

DUAL Cyber

Cyber and tech form policy

DUAL

Contents

- 1 Introduction 3
- 2 Insuring clauses 4
- 3 Exclusions 5
- 4 Policy Definitions 11
- 5 Defense and Settlements 26
- 6 Conditions 27
- 7 How much the insurer will pay to the insured 29
- 8 Other Information 32

1 Introduction

The policy is an insurance contract between the Insured and the Insurer. It is comprised of this document, the schedule and any endorsements. All of these documents should be read in their entirety and together. The policy is a legal document and should be read carefully.

There are certain sections within the policy which require that the Insured obtain the consent of the Insurer before the Insured incurs costs. The policy explains when the Insured must contact Insurers to obtain the Insurer's consent before costs are incurred. The Insurer's consent to costs shall not be unreasonably withheld or delayed. The insured has access to a cyber response team which can be contacted 24 hours a-day, 7 days per week on the telephone number or via the monitored email address shown in the schedule.

Terms shown herein in bold font and with capital letters have a specific meaning in this policy. Those meanings will be explained in section 4 of the policy ("policy definitions"). Pressing on a defined term within this policy will take you to that specific definition with Section 4 of the policy.

Cover under some or all of the insuring clauses listed in section 2 have been purchased by the Insured. The schedule will show whether cover under an insuring clause has been purchased and the Limit or Sub Limit and Deductible applicable to that Insuring Clause. If cover under an Insuring clause has not been purchased, then that section of the policy shall not apply.

With regard to insuring clauses G, H, I, J, K, L & M this is a claims made and reported policy. Please read it carefully.

2 Insuring clauses

The Insurer agrees to pay on behalf of the Insured the following damages and to reimburse the insured for the following losses or defense costs:

- a. Breach expenses and forensic expenses arising from a data breach, security breach, or privacy breach;
- b. Business interruption losses, extra expenses and forensic expenses arising from operational or administrative error, cyber-attack, system failure, data breach, security breach or privacy breach;
- c. Dependent business interruption losses, extra expenses and forensic expenses arising from operational or administrative error, cyber-attack, system failure, data breach, security breach or privacy breach;
- d. Cyber theft loss arising from a cyber-attack or social engineering event;
- e. Data recovery expenses, special expenses and forensic expenses arising from operational or administrative error, cyber-attack, data breach, security breach or privacy breach. where data recovery expenses, special expenses and forensic expenses arise from operational or administrative error or cyber-attack, these may include bricking costs resulting from damage to hardware;
- f. Extortion monies and expenses arising from an extortion threat;
- g. Damages and defense costs as a result of a claim arising from a data breach, security breach or privacy breach;
- h. Regulatory fines and penalties and regulatory investigation costs as a result of a claim arising from a data breach, security breach or privacy breach;
- i. PCI fines, penalties and assessments and PCI DSS claim expenses as a result of a claim arising from a PCI breach;
- j. Damages and defense costs as a result of a claim arising from a media event;
- k. Losses arising from a telecommunications phreaking event;
- l. Losses arising from a cryptojacking event;
- m. Reputational harm losses arising from a data breach, security breach or privacy breach.
- n. Damages and defense costs as a result of a claim arising from a technology event;

The Insurer will pay the insured up to the limit and in excess of the deductible as stated in the schedule subject to the terms and conditions of this policy.

The insured must first discover the insured event, loss or claim during the policy period or applicable extended reporting period. For insuring clauses (a), (d), (g), (h), (i), (j), (k), (l) and (m) the specified Insured Event must have occurred on or after the retroactive date. The insurer must be notified of any loss, claim or insured event as per the terms and conditions of this policy.

3 Exclusions

The insurer shall not be liable for:

Acts or omissions outside of cover

Any insured event, including related or continuing insured events, which:

- a. Were notified prior to the inception of this policy under any other insurance policy that the insured
- b. Had; or
- c. the insured first discovered (but did not disclose to the insurer) prior to the commencement of the policy period; or
- d. Was discovered after the policy period or applicable extended reporting period has expired.

Acts of terrorism

Losses or claims relating to, arising from or alleged to be related to or arising from any act of terrorism, however this shall not apply to cyber terrorism.

Bodily injury and property damage

Losses or claims relating to, arising from, or alleged to be related to or arising from bodily injury or property damage. However, this exclusion shall not apply to emotional distress or mental anguish caused by a data breach, security breach, privacy breach or media event.

Contractual liability

Losses or claims relating to, arising from or alleged to be related to or arising from any contractual liability, guarantee or obligation or any breach of contract or agreement, in either oral or written form; provided, however, this exclusion shall not apply to:

The insured's liability that would have existed in the absence of such contract or agreement;

Or

- a. The insured's contractual indemnification of a customer or client for a security breach, data breach, privacy breach or media event; or
- b. Breach of a merchant services agreement covered under insuring clause (i); or
- c. Breach of the insured's privacy or security policy.
- d. Damages and defense costs as a result of a claim arising out of a technology event where
- e. Covered under insuring clause (n).

Employment related liability

Losses or claims relating to, arising from or alleged to be related to or arising from any liability to any employee, former employee or prospective employee in respect of any harassment, unfair or wrongful dismissal, wrongful disciplinary action, defamation, humiliation, discrimination, deprivation of career opportunity, refusal to employ or promote, or repudiate or breach of any employment contract, or any liability arising or alleged to have arisen from any employee benefit plan or pension plan, including but not limited to the Employee Retirement Income Security Act of 1974 (ERISA).

This exclusion does not apply to the insured's obligations to employees under privacy regulations or a claim brought against the insured by an employee as a result of an otherwise covered data breach, privacy breach or security breach.

Fair credit reporting

Losses or Claims relating to, arising from or alleged to be related to or arising from any actual or alleged violation of the fair credit reporting act, the fair and accurate credit transaction act, or any amendment of or addition to such laws or any other local, state, federal or foreign act, statute, rule or common law, except to the extent covered under insuring clause (h).

False advertising

Losses or claims relating to, arising from or alleged to be related to or arising from any false advertising by the insured or by a third party on behalf of the insured.

Force majeure

Losses or claims relating to, arising from or alleged to be related to or arising from fire, smoke, explosion, lightning, wind, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of god or any other similar physical event howsoever caused or from any consequential losses arising or alleged to have arisen therefrom.

Government action

Losses or claims relating to, arising from or alleged to be related to or arising from any confiscation, seizure, requisition, restriction of use, or operation, destruction or damaging of the insured's or outsourced service provider's computer system by the order of any rightful or de factor government or any civil or military authority.

This exclusion shall not apply to such actions by a governmental authority acting in its law enforcement or regulatory capacities for the purposes of preservation of evidence.

Inaccurate description of goods, products or services

Losses or claims relating to, arising from or alleged to be related to or arising from any inaccurate, inadequate or incomplete description of or the price of the insured's goods, products or services, or cost guarantees, cost representations, contract price or estimates of probable costs or costs estimates being exceeded.

Insolvency

Losses or claims relating to, arising from or alleged to be related to or arising from the Insured's insolvency or bankruptcy.

Insured vs insured

Any payment for any loss or claim which is made by or on behalf of any insured against any other insured. This exclusion shall not apply to:

- a. Any claim brought by an employee; or
- b. Any claim arising out of that part of any claim which emanates from an independent third party.

