



HOUSTON CASUALTY COMPANY

ADMINISTRATIVE OFFICES: 13403 NORTHWEST FREEWAY, HOUSTON, TEXAS 77040

NETGUARD® SELECT INSURANCE DECLARATIONS

- 1. **Named Insured:** «Declarations.InsuredFullName»
- 2. **Address:** «Declarations.Insuredstreetaddress»
 «Declarations.Insuredcity», «Declarations.Insuredstate» «Declarations.Insuredzip»
- 3. **Policy Number:** «Declarations.PolicyNo» **Renewal of:** «Declarations.RenewalPolicyNo»
- 4. **Policy Period:** Effective Date: «Declarations.InceptionDate» to Expiration Date:
 «Declarations.ExpirationDate»
 (12:01 a.m. Local Time at the Address of the **Named Insured** stated in Item 2 above)
- 5. **Retroactive Date:** «Declarations.RetroactiveDate»
- 6. **Knowledge Date:** «Declarations.KnowledgeDate»
- 7. **Premium:** \$«Declarations.Premium»
 «Taxes.Description» «Taxes.BilledAmt»

8. Limits of Liability:

“Nil” or “N/A” indicates that the Coverage was not purchased, and that portion of the Policy does not apply.

A. Limits Per Insuring Agreement:

	Each Claim	Aggregate
Security and Privacy Liability Coverage	\$« »	\$« »
Breach Event Costs Coverage	\$« »	\$« »
Data Recovery Coverage	\$« »	\$« »
Cyber Extortion Coverage	\$« »	\$« »
Cyber Crime Coverage	\$« »	\$« »
Identity Theft Expenses Coverage	\$« »	\$« »
Cyber Bullying Coverage	\$« »	\$« »

B. Maximum Policy Aggregate Limit: \$« »

9. Deductibles:

Security and Privacy Liability Coverage Deductible	\$« » each Claim
Breach Event Costs Coverage Deductible	\$« » each Claim
Data Recovery Coverage Deductible	\$« » each Claim
Cyber Extortion Coverage Deductible	\$« » each Claim
Cyber Crime Coverage Deductible	\$« » each Claim
Identity Theft Expenses Coverage Deductible	\$« » each Claim
Cyber Bullying Coverage Deductible	\$« » each Claim



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10. How to Report a Claim:

Report any **Claim** or potential **Claim** to:

Tokio Marine HCC Cyber & Professional Lines Group
Claims Department
16501 Ventura Blvd., Suite 200
Encino, CA 91436
Claims Telephone Number: 888-627-8995
Claims Email Address: CyberClaims@tmhcc.com

Schedule of Endorsements

It is hereby agreed that the following endorsements are attached to and are made a part of this Policy at time of issue:

«Endorsements.EndoNum»

«Endorsements.FormCode»

«Endorsements.FormName»

«Declarations.SignedBy(image)»

HOUSTON CASUALTY COMPANY

NetGuard® Select Insurance

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SPECIMEN

NetGuard® Select Insurance

IF PURCHASED, THE SECURITY AND PRIVACY LIABILITY INSURING AGREEMENT OF THIS POLICY IS WRITTEN ON A CLAIMS MADE AND REPORTED BASIS, MEANING COVERAGE APPLIES ONLY TO CLAIMS FIRST MADE AGAINST AN INSURED DURING THE POLICY PERIOD AND REPORTED TO THE COMPANY PURSUANT TO THE TERMS AND CONDITIONS OF THIS POLICY. THE FIRST PARTY INSURING AGREEMENTS (SECTIONS I(B) THROUGH I(G) OF THIS POLICY) PROVIDE FIRST PARTY COVERAGE ON AN EVENT DISCOVERED AND REPORTED BASIS. THE LIMIT OF LIABILITY FOR THE SECURITY AND PRIVACY LIABILITY INSURING AGREEMENT, IF APPLICABLE, INCLUDES DEFENSE COSTS. NO EXTENDED REPORTING PERIOD IS AVAILABLE FOR THIS COVERAGE. PLEASE REVIEW THIS POLICY CAREFULLY WITH YOUR INSURANCE BROKER OR ADVISOR.

In consideration of the payment of the premium, the undertaking of the **Named Insured** to pay the applicable Deductible(s) herein, and in reliance upon all statements made and information in the **Application**, which is deemed attached hereto and made a part of this Policy, and subject to all terms, conditions, limitations and exclusions of this Policy, the Company agrees with the **Named Insured** as follows:

The Company shall mean the insurance carrier set forth in the Declarations of this Policy.

I. INSURING AGREEMENTS

This Policy applies only to those Insuring Agreements purchased by the **Named Insured**, as shown in the Declarations of this Policy.

(A) Security and Privacy Liability Coverage

Subject to the applicable Deductible and Limit of Liability, the Company shall pay **Damages**, including liability **Assumed Under Contract**, and related **Defense Costs**, that **You** become legally obligated to pay as a result of a **Claim** for an actual or alleged **Security and Privacy Wrongful Act**, provided always that: (a) the **Claim** is first made against an **Insured** during the **Policy Period**; (b) the **Claim** is reported to the Company in writing pursuant to Section **XI.(A)** of this Policy; (c) **You** had no knowledge of any circumstance, dispute, situation or incident giving rise to the **Claim** prior to the Knowledge Date set forth in the Declarations of this Policy; and (d) the **Security and Privacy Wrongful Act** is committed on or after the Retroactive Date set forth in the Declarations of this Policy.

(B) Breach Event Costs Coverage

Subject to the applicable Deductible and Limit of Liability, the Company shall pay **Notification Expenses** and **Breach Support and Credit Monitoring Expenses** that **You** incur because of a **Security Breach** or **Privacy Breach**, provided always that: (a) **You** first discover the **Security Breach** or **Privacy Breach** during the **Policy Period**; and (b) the **Security Breach** or **Privacy Breach** is reported to the Company in writing pursuant to Section **XI.(A)** of this Policy.

(C) Data Recovery Coverage

- (1) Subject to the applicable Deductible and Limit of Liability, the Company shall pay **Digital Assets Loss** and **Special Expenses** that **You** incur because of damage, alteration, corruption, distortion, theft, misuse or destruction of **Digital Assets** resulting from a **System Failure**, provided always that: (a) **You** first discover the **System Failure** during the **Policy Period**; (b) the **System Failure** is reported to the Company in writing pursuant to Section **XI.(A)** of this Policy; and (c) **You** provide clear evidence that the **Digital Assets Loss** and **Special Expenses** directly result from a **System Failure**.
- (2) The Company shall pay **Digital Assets Loss** and **Special Expenses** for up to twelve (12) months following **Your** discovery of the **System Failure**, unless specified otherwise by endorsement to this Policy.

(D) Cyber Extortion Coverage

- (1) Subject to the applicable Deductible and Limit of Liability, the Company shall pay **Cyber Extortion Expenses** and **Cyber Extortion Monies** that **You** incur as a direct result of a **Cyber Extortion Threat**, provided always that: (a) **You** first discover the **Cyber Extortion Threat** during the **Policy Period**; and (b) the **Cyber Extortion Threat** is reported to the Company in writing pursuant to Section **XI.(A)** of this Policy.
- (2) The Company shall not be obligated to pay **Cyber Extortion Expenses** or **Cyber Extortion Monies** for which the Company has not given **Approval**. **You** must make every reasonable effort to notify local law enforcement authorities and the Federal Bureau of Investigation or equivalent foreign agency before surrendering any **Cyber Extortion Monies** in response to a **Cyber Extortion Threat**.

