



## DUAL Cyber & Data Protection Policy

**Content**

**Page numbers**

24-Hour Cyber Incident Hotline 3

About Your Policy 4

Your Application 4

Paying the Premium 4

Conditions Precedent 5

Cancellation 6

How to make a Claim 6

Insuring Agreements – what you are insured for 7

Exclusions – what you are not insured for 9

Claims Conditions 15

General Conditions 18

Definitions 23

Data Protection Notice 35

## **24-Hour Cyber Incident Hotline**

This **Policy** has a dedicated 24-hour emergency hotline that **You** can call immediately following the discovery of a cyber incident. The hotline number is stated in Item 13 of the Schedule.

Calling the 24-hour emergency hotline will give **You** immediate access to a cyber incident response expert.

Notification of any suspected or actual **Security Breach, System Failure, Social Engineering, Telecommunications Phreaking Event, Privacy Breach, Cyber Extortion Threat, Media Wrongful Act**, or any other **Circumstance** to a **Breach Response Expert** (via the hotline or otherwise) does not constitute notification to **Us**. **You** must still give **Us** formal notice as per the terms and conditions of **Your Policy**.

Please note that cover for any costs incurred (whether incurred because of the recommendations of a **Breach Response Expert**) will be subject to the terms and conditions of **Your Policy** and nothing stated herein should be construed as a waiver of any of the terms and conditions of **Your Policy**.

Any Notification of a **Claim** or **Loss** or **Circumstance** should be sent to **Us** as soon as reasonably practicable too:

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## About Your Policy

This document is **Policy Wording** and together with the **Application**, Declarations, Schedule, endorsements and variations of such documents, forms the **Policy Documentation**. The **Policy Documentation** sets out the terms and conditions of the insurance cover provided by **Your Policy**.

Coverage under this **Policy** is provided on a claim made and notified basis. This means that this **Policy** applies only to **Claims** first made against **You** during the **Policy Period** and notified **Us** during the **Policy Period** or **Extended Reporting Period**, if applicable, and to **Circumstances** first discovered by **You** during the **Policy Period** and notified **Us** during the **Policy Period** or **Extended Reporting Period**, if applicable.

**You** must always fully comply with all conditions contained in **Your Policy** and any failure to do so may constitute a breach of the **Policy**.

Any obligation or payment owed by **Us** will be subject to the Limits of Liability specified in Item 3 of the Schedule.

It is important that **You** take the time to read **Your Policy**, checking all the details stated in the Schedule and to ensure that it reflects **Your** understanding of the insurance cover and meets **Your** requirements. Each Insuring Agreement contains one or more **Coverage Triggers**. For example, the Insuring Agreement 1.a) Business Interruption offers two **Coverage Triggers**, being **Security Breach** and **System Failure**. **You** must ensure that **You** have purchased the correct cover by selecting the Insuring Agreement(s) and **Coverage Triggers** to meet **Your** requirements.

**You** or **Your** Insurance Adviser must tell **Us** as soon as reasonably practicable if there is a discrepancy or omission or if **Your** insurance requirements change, or if **Your** Insurance Adviser changes.

Words that appear in bold face type are defined in the Definitions section of this **Policy Wording**.

Where used throughout this **Policy**, the words “including” and “include(s)” shall mean “including but not limited to.”

## Your application

**You** agree that the statements in the **Application** are **Your** agreements and representations, which will be deemed material to the risk, and that this **Policy** is issued in reliance upon the truth thereof. Any material misrepresentation or non-disclosure in the **Application** of any material matter by **You** or **Your** agent will render the **Policy** invalid and relieve the **Us** from all liability under the **Policy**.

## Paying the Premium

**You** must pay **Us** the premium (specified in Item 4 of the Schedule) in full within the period specified in Item 6 of the Schedule (or, in respect of instalment premiums, when due).

If the premium due has not been paid to **Us** when it is due, **we** have the right to cancel **Your Policy** on not less than 14 days' written notice to **You** via **Your** Insurance Adviser.

In the event of cancellation for non-payment of premium, premium is due to **Us** on a daily proportionate basis for the period that the **Policy** has been in force provided **You** have not notified **Us** of a **Claim** or **Loss** or **Circumstance**. If **You** have notified **Us** of a **Claim**, or **Loss** or **Circumstance**, the full premium for the full policy year in which cancellation occurs will be payable by **You**. No **Claim** or **Loss** will be covered following cancellation.

## Conditions Precedent

**You** must comply specifically and completely with the following conditions before **We** have any liability under the **Policy**. If **You** do not fully comply with any of these Conditions Precedent, **we** may be entitled to reject all or part of any claim under the **Policy**.

The Conditions Precedent are:

- i. **You** must pay any **Retention** (which is specified in Item 3 of the Schedule). **You** must make direct payments within the **Retention** to the appropriate parties as designated by **Us**.
- ii. **You** must obtain **Our** written **Consent** before **You** incur any **Defense Expenses, Payment Card Industry Fines and Expenses**, or admit liability for, or settle, or offer to settle, any **Claim**.
- iii. If during the **Policy Period**, the **Control Group** becomes aware of a **Claim** or **Loss** or **Circumstance**, **you** must forward details to **Us** as soon as practicable during the **Policy Period** or the **Extended Reporting Period**, if applicable, via the entity named in Item 9 of the Schedule. **You** must notify any **Claim** or **Loss** or **Circumstance** even if it arises out of any previously notified or related **Claim** or **Loss** or **Circumstance**.

## **Cancellation**

**You** have the right to cancel the **Policy** within the first 14 days of the Inception Date (as specified in Item 2 of the Schedule) and to receive a refund of any paid premium if **You** have not made or notified a claim under the **Policy**. The **Policy** will then be cancelled, and no **Claim** or **Loss** will be covered.

The full conditions for cancellation are on page 19.

## **How to make a Claim**

If **You** need to claim under **Your Policy** or notify **Us** of a **Claim** or **Circumstance**, **you** must do so as soon as reasonably practicable. **You** must:

1. Call the 24-Hour Cyber Incident Helpline.

The **Breach Response Expert** will help **You**. Their number is listed in Item 13 of the Schedule.

2. Notify **Us** via the entity named in Item 9 of the Schedule.

Please note that calling the 24-Hour Cyber Incident Helpline and working with a **Breach Response Expert** does not mean that a **Claim** or **Loss** or **Circumstance** has been notified to **Us**. **You** must still notify **Us** as well.

The full Claims Conditions are on pages 15 and 16, and these explain **Your** obligations.

## **Insuring Agreements – for what you are insured.**

In exchange for **Your** payment of the premium, **your** compliance with the terms and conditions of this **Policy** and in reliance upon the **Application**, **we** agree to provide **You** with insurance cover under the Insuring Agreements below in respect of the **Coverage Triggers** that are indicated as purchased in Item 3 of the Schedule. Please check the Schedule to ensure that **You** have purchased the appropriate insurance cover.

- 1** In respect of the Insuring Agreements indicated as purchased in Item 3 of the Schedule, **we** agree to pay on **Your** behalf, more than the **Retention** (or after the expiration of the **Waiting Period** and more than the **Remaining Retention** with respect to Insuring Agreements 1.a) Business Interruption, 1.b) Contingent Business Interruption and 1.d) Reputational Harm), for:

### **a) Business Interruption**

**Gross Earnings Loss** incurred during the **Interruption Period** directly because of the total, partial, or intermittent interruption or degradation in service of **Your Computer System** caused directly by a purchased **Coverage Trigger**.

### **b) Contingent Business Interruption**

**Gross Earnings Loss** incurred during the **Interruption Period** directly because of the total, partial, or intermittent interruption or degradation in service of the **Computer System** of an **Outsource Service Provider** caused directly by a purchased **Coverage Trigger** occurring at that **Outsource Service Provider**.