Intentional acts

Losses or claims which arise from the actual or alleged willful, deliberate, intentional, malicious, reckless, dishonest, fraudulent or criminal acts or omissions of the Insured.

This exclusion will not apply when the willful, deliberate, intentional, malicious, reckless, dishonest, fraudulent or criminal acts or omissions were committed without the knowledge or consent of any member of the control group.

This exclusion shall not apply to losses or claims which arise from the actual or alleged willful, deliberate, intentional, malicious, reckless, dishonest, fraudulent or criminal acts or omissions of one of the insured's outsource service providers if the members of the control group were unaware of the actual or alleged act which has caused the loss or claim. Where any member of the control group was aware of the actual or alleged act of the outsource service provider, then this exclusion will apply. This does not affect the Insured's rights to subrogate against the insured's outsource service providers.

Investment advice, financial advice or finance, credit or leasing agreements

Losses or claims relating to, arising from or alleged to be related to or arising from the provision or arrangement by the Insured or on the Insured's behalf of any investment advice, financial advice, or any finance, credit or leasing agreement.

Law/Regulation

Any amount the Insurer is prohibited from covering as a result of applicable law or regulation at an applicable venue that would most favor coverage.

Licensing fees or royalty payments

Losses or claims relating to, arising from or alleged to be related to or arising from any actual or alleged obligation to pay licensing fees or royalty payments, including but not limited to late payment of these.

Loss of funds/Trading liability

Claims relating to, arising from or alleged to be related to or arising from or losses for any:

- a. Loss, theft of, the decrease in value, or the actual value of any currency, electronic fund transfer, securities or any equivalents thereof (including e-certificates, coupons, gift cards and vouchers), except where specifically covered under insuring clause (d); or
- b. Trading losses or liabilities (including commissions or fees) resulting from the fluctuation of any stock, share, security or currency on any financial markets or exchanges; or
- c. Any valuable consideration given in excess of the total contracted or expected amount, including but not limited to over-redemption of the face value of coupons, price discounts, prizes or awards.

Mechanical, electrical or infrastructure failure

Losses or claims relating to, arising from or alleged to be related to or arising from any failure, interruption or degradation of :

- a. Power or utility services including any electrical disturbance, brownout, blackout, short circuit, induction, voltage fluctuation or any outages unless such power or utility services are in the direct operational control of the Insured or an outsource service provider; or
- b. Satellites; or

- c. Telecommunication or internet services unless such services are in the direct operation control of the Insured or an outsource service provider; or
- d. Any nationwide telecommunication or power infrastructure, regardless of operational control.

Opioids

Losses or claims arising out of, based upon, attributable to or in any way connected with:

- a. The manufacture, marketing, distribution or sale of any opioid.
- b. Medical malpractice, including but not limited to, the rendering of or failure to render medical professional services, treatment or advice.

Patent and trade secret

Losses or claims related to, arising from or alleged to be related to or arising from infringement of any patent or the misappropriation of any trade secret. However, this exclusion shall not apply to the misappropriation of a trade secret as the result of a media event or the theft of a third party's trade secret arising from a data breach, security breach or privacy breach.

Pollutants

Losses or claims relating to, arising from or alleged to be related to or arising from an actual, alleged or threatened presence, discharge, dispersal, release, or escape of a pollutant; or a governmental or regulatory directive or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize a pollutant, or in any way respond or assess the effects of a pollutant.

Product recall

Any costs or expenses relating to or incurred by any person or entity to withdraw or recall any product including any technology product from the marketplace or from loss of use arising out of such withdrawal or recall.

Radioactive contamination

Loss, damage, liability or expense directly or indirectly caused by or contributed to, by or arising from:

- a. Ionizing radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or
- b. The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof; or
- c. Any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; or
- d. The radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes; or
- e. Any chemical, biological, bio-chemical or electromagnetic weapon.

Regulatory enforcement

Losses or claims relating to, arising from or alleged to be relating to or arising from any action to comply with government enforcement of any state or federal regulatory security obligations, except this exclusion shall not apply to the extent specifically and expressly covered by insuring clause (h), or any claim brought by a governmental body in its capacity as a customer of the insured expressly covered under insuring clause (k)

RICO

Losses or claims relating to, arising from or alleged to be related to or arising from any failure to comply with the racketeer influenced and corrupt organization act or equivalent legislation under state, federal or international law.

Sanctions

Any claim, Loss or provision of any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that Insurer to 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.

Securities / Directors' and officers' liability

Losses or claims relating to, arising from or alleged to be related to or arising from the purchase, sale, offer of, or solicitation of an offer to purchase or sell securities including any actual or alleged violation of the Securities Act of 1933 or the Securities Exchange Act of 1934 (including any subsequent amendments or any rules or regulations promulgated thereunder), or any other similar law (including common law), regulation, or statute whether enacted at the local, state or federal level or by a foreign jurisdiction; or any shareholder demand or shareholder derivative lawsuit complaining of a breach of duties by any of the Insured's directors or officers, or seeking access to books, records or other information.

Unfair trade practices

Losses or claims relating to, arising from or alleged to be related to or arising from any actual or alleged antitrust violation, restraint of trade, unfair competition or false, deceptive, or unfair trade practices except this exclusion shall not apply to a claim specifically covered under Insuring clause (j) relating to media events a) and d).

Unjust enrichment

Losses or claims relating to, arising from or alleged to be related to or arising from the Insured's gaining of profit, remuneration or financial advantage to which the Insured was not legally entitled except for amounts paid to the Insured or on the Insured's behalf by the Insurer under the policy incurred until such time as there is a decision or determination by any court, arbitration panel or arbitrator, or governmental, regulatory or administrative body finding that the insured was not so entitled, or the Insured admits that it was not so entitled. If this occurs, the insured are obliged to reimburse the amount paid to the Insured or on the Insured's behalf by the insurer.

Unsolicited Communications

Losses or claims relating to, arising from or alleged to be related to or arising from the unsolicited distribution, transmission or posting of any online, social media, or mobile advertisements, emails, texts, advertisements or other communications including but not limited to telemarketing, robocalls,

eavesdropping, wiretapping or audio or video recording. This exclusion shall not apply to an otherwise covered claim under point d) of extortion threat.

War and cyber operation exclusion losses, claims or damage resulting:

1.1. directly or indirectly from War;

1.2. from a cyber operation that is carried out as part of a War; or

1.3. from a cyber operation that causes a sovereign state to become an impacted state.

Provided, however, paragraph 1.3 shall not apply to the direct or indirect effect of a cyber operation on a computer system used by the insured or its third party service providers that is not physically located in an impacted state but is affected by a cyber operation.

Wrongful collection

Losses or claims relating to, arising from or alleged to be related to or arising from any actual or alleged unlawful processing, collection, storage or use of personal data.

4 Policy definitions

Act of terrorism

An act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of, or in connection with any organization(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or put any public, or any section of the public, in fear.

Aggregate limit of liability

The maximum amount payable by the Insurer to the Insured within the policy period. The aggregate limit of liability is stated in the schedule.

Application

The material submitted to the Insurer by the named insured or on the named insured's behalf in connection with the underwriting of this policy. The application is deemed attached to and incorporated into this policy.

Bodily Injury

Death or any physical injury or illness to a person.

Breach Expenses

- a. Notification expenses;
- b. Legal expenses;
- c. Call center expenses;
- d. Credit monitoring expenses;
- e. Public relations expenses.

