

PRIVATE COMPANY MANAGEMENT LIABILITY POLICY CYBER COVERAGE SECTION

In consideration of payment of the premium and subject to the Declarations, the General Terms and Conditions, and the terms, conditions and limitations of this Coverage Section, the Underwriter and the **Insureds** agree as follows:

I. INSURING AGREEMENTS

A. FIRST PARTY COVERAGE

The Underwriter agrees to indemnify the **Organization** for:

1. **Breach Response Costs**

Breach Response Costs incurred by the **Organization** due to an actual or reasonably suspected **Privacy Event** or **System Breach** that first occurs on or after the **Retroactive Date**.

2. **Cyber Extortion Costs**

Cyber Extortion Costs incurred by the **Organization** due to a **Cyber Extortion Event** that first occurs on or after the **Retroactive Date**.

3. **Data Recovery Costs**

Data Recovery Costs incurred by the **Organization** due to a **Data Recovery Event** that first occurs on or after the **Retroactive Date**.

4. **Business Interruption Loss**

Business Interruption Loss actually sustained by the **Organization** due to a **Business Interruption Event** that first occurs on or after the **Retroactive Date**.

5. **Dependent Business Interruption Loss**

Dependent Business Interruption Loss actually sustained by the **Organization** due to a **Dependent Business Interruption Event** that first occurs on or after the **Retroactive Date**.

subject to the applicable Sublimit of Liability as set forth in ITEM 2 of the Cyber Declarations, which shall be part of and not in addition to the Aggregate Limit of Liability for the Coverage Section, as set forth in ITEM 1 of the Cyber Declarations.

Any **Privacy Event**, **System Breach**, **Cyber Extortion Event**, **Data Recovery Event**, **Business Interruption Event**, or **Dependent Business Interruption Event** in connection with which cover is provided under this Insuring Agreement I.A, must be discovered by the **Insured** during the **Policy Period** and be reported in writing to the Underwriter in accordance with Section IV.A of the Coverage Section.

B. THIRD PARTY COVERAGE

The Underwriter agrees to pay on behalf of an **Insured** all:

1. Breach Liability

Defense Expenses and **Damages** that the **Insured** becomes legally obligated to pay due to a **Claim** for a **Privacy Event**, **Security Breach**, or violation of a **Breach Notice Law** that first occurred on or after the **Retroactive Date**.

2. Regulatory Penalties

Defense Expenses and **Penalties** that the **Insured** becomes legally obligated to pay due to a **Claim** by a government regulator in its regulatory or official capacity caused by a **Privacy Event** that first occurred on or after the **Retroactive Date**.

3. PCI Assessments

Defense Expenses and **PCI Assessments** that the **Insured** becomes legally obligated to pay due to a **Claim** for a **Privacy Event** that first occurred on or after the **Retroactive Date**, which involves the **Insured's** actual or alleged noncompliance with published PCI Data Security Standards.

4. Media Liability

Defense Expenses and **Damages** that the **Insured** becomes legally obligated to pay due to a **Claim** alleging a **Media Wrongful Act** that first occurred on or after the **Retroactive Date**.

5. Technology Errors and Omissions Liability

Defense Expenses and **Damages** that the **Insured** becomes legally obligated to pay due to a **Claim** alleging a **Technology Wrongful Act** that first occurred on or after the **Retroactive Date**.

subject to the applicable Sublimit of Liability as set forth in ITEM 2 of the Cyber Declarations, which shall be part of and not in addition to the Aggregate Limit of Liability for the Coverage Section as set forth in ITEM 1 of the Cyber Declarations.

Any **Claim** under this Insuring Agreement I.B must first be made against an **Insured** during the **Policy Period** and reported in writing to the Underwriter in accordance with Section IV.A of the Coverage Section.

II. DEFINITIONS

When used in the Cyber Liability Coverage Section, the following terms, whether in the singular or plural, are defined as follows:

- A. **Breach Notice Law** means any state, federal, or foreign law that requires notice to a natural person whose personal information was disclosed without authorization or accessed by an unauthorized person.