### **c) Digital Asset Destruction**

**Digital Asset Loss** is incurred as a direct and necessary result of a purchased **Coverage Trigger**.

### **d) Reputational Harm**

**Gross Earnings Loss** and **Crisis Communications Expenses** incurred during the **Interruption Period** directly because of an **Adverse Media Event** arising from a purchased **Coverage Trigger**.

### **e) Cyber Extortion**

**Extortion Expenses** and **Extortion Payment** incurred as a direct result of a purchased **Coverage Trigger**.

### **f) Incident Response Expenses**

**Breach Response Expenses** incurred as a direct result of a purchased **Coverage Trigger**.

### **g) Crime**

**Direct Financial Loss** was incurred as a direct result of a purchased **Coverage Trigger**.

provided that the applicable **Coverage Trigger** was first discovered by the **Control Group** during the **Policy Period** and notified **Us** during the **Policy Period** or **Extended Reporting Period**, if applicable.

- 2 In respect of the Insuring Agreements indicated as purchased in Item 3 of the Schedule, **we** agree to pay on **your** behalf amounts, more than the **Retention**, which **You** are legally obligated to pay in respect of:

**a) Security and Privacy Liability**

**Damages** and **Defense Expenses** because of a **Claim** arising from a purchased **Coverage Trigger**.

**b) Regulatory Defense and Penalties**

**Regulatory Fines and Penalties** and **Defense Expenses** because of a **Claim** arising from a purchased **Coverage Trigger**.

**c) Media Liability**

**Damages** and **Defense Expenses** because of a **Claim** arising from a purchased **Coverage Trigger**.

**d) PCI Fines, Assessments and Expenses**

**Payment Card Industry Fines and Expenses** and **Defense Expenses** because of a **Claim** arising from a purchased **Coverage Trigger**.

provided such **Claim** was first made against **You** during the **Policy Period** and notified to **Us** during the **Policy Period** or **Extended Reporting Period**, if applicable.

**Exclusions – for what you are not insured.**

**We** will not pay any claim under this **Policy** that is directly or indirectly based upon, arising out of, or is in any way attributable to:

**1 Anti-Trust                      Laws                      and                      Unfair                      Competition**

Any actual or alleged violation of any anti-trust statute, legislation or regulation including the Sherman Anti-Trust Act and the Clayton Act, or unfair competition, price fixing, deceptive trade practices.

**2 Betterment**

The financial cost of improvements in respect of or changes to the **Computer System** or any **Digital Asset** following a **Privacy Breach, Security Breach, Social Engineering, Telecommunications Phreaking Event, System Failure** or **Cyber Extortion Threat** which results in better than like kind or quality of the **Computer System** or **Digital Asset** than that existing at the date of such **Privacy Breach, Security Breach, Social Engineering, Telecommunications Phreaking Event, System Failure** or **Cyber Extortion Threat**. However, this exclusion does not apply if an upgraded system or assets are the only available option, such determination subject to (a) **Our** written **Consent**; and (b) and the relevant loss discounted by an amount equivalent to any quantifiable betterment resulting from that upgraded system or asset.

**3 Bodily Injury**

Physical injury, sickness, disease, or death sustained by any individual and, where resulting from such physical injury only, mental anguish, mental injury, shock, or emotional distress.

**4 Breach of Contract, Warranty, Guarantee or Promise and Assumed Liability**

Any breach of any express contract, warranty, guarantee or promise, or any liability assumed by **You** under a contract or agreement, unless:

- a) **You** would have been liable for the absence of such a contract, agreement, warranty, guarantee or promise.
- b) A **Privacy Breach** involves **Your** privacy policy (or terms equivalent to those contained in **Your** privacy policy or privacy statement, including where those terms form part of a contract of employment or terms of engagement); or
- c) otherwise covered under Insuring Agreement 2.d) PCI Fines, Assessments and Expenses.

**5 Computer Hardware Replacement**

Any costs to replace computer hardware, except where such costs incurred as an **Extra Expense** for the purpose of reducing **Gross Earnings Loss** or **Digital Asset Loss**. In no event will the aggregate of such expenses exceed the amount by which the **Gross Earnings Loss** or **Digital Asset Loss** payable under this **Policy** is reduced.

## 6 Computer System Migration and Integration Failures

A **System Failure** resulting from a **Computer System** migration or integration project, unless such project has been declared to **Us** and **We** have provided written **Consent** to provide coverage for such projects prior to the **System Failure** having occurred. Routine security patching is not considered to be a **Computer System** migration or integration project.

## 7 Description of Price of Goods

Actual or alleged inaccurate, inadequate, or incomplete description of the price of goods, products, or services, including cost guarantees, cost representations, contract price, or cost estimates being exceeded.

## 8 Discrimination

Any actual or alleged discrimination of any kind, including age, color, race, gender, religion, creed, national origin, marital status, sexual orientation, sexual preference, disability, marital status, financial condition, or pregnancy, including violations of civil rights or discriminatory or retaliatory conduct of any kind.

## 9 Employer-Employee Relations

Any employer-employee relations, policies, practices, acts or omissions, any actual or alleged refusal to employ any person, or any misconduct, including physical or sexual, with respect to **Employees**, including negligent employment, investigation, supervision, hiring, training or retention of any **Employee, Insured** or person for whom **You** are legally responsible, except that this exclusion will not apply to the extent that such **Claim** for **Damages, Defense Expenses** or such **Loss** arises from a **Privacy Breach** or a **Security Breach**.

## 10 Government Intervention

Non-discriminatory measures of a government have taken in the public interest for the purposes of ensuring public safety or public health, raising revenues, protecting the environment, or regulating economic activities.

## 11 Infrastructure Failure

Any failure, interruption, disturbance, or outage of infrastructure services, including:

- a) Electricity, gas, water, telecommunications, and other utility services.
- b) Internet infrastructure, including Domain Name System (DNS), Certificate Authority, or Internet Service Provider (ISP).
- c) Satellite; or
- d) Financial exchange, securities exchange or clearing house.

except where such infrastructure is under **Your** direct operational control.

## 12 Infringement of Patents or Theft of Trade Secrets

The actual or alleged:

- a) Infringement or attempted infringement of any patent or patent rights or misuse or abuse of a patent; or
- b) The misappropriation, theft, copying, display or publication of any trade secret (or any attempt to do), unless arising out of a **Privacy Breach** or **Security Breach**.

### **13Insolvency or Bankruptcy**

The insolvency, liquidation or bankruptcy of any person or entity, including any **Insured** to the extent permitted by law, or the failure, inability, or unwillingness of any person or entity or **insured** to make payments or perform obligations or conduct business because of insolvency, liquidation, or bankruptcy.

### **14Insured versus Insured**

Any **Claim** made by or on behalf of an **Insured** against another **Insured**. This exclusion will not apply to any **Claim** brought by an **Employee** outside of the **Control Group** because of a **Privacy Breach** or **Security Breach**.

### **15Loss of Funds**

**Your** monetary loss and/or **Your** liability to a third party arising from any of the following:

- a) Loss, decrease in value, transfer, or theft of money or securities, however this shall not apply to **Direct Financial Loss**.
- b) Loss, damage, destruction, decrease in value, transfer or theft of digital currency, cryptocurrency, or non-fungible token (NFT); or
- c) Trading losses, liabilities, or changes in trading account value.

### **16Management Liability**

Any **Damages** or **Defense Expenses** that **Your** directors or executive officers become legally obligated to pay for any actual or alleged error, omission, misstatement, misleading statement, neglect, or breach of duty while acting in their capacity as a director or executive officer.