Breach expenses do not include:

Salaries, overhead expenses, or other internal charges or costs that the Insured incurs for any time that the insured or the insured's employees spend cooperating with any investigations or responding to any customer complaints following the specified insured event.

Bricking costs

The costs associated with replacing or repairing any Hardware on which damaged data exists but only where:

- i. The firmware embedded within the hardware has been re-programmed or damaged as the direct result of a cyber attack rendering such hardware non-functional for its intended purpose without causing any physical damage;
- ii. The replacement or repair of such hardware is reasonable and necessary to restore, recreate or replace such data;
- iii. The cost to replace or repair such hardware is less than the costs to restore, recover or replace the damaged data.

The cost to replace or repair such hardware will be limited to the lesser of:

- i. the cost to purchase replacement hardware that is identical to the Hardware being replaced;
- ii. the cost to purchase replacement hardware that is the most functionally equivalent to that being replaced, even if such hardware has technological advantages and/or represents an improvement in functionality.

Business

The commercial activities undertaken by the Insured including the offering of any products, services or activities carried on in the course of trade and commerce.

Business interruption losses

Loss of Income as a direct result of disruption to the insured's computer system. Loss of income will only be recoverable where the disruption to the insured's computer system lasts longer than the waiting period.

Call center expenses

Reasonable and necessary expenses incurred with the Insurer's prior written consent arising from the provision of a call center service to respond to inquiries from affected or potentially affected data subjects.

Claim

Any of the following made against the insured:

- a. A demand in writing to cease and desist, for compensation, damages or injunctive relief; or
- b. A notice in writing of an intention to commence legal, arbitration, mediation or adjudication proceedings; or
- c. The commencement of legal, arbitration or adjudication proceedings, an invocation of a pre-action protocol; or
- d. A request to toll or waive any applicable statute of limitations; or
- e. A regulatory action but only with respect to insuring clause (h); or
- f. The commencement of an investigation, proceeding or other legal action or similar proceeding initiated by the payment card industry security standards council, card brand, payment processor or other acquiring bank directly resulting from a PCI Breach but only with respect to insuring clause (i).

Computer system

Interconnected electronic, wireless, web or similar systems used to process data or information in analogue, digital, electronic or wireless format including, but not limited to, computers, computer devices, data storage devices, back-up facilities, operating systems, control systems, network systems, hardware, websites, email systems, intranet, industrial control systems, SCADA systems and mobile devices.

Confidential information

Confidential commercial or corporate information, whether printed or digital.

Credit monitoring expenses

Reasonable and necessary expenses incurred with the Insurer's prior written consent for up to twelve (12) months' credit monitoring services (or such longer period as may be required under relevant legislation or by a regulator) offered by the Insured to the data subjects. Credit monitoring expenses shall include identity theft protection insurance, identity protection and restoration services (including medical identity restoration services) and credit consultation services where reasonable and necessary.

Cryptojacking event

The unauthorized access or use of a computer system to mine for digital currency that directly results in additional costs incurred by the Insured for electricity, natural gas, oil, or internet (the "Utilities"); provided, however, that such additional costs for the Utilities are: (a) incurred pursuant to

- a. written contract between the Insured and the respective utility provider, which was executed before the cryptojacking first occurred
- b. billed to the Insured by statements issued by the respective utility provider, which include usage or consumption information;
- c. not charged to the Insured at a flat fee that does not scale with the rate or use of the respective utility; and incurred pursuant to statements issued by the respective utility provider and due for payment during the policy period.

Cyber attack

Any unauthorized access or usage of the Insured's or outsource service provider's computer systems (including but not limited to malicious code and denial of service attacks) whether as part of a specifically targeted attack or a generally distributed attack including as a result of cyber terrorism.

Cyber operation

The use of a computer system by, at the direction, or under the control of a sovereign state to disrupt, deny, degrade, manipulate or destroy information in a computer system of or in another sovereign state.

Cyber response team

The advisors who will assist the Insured if an insured event occurs or is alleged to have occurred. The contact details are stated in the schedule.

Cyber terrorism

The use of disruptive activities impacting a computer system operated by the insured or for the insured by an outsource service provider, by an individual or group of individuals, or the explicit threat by an individual or group of individuals to use activities, with the intention to cause harm to further social, ideological, religious, political or similar objectives, or to intimidate any person(s) in furtherance of such objectives. Cyber Terrorism does not include any such activities excluded under the war and cyber operation exclusion.

Cyber theft loss

The transfer, disbursement, alteration, corruption or loss of money, securities, assets or tangible goods belonging to the Insured or from an account that is in the trust or control of the insured..

Damages

Any financial award or settlement to a third party, including pre-judgment interest, post-judgment interest and claimant's legal costs that the Insured is held liable to pay. Damages do not include any:

- a. Criminal fines or penalties; or
- b. Aggravated, punitive and exemplary damages unless insurable by the law of an applicable venue that would most favor coverage; or
- c. Past or future royalties or profits, restitution or disgorgement of the profits of the Insured; or
- d. Unpaid license fees; or
- e. Liquidated damages where the amount of liquidated damages for which the Insured is liable (as agreed under contract) exceeds the amount for which the Insured would have been liable were it not for such contractual agreement;
- f. Any amounts for which the Insured is not liable, or for which there is no legal recourse against the Insured; or
- g. Cost of complying with orders granting injunction or non-monetary relief; or
- h. Return or offset of the Insured's fees, charges or commissions for goods or services already provided or contracted to be provided; or
- i. Regulatory fines and penalties; or
- j. PCI fines, penalties and assessments

Data

Information which is stored electronically on a computer system including computer programs, software and firmware. Data does not include hardware.

Data Breach

Any actual or suspected loss, theft, destruction, corruption, encryption or unauthorized disclosure of or access to personal data or confidential information. Data breach shall include the misuse of personal data or confidential information.

Data recovery expenses

The reasonable and necessary costs incurred by the Insured with Insurer's prior written consent, in relation to the recovery, restoration or replacement of the insured's damaged data to ensure that the insured's data is in the same or substantially the same condition that it was prior to the damage. Where the Insured's data cannot be restored from back-up files or other storage, the Insurer shall pay the reasonable costs of recreating the data.

These costs will be payable by the Insurer following the discovery of the damage and will be capped at the re-purchase price of data. If any computer programs, software or firmware are no longer available for sale in the open market, then an equivalent where available can be purchased up to the cost of the original purchase price. If it is determined that the data cannot be replaced, restored or recreated then the Insurer will only reimburse the Insured's reasonable and necessary costs incurred until that determination occurs.

Data subject

An individual whose personal data has been or may have been compromised as a result of a data breach.

Deductible

The amount to be paid by the insured before the insurer will make any payments under the policy. The deductible is stated in the schedule.

Defense costs

The reasonable and necessary legal costs and expenses (excluding the insured's internal costs and expenses) incurred with the Insurer's prior written consent in relation to the investigation, defense or settlement of any claim.

Defense costs do not include regulatory investigation costs, PCI DSS claim expenses, salaries, overhead expenses, or other internal charges or costs that the insured incurs for any time that the insured or the insured's employees spend cooperating with any investigations or responding to any customer complaints.

Dependent business interruption losses

Loss of income as a direct result of disruption to a computer system operated by an outsource service provider for the insured. Loss of income will only be recoverable where the disruption to the computer system operated by an outsource service provider for the insured lasts longer than the waiting period.