B. **Breach Response Costs** means reasonable and necessary external fees and costs incurred by the **Organization** with the Underwriter's written consent which are charged by a **Designated Vendor** to:

1. provide the **Insured** with legal advice in responding to a **Privacy Event** or **System Breach**, including in relation to any duties or obligations of the Insured arising under applicable **Breach Notice Laws** or contracts;
2. perform computer forensics to contain an electronic **Privacy Event** or **System Breach** and to investigate its cause and scope;
3. provide notification by first class mail or email to: (i) affected individuals who are required to be notified under applicable **Breach Notice Laws**; and (ii) in the Underwriter's discretion, to affected individuals who are not required to be notified under a **Breach Notice Law**;
4. operate a call center for individuals notified under II B.3 to call to request information regarding the **Privacy Event**;
5. provide individuals notified under II B.3 with one-year (or more, if required by law) of free identity theft protection, insurance, and/or monitoring services;
6. provide public relations or crisis management consultancy services within one year of the public announcement of a **Privacy Event** or **System Breach** for the purpose of mitigating harm to the **Insured's** reputation; and
7. restore healthcare records of individuals notified under II B.3 residing in the United States whose **Private Information** was compromised as a result of a **Privacy Event**.

Breach Response Costs do not include **Cyber Extortion Costs** or the **Insured's** internal or overhead expenses, salaries, or wages.

C. **Business Interruption Event** means a **System Breach** or **Denial of Service Attack** that interrupts an **Insured's Computer System** for a period longer than the applicable **Waiting Period**.

D. **Business Interruption Loss** means:

1. reasonable and necessary expenses that are incurred by the **Insured** during the **Period of Restoration** to investigate the cause of the **Business Interruption Event** and to minimize, reduce, or avoid loss due to the **Business Interruption Event**;
2. net profit or loss before interest and tax that the **Insured** would have earned or incurred during the **Period of Restoration**, but for a **Business Interruption Event**;
3. normal operating expenses that must continue and are necessarily incurred by the **Insured** (including payroll) during the **Period of Restoration**; and
4. costs for an external forensic accountant to assist with the **Insured's** preparation of the Proof of Loss.

E. **Claim** means:

1. a written demand for money or services against an **Insured**, or the assertion of liability against an **Insured**;
2. with respect to coverage provided under Insuring Agreement B.2, a request for information made to an **Insured** by a government regulator in its regulatory or official capacity;

Multiple **Claims** arising from the same, continuing, or series of related or repeated acts, errors, omissions, or **Security Breaches** shall be considered a single **Claim** for the purposes of this Coverage Section, 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**.

F. **Computer System** means computers, any software residing on such computers and any associated devices or equipment:

1. operated by and either owned by or leased to the **Organization**; or
2. operated by a third party pursuant to written contract with the **Organization** and used for the purpose of providing hosted computer application services to the **Organization** or for processing, maintaining, hosting or storing the **Insured Organization's** electronic data.

G. **Confidential Information** means proprietary information of a third party not insured by this Coverage Section that is held by the **Insured** and:

1. is subject to any form of confidentiality agreement or confidentiality provision in a contract or agreement between a third party and the **Insured**; or
2. which the **Insured** is legally required to maintain in confidence.

H. **Cyber Extortion Costs** means the following reasonable and necessary costs incurred with the Underwriter's prior written consent:

1. money, securities, Bitcoin, or other virtual currencies paid at the direction and demand of a third-party in order to terminate a **Cyber Extortion Event**; and
2. external fees and costs incurred to prevent, terminate, and respond to a **Cyber Extortion Event**.

Cyber Extortion Costs do not include **Breach Response Costs**.

- I. **Cyber Extortion Event** means a threat to commit or continue a **System Breach**, **Data Recovery Event**, or **Denial of Service Attack** against an **Insured** if the **Insured** does not make a demanded payment or perform a demanded service or action.

Cyber Extortion Event does not include threats:

1. to harm physically or kidnap any person;
2. to harm, take, or transfer property other than a **Data Asset**; or
3. made by any **Insured** or in collusion with any **Insured**.

- J. **Cyber Terrorism** means the premeditated use of disruptive activities, or threat to use disruptive activities, against an **Insured's Computer System** with the intention to cause harm, further social, ideological, religious, political or similar objectives, or to intimidate any person in furtherance of such objectives.
- K. **Damages** means: (a) a monetary judgment or award that the **Insured** is legally obligated to pay, including punitive and exemplary damages to the extent insurable in any applicable venue that most favors coverage; or (b) a negotiated monetary settlement agreed to by the **Insured** with the Underwriter's consent.

