce in or remain passive after having personal knowledge thereof, then **Underwriters** agree that such insurance as would otherwise be afforded under this Policy shall cover and be paid with respect to those **Insureds** who did not personally commit or personally participate in committing or personally acquiesce in or remain passive after having personal knowledge of one or more of the acts, errors, or omissions described in Exclusion III.A.
2. This provision is inapplicable to any **Claim** or circumstance that could reasonably be the basis of a **Claim** against the **Insured Organization** arising from acts, errors, or omissions known to any present or former CEO or CFO of the **Insured Organization**.

F. Representations

By acceptance of this Policy, all **Insureds** agree that the material statements contained in

the **Application** are their agreements and representations, and that this Policy is issued in reliance upon the truth thereof.

G. Mergers and Acquisitions

1. During the **Policy Period**, if the **Named Insured** or any **Subsidiary** acquires another entity whose annual revenues are more than fifteen percent (15%) of the **Named Insured's** total annual revenues as set forth in the most recent **Application** for insurance, then no **Insured** shall have coverage under this Policy for any **Claim** that arises out of any act, error, or omission, whether committed either before or after such acquisition:

- a) by the acquired entity or any person employed by the acquired entity; or
- b) involving or relating to the assets, liabilities, or **Computer Systems** of the acquired entity;

unless the **Named Insured** provides written notice to **Underwriters** at least thirty (30) days prior to the acquisition, obtains the written consent of **Underwriters** to extend coverage to such additional entities, assets or exposures, and agrees to pay any additional premium required by **Underwriters**.

2. During the **Policy Period**, if the **Named Insured** or any **Subsidiary** acquires another entity whose annual revenues are more than fifteen percent (15%) of the **Named Insured's** total annual revenues as set forth in the most recent **Application** for insurance, then no **Insured** shall have coverage under this Policy for any **Loss** sustained by the acquired entity or any person employed by the acquired entity unless the **Named Insured** gives **Underwriters** written notice at least 30 days prior to the acquisition, obtains the written consent of **Underwriters** to extend coverage to such additional entities, assets or exposures, and agrees to pay any additional premium required by **Underwriters**.

3. If during the **Policy Period** the **Named Insured** consolidates or merges with or is acquired by another entity, or sells substantially all of its assets to any other entity, then coverage under this Policy shall continue until termination of this Policy, but only with respect to any **Claim** that arises out of any act, error, or omission committed, attempted, or allegedly committed by the **Insureds** prior to such merger or consolidation. The **Named Insured** shall provide written notice of such merger or consolidation to **Underwriters** as soon as practicable, together with such information as **Underwriters** may require.

H. Cancellation/Nonrenewal

1. The **Named Insured** may cancel this Policy by surrender thereof to **Underwriters**, or by mailing to **Underwriters** written notice stating when thereafter such cancellation shall be effective. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery of such written notice shall be equivalent to mailing.

2. **Underwriters** may only cancel this Policy because the **Insured** has failed to pay a premium when due, by mailing or delivering a written notice of cancellation to the **Named Insured** stating when not less than ten (10) days thereafter such cancellation shall be effective. The notice of cancellation shall state the reason for cancellation. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery of such written notice by **Underwriters** shall be equivalent to mailing.

3. If this Policy is cancelled pursuant to A. hereinabove, **Underwriters** shall retain the

customary short rate portion of the premium hereon. If this Policy is cancelled pursuant to B. hereinabove, **Underwriters** shall retain the pro rata portion of the premium hereon. Payment or tender of any unearned premium by **Underwriters** shall not be a condition precedent to the effectiveness of cancellation.

4. If **Underwriters** decide not to renew this Policy, **Underwriters** shall mail or deliver written notice to the **Named Insured** at least sixty (60) days before the end of the **Policy Period**. The notice of nonrenewal shall state the reason for nonrenewal.

I. Action Against Underwriters

No action shall lie against **Underwriters** unless, as a condition precedent thereto, the **Insured** shall have fully complied with all terms of this Policy. Nothing contained herein shall give any person or organization any right to join **Underwriters** as a party to any **Claim** against the **Insured** to determine their liability, nor shall **Underwriters** be impleaded by the **Insureds** or their legal representatives in any **Claim**.

J. Assignment

The interest hereunder of any **Insured** is not assignable. If the **Insured** shall die or be adjudged incompetent, such insurance shall cover the **Insured's** legal representative as the **Insured** as would be permitted by this Policy.

K. Authorization

By acceptance of this Policy, the **Insureds** agree that the **Named Insured** will act on their behalf with respect to the giving and receiving of any notice provided for in this Policy, the payment of premiums and the receipt of any return premiums that may become due under this Policy, and the agreement to and acceptance of endorsements.

L. Territory

This Insurance applies to **Claims** made and acts, errors, or omissions committed anywhere in the world.

M. Valuation and Currency

All premiums, limits, Retentions, **Damages** and other amounts under this Policy are expressed and payable in the currency of the United States. If judgment is rendered, settlement is denominated or another element of **Damages** under this Policy is stated in a currency other than United States dollars or if **Defense Costs** are paid in a currency other than United States dollars, payment under this Policy shall be made in United States dollars at the rate of exchange published in the *Wall Street Journal* on the date the judgment becomes final or payment of the settlement or other element of **Damages** is due or the date such **Defense Costs** are paid.

N. Bankruptcy

Bankruptcy or insolvency of the **Named Insured** shall not relieve **Underwriters** of their obligations nor deprive **Underwriters** of their rights or defenses under this Policy.

O. Headings

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

P. Entire Agreement

By acceptance of the Policy, all **Insureds** agree that this Policy embodies all agreements between them and **Underwriters** relating to this Insurance. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or estop **Underwriters** from asserting any right under the terms of this Policy; nor shall the terms of this Policy be waived or changed, except by written endorsement issued to form a part of this Policy, signed by **Underwriters**.