Discovered

Discovered by a member of the control group.

Disruption

Total or partial interruption or degradation in service.

Employees

An individual contracted to work for the Insured under a contract of service in a permanent, part time, or fixed term basis (excluding partners or directors), or any individual who is working on the Insured's behalf, at the Insured's direction and/or under the Insured's direct control. It includes individuals undertaking work experience or internship (paid or unpaid)

Essential service

A service that is essential for the maintenance of vital functions of a sovereign state including but not limited to financial institutions and associated financial market infrastructure, health services or utility services.

Extended reporting period

The additional period of time in which the Insured may notify the Insurer of a claim or a loss after the policy period has expired. The insured has the right in the event of cancellation or non-renewal of the policy, and where no replacement of this Policy is put into effect, to a period of 60 days within which to comply with the notification provisions under Section 6 (i) with regard to an insured event that occurred prior to the expiry of the policy. This period of time may be extended upon the payment of an additional premium, as stated in the schedule, by the insured within 30 days of the date of cancellation or non-renewal of the policy.

The extended reporting period only applies to those insuring clauses as shown in the schedule. The aggregate limit of liability for the extended reporting period shall be part of, and not in addition

to the, aggregate limit of liability for the policy period. At the commencement of the extended reporting period the entire premium shall be deemed earned and in the event the Insured terminates the extended reporting period for any reason prior to its natural expiration, the Insurer will not be liable to return any premium paid for the extended reporting period. All notices and premium payment with respect to prolonging the extended reporting period should be directed to Insurers through the entity named in the schedule.

Extortion monies and expenses

Reasonable and necessary monies, property, online credit or other cryptocurrency payable by the Insured and expenses incurred by the Insured with the Insurer's prior written consent in order to meet, eliminate or remove an extortion threat.

Extortion threat

A threat that is both real and immediate from a third party or employee against the Insured to:

- a. Release, divulge, disseminate, destroy or use the personal data or confidential information acquired by unauthorized access or unauthorized use of the insured's or outsource service provider's computer systems; or
- b. Introduce malicious code or ransomware into the insured's or outsource service provider's computer systems; or
- c. Corrupt, damage or destroy the Insured's or outsource service provider's computer systems; or
- d. Electronically communicate with the Insured's customers and falsely claim to be the Insured or to be acting under the Insured's direction in order to falsely obtain personal data or confidential information from the insured's customers (also known as "pharming," "phishing," or other types of false communications); or
- e. Restrict or hinder access to the Insured's or Outsource service provider's computer Systems, including the threat of a denial of service attack; or
- f. Release, divulge, disseminate, destroy or use the insured's data; or
- g. Deface the insured's website.

Extra expenses

The insured's reasonable and necessary expenses incurred to:

- a. Avoid or minimize the suspension or deterioration in its business, which it would not have incurred if the specified insured event had not occurred, including but not limited to: the cost of renting or leasing equipment, expense of moving to temporary premises and the rental expenses of these premises, consultancy fees and third party services, substitute work or production procedures, extra labor costs and expenses for special advertising; and/or to
- b. Minimize or avoid any specified Insured Event to enable the insured's business to continue operating. The total expenses incurred under a) and b) above combined shall not exceed the amount by which the Insured's loss of income is reduced by such expenses. The Insurer shall only reimburse the Insured for those extra expenses incurred during the period of restoration.

Extra expenses do not include any breach expenses or forensic expenses.

Firmware

Software that is embedded within a piece of hardware owned or under the control of the insured (providing low-level control for the specific piece of hardware).

Fixed expenses

All charges and expenses that do not cease or reduce during the period of restoration.

Forensic expenses

Reasonable and necessary expenses incurred with the Insurer's prior written consent associated with computer forensic analysis performed by outside experts to investigate the source, scope and cause of, provide confirmation of or respond to the specified insured event. These expenses also include costs incurred to preserve critical evidence of criminal activity or malicious wrongdoing. I

Under insuring clauses b) and c), the insurer shall only reimburse the insured for those forensic expenses incurred during the period of restoration.

Forensic expenses do not include:

Salaries, overhead expenses, or other internal charges or costs that the Insured incurs for any time that the Insured or the insured's employees spend cooperating with any investigations or responding to any customer complaints following the specified insured event.

Gross earnings

Means for manufacturing operations: the net sales value of production less the cost of all raw stock, materials and supplies used in such production; or

Means for mercantile or non-manufacturing operations: the total net sales less the cost of merchandise sold, materials and supplies consumed in the operations or services rendered by the Insured.

Gross profit

The amount produced by adding to the net profit the amount of fixed expenses. If there is no net operating profit, the amount of net operating loss will be deducted from the fixed expenses.

Hardware

The physical components of a computer system. Hardware shall include IoT (Internet of Things) devices.

Impacted state

A sovereign state where a cyber operation has had a major detrimental impact on the functioning of that sovereign state due to disruption to the availability, integrity or delivery of an essential service in that sovereign state; and/or the security or defense of that sovereign state.

Incident manager

The individual leading the cyber response team as identified in the schedule.

IoT (Internet of Things) devices

Any physical devices which have been embedded with technology so they can be used to interact via the internet.

Insured event

Operational or Administrative Error, Cyber Attack, System Failure, Extortion Threat, Data Breach, Security Breach, Privacy Breach, PCI Breach, Social Engineering Event, Media Event, Telecommunications Phreaking Event or Technology Event

The schedule specifies whether the Insured has coverage for each of the types of insured event (see insuring clauses). The policy shall only respond to an insured event where coverage has been given for that type of insured event in the schedule and the specific loss or claim satisfies the specific definition given for that type of insured event in the policy.

Insurer(s)

The company subscribing to this policy.

Insured(s)

The:

- a. Named insured; or
- b. Any subsidiary; or
- c. Any employee, director or officer of the named insured or subsidiary but only in respect of acts, errors or omissions committed, or alleged to have been committed in their capacity as such; or
- d. Any agent or independent contractors, including distributors, licensees and sub-licensees but only whilst acting on behalf or at the direction or under the control of the named insured or a subsidiary; or
- e. If the named insured or any subsidiary is a partnership, limited liability partnership or limited liability company then any general or managing partner, principal, stockholder or owner thereof but only in respect of acts, errors or omissions committed, or alleged to have been committed in their capacity as such; or
- f. Any entity required by contracts to be named as an insured under this policy but only with the prior written consent of the insurer and only for the acts of any party described above for which insurance is otherwise covered by this policy.

Insuring clauses

The coverage sections purchased by the insured as outlined in the schedule.

Legal Expenses

Reasonable and necessary expenses incurred with the insurer's prior written consent in appointing a legal advisor to assist the insured in handling the insured's direct response to an insured event.

Limit(s)

The maximum amount payable by the insurer for each insuring clause listed in the schedule. the limits are stated in the schedule.

Loss/Losses

Any breach expenses, forensic expenses, business interruption losses, dependent business interruption losses, extra expenses, data recovery expenses, special expenses, cyber theft loss, extortion monies and expenses, regulatory fines and penalties, regulatory investigation costs, pci fines, penalties and assessments, pci claims expenses and reputational harm

Losses but does not include:

- a. Any costs that result in any computer system having a higher level of functionality than it did prior to the specified insured event; or
- b. Any costs incurred to identify, patch or remediate software program errors or vulnerabilities of the computer system except following the specified insured event.