Damages do not include:

1. future profits, restitution, or disgorgement of unjust enrichment or profits by an **Insured**;
 2. the costs of complying with orders granting injunctive or equitable relief;
 3. return or offset of fees, service credits, charges, or commissions for the provision of goods or services;
 4. taxes or loss of tax benefits;
 5. **Penalties** or any other fines, sanctions, or penalties;
 6. discounts, coupons, prizes, awards, or other incentives;
 7. liquidated or multiple damages;
 8. **PCI Assessments**; or
 9. any amounts for which the **Insured** is not liable, or for which there is no legal recourse against the **Insured**.
- L. **Data Asset** means electronic data on an **Insured's Computer System** that is subject to regular back-up procedures.
- M. **Data Recovery Costs** means reasonable and necessary external fees and costs incurred by the **Insured** for the actual or attempted regaining of access to, replacement, restoration, re-assembly, or re-collection of any **Data Asset**.

Data Recovery Costs do not include:

1. fees or costs to improve the **Data Asset** or the **Insured's Computer System** to a level beyond that which existed prior to the **Data Recovery Event**;
2. fees or costs for legal services of any type;
3. loss arising out of any liability to third parties; or
4. **Business Interruption Loss** or **Dependent Business Interruption Loss**.

- N. **Data Recovery Event** means a **System Breach** that results in the alteration, corruption, destruction, deletion, or damage to a **Data Asset**, or an inability to access a **Data Asset**.
- O. **Denial of Service Attack** means a total or partial outage of **Computer Systems** due to malicious traffic from a third party which is designed to slow or interrupt legitimate access to **Computer Systems** by overwhelming or crashing such **Computer Systems**.
- P. **Dependent Business Interruption Event** means a **System Breach** or **Denial of Service Attack** that interrupts a **Shared Computer System** for a period longer than the applicable **Waiting Period**.
- Q. **Dependent Business Interruption Loss** means:
1. reasonable and necessary expenses that are incurred by the **Insured** during the **Period of Restoration** to investigate the cause of the **Dependent Business Interruption Event** and to minimize, reduce, or avoid loss due to the **Dependent Business Interruption Event**;
 2. net profit or loss before interest and tax that the **Insured** would have earned or incurred during the **Period of Restoration**, but for a **Dependent Business Interruption Event**;
 3. normal operating expenses that must continue and are necessarily incurred by the **Insured** (including payroll) during the **Period of Restoration**; and
 4. costs for an external forensic accountant to assist with the **Insured's** preparation of the Proof of Loss.
- R. **Designated Vendor** means a vendor selected and approved in writing by the Underwriter to provide services to the **Insured**.
- S. **Incident** means **Privacy Event, System Breach, Cyber Extortion Event, Data Recovery Event, Business Interruption Event, or Dependent Business Interruption Event**.
- T. **Insured**, whether expressed in singular or plural, means:
1. the **Organization**;
 2. the **Organization's** current and former directors, managers of a limited liability company, or officers, but only with respect to the performance of his or her duties as such on behalf of the **Organization**;
 3. the **Organization's** current and former employees, but only for work done while acting within the scope of his or her employment and related to the conduct of the **Organization's** business;
 4. the **Named Insured's** current and former principals, if the **Named Insured** is a sole proprietorship and the **Named Insured's** partners, 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 **Organization**;
 5. 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 Coverage Section; and

6. the lawful spouse of an Insured, 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 an **Insured**, but solely by reason of any act, error, or omission of such **Insured**.
- U. **Insured's Computer System** means a **Computer System** leased, owned or operated by an **Insured** or operated solely for the benefit of an **Insured** by a third party under written contract with an **Insured**.
- V. **Loss** means **Breach Response Costs, Cyber Extortion Costs, Data Recovery Costs, Business Interruption Loss, Dependent Business Interruption Loss, Defense Expenses, Damages, Penalties, and PCI Assessments**.
- W. **Management** means any directors, officers, trustees, principals, partners, managers of a limited liability company, general counsel, or risk managers of the **Organization**.
- X. **Merchant Services Agreement** means an agreement between an **Insured** and a financial institution, a payment card company or processor, or an independent service operator, that enables the **Insured** to accept payment cards for payments or donations.
- Y. **Media Content** means any data, text, sounds, images, graphics, music, photographs or advertisements, including video, streaming content, webcasts, podcasts, blogs, online forums and chat rooms. **Media Content** shall not include computer software, software technology, or the actual goods, products or services described, illustrated or displayed in such **Media Content**.
- Z. **Media Wrongful Act** means one or more of the following acts committed in the display of **Media Content** created and/or maintained by or on behalf of the **Insured**:
1. torts for: (a) disparagement or harm to the reputation or character of a person or organization; (b) violation of an individual's privacy rights; or (c) invasion or interference with an individual's right of publicity;
 2. plagiarism, piracy, and misappropriation of ideas under implied contract
 3. infringement of copyright, domain name, trademark, trade name, trade dress, logo, title, metatag, or slogan, service mark, or service name; or
 4. improper deep-linking or framing within electronic content.
- AA. **PCI Assessment** means
1. the direct monetary fines, penalties, reimbursements, fraud recoveries, or other assessments owed by the Insured pursuant to a Merchant Services Agreement arising from the Insured's actual or alleged breach of the data security standards in effect now, or as hereafter amended, that are established by the PCI Security Standards Council; or
 2. **PCI Recertification Costs**.