### **17Misconduct**

**Your** willful, deliberate, malicious, fraudulent, dishonest, or criminal act or violation of law with the knowledge, connivance, or acquiescence of any member of the **Control Group**. However, this exclusion will not apply to **Defense Expenses** incurred in defending any such **Claim** until such time that there is a final admission or final adjudication establishing such conduct, at which time **You** must reimburse **Us** for all **Defense Expenses** incurred. Facts or knowledge possessed by the **Control Group** regarding the foregoing conduct will be attributed to other **Insureds**.

### **18Natural Perils**

Fire, smoke, explosion, lightning, windstorm, tornado, cyclone, hurricane, flood, storm surge, sinkhole collapse, earthquake, volcanic eruption, wave, tidal wave, landslide, hail, snow, geomagnetic storm, or any other natural peril however caused.

## **19 Ordinary Payroll**

The normal salary and bonus costs paid to **Employees**, directors executives, and contractors working their regular contracted hours, except as otherwise covered as part of the calculation of **Gross Earnings Loss**.

## **20 Payment Card Industry**

**Payment Card Industry Fines and Expenses** unless Ensuring Agreement 2.d) PCI Fines, Assessments and Expenses are indicated as purchased in Item 3 of the Schedule.

## **21 Prior Knowledge or Notification**

Any acts, errors, omissions, facts, matters, situations, event, incident, occurrence, claim or **Circumstance**:

- a) notified to the insurer(s) of a prior policy as something which may give rise to a claim under such policy, whether recoverable or not; or
- b) which occurred or commenced prior to the Inception Date (as specified in Item 2 of the Schedule) of **Your Policy** if, at the Inception Date, the **Control Group** (who will be deemed to have made reasonable enquiries) knew, ought to have known, or should reasonably have foreseen the act, fact, matter, situation, error, omission, event, incident, occurrence, claim or **Circumstance** as something which may give rise to a **Claim** or **Loss** under this **Policy**.

## **22 Professional Services**

The rendering of, or failure to render, professional services (including technology services), or any error or omission, malpractice or mistake of a professional nature committed by or on **Your** behalf in the conduct of any of **Your** business activities. However, this exclusion does not apply to a **Claim** against **You** alleging a **Privacy Breach**.

## **23 Property Damage**

Physical injury to, or impairment, destruction, or corruption of, any tangible property, including individual property in **Your** care, custody, or control. **Data** and **Digital Assets** are not tangible property.

## **24 Political Risks**

Confiscation, nationalization, requisition, strikes, labor strikes or similar labor actions; civil commotion assuming the proportions of or amounting to an uprising.

## **25 Pollutants**

Any actual or alleged or threatened presence, discharge, dispersal, release, escape or failure to detect pollutants or solid, liquid, gaseous or thermal irritant or contaminant of any kind, including smoke, vapor, soot, fumes, other air emission, acids, toxic chemicals, alkalis, mold, spores, fungi germs, odor, waste water, oil or oil product, infectious or medical waste, asbestos or asbestos product, lead or lead product, noise, and electric, magnetic or electromagnetic field chemicals, or waste (including waste material to be recycled, reconditioned or reclaimed), whether or not such presence, discharge, dispersal, release, escape or failure to detect results from **Your** activities or the activities of others, or whether such presence happened suddenly, gradually, accidentally, or intentionally.

## **26 Radioactive, chemical, biological, biochemical, and electromagnetic contamination**

- a) Ionizing radiation from or contamination by radioactivity from any nuclear fuel or from any nuclear waste.
- b) The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.
- c) Any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.
- d) The radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter; or
- e) Any chemical, biological, bio-chemical, or electromagnetic weapon.

## **27 Specific Legislation**

- a) The actual or alleged purchase, sale, offer of, or solicitation of an offer to purchase or sell securities, or violation of any securities law, statute, rule, or regulation including the Securities Act of 1933, the Securities Exchange Act of 1934, the Sarbanes-Oxley Act of 2002 and 'Blue Sky' laws.
- b) The actual or alleged violation of the Organized Crime Control Act of 1970 (RICO').
- c) The actual or alleged government enforcement of law or regulation; however, this exclusion does not apply to Insuring Agreement 2.b) Regulatory Defense and Penalties.
- d) Any breach or alleged breach of any workers' compensation, unemployment compensation, disability benefits or similar laws, statutes, rules or regulations including the Federal Employers Liability Act, the Fair Labor Standards Act of 1938, the National Labor Relations Act, the Worker Adjustment and Retraining Act of 1988, the Certified Omnibus Budget Act of 1985, the Occupational Safety and Health Act of 1970.
- e) Any violation of any pension, healthcare, welfare, profit sharing, mutual or investment plans, funds, or trusts including the Employee Retirement Income Security Act of 1974 and the Pension Protection Act of 2006.
- f) The violation of any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, or United States of America.

- g) Any statute, law, regulation, or rule regarding unsolicited distribution of email, text messages, direct mail, facsimiles, spam, actual or alleged wiretapping, audio or video recording, or telemarketing including the Telephone Consumer Protection Act of 1991 and CAN-SPAM Act of 2003.

## 28 Unauthorized Data Collection

The actual or alleged failure to comply with any statute, law, decree, regulation, or rule with respect to:

- a) The unlawful collection, retention, or processing of personally identifiable information.
- b) The unsolicited distribution of email, text messages, direct mail, facsimiles, spam, wiretapping, audio or video recording, or telemarketing.
- c) A person's right to have their personal data removed from a marketing list, mailing list or database.
- d) A person's right to revoke the authorization granted to process their personal data; or
- e) A person's right to update, rectify or suppress their personal data.

Personal data and personal identifiable information include biometric data, biometric information and biometric identifiers, and data collected using any tracking tool including Meta Pixel, Google Analytics, Adobe Analytics, Mixpanel, Matomo, Clicky, Fathom, HubSpot, Segment, Emarsys and NaviStone.

## 29 Use of Illegal or Unlicensed Programs

The **Control Group's** knowing use of illegal or unlicensed programs, software, or operating systems.

## 30 War and Cyber Operation

- a) A **War**; or
- b) A **Cyber Operation**.

In determining attribution of a **Cyber Operation** to a sovereign state, **You** and **We** will consider such objectively reasonable evidence that is available to **You** and **Us**. This may include formal or official attribution by the government of the sovereign state in which the **Computer System** affected by the **Cyber Operation** is physically located to another sovereign state or those acting in its direction or under its control. **Our** burden of proof will remain unchanged by this clause.

## Claims Conditions

**You** must always fully comply with all terms and conditions of the **Policy**. The following conditions specifically relate to any claim **You** may want to make under the **Policy** and include the Conditions Precedent highlighted earlier in this **Policy Wording**. If **You** do not fully comply with any of the Conditions Precedent, **we** may be entitled to reject all or part of any claim under the **Policy**.

### 1 Subrogation and Recoveries

If **We** make any payment under **Your Policy**, **you** must maintain all rights of recovery against any third party. **You** must (at **Your** own cost) execute and deliver instruments and papers and do whatever else is necessary to secure such rights and must not do anything to prejudice such rights. Any recoveries must be applied first in payment of **Our** subrogation expenses, secondly to **Loss, Damages, Defense Expenses**, or any other amounts paid by **Us**, thirdly to any uninsured amount, and lastly to the **Retention**. Any additional amounts recovered will be paid to **You**.

### 2 Notice of Claim, Loss, or Circumstance

a) This is a Condition Precedent. If during the **Policy Period**, the **Control Group** becomes aware of a **Claim** or **Loss** or **Circumstance**, **you** must forward details to **Us** as soon as practicable during the **Policy Period** or the **Extended Reporting Period**, if applicable, via the entity named in Item 9 of the Schedule.

**You** must notify a **Claim** or **Loss** or **Circumstance** regardless of whether it arises out of any previously notified or related **Claim** or **Loss** or **Circumstance**.

b) Any **Claim** or **Loss** arising out of a notified **Circumstance** will be deemed to have been notified to **Us** and made against **You** or incurred by **You** when **We** first received notice of such **Circumstance** in compliance with this clause.