Loss of income

The decrease in income that is suffered by the Insured calculated in accordance with section 7.

Media event

The actual or suspected occurrence of any of the following in the insured's provision of media services:

- a. Infringement of intellectual property rights including copyright, title, slogan, trademark, trade name, trade dress, service name, database rights, domain name, deep-linking or framing but not including patent infringement; or
- b. Plagiarism, piracy, violation of moral rights, passing off, misappropriation of property rights, ideas or information; or
- c. Any form of invasion, infringement or interference with rights of privacy or publicity, including, but not limited to false light, public disclosure of private facts, intrusion and commercial appropriation of name, persona or likeness; or
- d. Any form of defamation or other tort related to disparagement or harm to character, reputation or the feelings of any person or entity, including, but not limited to, libel, slander, product disparagement, and trade libel; or
- e. Wrongful entry or eviction, trespass, eavesdropping or other invasion of the right to private occupancy; or
- f. False arrest, detention or imprisonment, abuse of process, or malicious prosecution;
- g. Improper linking or framing; or
- h. The infliction of emotional distress or mental anguish as a direct result of acts (a)-(g) above.

Media services

The creation, display, broadcast, dissemination, distribution or release of any media content to the public by the Insured and/or the collection of media content by the insured for inclusion in any display, broadcast, dissemination or release in the course of the insured's business. Media services do not include the design or manufacture of the Insured's goods, products or services.

Member of the control group

The insured's chief executive officer, chief information officer, chief technology officer, chief security officer, chief privacy officer, general counsel, risk manager or their functional equivalents.

Merchant services agreement

An agreement between the insured and a financial institution, credit or debit card company, credit or debit card processor or independent service operator enabling the Insured to accept credit card, debit card, pre-paid card or other payment cards for payments or donations.

Named insured

The entity designated as such in the schedule.

Net profit

The net operating profit (or net operating loss) resulting from the business of the insured after due provision has been made for all fixed expenses and other expenses, including depreciation, but before the deduction of any taxes on profits.

Net sales

The gross sales less discounts, returns, allowances for damage or missing goods, bad debts, and prepaid freights, if any of those items are included in the gross sales figures.

Notification expenses

Reasonable and necessary expenses incurred with the Insurer's prior written consent to comply with any statutory or regulatory notification requirements, including drafting of appropriate notification letters to both the regulator and those allegedly and actually affected. These expenses shall extend to voluntary notification if agreed upon by the Insurer.

Operational or administrative error

An accidental, unintentional or negligent act, error or omission in the operation or maintenance of a computer system or the entry, creation, modification or handling of data by an insured or outsource service provider.

Opioid

Any opioid or opiate substance, including but not limited to codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, OxyContin, buprenorphine/naloxone or any:

- a. generic substitute or alternative;
- b. derivative thereof;
- c. narcotic with a similar chemical formula, structure or function; or
- d. degradation by-product.

Outsource service provider

Any third party contractor or company employed by the Insured by written contract to provide information technology services to the Insured or on behalf of the insured. Outsource service provider shall include cloud service providers but not internet service providers.

PCI breach

Any actual or suspected breach of standards, requirements and procedures imposed by the payment card industry security standards council that are in place at the time of the actual or suspected breach.

PCI DSS claim expenses

Reasonable and necessary legal costs and expenses (excluding the Insured's internal costs and expenses) incurred with the Insurer's prior written consent in relation to the investigation, defense, mitigation or settlement of any PCI breach. These shall include the costs of appointing a PCI forensic investigator to conduct a payment card industry forensic investigation.

PCI Fines, Penalties and Assessments

Fines, penalties, assessments or payments that the Insured is contractually obligated to pay under its Merchant Services Agreement (s) as a result of any PCI breach.

Period of restoration

The time period starting when the Disruption to the Computer System began and ending 180 days later.

Personal data

Information, whether printed or digital, which relates to an individual (referred to as a data subject) and by virtue of which an individual can be identified, located or contacted.

Policy

This document, the Schedule and any endorsements agreed between the Insured and the Insurer.

Policy period

The set of dates in which the Policy is effective as stated in the Schedule or as modified by an earlier cancellation date.

Pollutant

Any pollutant or contamination of any kind, including:

- a. Smoke, vapor, soot, fumes, acid, alkali, chemicals or waste;
- b. Ionizing radiation or contamination by radioactivity from nuclear fuel, or nuclear waste from the combustion of nuclear fuel' or the radioactive, toxic or explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- c. Mold, mildew, spores, fungi, mycotoxins, organic pathogens, or other micro-organisms;
- d. An electromagnetic field, electromagnetic radiation or electromagnetism;
- e. Asbestos, asbestos fibers or asbestos dust; or
- f. Any solid, liquid, gaseous or thermal irritants or contaminants.

Privacy breach

Any actual or suspected:

- a. Failure to implement, maintain or comply with the Insured's privacy or security policy; or
- b. Failure to notify data subjects or any other affected individuals of a data breach or security breach; or
- c. An infringement or violation of any rights to privacy or confidentiality; or
- d. Breach of any requirements relating to the disposal of personal data or confidential information; or
- e. Failure to comply with privacy regulations.

Privacy regulations

Statutes, regulation and legislative instruments at either state, federal or international level which are associated with protecting the confidentiality, control, use of and access to personally identifiable information including financial and medical information as that information exists now

and in the future. These include but are not limited to the following (as currently enacted or as amended in the future):

- a. California Security Breach Notification Act;
- b. California Consumer Privacy Act 2018;
- c. Data Protection Act 2018;
- d. General Data Protection Regulation;
- e. Fair and Accurate Credit Transactions Act 2003;
- f. Gramm-Leach-Bliley Financial Services Modernization Act of 1999;
- g. The Health Insurance Portability and Accountability Act of 1996 and Health Information Technology for Economic and Clinical Health Act;
- h. New York Cybersecurity Regulation;
- i. Privacy Act 1974.

Property damage

Physical injury to, impairment, destruction or corruption of any tangible property including loss of use of such property. Data is not considered to be tangible property. Loss of use of hardware as a direct result of the re-programming of firmware that renders such hardware non-functional for its intended purpose but does not cause any physical damage shall not be considered property damage.

Public relations expenses

Reasonable and necessary costs and expenses incurred with the insurer's prior written consent in appointing public relations consultants to assist the insured in mitigating the reputational damage caused by a data breach, security breach or privacy breach.

Rate of gross profit

The rate of gross profit earned on sales during the twelve full calendar months immediately before the date of the loss, corresponding with the period of restoration adjusted for trend so that the rate of gross profit reflects the rate of gross profit that would have been experienced if the specified insured event had not occurred.

Regulatory action

An investigation, inquiry or a proceeding by a regulator alleging any failure to maintain the security of personal data, or to comply with the requirements of any privacy regulations.

Regulatory fines and penalties

Fines, penalties or any other financial imposition or penalty where insurable by law which the insured is obliged to pay based upon an order or requirement or demand from a regulator. However, these do not include any criminal fines, penalties or sanctions issued by any regulatory agency or PCI fines, penalties and assessments.

Regulatory investigation costs

Means reasonable and necessary legal costs and expenses (excluding the insured's internal costs and expenses) incurred with the insurer's prior written consent in relation to the investigation, defense, mitigation or settlement of any regulatory action.