PCI Assessment does not include costs to appeal a **PCI Assessment**, charge backs, interchange fees, discount fees, or prospective service fees.

BB. **PCI Recertification Costs** means the reasonable and necessary costs for a qualified computer expert to recertify the **Insured's** compliance with the PCI Data Security Standards.

CC. **Penalties** means, only with respect to **Claims** covered under Insuring Agreement B.2. and where insurable:

1. any civil fine, money penalty, or consumer compensation fund that is imposed or required by a governmental entity, in such entity's regulatory or official capacity; and
2. any monetary settlement that is negotiated with a governmental entity, in such entity's regulatory or official capacity;

Penalties do not include any other amounts, such as payments to charitable organizations or costs to comply with any injunctive relief, equitable relief, remediation, training, corrective action plans, or audits.

DD. **Period of Restoration** means the period: (a) beginning after the expiration of the **Waiting Period**; and (b) ending 120 days following:

1. interruption of the **Insured's Computer Systems** due to a **Business Interruption Event**; or
2. interruption of a **Shared Computer System** due to a **Dependent Business Interruption Event**.

EE. **Privacy Event** means the actual or suspected theft, loss, unauthorized disclosure of, or unauthorized access to **Private Information** or **Confidential Information** in the **Insured's** care, custody, or control, that is committed without the knowledge or acquiescence of any **Management**.

FF. **Private Information** means:

1. any information relating to a natural person that is defined as personal information under a **Breach Notice Law**;
2. any non-public personal information from which an individual may be uniquely and reliably identified or contacted, including, but not limited to an individual's name plus a telephone number, email address, Social Security number, driver's license number, state identification number, or medical information; or
3. financial account information of an individual that would enable use of or access to that individual's financial accounts.

Private Information does not include any information that is publicly available.

GG. **Retroactive Date** means the date referenced in ITEM 3 of the Cyber Declarations.

- HH. **Security Breach** means a failure of computer security (including, but not limited to physical and technical controls, written policies, anti-virus software, firewalls, and passwords) that results in:
1. unauthorized access to or unauthorized use of an **Insured's Computer System** or **Shared Computer System**; or
 2. distribution from or transmission into an **Insured's Computer System** of any unauthorized, corrupting, or harmful software code, or malware, including but not limited to computer viruses, Trojan horses, keystroke loggers, cookies, spyware, adware, worms, and logic bombs.

II. **Shared Computer System** means a **Computer System**, other than an **Insured's Computer System**, operated for the benefit of an **Insured** by a third party under written contract with an **Insured**, including data hosting, cloud services or computing, co-location, data back-up, data storage, data processing, platforms, software, and infrastructure-as-a-service.

- JJ. **System Breach** means a failure of computer security (including, but not limited to physical and technical controls, written policies, anti-virus software, firewalls, and passwords) that results in:
1. unauthorized access to or unauthorized use of a **Computer System**; or
 2. distribution into or transmission from a **Computer System** of any unauthorized, corrupting, or harmful software code, or malware, including but not limited to computer viruses, Trojan horses, keystroke loggers, cookies, spyware, adware, worms, and logic bombs.

System Breach does not mean or include a **Denial of Service Attack**.

KK. **Technology Wrongful Act** means any negligent act, error, omission, or misrepresentation, or unintentional breach of contract in the **Insured's** rendering or failure to render, computer and electronic technology services that the **Insured** has agreed to perform for others in exchange for a fee.

LL. **Waiting Period** means the number of hours referenced in ITEM 2.A.4 and 2.A.5 of the Cyber Declarations.

III. EXCLUSIONS

There shall be no coverage for any **Claim** or **Loss**:

A. **Bodily Injury or Property Damage**

For, arising out of, or resulting from:

1. physical injury, sickness, disease, or death of any person, including any mental anguish or emotional distress resulting from such physical injury, sickness, disease, or death; or
2. physical injury to or destruction of any tangible property, including the loss of use thereof

provided however, that electronic data shall not be considered tangible property for purposes of this exclusion.