(E) Cyber Crime Coverage

Subject to the applicable Deductible and Limit of Liability, the Company shall pay **Financial Fraud Loss** that **You** sustain because of **Financial Fraud**, provided always that: (a) **You** first discover the **Financial Fraud** during the **Policy Period**; (b) the **Financial Fraud** is reported to the Company in writing pursuant to Section [XI.\(A\)](#) of this Policy; and (c) **You** provide written confirmation to the Company that **Your** bank or credit card company has refused to reverse or prevent a payment transaction or to indemnify or reimburse **You** for the **Financial Fraud Loss**.

(F) Identity Theft Expenses Coverage

Subject to the applicable Deductible and Limit of Liability, the Company shall pay **Identity Theft Expenses** that **You** incur because of **Identity Theft**, provided always that: (a) **You** first discover the **Identity Theft** during the **Policy Period**; and (b) the **Identity Theft** is reported to the Company in writing pursuant to Section [XI.\(A\)](#) of this Policy.

(G) Cyber Bullying Coverage

Subject to the applicable Deductible and Limit of Liability, the Company shall pay **Cyber Bullying Expenses** that **You** incur because of a **Cyber Bullying Incident**, provided always that: (a) **You** first discover the **Cyber Bullying Incident** during the **Policy Period**; and (b) the **Cyber Bullying Incident** is reported to the Company in writing pursuant to Section [XI.\(A\)](#) of this Policy.

II. DEFENSE, SETTLEMENT AND INVESTIGATION OF CLAIMS

(A) Defense Provisions as to Security and Privacy Liability Coverage

- (1) The Company has the right and duty to defend any **Claim** to which the Security and Privacy Liability Insuring Agreement of this Policy applies, even if the allegations of the **Claim** are groundless, false or fraudulent, including the right to appoint an attorney to defend any such **Claim**. However, if a **Claim** is brought and maintained against an **Insured** in a foreign jurisdiction where the Company is not permitted to defend such **Claim**, then the obligation to defend shall reside solely with an **Insured**, and the Company shall reimburse **Defense Costs** incurred by an **Insured**. A reasonable and good faith defense by an **Insured** shall be a condition precedent to such reimbursement.
- (2) The Company's payment of **Defense Costs** or any other amounts reduces, and may completely exhaust, the Limit of Liability available to pay **Damages** under this Policy.
- (3) The Company's duty to defend any **Claim** or pay any **Damages** or **Defense Costs** shall cease upon exhaustion of the applicable Limit Per Insuring Agreement or the Maximum Policy Aggregate Limit, whichever is first. Upon exhaustion of the applicable Limit of Liability, the Company will have the right to withdraw from the defense of a **Claim** by tendering control to the **Named Insured**.

(B) Consent to Settlement Provisions as to Security and Privacy Liability Coverage

- (1) No **Insured** shall pay any **Damages** or **Defense Costs**, or settle or offer to settle any **Claim**, assume any contractual obligation, admit liability, make any payment, or confess or otherwise consent to any judgment without **Approval**. The Company shall not be liable for any **Damages**, **Defense Costs**, settlement, judgment, assumed obligation, admitted liability or payment to which the Company has not given **Approval**.
- (2) The Company will not settle any **Claim** or pay any **Damages** without an **Insured's** consent.
- (3) If an **Insured** refuses to consent to any settlement or compromise recommended by the Company that is acceptable to the claimant, and such **Insured** elects to contest the **Claim** or continue any legal proceedings in connection with such **Claim**, the Company's liability for such **Claim** shall not exceed:
 - (a) the amount for which the **Claim** could have been settled, less the remaining Deductible, plus **Defense Costs** incurred up to the date such **Insured** withheld consent to such settlement, plus
 - (b) seventy percent (70%) of any **Defense Costs** and **Damages** incurred after the date such **Insured** withheld consent to such settlement or compromise, subject always to all other terms and conditions of this Policy, including, but not limited to, the applicable Deductible and the Limit of Liability.
 - (c) the remaining thirty percent (30%) of **Defense Costs** and **Damages** referenced in paragraph (b) above shall be the sole responsibility of such **Insured**.
- (4) Section [II.\(B\)\(3\)](#) above will not apply to any settlement where the total incurred **Defense Costs** and **Damages** do not exceed the applicable Deductible.

(C) Choice of Counsel (Applicable to All Insuring Agreements)

- (1) The Company may consider an **Insured's** choice of counsel to defend any **Claim**, or to advise and consult on the appropriate course of action with respect to any **First Party Insured Event**, but the final decision on selection of counsel rests with the Company. No **Insured** shall appoint counsel without **Approval**.
- (2) The Company will have no obligation to pay **Defense Costs** or any other legal expenses incurred by an **Insured** before the notice of **Claim** is received by the Company, or without **Approval**.

(D) Investigation (Applicable to All Insuring Agreements)

The Company has the right to make any investigation it deems necessary including, without limitation, any investigation with respect to the **Application**, statements made in the **Application** or coverage.

III. LIMITS OF LIABILITY

(A) Limits Per Insuring Agreement

The Limits Per Insuring Agreement set forth in the Declarations of this Policy are the maximum the Company shall pay under each Insuring Agreement of this Policy for each **Claim**, and in the aggregate for all **Claims**, first made during the **Policy Period**, including **Defense Costs** where applicable, regardless of the number of **Claims**, claimants or **Insureds**. If any Limit Per Insuring Agreement is exhausted, the Company's obligations under that Insuring Agreement shall cease.

(B) Maximum Policy Aggregate Limit

The Maximum Policy Aggregate Limit set forth in the Declarations of this Policy is the maximum the Company shall pay under this Policy for all **Claims** first made during the **Policy Period**, including **Defense Costs**, regardless of the number of Insuring Agreements that apply.

(C) Related Claims

- (1) All **Claims** which arise out of the same, related or continuing **Security and Privacy Wrongful Acts** or **First Party Insured Events** will be treated as follows:
 - (a) all such **Claims** will be considered to be a single **Claim**, regardless of the number of claimants or **Insureds**;
 - (b) all such **Claims** will be considered to have been first made on the date the earliest of all such **Claims** is first made and will be considered to be first reported to the Company on the date the earliest of all such **Claims** is reported to the Company;
 - (c) all such **Claims** will be subject to the applicable Limit of Liability of the Policy in effect when the earliest of all such **Claims** is first made; and
 - (d) only one Deductible will apply to such **Claim**.
- (2) If multiple Insuring Agreements of this Policy apply to any **Claim**, the Company's total maximum Limit of Liability under this Policy for such **Claim** shall be the Maximum Policy Aggregate Limit. However, the Company will never pay more under any one Insuring Agreement than the applicable Limit Per Insuring Agreement set forth in the Declarations of this Policy. The Company has the sole discretion to allocate amounts paid, if any, against the appropriate Limit of Liability.