Reputational harm losses

Loss of income as a direct result of the reputational damage caused by an allegation made in the public domain or the release of information in the public domain alleging that the insured or any third party acting on their behalf, committed or failed to prevent a data breach, security breach or privacy breach.

Reputational harm period of restoration

The time period starting when the allegation is first made in the public domain or the release of information is first made in the public domain alleging that the Insured or any third party acting on their behalf, committed or failed to prevent a data breach, security breach or privacy breach and ending 12 months later.

Retroactive date

The date specified as such in the schedule.

Sales

The money paid or payable to the Insured for goods sold and delivered and/or for services rendered in the conduct of its business.

Schedule

Means the document which confirms the coverage which is available to the insured under the policy.

The schedule states the Limit(s), the retroactive date and the deductible amongst other information.

Security breach

Any actual or suspected unauthorized access or usage of the insured's or outsource service provider's computer systems as a result of which:

- a. The Insured is unable to gain access to its data or computer systems (including a denial of service attack); or
- b. Malicious code is transmitted from the insured's computer systems to the computer systems of a third party; or
- c. Data is damaged, altered, corrupted or destroyed; or
- d. Attempted or actual cryptocurrency mining occurs security breach shall include such actions resulting from both a social engineering event and cyber terrorism

Social engineering event

The manipulation of the Insured by a third party, either by use of a website or electronic communication, in an attempt to obtain confidential information or personal data from the insured or to elicit the transfer of funds by the insured.

Software

Computer programs or electronic instructions (including but not limited to applications, data, information and scripts) used by a computer or device.

Special expenses

Reasonable and necessary costs that the Insured incurs with the Insurer's prior consent to prevent, preserve, minimize, or mitigate any further damage to data, including purchasing replacement licenses for programs because the copy protection system and/or access control software was damaged or destroyed by an insured event. Special expenses shall also include the reasonable and necessary costs and expense incurred with the Insurer's prior written consent to repair or install replacement hardware

Standard sales

An approximate sales projection calculated based on the sales during the twelve month period immediately preceding the date of the loss adjusted to reflect trends affecting the insured's business. This projection should be approximately equivalent to the sales which the Insured would have made had the insured event not occurred.

Sub-limits

The individual limit stated within the schedule for a particular insuring clause. The sub-limit will be lower than the aggregate limit of liability stated in the schedule.

Subsidiary

Any company in respect of which the named insured:

- a. Holds more than half of the issued share capital; or
- b. Controls more than half of the voting power; or
- c. Otherwise controls the composition of the board of directors; at the inception date of this Policy or is subsequently included subject to Section 8 (iv).

Where a subsidiary is subsequently included subject to section 8 (iv), coverage is only extended to such subsidiary for any claim or loss or any other notification under this policy that arises out of any insured events, acts, errors, or omissions first committed or first occurring after the entity becomes a subsidiary.

System failure

Any unintentional or unplanned outage of the insured's or outsource service provider's computer system.

Technology event

An actual or suspected negligent act, error, omission, breach of duty or unintentional breach of contract in the insured's provision of technology services.

Technology services

The provision of technology services and products for the insured's clients by the insured in the course of its business.

Telecommunications phreaking event

The unauthorized access or misuse of the insured's telecommunications system by a third party. The insurer's liability for direct monetary loss arising from a telecommunications phreaking event shall be sub-limited as outlined in the schedule.

Waiting period(s)

The period of time stated in the schedule that the disruption of a computer system must last for, before coverage will be provided under insuring clauses b) or c). for the avoidance of doubt the deductible will apply to these insuring clauses from the commencement of the period of restoration.

War

The use of physical force by a sovereign state against another sovereign state, or as part of a civil war, rebellion, revolution, insurrection, or military or usurped power, whether war be declared or not.

5 Defense and settlements

The insurer shall have the right and duty to defend any claim brought against the insured (with the exception of a regulatory action) regardless of whether the claim is groundless, fraudulent or false. The insured shall not admit or assume liability, make a payment, enter into a settlement agreement or consent to a judgment without the prior written consent of the Insurer, such consent not to be unreasonably withheld or delayed.

The insurer shall have the right, but not the duty, to defend the insured in respect of any regulatory action.

If the insured refuses to consent to a settlement which is recommended by the Insurer and the Insured insists on contesting the claim, the insurer's total liability for any damages, defense costs or other expenses under this policy shall not exceed:

- a. The amount for which the claim could have been settled plus the damages, defense costs and other expenses incurred up until the date when the insured refused to agree to the settlement recommended by the insurer (the deductible to be deducted from the amount payable by the insurer); and
- b. Seventy percent (70%) of any damages, defense costs or other expenses recoverable under this policy after the date upon which the insured refused to agree to the settlement recommended by the insurer. The remaining thirty percent (30%) shall be payable by the Insured and uninsured under this policy.

6 Conditions

i. Claim notification and breach response

The Insured must provide notice to the Insurers as soon as reasonably practicable after the discovery of an insured event, or becomes aware of any act, fact or circumstance which may result in a loss or a claim. Notice must be provided by contacting the incident manager. The incident manager will assist the Insured in the handling of the insured event. The cyber response team can be contacted 24 hours-a-day, 7 days per week on the telephone number or via the monitored email address shown in the schedule. The incident manager will arrange for the insured to receive appropriate services via the cyber response team depending on the nature of the insured event that has occurred or is suspected to have occurred.

Subject to the terms and conditions of the policy, the insurer will cover the costs of the cyber response team up to the aggregate limit of liability as stated in the schedule. The costs incurred by the cyber response team will be subject to the deductible.

ii. Claims assistance, cooperation and conduct

The Insured must provide assistance to or cooperate with the insurer or representatives appointed on the insurer's behalf. This includes cooperation and assistance in the investigation, production or preservation of documentation, information or other physical evidence about an insured event.

The insured must provide such information, respond to all relevant correspondence, communication, demand, claim for, adjudication notice, referral, statement of case, submission, notice of hearing, order or other correspondence from the resolution process (including communication from a court, arbitrator, mediator, adjudicator) in a timely manner. The Insured may also be required by the Insurer to provide a position statement, witness statement, expert report, legal or quasi legal paper or report.

iii. Fraud

If the insured notifies a loss believing the same to be false or fraudulent with respect to the amount claimed or otherwise, Insurers at their sole discretion may treat this policy as void ab initio and the insured shall forfeit all benefit under it. Insurers may alternatively at their sole discretion elect to give notice to the insured that the policy remains in full force and effect, but no indemnity or any other payment will be made for any claim or loss based upon, directly or indirectly arising out of, or in any way involving the circumstance that entitled Insurers to avoid this policy.

iv. Representation

The insured accepts that this policy has been issued in reliance that the agreements and representations contained within the application are true and complete. The misrepresentation or non-disclosure of any material facts or material statements within the application will render the policy null and void with respect to any insured who knew of such misrepresentation or non-disclosure and with respect to the insured if a member of the control group knew of such misrepresentation or non-disclosure.

v. Reimbursement of costs

Where expenses are incurred after there is a judgment or arbitrator's decision finding that the insured was not entitled to coverage under this policy, then the Insured shall reimburse to the insurer any defense costs or other expenses paid to the insured or on the insured's behalf by the insurer.