B. **Employment Liability**

For, arising out of, or resulting from 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.

provided, however, that this exclusion shall not apply to **Claims** under Insuring Agreement B.1 for **Privacy Events** or to indemnification in respect of **Breach Response Costs**.

C. **Contract**

For, arising out of, or resulting from any contractual liability or obligation, or arising out of or resulting from any written breach of contract or agreement; provided, however, that this exclusion shall not apply:

1. with respect to Insuring Agreement B.1, to any obligation of the **Organization** to maintain the confidentiality or security of **Private Information** or **Confidential Information**;
2. with respect to Insuring Agreement A.1, to **Breach Response Costs** for legal fees and computer expert fees to investigate a **Privacy Event** as required by: (a) a **Merchant Services Agreement**; or (b) a contract regarding **Confidential Information**;
3. **PCI Assessments** covered under Insuring Agreement B.3;
4. with respect to Insuring Agreement B.4, for misappropriation of ideas under an implied contract;
5. to the extent the **Insured** would have been liable in the absence of such contract or agreement; or
6. with respect to a covered **Claim** under Insuring Agreement B.5.

D. **Trade Practices and Antitrust**

For, arising out of, or resulting from any actual or alleged false or deceptive trade practices, antitrust violation, restraint of trade, unfair competition, false or deceptive or misleading advertising, or consumer protection laws; provided however, that this exclusion shall not apply to consumer privacy laws for **Claims** under Insuring Agreements B.1 or B.2 for a **Privacy Event** or to the provision of **Breach Response Costs** incurred pursuant to a **Breach Notice Law** covered under Insuring Agreement A.1 for a **Privacy Event**.

E. **Unlawful Collection and Unsolicited Communications**

For, arising out of, or resulting from:

1. the actual or alleged unlawful collection, acquisition, or retention of **Private Information** by, on behalf of, or with the consent or cooperation of the **Organization**;
2. the failure to comply with a legal requirement to provide individuals with the ability to assent to or withhold assent (e.g. opt-in or opt-out) from the collection, disclosure, or use of **Private Information**; or

3. the distribution of unsolicited email, text messages, direct mail, or facsimiles, wiretapping, audio or video recording, or telemarketing, if such distribution, wiretapping or recording is done by or on behalf of the **Organization**.

F. **Prior Known Acts & Prior Noticed Claims**

For, arising out of, or resulting from any act, error, omission, incident, or **System Breach** committed or occurring prior to the inception date of this Coverage Section:

1. if any **Management** on or before the Continuity Date referenced in ITEM 4 of the Cyber Declarations, knew or could have reasonably foreseen that such act, error, omission, incident, or **System Breach** might be expected to be the basis of a **Claim** or **Loss**; or
2. in respect of which any **Insured** has given notice of a circumstance, which might lead to a **Claim** or **Loss**, to the Underwriter of any other Coverage Section or policy in force prior to the inception date of this Coverage Section.

G. **Statutory Violations**

For, arising out of, or resulting from any actual or alleged:

1. violation of the Organized Crime Control Act of 1970 (commonly known as the Racketeer Influenced and Corrupt Organizations Act or RICO);
2. violation of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Act of 1940, or any other blue sky or securities law, regulation, or legislation;
3. 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, or the Occupational Safety and Health Act of 1970;
4. acts, errors, or omissions related to any of the **Organization's** pension, healthcare, welfare, profit sharing, mutual, or investment plans, funds, or trusts, including violation of the Employee Retirement Income Security Act of 1974 (ERISA);
5. violation of any amendments to or regulations promulgated under any of the laws described in parts 1, 2, 3, and 4 above; or
6. violation of any law or legislation of any other jurisdiction that is similar to any of the laws described in parts 1, 2, 3, and 4 above;

provided, however, that this exclusion shall not apply to any otherwise covered **Claim** under Insuring Agreement B.1 for a **Privacy Event**, or to the provision of **Breach Response Costs** pursuant to a **Breach Notice Law** covered under Insuring Agreement A.1 for a **Privacy Event**.

H. **Discrimination**

For, arising out of, or resulting from 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.

I. **Conduct**

For, arising out of, or resulting from any intentionally dishonest, criminal, dishonest, fraudulent, or malicious act or omission, or willful violation of the law, if committed by or in collusion with an **Insured**; provided, however *that* this exclusion shall not apply to:

1. **Defense Expenses** incurred in defending any **Claim** alleging the foregoing until such conduct is established by a final adjudication non-appealable adjudication establishing such conduct;
2. **Loss** incurred on behalf of any other **Insured that is a natural person and who** did not personally commit, participate in, or know about any act, error, omission, incident, or event giving rise to any **Claim** alleging the foregoing; or
3. **Loss** incurred on behalf of the **Organization** if no act, error, omission, incident, or event giving rise to any **Claim** alleging the foregoing was known to any present or former **Management** at the time of or prior to its commission or occurrence.