IV. DEDUCTIBLE

- (1) The Deductible amount for each Insuring Agreement, as set forth in the Declarations of this Policy, applies separately to each **Claim**. The Limit of Liability shall not be reduced by the amount of any Deductible.
- (2) If more than one Insuring Agreement applies to a **Claim**, only the single highest Deductible will apply to such **Claim**.
- (3) An **Insured's** payment of the applicable Deductible is a condition precedent to payment by the Company of any amounts under this Policy, and the Company shall only be liable for the amount that exceeds the Deductible, up to the applicable Limit of Liability set forth in the Declarations of this Policy.
- (4) An **Insured** must make direct payments within the Deductible to the appropriate parties designated by the Company.

V. TERRITORIAL LIMITS

This Policy applies to **Claims** brought or maintained, **Security and Privacy Wrongful Acts** committed and **First Party Insured Events** taking place anywhere in the world. Any provision in this Policy pertaining to coverage for **Claims** brought

or maintained, **Security and Privacy Wrongful Acts** committed or **First Party Insured Events** taking place anywhere outside the United States of America, its territories and possessions shall apply only where legally permissible.

VI. DEFINITIONS

As used in this Policy:

- (1) **“Account Manager”** means any person or organization authorized by **You** to request (a) the transfer, payment or delivery of **Money** or **Securities** from **Your Bank Account** or (b) the transfer, payment or delivery of cryptocurrency from **Your** cryptocurrency wallet.
- (2) **“Act of Cyber Terrorism”** means the premeditated use of disruptive activities, or an explicit threat to use disruptive activities, against a computer, **Computer System** or network by a person or group to further social, ideological, religious, political or similar objectives.
- (3) **“Application”** means all applications and supplemental applications, including any attachments thereto, and all other information and materials submitted to the Company by, or on behalf of, the **Named Insured** relating to the underwriting of this Policy, or any other policy or policies of which this Policy is a direct renewal or replacement. All such applications, attachments, information and materials are considered attached to and incorporated into this Policy.
- (4) **“Approval”** means the advance written agreement or consent by the Company, which will not be unreasonably withheld.
- (5) **“Assumed Under Contract”** means liability for **Damages** resulting from a **Security Breach** or **Privacy Breach**, where such liability has been assumed by an **Insured** in the form of a written hold harmless or indemnity agreement, but only if such agreement was executed before the **Security Breach** or **Privacy Breach** occurred.
- (6) **“Bodily Injury”** means physical injury, sickness, disease or death sustained by any person and, where resulting from such physical injury only, mental anguish, mental injury, shock, humiliation or emotional distress.
- (7) **“Breach Support and Credit Monitoring Expenses”** means reasonable and necessary expenses that **You** incur to provide support activity to parties affected by a **Privacy Breach**, including the cost to provide a maximum of twenty-four (24) months of credit, identity or healthcare record monitoring services, fraud alert services, identity theft assistance services and credit or identity repair and restoration services. **Breach Support and Credit Monitoring Expenses** must be incurred with **Approval**.
- (8) **“Business”** means any employment, trade, occupation, profession or enterprise intended to realize a benefit or financial gain, whether engaged in on a full-time, part-time, occasional or temporary basis.
- (9) **“Business Identity Theft”** means the theft or unauthorized, unlawful or fraudulent use, access or transfer of a means of identifying a **Business** owned or operated by **You**, with the intent to commit or aid or abet another to commit a crime, including the theft or fraudulent use of a business name, federal or state tax identification number, or other business records or information to establish corporate credit accounts, secure loans or enter contracts.
- (10) **“Claim”** means:
 - (a) with respect to Security and Privacy Liability Coverage only:
 - i. a written demand made against an **Insured** for **Damages** or non-monetary relief;
 - ii. a written request received by an **Insured** to toll or waive a statute of limitations relating to a potential **Claim** against an **Insured**; or
 - iii. the service of a civil lawsuit or the institution of arbitration or other alternative dispute resolution proceedings against an **Insured** seeking **Damages**, a temporary restraining order or a preliminary or permanent injunction.
 - (b) with respect to Breach Event Costs Coverage only, written notice from **You** or **Your** representatives to the Company of a **Security Breach** or **Privacy Breach**.
 - (c) with respect to Data Recovery Coverage only, written notice from **You** or **Your** representatives to the Company of a **System Failure**.
 - (d) with respect to Cyber Extortion Coverage only, written notice from **You** or **Your** representatives to the Company of a **Cyber Extortion Threat**.
 - (e) with respect to Cyber Crime Coverage only, written notice from **You** or **Your** representatives to the Company of **Financial Fraud**.
 - (f) with respect to Identity Theft Expenses Coverage only, written notice from **You** or **Your** representatives to the Company of **Identity Theft**.
 - (g) with respect to Cyber Bullying Coverage only, written notice from **You** or **Your** representatives to the Company of a **Cyber Bullying Incident**.

A **Claim** under the Security and Privacy Liability Insuring Agreement of this Policy will be deemed to have been first made against an **Insured** when any **Insured** first receives written notice of such **Claim**.

A **Claim** under any First Party Insuring Agreement (Sections **I(B)** through **I(G)**) of this Policy will be deemed to have been first made when the Company first receives written notice of such **Claim**.

- (11) **“Cloud Provider”** means any **Third Party** that provides computing resources to **You** under a written contract with **You** to provide such services, which are delivered as a service over a network or the internet (commonly known as “cloud computing”), including email services, Software as a Service, Platform as a Service and Infrastructure as a Service.
- (12) **“Computer System”** means an interconnected electronic, wireless, web or similar system, including all computer hardware and software, used to process and store **Data** or information in an analogue, digital, electronic or wireless format, including, but not limited to, computer programs, **Data**, operating systems, firmware, servers, media libraries, associated input and output devices, mobile devices, devices that are connected to and controlled by the internet (also known as “smart devices”), networking equipment, websites, extranets, off-line storage facilities (to the extent they hold **Data**) and electronic backup equipment.
- (13) **“Cyber Bullying”** means a series of two or more willful and repeated or continuing acts of harassment or intimidation, including embarrassment, humiliation, defamation of character, slander, invasion of privacy or threats of violence, committed by using a computer, telephone, mobile device or another electronic device. **“Cyber Bullying”** methods include, but are not limited to, the use of texting, instant messaging, chat rooms, messages, photos and other content posted on social networking sites to harass and intimidate.
- (14) **“Cyber Bullying Expenses”** means:
- (a) reasonable and customary charges for the service of a **Therapist**;
 - (b) reasonable and necessary childcare or caregiver expenses;
 - (c) reasonable and necessary expenses to temporarily locate;
 - (d) if the victim of a **Cyber Bullying Incident** is a **Minor**, reasonable temporary private tutoring expenses, unreimbursed tuition or increase in tuition to relocate the **Minor** to another school; and
 - (e) reasonable and necessary fees and costs to retain a digital forensic analyst or professional cyber security consultant.

Cyber Bullying Expenses must be incurred by **You** within twelve (12) months after the **Cyber Bullying Incident** is discovered.