If the insurer pays to the insured an amount (including defense costs) in respect of a claim or a loss and later there is a determination or decision from any court, arbitration panel or arbitrator, or governmental, regulatory or administrative body finding any such intentional, willful, deliberate, criminal, dishonest, fraudulent or malicious acts, errors or omissions by the insured or intentional violations of law by the insured, or the insured admits to such an acts or omissions, then the insured must reimburse to the insurer any money that has been paid to the insured or on the insured's behalf by the insurer.

vi. Material changes

The insured must advise the insurer as soon as practicable of information of which the insured becomes aware deemed to be material to the risk. The insurer reserves the right to amend the terms and conditions of this policy and to charge an additional premium because of the change.

7 How much the insurer will pay to the insured

The schedule states:

- a. Whether the insured has purchased cover for each of the insuring clauses; and
- b. The limit and deductible applicable to each of the insuring clauses.
- c. The waiting period applicable to insuring clauses b) and c).

All payments that are made to the insured under this policy shall reduce and may exhaust the limit(s), sub-limits and aggregate limit of liability. Any payment will be subject to the terms and conditions contained within the policy.

The insurer will only pay that portion of any loss or claim which exceeds the deductible. The insurer can reduce payment of any covered amount owed by the insurer to the Insured by the deductible. The value of the deductible does not reduce the applicable limit.

Before insurers will pay any loss under insuring clauses b) or c) the waiting period must have been exceeded. The deductible will apply to these insuring clauses from the commencement of the period of restoration.

The limit or sub-limit applicable to each insuring clause is the maximum amount the insurer will pay under this policy including expenses where applicable, regardless of the number of insured events, claims or losses. Any limit or sub-limit is part of and not in addition to the aggregate limit of liability.

The maximum amount that the Insurer will pay to the Insured, or on the insured's behalf, in the aggregate, under this policy shall be the aggregate limit of liability stated in the schedule regardless of the number of insured events, claims or losses.

i. Aggregation and allocation

In the event that a loss or claim arises from more than one insured event, only one deductible shall apply. The highest of any applicable deductibles which apply to the relevant insured event will be the amount payable by the insured.

ii. Related matters

Any losses, claims or insured events that arise out of the same, related or continuing acts, facts, incidents, circumstances, errors or omissions shall be treated as a single event and will be deemed to have occurred when the first such related act, fact, incident, circumstance, error or omission occurred.

iii. Loss of income

In order to calculate the insured's loss of income, the insurer will adopt one of the following three methods as chosen by the insured:

- a. Loss of gross profit – the amount payable as indemnity hereunder shall be:

The insurer will take the insured's reduction in sales, which is the figure produced by applying the rate of gross profit to the amount by which sales during the period of restoration or reputational harm period of restoration (where applicable), are less than standard sales as a result of the specified insured event, and reduce this figure by any amount that the insured saved during the period of restoration or reputational harm period of restoration (where applicable), due to any

charges or expenses (paid out of gross profit) which cease/are reduced during the period of restoration or reputational harm period of restoration n.

b. Loss of gross earnings – The amount payable as indemnity hereunder shall be:

The Insurer will take the insured's gross earnings and all other earnings that would have been earned during the period of restoration or reputational harm period of restoration (where applicable), if the specified insured event had not occurred. The insurer will reduce that figure by all charges and expenses that cease/are reduced during the period of restoration or reputational harm period of restoration (where applicable). It is hereby understood and agreed that where there is a loss of production, but no materially lower or zero loss of Sales, then due account shall be taken when quantifying the loss payable under this Policy in order to indemnify the Insured for the actual loss sustained.

c. Loss of net income – The amount payable as indemnity hereunder shall be:

The insurer will take the insured's net income before tax that would have been achieved during the period of restoration or reputational harm period of restoration (where applicable), if the specified insured event had not occurred. The insurer will add to that figure, the insured's continuing normal operating expenses (including but not limited to payroll, rent and utility bills) which are redundant because of the insured event (to the extent that the insured must continue to pay these expenses during the period of restoration or reputational harm period of restoration (where applicable)).

In the event that, during the period of restoration or reputational harm period of restoration (where applicable), goods are sold or services are rendered by means of alternative methods, facilities or personnel, the money which is paid or payable for these goods or services shall be taken into account by the insurer when it calculates the insured's loss of income (by any of the three methods referred to above).

In the course of calculating the insured's loss of income, the insurer shall make adjustments as required to allow for trends, changes in circumstances or variations affecting the insured's business before or after the specified insured event occurred or which would have affected the insured's business had the specified insured event not occurred.

Once the insurer has completed its adjustment of the figures by one of the methods described above, the final figure shall represent as closely as possible, the results which the insured would have obtained during the period of restoration or reputational harm period of restoration (where applicable) had the specified insured event not occurred.

i. Proof of loss

The insured shall provide as soon as practicable, but in any event no later than 180 days after a loss is discovered, a proof of loss detailing the loss for which it is seeking coverage under this policy, including as may be appropriate:

- a. Information and evidence known to the Insured of the facts relating to the insured event, threat, or failure, the amount of the loss;
- b. A description of the incident and any data, programs and equipment involved;
- c. Identification of involved personnel;
- d. Copies of available system and security logs, and any reports of outside experts and consultants; and
- e. Any other information as reasonably requested by the Insurer's representatives.

The insured may provide an interim proof of loss and request interim payment from insurers if the loss is incapable of being fully quantified.

i. Claims preparation costs

This policy provides coverage for reasonable and supportable costs incurred by the insured (including the cost of utilizing external consultants) for preparation, presentation, certification and/or verification of any proof of loss under insuring clauses (b), (c) or (e). A 50% co-insurance will be applied to this clause, whereby the Insured must contribute 50% towards any costs provided for under this clause, with insurers' maximum liability under this clause capped at USD 50,000 or currency equivalent. Such amount shall be part of and not in addition to the aggregate limit of liability in the schedule.

8 Other information

i. Assignment

The insured interest under this policy cannot be assigned in whole or in part without the insurer's prior written consent.

ii. Insolvency

If the insured becomes bankrupt or subject to insolvency proceedings, this will not automatically terminate or relieve the insurer of obligations owed under this policy.

iii. Cancellation

The insured can cancel this policy at any time during the policy period by providing written notice to the insurer specifying when such cancellation is to take effect (the date must be after the insurer receives written notice). If notifying the Insurer by post, receipt will be deemed to have occurred on the third day after mailing.

The insurer can cancel this policy on fourteen (14) calendar days' notice in the event of non-payment of the premium by providing written notification to the insured at the address stated in the schedule. Such cancellation will take effect on the fourteenth (14) day after the Insured's receipt of the Insurer's written notification. If notifying by post, receipt will be deemed to have taken place on the third (3rd) calendar day after mailing.

In the event of cancellation as above, provided that the Insured has not notified any actual or potential loss or claim, the Insured will be entitled to a pro-rata refund of premium. No premium will be refunded to the insured if any actual or potential loss or claim has been notified prior to cancellation.

iv. Mergers and acquisition and change of control

If, during the policy period, the insured or any subsidiary of the insured acquires another entity the acquired entity shall automatically be considered as a subsidiary under the policy unless:

- That entity increases the Insured's revenue by more than 15% from the prior year revenue figure provided in the application; and/or
- That entity stores a total number of unique, personally identifiable records, at the date of the completion of such acquisition, that is more than 20% of the total unique, personally identifiable records that the Insured declared within the application;

In such cases, the acquired entity shall only be considered as a subsidiary under the policy if the insurer receives prior written notice and sufficient details (regarding the acquisition) within thirty (30) days. The insured must also agree to pay any resulting additional premium that the insurer deems appropriate in order for the new acquisition to be considered a subsidiary under the policy.