J. **Intellectual Property**

For, arising out of, or resulting from any actual or alleged:

1. infringement of patent or patent rights or misuse or abuse of patent by or on behalf of an **Insured**;
2. infringement of copyright arising from or related to software code or software products by or on behalf of an **Insured**;
3. any misappropriation of a trade secret or **Confidential Information** by or on behalf of an **Insured**; or
4. disclosure, misuse, or misappropriation of any ideas, trade secrets, or **Confidential Information** that came into the possession of any person or entity prior to the date of the person or entity joining the **Organization**.

K. **Government Action**

For, arising out of, or resulting from a **Claim** brought by or on behalf of any state, federal, local, or foreign governmental entity, in such entity's regulatory or official capacity; provided, however, that this exclusion shall not apply to an otherwise covered **Claim** under Insuring Agreement B.2;

L. **Insured vs Insured**

For, arising out of, or resulting from a **Claim** against an **Insured** by:

1. any other **Insured** or **Insureds** under this Coverage Section;
2. any entity in which an **Insured** has a material financial interest; or
3. any entity that has a material financial interest in the **Insured**;

provided, however, that this exclusion shall not apply to an otherwise covered **Claim** under Insuring Agreement B.1 made by a current or former employee of the **Organization**, or to a request for indemnity or contribution for a **Claim** made by a third party not insured under this Coverage Section.

M. Trading Losses, Loss of Money & Discounts

For, arising out of, or resulting from:

1. the monetary value of any transaction or change in value of any account, including but not limited to, electronic funds transfers, trading losses, or trading liabilities;
2. losses, liabilities, or lost opportunities connected with any types of purchase or sale transactions or other dealing in securities, commodities, derivatives, foreign or Federal funds, currencies, foreign exchange, and the like;
3. the loss, transfer, or theft of monies, securities, or tangible property of others in the care, custody, or control of the **Insured**; or
4. the value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount.

N. Pollution

For, arising out of, or resulting from:

1. asbestos, or any materials containing asbestos in whatever form or quantity;
2. any fungi, molds, spores, or mycotoxins of any kind;
3. any electromagnetic field, electromagnetic radiation, or electromagnetism;
4. any pollutants, such as solids, liquids, gaseous or thermal irritants or contaminants including gas, acids, alkalis, chemicals, heat, smoke, vapor, soot, fumes, or waste (including waste to be recycled, reconditioned, or reclaimed); or
5. smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God, or any other physical event, however caused.

O. Physical Peril

For, arising out of, or resulting from:

1. any electrical or mechanical failures or interruption, including but not limited to any electrical disturbance, surge, spike, brownout, or blackout, and outages to gas, water, telephone, cable, satellite, telecommunications, or other infrastructure;
2. any interruption, suspension, failure, or outage of any component of the internet that is not part of an **Insured's Computer System**, including without limitation any hardware or software infrastructure supporting the internet;
3. any satellite failures; or

4. fire, flood, earthquake, volcanic eruption, lightning, wind, hail, tidal wave, landslide, act of God or other physical event.

P. Media-Related Exposures

For, arising out of, or resulting from:

1. the actual or alleged obligation to make licensing fee or royalty payments;
2. any costs or expenses incurred or to be incurred by an **Insured** or others for the reprinting, reposting, recall, removal or disposal of any **Media Content** or any other information, content or media, including any media or products containing such **Media Content**, information, content or media;
3. any **Claim** brought by or on behalf of any intellectual property licensing bodies or organizations;
4. the actual or alleged inaccurate, inadequate or incomplete description of the price of goods, products or services, cost guarantees, cost representations, contract price estimates, or the failure of any goods or services to conform with any represented quality or performance;
5. any actual or alleged gambling, contest, lottery, promotional game or other game of chance; or
6. any **Claim** made by or on behalf of any independent contractor, joint venturer or venture partner arising out of or resulting from disputes over ownership of rights in **Media Content** or services provided by such independent contractor, joint venturer or venture partner;

Q. War

For, arising out of, or resulting from: 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 nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority; provided, however, that this exclusion will not apply to **Cyber Terrorism**.