- (15) **“Cyber Bullying Incident”** means **Cyber Bullying** directed at **You** which causes mental anguish or mental injury, as diagnosed by a **Therapist**.
- (16) **“Cyber Extortion Expenses”** means reasonable and necessary costs and expenses, other than **Cyber Extortion Monies**, that **You** incur with **Approval** as a direct result of a **Cyber Extortion Threat**, including the cost to retain or hire a **Third Party** specializing in IT security to determine the validity and severity of a **Cyber Extortion Threat**.
- (17) **“Cyber Extortion Monies”** means **Money**, digital currency of any kind, including bitcoin, or **Other Property** that **You** pay with **Approval** to any person or group reasonably believed to be responsible for a **Cyber Extortion Threat**, to prevent or terminate such **Cyber Extortion Threat**.
- (18) **“Cyber Extortion Threat”** means a credible threat or series of related credible threats, including a demand for **Cyber Extortion Monies**, which is directed at **You** to:
- (a) steal, alter, release, reveal, divulge, disseminate, destroy, publicly disclose or misuse **Private Information** taken from an **Insured** through unauthorized access to, or unauthorized use of, an **Insured Computer System**;
 - (b) infect an **Insured Computer System** with malicious code or ransomware;
 - (c) corrupt, damage or destroy an **Insured Computer System**;
 - (d) restrict or hinder access to an **Insured Computer System**, including the threat of a **Denial of Service Attack**;
 - (e) perpetrate or carry out a **Phishing Attack**; or
 - (f) steal, alter, release, reveal, divulge, disseminate, destroy, publicly disclose or misuse an **Insured’s** confidential or proprietary information or **Personally Identifiable Information**.

A series of continuing **Cyber Extortion Threats**, related or repeated **Cyber Extortion Threats**, or multiple **Cyber Extortion Threats** resulting from the same attack, event or incident will be considered a single **Cyber Extortion Threat** and will be considered to have occurred at the time the first of such **Cyber Extortion Threats** occurred.

- (19) **“Damages”** means:
- (a) a monetary judgment, award or settlement;
 - (b) awarded attorneys’ fees and costs;

- (c) prejudgment and post-judgment interest awarded against an **Insured** on that part of any judgment paid or to be paid by the Company; and
- (d) liquidated, punitive, exemplary or multiplied **Damages** to the extent insurable under the law pursuant to which this Policy is construed.

“**Damages**” does not include any **Insured’s** future profits or royalties, restitution or disgorgement of any **Insured’s** profits; the costs to comply with orders granting injunctive or non-monetary relief, including specific performance, or any agreement to provide such relief; loss of any **Insured’s** fees or profits, the return or offset of any **Insured’s** fees or charges, or any **Insured’s** commissions or royalties provided or contracted to be provided; taxes, fines, penalties or sanctions; contractual liquidated **Damages** that exceed the amount for which the **Insured** would have been liable in the absence of the liquidated **Damages** agreement; any amount which an **Insured** is not financially or legally obligated to pay; disgorgement of any remuneration or financial advantage to which an **Insured** was not legally entitled; settlements negotiated without **Approval**; monetary judgments, awards, settlements or any other amounts which are uninsurable under the law pursuant to which this Policy is construed or any legal fees and costs awarded pursuant to such judgments, awards or settlements.

- (20) “**Data**” means any machine-readable information, including, but not limited to, ready-for-use programs, applications, account information, customer information, health and medical information or other electronic information, irrespective of the way it is used and rendered.
- (21) “**Defense Costs**” means reasonable and necessary fees incurred with **Approval** and charged by an attorney(s) designated by the Company to defend a **Claim** and all other reasonable and necessary fees, costs and expenses resulting from the defense and appeal of a **Claim**, if incurred by the Company or by an **Insured** with **Approval**. “**Defense Costs**” does not include any wages or salaries of an **Insured**, or fees, overhead or other charges incurred by or paid to any **Insured** for any time spent in cooperating in the investigation or defense of a **Claim** or a potential **Claim**.
- (22) “**Denial of Service Attack**” means an event caused by unauthorized or unexpected interference or a malicious attack, which is intended by the perpetrator to overwhelm the capacity of a **Computer System** by sending an excessive volume of **Data** to such **Computer System** to prevent access to such **Computer System**.
- (23) “**Digital Assets**” means **Data** and computer programs that exist in an **Insured Computer System**. “**Digital Assets**” does not include computer hardware.
- (24) “**Digital Assets Loss**” means reasonable and necessary expenses and costs that **You** incur to replace, recreate or restore **Digital Assets** to the same state and with the same contents immediately before the **Digital Assets** were damaged, destroyed, altered, misused or stolen, including research costs incurred in recreating **Digital Assets** and expenses for materials and machine time. **Digital Assets Loss** will be determined in accordance with Section [XII](#). of this Policy.
- (25) “**Family Member**” means any of the following persons residing with the **Named Insured**:
 - (a) the spouse or registered domestic partner of the **Named Insured**;
 - (b) any **Minor**;
 - (c) a student enrolled in school full time, as defined by the school, who was a member of the **Named Insured’s** household before moving out to attend school, provided the student is under the age of twenty-four (24) and the **Named Insured’s** relative, or under the age of twenty-one (21) and in care of the **Named Insured** or a **Family Member** who resides with the **Named Insured**; and
 - (d) other persons related to the **Named Insured** by blood, marriage or adoption.
- (26) “**Financial Fraud**” means:
 - (a) an intentional, unauthorized and fraudulent written, electronic or telephonic instruction transmitted to a financial institution, directing such institution to debit, transfer, withdraw or disburse **Money** or **Securities** from **Your Bank Account**, which instruction purports to have been transmitted by **You** or an **Account Manager**, but was in fact fraudulently transmitted by a **Third Party** without **Your** knowledge or consent;
 - (b) a **Phishing Attack** directed at **You** or an **Account Manager** which fraudulently induces **You** or an **Account Manager** to transfer, pay or deliver **Money** or **Securities** from **Your Bank Account**;
 - (c) a **Phishing Attack** directed at **You** or an **Account Manager** which fraudulently induces **You** or an **Account Manager** to transfer, pay or deliver cryptocurrency from **Your** cryptocurrency wallet;
 - (d) the theft of **Money** or **Securities** from **Your Bank Account** or **Your** personal credit cards as a result of a **Hacking Attack**; or
 - (e) the theft of cryptocurrency from **Your** cryptocurrency wallet as a result of a **Hacking Attack**.
- (27) “**Financial Fraud Loss**” means a direct loss of **Money**, **Securities** or cryptocurrency that **You** sustain because of **Financial Fraud**. “**Financial Fraud Loss**” does not include any amounts reimbursed to **You** by any financial or banking institution, or the theft of **Money** or **Securities** from a **Business** account maintained by **You** or an **Account Manager**.