The insurer will only provide coverage to any new subsidiary for a claim or loss which arises out of an insured event which first occurred after the new acquisition became a subsidiary under the policy.

If, during the policy period, the insured is acquired by another entity, merged with another entity, sold, dissolved or liquidated, any cover under this policy terminates on the date of the merger or acquisition. Subject to the terms and conditions contained herein, the policy shall respond to any

claims or losses that arise from insured events that occurred before the date of acquisition or merger.

The insurer shall not provide any coverage for the insured after the date of acquisition or merger unless the insured provides the insurer with prior written notice of the forthcoming acquisition, merger, sale, dissolution or liquidation and has agreed to pay any additional premium required by the insurer. In these circumstances, the insurer shall issue an endorsement extending the coverage under the policy.

v. Law & jurisdiction

This policy is subject to the law and jurisdiction as stated in the schedule. The courts stated in the schedule shall have exclusive jurisdiction to resolve any disputes arising in connection with this policy.

vi. Administration of the policy

The named insured shall act on behalf of each and every insured for all purposes including but not limited to negotiation of terms and conditions of the policy, exercising all the insured's rights under the policy, paying applicable premiums and deductibles, any notice (including cancellation and receipt and acceptance of any endorsements).

vii. Other insurance

The coverage afforded by this policy shall apply in excess of any other valid and collectible insurance available to the insured, including any retention or equivalent portion thereof, unless such other insurance is written only as specific excess insurance over the limit of this policy. This policy shall be specifically excess of any insurance contract providing a duty to defend the insured and shall be excess of amounts paid by any directors & officers liability insurance, employment practices liability insurance, and commercial general liability insurance. If any portion of defense costs incurred by the insured are covered under any other valid and collectible insurance, this policy shall be responsible only for the portion of such defense costs not paid under any other insurance policy.

Notwithstanding the foregoing, this policy shall recognize payment by the insured of applicable retentions in other insurance and apply such payment against any applicable deductible under this policy.

However, this policy shall act as primary insurance in respect of the following insuring clauses; (a), (f), (g) and (h).

This clause shall not be interpreted to prejudice the defense or settlement of any claim or loss. In the event that an insurer providing coverage to which this policy is excess fails to pay covered losses, the insurer shall advance and indemnify such covered losses unless and until such other insurance pays. If and to the extent the insurer pays covered losses covered by other insurance to which this policy is excess, the insurer shall be subrogated to the insured's rights of recovery under such other insurance and the insured will comply with section (x) subrogation to secure such rights.

viii. Subrogation

If any payment is made under this policy and there is available to the insurer any of the insured's rights of recovery against any third party, then the insurer shall maintain all such rights of recovery. The insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The insured shall do nothing to prejudice such rights. Any recoveries shall be applied first to subrogation expenses, second to damages, defense costs, or any other amounts paid by the underwriters, and lastly to the deductible. Any additional amounts recovered shall be

paid to the insured. Notwithstanding the foregoing, there shall be no subrogation against the specific critical vendors, clients, or other parties scheduled by endorsement (if any).

ix. Innocent insured provision

Whenever coverage under this policy would be excluded, suspended, or lost because of non-compliance with section 6 (i) relating to providing notice of a claim or any loss to insurers, with respect to which any other insured shall be in default solely because of the failure to give such notice or concealment of such failure by one or more insureds, then such insurance as would otherwise be afforded under this policy shall cover and be paid with respect to those insureds who did not personally commit, personally participate in committing, or personally acquiesce in such failure to give notice, provided that the insured entitled to the benefit of this provision shall comply with section 6 (i), promptly after obtaining knowledge of the failure of any other insured to comply therewith. Notwithstanding the foregoing, the reporting of any such claim or loss must be made during the

Policy period or extended reporting period, if applicable. Whenever coverage under this policy would be excluded, suspended, or lost because of exclusion: intentional acts, relating to any deliberate, intentional, malicious, criminal, unlawful, fraudulent, or dishonest act by any insured, then such insurance as would otherwise be afforded under this policy shall cover and be paid with respect to those insureds who did not personally commit, personally participate in committing, personally acquiesce, or remain passive after having personal knowledge thereof.

x. Dispute resolution

In the event of any dispute between the insured and insurer involving this policy or a claim or Loss hereunder, the parties shall attempt in good faith to resolve any dispute or controversy by negotiation. If the dispute has not been resolved by negotiation within thirty (30) days of the disputing party's notice, the dispute shall be referred to non-binding mediation. Unless both parties agree otherwise, any non-binding mediation shall be administered by the American Arbitration Association.

xi. Privacy and data notice

Who we are

We are the Lloyd's underwriter(s) identified in the contract of insurance and/or in the certificate of insurance.

The basics We collect and use relevant information about you to provide you with your insurance cover or the insurance cover that benefits you and to meet our legal obligations.

This information includes details such as your name, address and contact details and any other information that we collect about you in connection with the insurance cover from which you benefit. This information may include more sensitive details such as information about your health and any criminal convictions you may have.

In certain circumstances, we may need your consent to process certain categories of information about you (including sensitive details such as information about your health and any criminal convictions you may have). Where we need your consent, we will ask you for it separately. You do not have to give your consent and you may withdraw your consent at any time. However, if you do not give your consent, or you withdraw your consent, this may affect our ability to provide the insurance cover from which you benefit and may prevent us from providing cover for you or handling your claims.

The way insurance works means that your information may be shared with, and used by, a number of third parties in the insurance sector for example, insurers, agents or brokers, reinsurers, loss adjusters, sub-contractors, regulators, law enforcement agencies, fraud and crime prevention and detection agencies and compulsory insurance databases.

We will only disclose your personal information in connection with the insurance cover that we provide and to the extent required or permitted by law.

Other people's details you provide to us

Where you provide us or your agent or broker with details about other people, you must provide this notice to them.

Want more details?

For more information about how we use your personal information please see our full privacy notice(s), which is/are available online on our website(s) or in other formats on request.

Contacting us and your rights

You have rights in relation to the information we hold about you, including the right to access your information. If you wish to exercise your rights, discuss how we use your information or request a copy of our full privacy notice(s), please contact us, or the agent or broker that arranged your insurance.

xii. Complaints

The Insurer aims to provide the highest quality of service. However, if the Insured feels that the level of service it has received falls short of the standard that it expects, please let the Insurer know immediately. If the Insured has a complaint the Insured has the right to raise its complaint with its broker, intermediary or agent. Alternatively, the Insured can write to:

The Compliance Manager

Floor 29,

22 Bishopsgate,

London,

EC2N 4BQ

Email: LDNComplaints@CMAL.com

Telephone: +44 (0) 203 943 4400

If the Insured remains dissatisfied, the Insured may refer its complaint to Lloyd's who will investigate and provide a response. See: www.lloyds.com/complaints

Ultimately, if the Insured remains dissatisfied it may, in writing, refer its complaint to the Financial Ombudsman Service (FOS). See: www.financial-ombudsman.org.uk



Helping you do more

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