

APPROVED

Date Received: 05/22/2014 Date Of Action: 06/30/2014  
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FL OFFICE OF INSURANCE REGULATION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## CYBERONE COVERAGE

### COMPUTER ATTACK AND NETWORK SECURITY LIABILITY

Coverage under this endorsement is subject to the following SCHEDULE:

#### SECTION 1 – COMPUTER ATTACK

<b>Computer Attack Limit</b>	\$
	Annual Aggregate
<b>Sublimits</b>	
Data Re-creation	\$
Loss of Business	\$
Public Relations	\$
	Per Occurrence
<b>Computer Attack Deductible</b>	\$
	Per Occurrence

#### SECTION 2 – NETWORK SECURITY LIABILITY

<b>Network Security Liability Limit</b>	\$
	Annual Aggregate
<b>Network Security Liability Deductible</b>	\$
	Per Occurrence
<b>Network Security Liability Optional Coverage</b>	
3 <sup>rd</sup> Party Business Information	_____

The following is added as an Additional Coverage. If this is being endorsed onto a multi-section form, it is added to the Property section. This form may also be endorsed onto a Commercial General Liability coverage form as a matter of convenience for policy issuance. In such a case, the coverage and service provided under this endorsement are separate from the Commercial General Liability coverage. CyberOne Coverage includes reimbursement of specified legal expenses as well as defense and liability against certain claims, but such coverage is subject to the Network Security Liability coverage limit. The limit and deductible applicable to CyberOne Coverage are separate from the limits and deductibles that apply to the coverage to which the endorsement attaches:

#### **SECTION 1 – COMPUTER ATTACK**

##### **SECTION 1 – COVERED CAUSE OF LOSS**

This Computer Attack coverage applies only if all of the following conditions are met:

1. There has been a "computer attack"; and
2. Such "computer attack" is first discovered by you during the policy period for which this endorsement is applicable; and
3. Such "computer attack" is reported to us as soon as practicable, but in no event more than 60 days after the date it is first discovered by you.

##### **SECTION 1 – COVERAGES PROVIDED**

If all three of the conditions listed above in SECTION 1 – COVERED CAUSE OF LOSS have been met, then we will provide you the following coverages for loss directly arising from such "computer attack".

##### **1. Data Restoration**

We will pay your necessary and reasonable "data restoration costs".

##### **2. Data Re-creation**

We will pay your necessary and reasonable "data re-creation costs".

##### **3. System Restoration**

We will pay your necessary and reasonable "system restoration costs".

##### **4. Loss of Business**

We will pay your actual "business income loss" and your necessary and reasonable "extra expenses".

##### **5. Public Relations**

If you suffer a covered "business income loss", we will pay for the services of a professional public relations firm to assist you in communicating your response to the "computer attack" to the media, the public and your customers, clients or members.

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**SECTION 2 – NETWORK SECURITY LIABILITY**  
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**SECTION 1 - LIMITS**

The most we will pay under Computer Attack coverage is the Computer Attack Limit indicated for this endorsement. If no limit is shown or is shown as Excluded on the SCHEDULE at the top of this endorsement, then the Computer Attack coverage will be considered to have a limit of \$0.

The most we will pay under Data Re-creation coverage for loss (including "business income loss" and "extra expense" related to data re-creation activities) arising from any one "computer attack" is the Data Re-creation Sublimit indicated for this endorsement. This sublimit is part of, and not in addition to, the Computer Attack Limit. If no sublimit is shown or is shown as Excluded on the SCHEDULE at the top of this endorsement, then the Data Re-creation coverage will be considered to have a sublimit of \$0.

The most we will pay under Loss of Business coverage for loss arising from any one "computer attack" is the Loss of Business Sublimit indicated for this endorsement. This sublimit is part of, and not in addition to, the Computer Attack Limit. If no sublimit is shown or is shown as Excluded on the SCHEDULE at the top of this endorsement, then the Loss of Business coverage will be considered to have a sublimit of \$0.

The most we will pay under Public Relations coverage for loss arising from any one "computer attack" is the Public Relations Sublimit indicated for this endorsement. This sublimit is part of, and not in addition to, the Computer Attack Limit. If no sublimit is shown or is shown as Excluded on the SCHEDULE at the top of this endorsement, then the Public Relations coverage will be considered to have a sublimit of \$0.

The Computer Attack Limit is an annual aggregate limit. This amount is the most we will pay for the total of all loss covered under Section 1 arising out of all "computer attack" events which are first discovered by you during the present annual policy period. This limit applies regardless of the number of "computer attack" events occurring during that period.