- (28) **“First Party Insured Event”** means:
- (a) with respect to Breach Event Costs Coverage only, a **Security Breach** or **Privacy Breach**;
 - (b) with respect to Data Recovery Coverage only, a **System Failure**;
 - (c) with respect to Cyber Extortion Coverage only, a **Cyber Extortion Threat**;
 - (d) with respect to Cyber Crime Coverage only, a **Financial Fraud**;
 - (e) with respect to Identity Theft Expenses Coverage only, **Identity Theft**; and
 - (f) with respect to Cyber Bullying Coverage only, a **Cyber Bullying Incident**.
- (29) **“Hacking Attack”** means any of the following directed at or enacted upon an **Insured Computer System**:
- (a) unauthorized access to, or unauthorized use of, an **Insured Computer System**, including any such unauthorized access or unauthorized use resulting from the theft of a password from an **Insured Computer System** or from an **Insured**;
 - (b) a **Denial of Service Attack** against an **Insured Computer System**;
 - (c) infection of an **Insured Computer System** by malicious code, or the transmission of malicious code from an **Insured Computer System**; or
 - (d) an **Act of Cyber Terrorism**.
- (30) **“Identity Theft”** means the act of knowingly transferring or using, without lawful authority, a means of **Your** personal identity, with the intent to commit, or aid or abet another to commit, a crime, including fraudulent use of **Your** personal identity to establish credit accounts, secure loans or enter contracts. **“Identity Theft”** includes the fraudulent use of **Your** health insurance numbers to file false health insurance claims or to seek medical treatment, prescription drugs or other medical care, but does not include **Business Identity Theft**.
- (31) **“Identity Theft Expenses”** means any of the following incurred by **You** solely because of **Identity Theft**:
- (a) reasonable and necessary fees of an attorney selected by **You** to:
 - (i) defend lawsuits brought against **You** by merchants, financial institutions or their collection agencies;
 - (ii) remove civil judgments wrongly entered against **You** because of **Identity Theft**;
 - (iii) challenge the accuracy or completeness of information in a consumer credit report;
 - (iv) release medical records in cases of medical identity fraud;
 - (v) contest a tax liability wrongfully incurred by **You** because of **Identity Theft**;
 - (vi) contest the wrongful transfer of ownership of **Your** tangible property; or
 - (vii) provide **You** with assistance or representation at an audit or hearing before a government agency.
 - (b) reasonable and customary costs to obtain **Your** credit reports from established credit bureaus. Such credit reports must be dated within twelve (12) months after discovery of the **Identity Theft**. No more than two credit reports may be obtained from any one established credit bureau.
 - (c) reasonable and customary costs to monitor **Your** credit for up to twenty-four (24) months. Such credit monitoring must begin no later than six (6) months after **You** first discover the **Identity Theft**.
- The **Identity Theft Expenses** payable under paragraph (a) above will be capped at a maximum hourly rate of \$400.00.
- (32) **“Insured”** means:
- (a) the **Named Insured**; and
 - (b) any **Family Member**.
- (33) **“Insured Computer System”** means:
- (a) a **Computer System** that is owned and operated by **You**, or that is leased to **You** and operated by **You**;
 - (b) in addition to paragraph (a) above, with respect to Security and Privacy Liability Coverage and Cyber Extortion Coverage only, **Insured Computer System** also includes a **Computer System** operated by an **Outsourced IT Service Provider**, which is used to provide services to **You**, or for processing, maintaining, hosting or storing **Data** for **You**, pursuant to a written contract with **You** to provide such services.
- (34) **“Minor”** means any person under twenty-one (21) years of age who is residing with the **Named Insured** and is related to the **Named Insured** by blood, marriage, adoption or legal guardianship.
- (35) **“Money”** means a medium of exchange in current use and authorized or adopted by a domestic or foreign government, including, but not limited to, currency, coins, bank notes, bullion, travelers’ checks, registered checks and **Money** orders held for sale to the public.
- (36) **“Named Insured”** means the natural person designated as such in the Declarations of this Policy.

- (37) **“Notification Expenses”** means reasonable and necessary legal expenses, forensic investigation expenses, printing costs, and mailing and postage expenses that **You** incur to notify affected individuals of a **Security Breach** or **Privacy Breach**.
- (38) **“Other Property”** means any tangible property, other than **Money** or **Securities**, which has intrinsic value.
- (39) **“Outsourced IT Service Provider”** means a **Third Party** that provides information technology services to **You**, including but not limited to, hosting, security management, co-location and **Data** storage, under a written contract with **You** to provide such services. **“Outsourced IT Service Provider”** includes any **Cloud Provider**.
- (40) **“Personally Identifiable Information”** means information that can be used to determine, distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual, including, but not limited to, financial account numbers, security codes, personal identification numbers (PINs), credit and debit card numbers, medical or healthcare information, social security numbers, driver’s license numbers, addresses, passwords, and any other non-public information.
- (41) **“Phishing Attack”** means the use by a **Third Party** of fraudulent and intentionally misleading telephone calls, emails, texts, instant messages or other electronic communications or malicious websites to impersonate a legitimate or trustworthy contact, organization or person to solicit **Private Information**, **Money** or cryptocurrency.
- (42) **“Policy Period”** means the period from the Effective Date of this Policy to its Expiration Date, as set forth in the Declarations of this Policy, or this Policy’s earlier termination date, if any. **Policy Period** specifically excludes the period following expiration referenced in Section [XI.\(A\)](#).
- (43) **“Privacy Breach”** means any of the following:
- (a) the unauthorized collection, disclosure, use, access, destruction or modification of **Private Information**;
 - (b) the theft of **Private Information**, including the theft of **Private Information** stored on **Your** unsecured **Data** storage or mobile device, such as a smartphone, tablet or laptop;
 - (c) the surrender of **Private Information** in a **Phishing Attack**;
 - (d) an infringement or violation of any rights to privacy; or
 - (e) breach of a person’s right of publicity, false light or intrusion upon a person’s seclusion.
- A series of continuing **Privacy Breaches**, related or repeated **Privacy Breaches**, or multiple **Privacy Breaches** resulting from the same event or incident will be considered a single **Privacy Breach** and will be considered to have occurred at the time the first of such **Privacy Breaches** occurred.
- (44) **“Private Information”** means proprietary or confidential information owned by a **Third Party** that is in the care, custody or control of an **Insured**, or is used by an **Insured** with the consent of such **Third Party**, and **Personally Identifiable Information**.
- (45) **“Programming Error”** means an error which occurs during the development or encoding of a computer program, software or application and which would, when in operation, result in a malfunction or incorrect operation of a **Computer System**.
- (46) **“Property Damage”** means physical injury to, or impairment, destruction or corruption of, any tangible property, including the loss of use thereof. **Data** is not considered tangible property.
- (47) **“Securities”** means negotiable or non-negotiable instruments or contracts representing **Money** or **Other Property**. **“Securities”** does not include **Money**.
- (48) **“Security and Privacy Wrongful Act”** means any of the following, but only if actually or allegedly committed by an **Insured**:
- (a) the failure to prevent or hinder a **Security Breach** which in turn results in a **Privacy Breach**;
 - (b) the failure to timely disclose a **Security Breach** or **Privacy Breach** affecting **Private Information**;
 - (c) the failure to prevent the transmission of malicious code or computer virus from an **Insured Computer System** to the **Computer System** of a **Third Party**;
 - (d) the failure to prevent or hinder participation by an **Insured Computer System** in a **Denial of Service Attack** directed against the internet site or **Computer System** of a **Third Party**; and
 - (e) infliction of emotional distress or mental anguish, but only if directly resulting from a peril described in paragraphs (a) through (d) above.
- (49) **“Security Breach”** means any of the following, whether a specifically targeted attack or a generally distributed attack:
- (a) a **Hacking Attack**; or
 - (b) the theft or loss of **Your** unsecured **Data** storage or mobile device, including any smartphone, tablet or laptop containing **Private Information**.

A series of continuing **Security Breaches**, related or repeated **Security Breaches**, or multiple **Security Breaches** resulting from a continuing attack, event, incident or failure of computer security will be considered a single **Security Breach** and will be considered to have occurred at the time the first of such **Security Breaches** occurred.