### 3 Dispute resolution

a) The **Policy** and any dispute or claim arising under it will be governed by and construed in accordance with the law and jurisdiction as stated in Item 8 of the Schedule. **You** and **We** agree to submit to the jurisdiction of a Court of competent jurisdiction within the United States. Nothing in this clause constitutes or should be understood to constitute a waiver of **Our** rights to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any State in the United States.

b) If any dispute arises between **You** and **Us** involving a claim under this **Policy**, such dispute may be referred by **You** and **Us** to non-binding mediation by a qualified mediator to negotiate a resolution of the dispute in good faith in accordance with the Commercial Mediation Procedures of the American Arbitration Association in effect at the time of the dispute, prior to the initiation of any proceedings.

c) The party initiating the mediation must provide written notice to the other party of its request to mediate with a brief statement regarding the issue to be mediated.

d) Any notice of mediation or service of suit should be sent to **Us** via the entity named in Item 9 of the Schedule. The entity named in Item 9 of the Schedule is authorized and directed to accept service of process on **Our** behalf in any suit and/or upon **Your**

request to give a written undertaking to **You** that they will enter a general appearance upon **Our** behalf if such a suit is instituted.

- e) Pursuant to any statute of any state, territory or district of the United States which makes provision therefor, **We** designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as **Our** true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on **Your** behalf or any beneficiary arising out of this **Policy** and hereby designate the entity named in Item 9 of the Schedule as the entity to whom the said officer is authorized to mail such process or a true copy thereof.
- f) Nothing in this clause will prevent the parties from litigating a dispute in an appropriate court in the event non-binding dispute resolution fails.

#### **4 Defense, Settlement, and Investigation of Claims**

- a) **We** will have the right to defend any **Claim** against **You**, even if any of the allegations of the **Claim** are groundless, false, or fraudulent, subject to the Limits of Liability, Exclusions, and other terms and conditions of this **Policy**.
- b) Unless defense counsel is appointed upon the advice of the **Breach Response Expert** or chosen from the Pre-Approved Legal Expenses Vendor(s) specified in Item 13 of the Schedule, defense counsel must be appointed with **Our** prior **Consent**. In the absence of agreement, **our** decision will be final.
- c) **We** will have the right to make any investigation **We** deem reasonable or necessary including with respect to the **Application** or to coverage.
- d) If **You** refuse to consent to a settlement in respect of a **Claim** that **We** recommend and that the claimant will accept, **you** must then defend, investigate, or settle the **Claim** at **Your** own expense. Because of the refusal to settle as per **Our** recommendation, **our** liability for any **Claim** will not be more than the amount of the initial recommended settlement plus up to 90% of any additional costs incurred by **You** above this amount to settle this matter, subject always to the Limits of Liability stated in the Schedule.
- e) It is a Condition Precedent that **You** must not incur any **Defense Expenses, Payment Card Industry Fines and Expenses**, or admit liability for, or settle, or offer to settle, any **Claim**, without **Our** written **Consent**. If **You** fail to comply with this Condition Precedent, **we** may reduce or deny any corresponding claim **You** make under the **Policy**.  
However, if a proposed settlement amount, when combined with any **Defense Expenses or Payment Card Industry Fines and Expenses** incurred, does not exceed 50% of the applicable **Retention** set forth in the Schedule, **you** may settle a **Claim**, or accept an offer of settlement without **Our** prior written **Consent** provided that such settlement fully and finally resolves the **Claim**.
- f) **Defense Expenses** will reduce the applicable Limits of Liability, subject to any applicable **Retention**, and may completely exhaust the Limits of Liability.

#### **Non-Admitted Insurance**

Where the **Policy** constitutes non-admitted insurance permissible under applicable law, **we** will only be responsible for providing any locally required bonds, local fiscal charges, certificates of insurance or any other documents as evidence of insurance if and to the

extent that its provision of such documentation and cover is locally authorized, permissible and lawful.

## General Conditions

**You** must always fully comply with all the terms and conditions contained in this **Policy**. **We** have no duty to provide coverage under this **Policy** unless there has been full compliance with all the conditions contained in this **Policy**. The following conditions include the Conditions Precedent highlighted earlier in this **Policy Wording**. If **You** do not fully comply with any of these Conditions Precedent, **we** may be entitled to reject all or part of any claim under this **Policy**.

### 1 Policy Limits

The Limits of Liability are specified in Item 3 of the Schedule and include a Policy Aggregate Limit and Aggregate Sub-Limits for each Insuring Agreement along with a Sub-Limit for each **Coverage Trigger** purchased.

The Policy Aggregate Limit specified in Item 3 of the Schedule will be the total amount **We** will pay **You** under the **Policy**. After the Policy Aggregate Limit specified in Item 3 of the Schedule has been exhausted, **we** have no obligation to pay any claim or other amount under the **Policy** and will have the right to withdraw from any defense in respect of any **Claims**.

After an Aggregate Sub-Limit for a particular Insuring Agreement specified in Item 3 of the Schedule has been exhausted, **We** have no obligation to pay any amount in respect of any **Coverage Trigger(s)** under the particular Insuring Agreement, and will have the right to withdraw from any defense in respect of any **Claims** concerning that Insuring Agreement.

The Aggregate Sub-Limits for each Insuring Agreement specified in Item 3 of the Schedule form part of, and are not in addition to, the Policy Aggregate Limit. The Sub-Limit for each **Coverage Trigger** is per **Claim** or **Loss** (subject to General Condition 3 – Related Claims and Loss below) **and** form part of, and are not in addition to, the Aggregate Sub-Limit per Insuring Agreement.

### 2 Retention, Remaining Retention and Waiting Period

The **Retention** amount specified in Item 3 of the Schedule for each **Coverage Trigger** under each Insuring Agreements will apply separately to each **Loss** and **Claim** (subject to General Condition 3 – Related Claims and Loss below) and will be satisfied in full by **Your** monetary payments of **Loss, Damages, or Defense Expenses**. **We** will only be liable for amounts more than the **Retention**, subject to the Limits of Liability.

For an Insuring Agreement subject to a **Waiting Period**, **we** will only be liable for amounts more than the **Remaining Retention** that **You** incur after the expiration of the **Waiting Period**.

Any **Loss** incurred during the **Waiting Period** is uninsured and not covered under this **Policy**.

If a **Claim** or **Loss** attaches to more than one Insuring Agreement, only the highest **Retention** will apply to that **Claim** or **Loss**; however, any **Loss** incurred during the **Waiting Period** will remain uninsured and not covered under this **Policy**.

It is a Condition Precedent that **You** must pay the applicable **Retention**. **You** must make direct payments within the **Retention** to the appropriate parties as designated by **Us**. If

**You** fail to pay the **Retention**, **we** may reduce or deny any corresponding **Claim You** make under this **Policy**.

### 3 Related Claims and Loss

All **Claims** and **Loss** arising out of the same related or continuing acts, facts, circumstances, or events will be considered a single **Claim** or **Loss**, without regard to the number of **Insureds**, **Claims** or claimants. All such **Claims** or **Loss** will be deemed to have been made at the time of the first such **Claim** or **Loss**.

### 4 Your Cancellation Rights

- a) **You** are entitled to cancel this **Policy** by notifying **Us** in writing, by email or by telephone within fourteen (14) days of either:
  - i. The date **You** receive **Your Policy Documentation**; or
  - ii. The Inception Date is specified in Item 2 of the Schedule, whichever is the latter.
- b) Any return of premium due to **You** will be calculated at a proportional daily rate unless a **Claim** has been made in which case the full annual premium is due to **us**.
- c) After the expiry of the above initial fourteen (14) day period, **you** may cancel this **Policy** by giving **us** thirty (30) days' notice in writing. If this **Policy** is cancelled by **You**, **we** will refund the unearned premium computed at a proportional daily rate for the period for which the **Policy** is in force. No premium will be refunded where any **Claim**, **Loss** or **Circumstance** has been notified under this **Policy** whether it has been accepted for coverage.
- d) No **Claim** or **Loss** will be covered following cancellation.