IV. NOTICE

A. NOTICE OF CLAIM OR INCIDENT

The **Insured** must provide written notice of any **Claim** or **Incident** to the Underwriter through the contacts listed in ITEM 6 of the Declarations as soon as is practicable after such **Claim** is made against the **Insured**, or such **Incident** is discovered by the **Insured**. In no event will such notice to the Underwriter be later than: (i) the end of the **Policy Period**; or (ii) ninety (90) days after the end of the **Policy Period** for **Claims** made against the **Insured** in the last ninety (90) days of the **Policy Period**, or for **Incidents** discovered by the **Insured** during the last ninety (90) days of the **Policy Period**.

B. NOTICE OF CIRCUMSTANCES

As soon as is practicable during the **Policy Period**, the **Insured** may report in writing to the Underwriter through the contacts listed in ITEM 6 of the Declarations, any circumstance discovered by the **Insured** during the **Policy Period** that could reasonably be the basis for a **Claim**. Such notice must include a description of the circumstance, including:

1. the specific details of the circumstance, how it was discovered, and who was involved;
2. key dates, such as when the circumstance occurred and was discovered; and
3. the injury or damage which may or has resulted from the circumstance.

Should such a circumstance give rise to any **Claims** against an **Insured**, the **Claims** will be deemed to have been made and reported at the time notice is received by the Underwriter pursuant to this Section IV.B.

Incidents reported to the Underwriter during the **Policy Period** and in conformance with Sections I.A and IV.A above, shall also constitute notice of a circumstance under this Section IV.B.

V. CLAIM SETTLEMENT

- A. The **Insured** agrees not to admit any liability for any **Claim**, offer to settle, or settle any **Claim**, incur any **Defense Expenses**, or otherwise assume any contractual obligation, without the Underwriter's prior written consent, such consent not to be unreasonably withheld, except with respect to **Data Recovery Costs, Business Interruption Loss, Dependent Business Interruption Loss** and **Breach Response Costs** as specifically provided in Section II.B. Compliance with a **Breach Notice Law** will not be considered an admission of liability for purposes of this Section V.A
- B. The Underwriter agrees that the **Insured** may settle any **Claim** where the **Damages, Penalties, PCI Assessments** and **Defense Expenses** do not exceed the Retention, provided that the entire **Claim** is resolved and the **Insured** obtains a full release on behalf of all **Insureds** from all claimants.
- C. The Underwriter shall have the right to make investigations and conduct negotiations and, with the consent of the **Insureds**, enter into such settlement of any **Claim** as the Underwriter deems appropriate.

VI. CLAIM DEFENSE

The Underwriter shall have the right and duty to defend any **Claim** covered this Coverage Section, even if any of the allegations are groundless, false or fraudulent. The Underwriter's duty to defend any **Claim** shall cease upon exhaustion of the applicable Limit of Liability applicable to such **Claim**.

The Underwriter shall have the right to select and appoint counsel to defend against any **Claim**. The Underwriter may appoint different defense counsel to represent different **Insureds**, but only if required due to an actual conflict of interest.

VII. PROOF OF LOSS

With respect to **Data Recovery Costs, Business Interruption Loss** and **Dependent Business Interruption Loss**, the **Named Insured** must provide the Underwriters with a written Proof of Loss sworn by an officer of the **Organization** and providing details regarding:

- A. the **Data Recovery Event** or **Business Interruption Event**, including the time, place and cause of the **Business Interruption Event** or **Data Recovery Event**, the interests of the **Insured** and of others in the affected property, and any other potentially applicable insurance; and
- B. the **Insured's** calculation of the **Data Recovery Costs, Business Interruption Loss** or **Dependent Business Interruption Loss** being submitted, including copies of any backup documentation, reports, invoices, or service agreements in support thereof;

Such Proof of Loss must be provided to the Underwriters no later than six (6) months after the end of the **Policy Period**. At the Underwriter's request, the **Named Insured** shall provide additional information or documentation or submit to an examination under oath in order for the Underwriter to complete its evaluation of coverage for the incident or the amount of covered **Loss**.

If the **Named Insured** and the Underwriter do not agree on the amount of covered **Loss**, each party shall select and pay for a qualified appraiser (the "Appraiser") to calculate the loss elements sustained by the **Named Insured**, and the Appraisers shall choose an umpire. If the Appraisers cannot agree on an umpire, the **Named Insured** or the Underwriter may request a judge of a court having jurisdiction to make the selection. Each Appraiser shall submit to the umpire its calculation of loss elements, and agreement by the umpire and at least one of the Appraisers as to the calculation of loss elements shall be binding on all **Insureds** and the Underwriter. The **Named Insured** and the Underwriter will equally share the costs of the umpire and any other costs other than the cost of their respective Appraisers. This provision shall govern only the calculation of loss elements, and shall not control the determination of whether those amounts are otherwise covered by the Coverage Section; and compliance with this provision shall have no effect on the Underwriter's rights or ability to deny coverage or enforce any obligation under this Coverage Section.