- (50) “**Special Expenses**” means reasonable and necessary costs and expenses that **You** incur to:
- (a) prevent, preserve, minimize, or mitigate any further damage to **Digital Assets**, including the reasonable and necessary fees and expenses of specialists, outside consultants or forensic experts;
 - (b) preserve critical evidence of any criminal or malicious wrongdoing; or
 - (c) purchase replacement licenses for computer programs because the copy protection system or access control software was damaged or destroyed by a **System Failure**.
- (51) “**System Failure**” means an unplanned outage, interruption, failure, suspension or degradation of service of an **Insured Computer System**, including, but not limited to, any such outage, interruption, failure, suspension or degradation of service caused directly by a **Hacking Attack**, administrative errors or **Programming Errors**.
- (52) “**Therapist**” means a qualified psychologist or other mental health professional who is licensed or certified under the laws of the jurisdiction in which mental health treatment is given to **You** as a victim of a **Cyber Bullying Incident**.
- (53) “**Third Party**” means any entity, company, organization or person who does not qualify as an **Insured** under this Policy.
- (54) “**Unauthorized Trading**” means trading, which at the time of the trade, exceeds permitted financial limits or is outside of permitted product lines.
- (55) “**You**” and “**Your**” means any **Insured**.
- (56) “**Your Bank Account**” means a personal account at a financial or banking institution which is maintained by **You** in **Your** name, or in the name of a legal entity established by **You** or on **Your** behalf to manage **Your** personal assets, from which **You** or an **Account Manager** may request the transfer, payment or delivery of **Money** or **Securities**. **Your Bank Account** includes personal trust and investment accounts but shall not include any **Business** account.

VII. EXCLUSIONS AS TO THE ENTIRE POLICY

This Policy does not apply to any **Claim**:

- (A) made by or on behalf of an **Insured** against another **Insured**.
- (B) based upon, arising from or in any way involving any of the following committed by an **Insured**, whether acting alone or in collusion with other persons:
- (1) any willful, intentional, deliberate, malicious, fraudulent, dishonest or criminal act or omission;
 - (2) any intentional violation of law; or
 - (3) the gaining of any profit or advantage to which an **Insured** is not legally entitled.

However, the Company may pay **Defense Costs** incurred in connection with the defense of any conduct described in this Exclusion until such time as there is a final, non-appealable adjudication in a judicial, administrative or alternative dispute proceeding, or by an **Insured's** own admission in a proceeding or otherwise. The Company will have the right to recover **Defense Costs** incurred in defending any such **Claim** from any **Insured** found to have committed the conduct described in this Exclusion.

- (C) based upon, arising from or in any way involving an **Insured's** activities as a stockholder, owner, manager, agent, partner, officer, director or employee of any **Business** or organization, corporation or company.
- (D) for **Bodily Injury** or **Property Damage**.
- (E) based upon, arising from or in any way involving any of the following, regardless of any other cause or event that contributes concurrently or in any sequence to the **Claim**:
- (1) electrical or mechanical failures or interruption, including electrical disturbance, spike, brownout or blackout; or
 - (2) any regional, countrywide or global outage, failure, disruption or reduction in supply of any utility service or infrastructure, including electricity, gas, water, telephone, cable, internet, satellite or telecommunications, or any failure, outage, disruption, degradation or termination of any critical part of such service or infrastructure.
- (F) based upon, arising from or in any way involving the violation of any economic or trade sanctions by the United States government, including, but not limited to, sanctions administered and enforced by the United States Treasury Department's Office of Foreign Assets Control (OFAC). However, this Exclusion does not apply to a **Security Breach** originating from any country where the United States of America has imposed economic or trade sanctions.

- (G) based upon, arising from or in any way involving any breach of any express, implied, actual or constructive contract, warranty, guarantee or promise. However, this Exclusion does not apply to:
- (1) any liability or obligation an **Insured** would have had in the absence of such contract, warranty, guarantee or promise;
 - (2) a **Claim** under Security and Privacy Liability Coverage for an unintentional breach by an **Insured** of the provisions of a confidentiality or non-disclosure agreement relating to the confidentiality of **Private Information**.
- (H) based upon, arising from or in any way involving any liability assumed by any **Insured** under a contract or agreement. However, this Exclusion does not apply to:
- (1) any liability an **Insured** would have had in the absence of such contract or agreement; or
 - (2) a **Claim** under Security and Privacy Liability Coverage for liability **Assumed Under Contract**.
- (I) based upon, arising from or in any way involving:
- (1) any actual, alleged or threatened presence of pollutants or contamination of any kind, including, but not limited to, asbestos, smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste ("waste" includes materials to be recycled, reconditioned or reclaimed), whether or not such presence results from an **Insured's** activities or the activities of others, or such presence or contamination happened suddenly or gradually, accidentally or intentionally, or expectedly or unexpectedly; or
 - (2) any directive or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way respond to or assess the effects of pollutants or contamination of any kind.
- (J) based upon, arising from or in any way involving income loss caused by or resulting from **Unauthorized Trading**.
- (K) based upon, arising from or in any way involving:
- (1) the actual or alleged purchase or sale of **Securities**;
 - (2) the actual or alleged loss of value of any **Securities**;
 - (3) the offer of, or solicitation of an offer, to purchase or sell **Securities**; or
 - (4) the violation of any **Securities** law including, but not limited to, the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934 or the Sarbanes-Oxley Act of 2002, or any regulation promulgated under the foregoing statutes, or any similar federal, state, local or foreign law, including "Blue Sky" laws, whether such law is statutory, regulatory or common law.
- (L) based upon, arising from or in any way involving the actual or alleged government enforcement of any federal, state, local or foreign regulation, including, but not limited to, regulations promulgated by the United States Federal Trade Commission, the Federal Communications Commission or the Securities and Exchange Commission.
- (M) based upon, arising from or in any way involving:
- (1) any employer-employee relations, policies, practices, acts or omissions;
 - (2) any actual or alleged refusal to employ any person; or
 - (3) any misconduct with respect to employees.
- (N) based upon, arising from or in any way involving any actual or alleged harassment or discrimination including, but not limited to, discrimination based on age, color, race, gender, creed, national origin, marital status, sexual preferences, disability or pregnancy.
- (O) based upon, arising from or in any way involving:
- (1) the violation of any pension, healthcare, welfare, profit sharing, mutual, or investment plans, funds or trusts; or
 - (2) the violation of any provision of the Employee Retirement Income Security Act of 1974 and its amendments, or the Pension Protection Act of 2006 and its amendments, or any regulation, ruling, or order issued pursuant to the foregoing statutes.
- (P) for any loss, damage, cost or expense directly or indirectly caused by, resulting from or in connection with any war, invasion, acts of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, or confiscation, nationalization, requisition or destruction of or damage to property by or under the order of any government or public or local authority, regardless of any other cause or event contributing concurrently or in any other sequence to the loss; or for any loss, damage, cost or expense directly or indirectly caused by, resulting from or in connection with any action taken by a government authority to hinder, control, prevent, suppress or defend against any of the aforementioned actions. However, this Exclusion does not apply to an **Act of Cyber Terrorism**.
- (Q) based upon, arising from or in any way involving any actual or alleged infringement of any patent.