### 5 Our Cancellation Rights

**We** may cancel this **Policy** if:

- a) **You** have not paid the premium when due.
- b) There has been a change in risk which means that **We** can no longer provide **You** with cover.
- c) **You** have not cooperated with **us**, or failed to supply any information or documentation **We** request; or
- d) **You** have made a fraudulent claim or used fraud to **your** benefit from having this, **Policy**.

Upon cancellation, **you** will be entitled to a refund of the premium **you** have paid for any period after the date of cancellation, unless **you** have notified **Us** of any **Claim**, **Loss** or **Circumstance** or General Condition: Fraudulent Claims applies.

### 6 Other insurance

This **Policy** will apply more than any other valid and collectible insurance (or other indemnity) available to **you**, including any retention or deductible portion thereof, unless such other insurance is specifically written as excess insurance over any of the Limits of Liability of this **Policy**.

## 7 Inspection and audit

We will be permitted, but not obligated, to inspect any of **your** property, operations, or records and take copies of these at any time at **your** cost.

## 8 Mergers and acquisitions

If **You** complete the legal acquisition of another entity during the **Policy Period**, then that acquired entity will automatically be included as an **Insured** but only with respect to **Claims** or **Loss** or **Circumstances** sustained or occurring after the date of the acquisition and otherwise qualifying for coverage under this **Policy**, unless that acquired entity has an annual revenue of more than 30% of the **Named Insured's** annual revenue (evaluated according to the last set of audited accounts formally filed by that entity against the information provided by the **Named Insured** when applying for this **Policy**).

If the above cover is not automatically provided to the newly acquired entity, to obtain cover the **Named Insured** must notify and obtain **Our** written **Consent** prior to the acquisition and agree to pay any additional premium required.

## 9 Assignment

The interest under **Your Policy** is not assignable by **You**.

## 10 Innocent Insured

- a) Whenever coverage under the **Policy** would be excluded, suspended, or lost owing to non-compliance with Claims Conditions 2. Notice of Claim, Loss or Circumstance, with respect to which the **Named Insured** will be in default solely as a result of such non-compliance, then such insurance as would otherwise be afforded under the **Policy** will cover and be payable to those **Insureds** who did not personally commit or personally participate in committing or personally acquiesce in such failure to give notice, provided that the **Insured** entitled to the benefit of this provision must comply with Claims Conditions 2. Notice of Claim, Loss, or Circumstance promptly after obtaining knowledge of the failure of any other **Insured** to comply therewith.
- b) Any insurance afforded by this provision will not cover a **Claim** or **Loss** if a member of the **Control Group** (being deemed to have made reasonable enquiries) knew or should have known of a **Claim** or **Loss** or **Circumstance** and failed to give notice as required by Claims Conditions 2. Notice of Claim, Loss, or Circumstance.
- c) Notwithstanding the above, the notification of any such **Claim** or **Loss** or **Circumstance** must be made during the **Policy Period** or **Extended Reporting Period**, if applicable.
- d) Whenever coverage under this **Policy** would be excluded, suspended, or lost because of the Insured Misconduct Exclusion, then such insurance as would otherwise be afforded under this **Policy** will cover and be payable with respect to those **Insureds** who did not personally commit, personally participate in committing, personally acquiesce, or remain passive after having personal knowledge thereof, provided that that the **Insured** entitled to the benefit of this

provision must comply with Claims Conditions 2. Notice of Claim, Loss, or Circumstance promptly after obtaining knowledge of the failure of any other **Insured**.

Notwithstanding the above, the notification of any such **Claim** or **Loss** or **Circumstance** must be made during the **Policy Period** or **Extended Reporting Period**, if applicable.

## 11 Extended Reporting Period

### a) Automatic Extended Reporting Period

The **Named Insured** will have a period of sixty (60) days following the Expiry Date (specified in Item 2 of the Schedule), in which to give **Us** written notice of **Claims** or **Loss**, but only in respect of any **Claim** first made during the **Policy Period** or **Circumstance** that is first discovered during the **Policy Period** and is otherwise covered by this **Policy**.

### b) Extended Reporting Period

In the event of cancellation or non-renewal of this **Policy**, the **Named Insured** will have the right, upon payment in full and not proportionally or otherwise in part of 100% of the premium specified in Item 4 of the Schedule, to notify **Us** in writing within thirty (30) days of such cancellation or non-renewal that it requires, and **We** will provide an **Extended Reporting Period** of twelve (12) months commencing on the date of such cancellation or non-renewal in which to notify any **Claim** first made during the **Policy Period** or **Loss** or **Circumstance** that is first discovered during the **Policy Period** and is otherwise covered by this **Policy**. The payment of the additional premium for the **Extended Reporting Period** must be paid to **Us** within thirty (30) days of the non-renewal or cancellation.

### c) Change of Control Extended Reporting Period

In the event of the **Named Insured's** acquisition by or merger into another entity, or the **Named Insured's** liquidation or dissolution, the **Named Insured** may notify **Us**, within thirty (30) days of the actual change of control, of the **Named Insured's** election for an **Extended Reporting Period** of twelve (12) months from the date of such change of control. Such an **Extended Reporting Period** will cover **Claims** notified or **Loss** or **Circumstances** notified to **Us** during this change of control **Extended Reporting Period**, but only in respect of any **Claim** made during the **Policy Period** or **Loss** incurred during the **Policy Period** which is otherwise covered by the **Policy**.

The Limits of Liability for any **Extended Reporting Period** will be part of, and not in addition to, the Limits of Liability for the **Policy Period**.

The right to any **Extended Reporting Period** will not be available to **You** where **We** cancel or non-renew because of non-payment of premium or **Your** failure at any time to pay amounts within the applicable **Retention**.

## 12 Assistance and cooperation

a) **You** must cooperate with **Us** in all investigations relating to this **Policy**. **You** must execute or cause to be executed all documents and papers and provide all assistance **We** request, which includes providing copies of a third party's system security and event logs.

b) At **Our** request, **You** must assist in making settlements, in the conduct of all third-party dispute resolution procedures and in enforcing any right of contribution or indemnity against any person or organization who may be liable to **You** with respect to which insurance is afforded under this **Policy**, and **You** must attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses at **Your** own cost.

c) It is a Condition Precedent that **You** must not admit liability, make any payment, assume any obligations, incur any expense, enter any settlement, stipulate to any judgment, or award, or dispose of any **Claim** without **Our** prior written **Consent**. If **You** fail to comply with this Condition Precedent, **we** may reduce or deny any corresponding claim **You** make under this **Policy**.

However, the prompt public admission of a **Privacy Breach** potentially impacting non-public personally identifiable information as required by governmental privacy legislation or credit card association operating requirements will not be considered as an admission of liability, and **You** do not have to obtain **Our** prior consent in relation to such admissions.

d) **We** have the right to make any investigation **We** deem necessary with respect to coverage including the **Application**.

e) **You** must submit for examination under oath by **Our** representative, if requested, in connection with all matters relating to this **Policy**.

### **13Fraudulent Claims**

If **You** make a fraudulent claim under this **Policy**, **We**:

- a) Will not be liable to pay the claim.
- b) May recover from **You** any sums **We** paid in respect of the claim; and
- c) May, after giving **You** notice, treat this **Policy** as having been terminated with effect from the time of the fraudulent act. If **We** do this, **we** will not cover **You** for any **Claim** or **Loss** occurring after the time of the fraudulent act and will not need to return any of the premiums paid.