VIII. LIMITS OF LIABILITY AND RETENTION

A. LIMITS OF LIABILITY

1. The Aggregate Limit of Liability for the Coverage Section as set forth in ITEM 1 of the Cyber Declarations, shall be the Underwriter's maximum aggregate limit of liability for all **Loss** payable under this Coverage Section.
2. Each Sublimit of Liability stated in ITEM 2 of the Cyber Declarations is the aggregate Sublimit of Liability payable under the corresponding Insuring Agreement for this Coverage Section and shall be part of, and not in addition to, the Aggregate Limit of Liability for the Coverage Section. Upon exhaustion of any Sublimit of Liability, the Underwriter will not be liable to pay any further **Loss** with respect to the coverage provided by the Sublimit.
3. Neither the inclusion of more than one **Insured** nor the making of **Claims** by more than one person or entity, or the occurrence of more than one **Incident** shall increase any Sublimit of Liability or the Aggregate Limit of Liability for the Coverage Section.

4. The Sublimit of Liability for **PCI Recertification Costs** referenced in ITEM 2.B.3.a shall be part of and not in addition to the Sublimit of Liability for **PCI Assessments** referenced in ITEM B.3 of the Cyber Declarations, which shall be part of and not in addition to the Aggregate Limit of Liability referenced in ITEM 1 of the Cyber Declarations.
5. The Limit of Liability available to pay **Damages** and **Penalties** shall be reduced and may be completely exhausted by payment of **Defense Expenses**. The Underwriter shall not be obligated to pay any further **Loss** or to undertake or continue defense of any suit or proceeding after the Aggregate Limit of Liability for the Coverage Section has been exhausted by payment of **Loss**.

B. RETENTION

1. The Retentions set forth in ITEM 2 of the Cyber Declarations applies separately to each **Claim**. Such Retentions shall be satisfied by monetary payments by the **Named Insured** of **Defense Expenses, Damages, Penalties, or PCI Assessments**.
2. The Retentions set forth in ITEM 2 of the Cyber Declarations shall apply separately to each **Privacy Event, System Breach, Cyber Extortion Event, Data Recovery Event, Business Interruption Event, or Dependent Business Interruption Event**, in the amounts set forth therein. Such Retentions shall be satisfied by monetary payments by the **Named Insured** of the **Breach Response Costs, Cyber Extortion Costs, Data Recovery Costs, Business Interruption Loss, and Dependent Business Interruption Loss**.
3. In the event that **Loss** arising out of a single incident or event is subject to more than one Retention, each applicable Retention amount shall apply to such **Loss**, provided that the sum of all such Retention amounts shall not exceed the largest applicable Retention amount.
4. Satisfaction of the applicable Retention(s) is a condition precedent to any payment by the Underwriter under the Coverage Section, and the Underwriter shall be liable only for those amounts in excess of such Retention(s) subject to the Underwriter's total liability not exceeding the Coverage Section Aggregate Limit of Liability.

IX. CONDITIONS

A. MERGERS AND ACQUISITIONS

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 this Coverage Section shall remain in full force and effect, but only with respect to a **System Breach**, or other act or incident that occurs prior to the date of the consolidation, merger, or acquisition, unless otherwise agreed in advance by the **Insured** and the Underwriter in exchange for additional premium.

B. VALUATION AND CURRENCY

1. All premiums, limits, deductibles, **Loss**, and other amounts under this Coverage Section are expressed and payable in the currency of the United States. If judgment is rendered, settlement is denominated or another element of **Loss** under this Coverage Section is

stated in a currency other than United States dollars or is paid in a currency other than United States dollars, payment under this Coverage Section 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**, **Penalties**, or **PCI Assessments** is due or, with respect to **Defense Expenses**, the date they are paid.

2. If any **Cyber Extortion Costs** is paid by or on behalf of the **Organization** in digital currency, payment by the Underwriter under this Coverage Section shall be made in United States Dollars equal to the US Dollar-value of the digital currency at the time such payment is made (that is, at the time that such digital currency is first recorded in a public ledger of transactions for such digital currency).