- (R) based upon, arising from or in any way involving the misappropriation, theft, copying, display or publication of any trade secret. However, this Exclusion does not apply to a **Claim** under Security and Privacy Liability Coverage for failure to prevent the misappropriation of a trade secret which results from a **Security and Privacy Wrongful Act**.
- (S) based upon, arising from or in any way involving the confiscation, commandeering, requisition or destruction of, or damage to, computer hardware by order of a government de jure or de facto, or by any public authority for whatever reason.
- (T) for any loss or expense arising from illness, substance abuse or death.
- (U) for any loss of cryptocurrency that **You** sustain as a result of:
 - (1) an outage, interruption, failure, suspension or degradation of service of a **Computer System** owned, controlled, leased or operated by **Your** cryptocurrency wallet provider or any cryptocurrency or digital currency exchange;
 - (2) the theft of cryptocurrency in a network attack against a **Computer System** owned, controlled, leased or operated by **Your** cryptocurrency wallet provider or any cryptocurrency or digital currency exchange, including a **Denial of Service Attack, Act of Cyber Terrorism** or infection of such **Computer System** by malicious code; or
 - (3) the insolvency or bankruptcy of any cryptocurrency wallet provider or cryptocurrency or digital currency exchange.

VIII. EXCLUSIONS AS TO ALL FIRST PARTY INSURING AGREEMENTS

In addition to the Exclusions under Section [VII.](#), the Company will not be liable under any First Party Insuring Agreement of this Policy for:

- (A) any liability to any **Third Party** for whatever reason, including contractual penalties, **Damages** or legal costs and expenses of any type.
- (B) sanctions, fines or penalties imposed by law.
- (C) any **Claim** based upon, arising from or in any way involving fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, force majeure or any other physical event, however caused.

IX. EXCLUSIONS AS TO DATA RECOVERY COVERAGE

In addition to the Exclusions under Section [VII.](#), the Company will not be liable under Data Recovery Coverage for:

- (A) the cost of restoring, updating or replacing **Digital Assets** to a level beyond that which existed prior to the **System Failure**.
- (B) physical damage to, or the costs to repair or replace, any computer hardware or **Data** center.
- (C) the economic or market value of **Digital Assets**.
- (D) the costs or expenses incurred to identify, patch or remediate software **Programming Errors** or **Computer System** vulnerabilities.
- (E) the cost to upgrade, improve, repair, redesign, reconfigure or maintain an **Insured Computer System** to a level of functionality beyond that which existed prior to the **System Failure**.
- (F) the cost of restoring, replacing or repairing any electronic media.

X. EXCLUSIONS AS TO CYBER CRIME COVERAGE

In addition to the Exclusions under Section [VII.](#), the Company will not be liable under Cyber Crime Coverage for:

- (A) any **Claim** based upon, arising from or in any way involving any actual or alleged unauthorized acquisition, access, use or disclosure of **Private Information** that is held or transmitted in any form. However, this Exclusion does not apply to **Financial Fraud** which directly results from the use of **Private Information**.
- (C) amounts that have been wholly or partially reversed by a credit card company or financial institution.
- (D) loss of **Other Property** arising out of, resulting from or in any way involving the fraudulent or purportedly fraudulent use of a credit or debit card.
- (E) any **Claim** based upon, arising from or in any way involving any fraudulent instruction, if the sender, or any person or organization acting in collusion with the sender, ever had authorized access to **Your** password, PIN or other security

code. However, this Exclusion does not apply to **Financial Fraud Loss** resulting from a **Phishing Attack** directed at **You** or an **Account Manager** which fraudulently induces **You** or the **Account Manager** to (1) transfer, pay or deliver **Money** or **Securities** from **Your Bank Account** or (2) transfer, pay or deliver cryptocurrency from **Your** cryptocurrency wallet.

(F) any **Claim** based upon, arising from or in any way involving the giving or surrendering of **Money, Securities** or **Other Property** in any exchange for or purchase of goods or services:

- (1) that are not yet delivered, whether fraudulent or not;
- (2) that fail to conform to advertised quality or performance; or
- (3) that fail to conform to the quality or performance expected from the standpoint of the **Insured**.

(G) any **Claim** based upon, arising from, or in any way involving potential income, including interest and dividends, not realized by **You**.

XI. **NOTIFICATION**

(A) **Notice Provisions as to All Insuring Agreements**

With respect to all Insuring Agreements of this Policy, **You** must provide written notice to the Company, through the persons named in the Declarations of this Policy, of any **Claim** as soon as practicable during the **Policy Period**, but no later than sixty (60) days after expiration of the **Policy Period**.

(B) **Notice of Potential Claim**

If, during the **Policy Period**, **You** become aware of any incident, act, fact or circumstance that could reasonably be a basis for a **Claim** under Security and Privacy Liability Coverage, and if **You** give written notice to the Company during the **Policy Period** that describes:

- (1) the specific details of the incident, act, fact or circumstance that could reasonably be the basis for the **Claim**;
- (2) the possible **Damages** that may result or has resulted from the incident, act, fact or circumstance; and
- (3) the details regarding how **You** first became aware of the incident, act, fact or circumstance,

then any **Claim** arising out of such reported incident, act, fact or circumstance will be considered to be a **Claim** first made on the date when the Company first received written notice complying with the above requirements.

XII. **DATA RECOVERY LOSS DETERMINATION**

Digital Assets Loss under Data Recovery Coverage will be determined as follows:

- (1) If the impacted **Digital Asset** was purchased from a **Third Party**, the Company will pay only the lesser of the original purchase price of the **Digital Asset** or the reasonable and necessary **Digital Assets Loss**.
- (2) If it is determined that the **Digital Assets** cannot be replaced, restored or recreated, the Company will only reimburse the actual and necessary **Digital Assets Loss** incurred up to such determination.

XIII. **POLICY CONDITIONS**

(A) **Assistance and Cooperation**

- (1) As a condition precedent to coverage under this Policy, every **Insured** shall cooperate with the Company and its representatives and, upon the Company's request, shall submit to examination by a representative of the Company, under oath if required; attend hearings, depositions and trials; assist in effecting settlement; cooperate in the securing and giving of evidence, obtaining the attendance of witnesses, and in the conduct of suits; and shall give a written statement(s) to the Company's representatives for the purpose of investigation and/or defense, all without charge to the Company. Every **Insured** shall further cooperate with the Company to do whatever is necessary to secure and effect any rights of indemnity, contribution or apportionment that any **Insured** may have. No **Insured** shall take any action which in any way increases the Company's exposure under this Policy.
- (2) Every **Insured** must execute or cause to be executed all papers and render all assistance as reasonably requested by the Company, which may require an **Insured** to provide copies of a **Third Party's** system security and event logs.
- (3) No **Insured** will 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 **Claim** without **Approval**. However, the prompt public admission of a **Privacy Breach** or **Security Breach** potentially impacting the **Private Information of Third Parties** will not be considered an admission of liability requiring **Approval**; provided, however, that **You** must provide notice to the Company, in accordance with Section **XI.(B)** of this Policy, of such public admission, if it is a circumstance that could lead to a **Claim**.