### **14Construction and Interpretation**

a) Any reference to legislation, statute, regulation, or law includes any similar or related law, statute, ordinance, or regulation, any amendments, and any rules or regulations or executive orders promulgated thereunder, or by federal, state, local or other agencies or similar bodies thereof. Any reference to a regulatory or investigative or other state or local governmental body includes any similar, subsidiary, or related agency or body.

b) All or part of any provision of this **Policy** which is or becomes void or illegal, invalid, or unenforceable by a court or other competent body under the law of any applicable jurisdiction will be deleted. The parties must use their best efforts to agree a replacement for the provision deleted which achieves as far as possible the same effect as would have been achieved by the deleted provision had it remained enforceable.

### **15Contracts (Rights of Third Parties) Act 1999**

The rights of a person who is not a party to this **Policy** to enforce a term of this **Policy** and/or not to have this **Policy** rescinded, varied or altered without **Our Consent** by virtue of the provisions of the Contracts (Rights of Third Parties) Act 1999 are excluded from this **Policy**.

## 16 Sanctions Suspension

**You** agree that any cover, the payment of any claim and any benefit provided under this **Policy** will be suspended, to the extent that providing any cover, the payment of any claim or the provision of any benefit would expose **us** to any sanction, prohibition, or restriction under any:

- a) United Nations' resolution(s); or
- b) trade or economic sanctions, laws or regulations of the European Union, United Kingdom, or United States of America.

The suspension will continue until **we** are no longer exposed to any sanction, prohibition, or restriction.

## Definitions

### 1 Adverse Media Event

A report in the media of Privacy **Breach**, **Security Breach** or **System Failure** including via newspapers, radio, television, internet, blogging, vlogging and social media, which has an adverse impact on **Your** business or reputation.

### 2 Application

All information provided by or on **Your** behalf to **Us** as part of any request for **Your Policy** (or any renewal or variation) including any application submitted in prior policy periods, and any supplemental material submitted therewith, including all particulars and details of the methodology on the basis of which any estimates within such information were calculated or derived and information and materials contained on any Internet websites maintained by or on **Your** behalf which are actually provided by **You** to **Us** prior to formation or renewal or variation of the **Policy**.

### 3 Breach Response Expert

The entity is specified in Item 13 of the Schedule.

### 4 Breach Response Expenses

Reasonable costs and expenses for the following services provided by one or more Approved Vendors specified in Item 13 of the Schedule:

- a) Costs of an external IT forensic company to determine the cause, scope and extent of the **Privacy Breach** or **Security Breach** or any immediate actions necessary to mitigate ongoing harm to a **Computer System**.
- b) Costs and expenses of a legal firm to determine any actions necessary to comply with **Privacy Regulations**.
- c) Notification costs and related expenses to notify:

- i. Individuals require notification to follow **Privacy Regulations** mandating notification; or
  - ii. At **Our** discretion and pursuant to written **Consent**, to individuals residing in states, provinces or countries that do not have mandatory notification laws or regulations.
- d) Costs of setting up a telephone call center to support notified individuals and to provide credit file monitoring services and/or identity theft assistance for a maximum of twelve (12) months.

**e) Crisis Communication Expenses.**

If **You** engage any of the services listed in (a) to (e) above from a service provider which is not listed in Item 13 of the Schedule, or perform any of the services yourself, then **We** will only reimburse **You** for such costs and expenses:

- i. Where **We** have provided **Our** prior written **Consent**.
- ii. Where costs incurred by **You** for services performed by **You** are over and above **Your** normal operating expenses and overheads; and
- iii. Subject to a maximum reimbursement of the amount that would have been payable had the Approved Vendor specified in Item 13 of the Schedule rendered such services. Reimbursement of any services billed by the hour will be subject to the hourly rate caps stated in Item 14 of the Schedule.

**5 Circumstance(s)**

Any circumstances, incidents, acts, errors or omissions, facts, matters or situations that may give rise to a **Claim** or **Loss** including a **Security Breach, System Failure, Social Engineering, Telecommunications Phreaking Event, Privacy Breach, Cyber Extortion Threat, or Media Wrongful Act.**

**6 Claim**

- a) A written notice received by **You** during the **Policy Period** of an intention to hold **You** responsible for **Damages**, including the service of legal proceedings, the institution of arbitration or mediation, or a written request to toll or waive a statute of limitations against **You**.
- b) A request for information, civil investigative demand, formal civil administrative proceeding, or formal regulatory action only to the extent covered by Insuring Agreement 2.b) Regulatory Defense and Penalties.
- c) A written demand for **Payment Card Industry Fines and Expenses** received by **You** only to the extent covered by Insuring Agreement 2.d) PCI Fines, Assessments and Expenses.

**7 Computer System**

Any computer, hardware, software, communications system, electronic device (including smart phone, laptop, tablet, wearable device), server, cloud infrastructure or microcontroller including any similar system or any configuration of the and including any associated input, output, data storage device, networking equipment or back up facility

operated by **You** or an **Outsource Service Provider**. With respect to Insuring Agreement 1.a) Business Interruption only, **Computer System** means a **Computer System** operated by **You**.

In respect of Exclusion 31 War and Cyber Operation and the Definition of **Cyber Operation** only, **Computer System** means any computer, hardware, software, communications system, electronic device (including smart phone, laptop, tablet, wearable device), server, cloud infrastructure or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.

## 8 Consent

**Our** prior agreement following **Your** request, which will not be unreasonably withheld or delayed.

## 9 Control Group

Any of **Your** Data Protection Officers, Chief Executive Officers, Chief Financial Officers, Chief Information Officers, Chief Operating Officers, Chief Information Security Officers, General Counsel, Risk Managers, or functional equivalent.

## 10 Coverage Trigger(s)

A **Security Breach, Security Liability Event, System Failure, Privacy Breach, Media Wrongful Act, Cyber Extortion Threat, Telecommunications Phreaking Event or Social Engineering** that must occur for coverage to be triggered under an Insuring Agreement. Purchased **Coverage Triggers** and their applicable **Retention(s), Waiting Period(s)** and Aggregate Sub-limits are stated in Item 3 of the Schedule.

## 11 Crisis Communications Expenses

Expenses incurred by **You** and with prior written **Consent** for the employment of a public relations consultant if **You** consider that action is needed to avert or mitigate a **Gross Earnings Loss** or **Adverse Media Event**.

## 12 Cyber Extortion Threat

A credible threat or series of credible threats that includes a demand for **Extortion Payment** to:

- a) Release, disseminate, destroy, or corrupt **Your Digital Assets**.
- b) Introduce **Malicious Code** into **Your Computer System**.
- c) Corrupt, damage or destroy **Your Computer System**.
- d) Electronically communicate with **Your** customers from within a **Computer System** and falsely claim to be **You** or to be acting under **Your** direction to falsely obtain personal confidential information of **Your** customers (also known as “pharming,” “phishing,” or other types of false communications); or
- e) Restrict or hinder access to **Your Computer System**, including the threat of a criminal or malicious **Denial of Service**.

### 13Cyber Operation

The use of a **Computer System** by, in the direction of, or under the control of a sovereign state to:

- a) Disrupt, deny access to, or degrade functionality of a **Computer System**; or
- b) Copy, remove, manipulate deny access to or destroy information in a **Computer System**.

### 14Damages

The amount **You** are legally obligated to pay in respect of a **Claim**, including a monetary judgment, award, or settlement, interest and a claimant's legal costs; punitive and exemplary damages, to the extent such damages are insurable under the law pursuant to which this **Policy** is construed; **Regulatory Fines and Penalties** only to the extent covered by Insuring Agreement 2.b) Regulatory Defense and Penalties; and **Payment Card Industry Fines and Expenses** only the extent covered by Insuring Agreement 2.d) PCI Fines, Assessments and Expenses.

**Damages** will not include:

- a) Future profits or royalties, restitution, or disgorgement of **Your** profits.
- b) The cost of complying with orders granting injunctive or non-monetary relief, including specific performance, or any agreement to provide such relief.
- c) Loss of **Your** fees or profits, return or offset of **Your** fees or charges (invoiced or not), or **Your** commissions or royalties provided or contracted to be provided.
- d) Fines, taxes or loss of tax benefits, sanctions unless covered under Insuring Agreement 2.b). Regulatory Defense and Penalties and unless covered under Insuring Agreement 2.d) PCI Fines, Assessments and Expenses.
- e) Liquidated damages to the extent that such damages exceed the amount for which **You** would have been liable in the absence of such liquidated damages agreement, unless covered under Insuring Agreement 2.d) PCI Fines, Assessments and Expenses.
- f) Any amount which **You** are not obligated to pay; and
- g) Amounts which are uninsurable under the law pursuant to which this **Policy** is construed. Any **Damages** will be deemed for the purposes of this **Policy** to be insurable unless there is case law, legislation, regulation or an order or judgement from a regulator, legislator or law enforcement agency prohibiting the insurability of the **Damages**.

### 15Data

Information represented, transmitted, or stored electronically or digitally including code, or a series of instructions, operating systems programs, software, and firmware.

### 16Defense Expenses

Reasonable fees charged by an attorney to defend a **Claim** and reasonable costs and expenses resulting from the investigation, adjustment, defense and appeal of a **Claim** incurred with **Our** prior written **Consent**, or such reasonable fees and costs incurred by an attorney listed under the Pre-Approved Vendors specified in Item 13 of the Schedule.

**Defense Expenses** will reduce the applicable Limits of Liability, subject to any applicable **Retention**, and may completely exhaust the Limit of Liability.

## 17 Denial of Service

Unauthorized interference or malicious attack that restricts or prevents access to **Your Computer System** for entities authorized to gain access.

## 18 Digital Assets

**Your** digital files including data, computer programs, electronic documents and audio content stored on **Your Computer System**. **Digital Assets** do not include any digital currency, cryptocurrency, or non-fungible tokens (NFTs) or equivalent.

## 19 Direct Financial Loss

The value of money lost by **You**.

**Direct Financial Loss** does not include:

- a) **Damages, Defense Expenses, Breach Response Expenses, Crisis Communications Expenses, Digital Asset Loss, Extortion Expenses, Extra Expense, Extortion Payment, or Gross Earning Loss.**
- b) Any amounts covered by **Your** financial institution bond or commercial crime insurance policy.
- c) Any indirect or consequential loss of any kind
- d) Any liability to any third party; or
- e) Any costs incurred in proving or establishing the existence of **Direct Financial Loss**.

## 20 Digital Asset Loss

Expenses are incurred to restore or recreate **Digital Assets**. If it is determined that **Digital Assets** cannot be restored or recreated, **we** will only reimburse **Your** losses or reasonable expenses incurred up to the date of such determination.

## 21 Employee

Any person hired for a wage, salary, fee or payment to perform work for **You** under a contract of service, whether oral or written, express or implied and whose employment status can be verified by documentation existing at the time of the event giving rise to **Loss** or a **Claim**, including any intern or volunteer, but only while such persons are acting solely within the scope of their duties to **You**.

## 22 Extended Reporting Period

An extended period for reporting any **Claim** or **Loss** or **Circumstance** granted pursuant to General Condition 11 Extended Reporting Period.

### **23 Extortion Expenses**

Reasonable and necessary expenses incurred to avoid a **Privacy Breach**, **Security Breach** or the disruption or failure of **Your Computer System**, resulting directly from a **Cyber Extortion Threat**.

### **24 Extortion Payment**

The payment of a ransom demand to avoid a **Privacy Breach**, **Security Breach** or the disruption or failure of **Your Computer System**, resulting directly from a **Cyber Extortion Threat**. **You** must notify any payments to local or federal law enforcement authorities as soon as practicable.

Any **Extortion Payment** will be deemed for the purposes of this **Policy** to be insurable unless there is case law, legislation, regulation or an order or judgement from a regulator, legislator or law enforcement agency specifically prohibiting the insurability of the **Extortion Payment**.

### **25 Extra Expense**

Reasonable and necessary extra costs incurred by **You** to temporarily continue as normal as practicable in the conduct of **Your** business during the **Interruption Period**, less any value remaining at the end of the **Interruption Period** for property or services obtained in connection with such costs. Costs and expenses incurred by **You** in issuing credit, goodwill coupons, rebates, discounts or promotions to **Your** clients or customers are not recoverable as an **Extra Expense** under this **Policy**.

'Normal' means the condition that would have existed had no **Security Breach** or **System Failure** occurred.

### **26 Gross Earnings Loss**

- a) The loss of Sales Revenue; less all charges and expenses that do not necessarily continue during the interruption of production or suspension of business operations or services; plus, the loss of all other earnings derived from the operation of the business; and
- b) **Extra Expense** necessarily incurred for the purpose of reducing the loss of Sales Revenue, but in no event will the aggregate of such **Extra Expense** exceed the amount by which the loss under the **Policy** is thereby reduced.

Provided, however, there is recovery of **Gross Earnings Loss** only to the extent that **You** are:

- i. Wholly or partially prevented from producing goods or continuing business operations or services.
- ii. Unable to make up lost production within a reasonable period, not limited to the **Interruption Period**.

- iii. Unable to continue such operations or services during the **Interruption Period**; and
- iv. Able to demonstrate a loss of sales for the operations, services or production prevented.

'Sales Revenue,' as used in item a. means:

- a) For manufacturing operations: the net sales value of production is less than the cost of all raw stock, materials and supplies used in such production; or
- b) For mercantile or non-manufacturing operations: the total net sales less cost of merchandise sold, materials and supplies consumed in the operations or services rendered by **You**.

This **Policy** does not provide coverage under **Gross Earnings Loss** for:

- a) Fines or damages for breach of contract or for late or non-completion of orders.
- b) Penalties of any nature; or
- c) Any other consequential or remote loss.

## **27 Insured, You, Your**

- a) The **Named Insured** specified in Item 1 of the Schedule.
- b) Any **Subsidiary** but only during the time such qualifies as a **Subsidiary**.
- c) Any past, present, or future officer, director, trustee, or **Employee** of any of (a) and (b) above, but only while acting solely within the scope of their duties as such.
- d) Any general or managing partner, principal, stockholder, or owner of any of (a) and (b) above, but only while acting solely within the scope of their duties as such.
- e) Any legal entity required by contract to be named as an **Insured** under this **Policy** if agreed in advance and in writing by **Us**, but only for the acts of any above parties (a) through (d), as detailed under the relevant Insuring Agreements 1.a) to f) and Insuring Agreements 2.a) to d); and
- f) Any agent or independent contractor, including distributors, licensees, and sub-licensees, but only while acting on behalf of, at the direction of, or under the control of any party of (a) through (e) above; however, not including any **Outsource Service Provider**.

## **28 Interruption Period**

Under Insuring Agreement 1.a) Business Interruption and Insuring Agreement 1.b) Contingent Business Interruption, the period that commences when the partial or complete interruption, degradation or failure of the **Computer System** begins, and ends on the earlier of:

- a) the date of full restoration of **Your** normal business operations; and
- b) the maximum indemnity period as stated in Item 5 of the Schedule.

Under Insuring Agreement 1.d) Reputational Harm, the period that commences on the date of the earliest **Adverse Media Event** and ends after the maximum indemnity period as stated in Item 5 of the Schedule.