(B) Subrogation

- (1) If any payment is made under this Policy, the Company shall be subrogated to the extent of such payment to all rights of recovery thereof, and the **Insured** shall execute all documents required and do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Company to effectively bring suit in the name of any **Insured**, and shall provide all other assistance and cooperation which the Company may reasonably require. The **Insured** shall do nothing after a **Claim** is made to prejudice the Company's subrogation rights.
- (2) Any recoveries shall be applied first to subrogation expenses, second to **Damages, Defense Costs** or any other amounts incurred by the Company, and lastly to the Deductible. Any additional amounts recovered will be paid to the **Insured**.

(C) Other Insurance

This Policy is excess over any other valid and collectible insurance (including the amount of any deductibles and/or retentions) available to any **Insured**, including any insurance under which there is a duty to defend and regardless of whether such other policy or policies are stated to be primary, contributory, excess, contingent or otherwise, unless such insurance is written specifically as excess insurance of this Policy by reference in such other policy to the Policy number set forth in the Declarations of this Policy.

(D) Cancellation

- (1) The **Named Insured** may cancel this Policy by giving the Company advance, written notice stating when thereafter cancellation shall take effect. If this Policy is canceled by the **Named Insured**, the earned premium will be computed on a short rate basis. Payment or tender of any unearned premium by the Company will not be a condition precedent to the effectiveness of cancellation.
- (2) If the Company decides to cancel this Policy, the Company will mail a written notice to the **Named Insured** stating on what date cancellation shall be effective and the reason for cancellation. If the reason is because of non-payment of premium, then the date of cancellation will be at least ten (10) days from the date of the Company's notice of cancellation. If it is for any other reason, then the date of cancellation will be at least sixty (60) days from the date of the Company's notice of cancellation. If this Policy is cancelled by the Company before the Expiration Date, the return portion of the premium shall be computed on a prorated basis.
- (3) If the provisions of **(D)(2)** above are in conflict with any governing law or regulation, then such provisions shall be deemed amended to comply with the requirements of any such law or regulation, including any minimum cancellation notice period permitted thereunder.
- (4) Cancellation is not contingent upon acceptance by the **Named Insured** of the unearned premium.
- (5) No Extended Reporting Period will be available if this Policy is canceled.

(E) Non-Renewal

- (1) If the Company elects to non-renew this Policy, it will mail a written notice to the **Named Insured** stating the reason for non-renewal at least sixty (60) days before the Expiration Date of this Policy.
- (2) If the provisions of **(E)(1)** above are in conflict with any governing law or regulation, then such provisions shall be deemed amended to comply with the requirements of any such law or regulation, including any minimum non-renewal notice period permitted thereunder.
- (3) No Extended Reporting Period will be available if this Policy is not renewed.

(F) Most Favorable Law

- (1) With respect to the insurability of **Damages**, the applicable law will be the law of the state most favorable to the **Insured**, provided such state has a reasonable relationship to the **Claim**.
- (2) A state will be considered to have a reasonable relationship to the **Claim** if it is the state where:
 - (a) **You** reside;
 - (b) the **Claim** is pending; or
 - (c) the **Security and Privacy Wrongful Acts** giving rise to the **Claim** were committed or allegedly committed.

(G) Action Against the Company

No action shall lie against the Company unless, as a condition precedent thereto, there has been full compliance with all of the terms of this Policy, nor until the amount of an **Insured's** obligation to pay with respect to a **Claim** has been finally determined either by judgment against an **Insured** after actual trial or by written agreement of an **Insured**, the claimant

and the Company. Any individual or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the insurance afforded by this Policy. No individual or organization shall have any right under this Policy to join the Company as a party to any action against any **Insured** to determine an **Insured's** liability, nor shall the Company be impleaded by any **Insured** or their legal representative.

(H) Dispute Resolution

(1) Mediation

If any dispute arises between any **Insured** and the Company involving this Policy or a **Claim** hereunder, the **Named Insured** and the Company agree that such dispute will be referred to a qualified mediator in a good faith effort to negotiate a resolution of the dispute prior to the initiation of any arbitration or other proceedings. The party invoking the agreement to mediate will provide written notice to the other party setting forth its request to mediate and a brief statement regarding the issue to be mediated. The **Named Insured** is authorized and directed to accept the Notice of Mediation on behalf of any **Insured**.

(2) Arbitration

As a condition precedent to any right of action hereunder, in the event that a good faith effort to mediate pursuant to Section [XIII.\(H\)\(1\)](#) does not resolve a dispute between any **Insured** and the Company involving this Policy or a **Claim**, the **Named Insured** and the Company agree that such dispute will be determined by final and binding arbitration before a single arbitrator. If the parties cannot mutually select the arbitrator, the parties will refer the selection of the arbitrator to the American Arbitration Association.

(I) Assignment

No assignment of interest under this Policy shall bind the Company unless its prior written consent is endorsed hereon.

(J) Authorization Clause

The **Named Insured** designated in the Declarations of this Policy shall have the sole authority and responsibility to act on behalf of every **Insured** with respect to: (1) the payment or return of premium; and (2) the receipt and agreement of any Endorsements issued to form a part of this Policy. By acceptance of this Policy, every **Insured** under this Policy understands and agrees that the **Named Insured** shall have the authority set forth in this Section [XIII.\(J\)](#).

(K) Representations

- (1) Each **Insured** represents and acknowledges that the statements made in the **Application** and the information submitted therewith are true and accurate, and that such statements and information are the bases upon which this Policy was issued, are considered to be incorporated herein and form a part of this Policy, and are deemed material to the acceptance of the risk assumed by the Company under this Policy.
- (2) Each **Insured** understands and agrees that this Policy was issued in reliance upon the truth and accuracy of the representations, statements and information made in or submitted with the **Application**.

(L) Forfeiture

Any action or failure to act by the **Named Insured** with the intent to defraud the Company, or the material misrepresentation or non-disclosure of any material fact or **Claims** by the **Named Insured** in the **Application** or in any supplemental materials submitted to the Company, will render this Policy null and void, and all coverage hereunder will be forfeited.

(M) Bankruptcy or Insolvency

Bankruptcy or insolvency of any **Insured** shall not relieve the Company of its obligations nor deprive the Company of its rights or defenses under this Policy.

(N) Office of Foreign Assets Control

Payment under this Policy shall only be made in full compliance with all United States of America economic or trade sanctions, laws or regulations, including, but not limited to, sanctions, laws and regulations administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").

(O) Headings

The titles of paragraphs or sections of this Policy or any endorsements are intended solely for convenience and reference and are not considered in any way to limit or expand the provisions to which they relate and are not part of the Policy. Whenever the singular form of a word is used herein, the same will include the plural when required by context.

(P) Policy Conformance

Any terms of this Policy that conflict with any local or state law, regulation or ordinance of the state that applies, will be thereby amended to the extent necessary in order to conform to such local or state law, regulation or ordinance.

XIV. CURRENCY AND PAYMENTS

All premium and losses under this Policy shall be payable in United States dollars.

XV. ENTIRE AGREEMENT

By acceptance of this Policy, the **Named Insured** agrees that this Policy embodies all agreements between the **Named Insured** and the Company relating to this Policy. Notice to any agent, or knowledge possessed by any agent, or by any other person, will not affect a waiver or a change in any part of this Policy or estop the Company from asserting any right under the terms of this Policy; nor will the terms of this Policy be waived or changed, except by endorsement issued to form a part of this Policy and signed by the Company.

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