## 29 Loss

**Breach Response Expenses, Crisis Communications Expenses, Digital Asset Loss, Direct Financial Loss, Extortion Expenses, Extra Expense, Extortion Payment, and Gross Earnings Loss.**

## 30 Malicious Code

Any type of unauthorized code intentionally designed to damage, alter, or extract data or information from **Digital Assets** or a **Computer System** including any type of malicious, corrupting or harmful software, malware, computer virus, Trojan horse, brickerbots, wiperware, botware, crimeware keystroke logger, spyware, adware, worm, ransomware, scareware, rogueware, malicious trap door, ransomworm, rootkit, malicious active content, logic bomb or advanced persistent threat (or equivalent).

## 31 Media Wrongful Act

The release, distribution, dissemination or display of any electronic, digital or print media that is under **Your** direct sole control, or content generated by **You**; and directly results in any of the following:

- a) Defamation, libel, slander, product disparagement or trade libel.
- b) Infringement, interference, or invasion of an individual's right of privacy or publicity, including false light, intrusion upon seclusion, commercial misappropriation of likeness, and public disclosure of private facts.
- c) Plagiarism, piracy, or misappropriation of ideas under an implied contract.
- d) Infringement of copyright, trademark, trade name, trade dress, title, slogan, service mark or service name; or
- e) Domain name infringement or improper deep-linking or framing.

This **Policy** will not provide coverage for a **Claim** arising from the actual or alleged infringement of third-party intellectual property rights with respect to the manufacture, import, design, package or trade dress of goods or services sold by, or on behalf of, any **Insured**.

## 32 Named Insured

The entity is specified in Item 1 of the Schedule.

## 33 Our, Us, We

The entity specified in Item 12 of the Schedule, including certain Underwriters at Lloyd's, led by Liberty Managing Agency Limited.

## 34 Outsource Service Provider

An independent service provider that provides information technology services, including hosting, security management, co-location, and data storage, for **Your** benefit under a written contract with **You**. **Outsource Service Provider** does not include Domain Name System (DNS) providers, Certificate Authorities, or Internet Service Providers (ISP).

### **35 Payment Card Industry Fines and Expenses**

Payment card industry forensic investigation costs, fines or penalties, assessments, including fraud loss recoveries and card replacement costs, and administrative costs that **You** are legally obliged to pay under the terms of a merchant services agreement because of **Your** actual or alleged non-compliance with payment card industry data security standards. **Payment Card Industry Fines and Expenses** does not include any ongoing obligation or audit following the imposition of an assessment, fine or penalty.

### **36 Policy (The, This, Your)**

The contract of insurance entered between **You** and **Us** pursuant to which we have agreed to provide **You** with the insurance cover detailed under the Insuring Agreements in this **Policy Wording**, that are indicated as purchased in Item 3 of the Schedule, in return for payment of the premium specified in Item 4 of the Schedule.

### **37 Policy Documentation**

**Policy Wording, Application**, Declarations, Schedules, endorsements, and variations of such documents, which should be read together as one document.

### **38 Policy Wording**

This document is **Policy Wording**.

### **39 Policy Period**

The period between the Inception Date and Expiry Date is specified in Item 2 of the Schedule unless terminated earlier, and specifically excluding any **Extended Reporting Period**.

### **40 Privacy Breach**

An actual or suspected breach of confidentiality, or infringement or violation of any right to privacy, or a breach of the **Named Insured's** privacy policy or of **Privacy Regulations**.

### **41 Privacy Regulations**

Statutes, laws, and regulations associated with the confidentiality, access, control, and use of personally identifiable, non-public information including:

- a) Health Insurance Portability and Accountability Act of 1996 (Public Law 104- 191).
- b) Gramm-Leach-Bliley Act of 1999, also known as the Financial Services Modernization Act of 1999.
- c) State and federal statutes and regulations regarding the security and privacy of consumer information.
- d) Governmental privacy protection regulations, statutes or laws associated with the control and use of personal information.

- e) Privacy provisions of consumer protection laws, including the Federal Fair Credit Reporting Act.
- f) Children's Online Privacy Act.
- g) The EU General Data Protection Regulation (GDPR).
- h) The UK General Data Protection Regulation; and
- i) The Data Protection Act 2018.

#### **42Regulatory Fines and Penalties**

Civil fines, monetary penalties payable or a non-reimbursable monetary amount which **You** are legally obligated to deposit in a fund as equitable relief imposed by a governmental agency or regulatory authority because of a breach of the **Privacy Regulations**.

Any **Regulatory Fines and Penalties** will be deemed for the purposes of this **Policy** to be insurable unless there is case law, legislation, regulation, order or judgement from a regulator, legislator or law enforcement agency prohibiting the insurability of the relevant category of **Regulatory Fines and Penalties**.

#### **43Remaining Retention**

The **Retention** amount specified in Item 3 of the Schedule less the amounts incurred by **You** during the **Waiting Period** attributable to a **Loss**.

If the amounts attributable to a **Loss** that are incurred by **You** during the **Waiting Period** are greater than the applicable **Retention** amount specified in Item 3 of the Schedule, then the **Remaining Retention** is zero.

#### **44Retention**

The figure specified in Item 3 of the Schedule that is payable by **You** in respect of every **Claim** and **Loss**.

#### **45Security Breach**

- a) The use of a **Computer System** by an unauthorized person or person, or by an authorized person in an unauthorized manner.
- b) **Denial of Service** attack or DDoS.
- c) **Malicious Code**.

A series of continuing **Security Breaches**, or related or repeated **Security Breaches** arising from the same sequence of events, will be considered a single **Security Breach**, and be deemed to have occurred at the time of the first such **Security Breach**.

#### **46Security Liability Event**

**Your** failure or alleged failure to prevent a **Security Breach** from impacting a third party.

#### **47Social Engineering**

The transfer or payment of money to an unauthorized third party by **You** because of fraudulent written, electronic or telephone instructions provided by a third party, which are intended to mislead **You** through the misrepresentation of a material fact which is relied upon in good faith by **You**.

**Social Engineering** does not include:

- a) Any fraudulent, dishonest, or criminal act by **You**.
- b) The transfer or payment of any cryptocurrency or non-fungible token (NFT) or equivalent.

#### **48Subsidiary**

Any corporation, limited liability company, or partnership while more than 50% of the outstanding voting securities or shares that represent the present right to vote for the election or appointment or designation of such entity's directors, managers or equivalent that are directly owned or controlled by **You**; or any joint venture while the **Named Insured** has managerial control, or while it has the right to elect or designate or otherwise appoint or directly control the appointment of more than 50% of such entity's directors, trustees, managers or equivalent.

#### **49System Failure**

- a) An unintentional and unplanned outage of a **Computer System**.
- b) The voluntary and intentional shutdown of a **Computer System** by the **Insured** where the **Insured** has reasonable grounds to believe that doing so will prevent, mitigate, or reduce an imminent or ongoing **Circumstance**.

#### **50Telecommunications Phreaking Event**

The unauthorized access or misuse of **Your** telecommunications system by a third party.

#### **51Waiting Period**

Under Insuring Agreement 1.a) Business Interruption and Insuring Agreement 1.b) Contingent Business Interruption, the period that commences when the partial or complete interruption, degradation or failure of the **Computer System** begins, and expires after the number of hours specified in Item 3 of the Schedule.

Under Insuring Agreement 1.d) Reputational Harm, the period that commences when the **Adverse Media Event** occurs and expires after the number of days specified in Item 3 of the Schedule.

**Gross Earnings Loss** incurred during the **Waiting Period** are uninsured.

#### **52War**

Armed conflict involving physical force:

- a) By a sovereign state against another sovereign state; or

**b)** As part of a civil war, rebellion, revolution, insurrection, military action, or usurpation of power, whether war is declared or not.

**Data Protection Notice**

DUAL North America, Inc. and other group companies will use any information given together with other information for the administration of this **Policy**, the handling of claims and the provision of customer services.

**You** have a right to request a copy of the information, to correct any inaccuracies and of erasure in certain circumstances.