A "computer attack" may be first discovered by you in one policy period but it may cause covered costs in one or more subsequent policy periods. If so, all covered costs arising from such "computer attack" will be subject to the Computer Attack Limit applicable to the policy period when the "computer attack" was first discovered by you.

**SECTION 1 - DEDUCTIBLE**

The Computer Attack coverage is subject to the Computer Attack Deductible indicated in the SCHEDULE for this endorsement. You shall be responsible for the applicable deductible amount as respects loss arising from each "computer attack" covered under this endorsement.

**SECTION 2 – COVERED CAUSE OF LOSS**

This Network Security Liability coverage applies only if all of the following conditions are met:

1. You first receive notice of a "network security liability suit" during the policy period for which this endorsement is applicable or any Extended Reporting Periods; and
2. Such "network security liability suit" is reported to us as soon as practicable, but in no event more than 60 days after the date it is first received by you.

**SECTION 2 – COVERAGES PROVIDED**

If both of the conditions listed above in SECTION 2 – COVERED CAUSE OF LOSS have been met, then we will provide you the following coverages for loss directly arising from such "network security liability suit".

**1. Defense**

We will pay your necessary and reasonable "network security liability defense costs".

**2. Settlement Costs**

We will pay your necessary and reasonable "network security liability settlement costs".

**SECTION 2 - LIMITS**

Except for post-judgment interest, the most we will pay under Network Security Liability coverage is the Network Security Liability Limit indicated for this endorsement. If no limit is shown or is shown as Excluded on the SCHEDULE at the top of this endorsement, then the Network Security Liability coverage will be considered to have a limit of \$0.

The Network Security Liability Limit is an annual aggregate limit. This amount is the most we will pay for the total of all loss covered under Section 2 (other than post-judgment interest) arising out of all "network security liability suits" of which you first receive notice during the present annual policy period or any Extended Reporting Periods. This limit applies regardless of the number of "network security liability suits" of which you first receive notice during that period.

You may first receive notice of a "network security liability suit" in one policy period but it may cause covered costs in one or more subsequent policy periods. If so, all covered costs arising from such "network security liability suit" (other than post-judgment interest) will be subject to the Network Security Liability Limit applicable to the policy period

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when notice of the "network security liability suit" was first received by you.

The Network Security Liability Limit for the Extended Reporting Periods (if applicable) shall be part of, and not in addition to, the Network Security Liability Limit for the immediately preceding policy period.

### SECTION 2 - DEDUCTIBLE

The Network Security Liability coverage is subject to the Network Security Liability Deductible indicated in the SCHEDULE for this endorsement. You shall be responsible for the applicable deductible amount as respects loss arising from each "network security liability suit" covered under this endorsement.

## EXCLUSIONS, ADDITIONAL CONDITIONS AND DEFINITIONS APPLICABLE TO ALL SECTIONS

### EXCLUSIONS

The following additional exclusions apply to this coverage:

We will not pay for costs or loss arising from the following:

1. Loss to the internet, an internet service provider, or any computer or computer system that is not owned or leased by you and operated under your control.
2. Costs to research or correct any deficiency.
3. Any fines or penalties.
4. Any criminal investigations or proceedings.
5. Any threat, extortion or blackmail. This includes, but is not limited to, ransom payments and private security assistance.
6. Your intentional or willful complicity in a covered loss event or your reckless disregard for the security of your computer system or data.
7. Any criminal, fraudulent or dishonest act, error or omission, or any intentional or knowing violation of the law by you.
8. Any "computer attack" occurring prior to the first inception of this CyberOne coverage endorsement or any coverage substantially similar to that described in this endorsement.
9. That part of any "network security liability suit" seeking any non-monetary relief.
10. Any "network security liability suit" arising from a propagation of malware, denial of service attack, or if applicable, loss, release or disclosure of business data that occurred prior to the first inception of this CyberOne coverage endorsement or any coverage substantially similar to that

- described in this endorsement.
11. The propagation or forwarding of information, including viruses, worms, Trojans, spyware and keyloggers in connection with hardware or software created, produced or modified by you for sale, lease or license to third parties.

### ADDITIONAL CONDITIONS

The following additional conditions apply to all coverages under this endorsement.

#### A. Due Diligence

You agree to use due diligence to prevent and mitigate costs covered under this endorsement. This includes, but is not limited to, complying with reasonable and industry-accepted protocols for:

1. Providing and maintaining appropriate computer and internet security; and
2. Maintaining and updating at appropriate intervals backups of computer data.

#### B. Duties in the Event of a "Network Security Liability Suit"

1. If a "network security liability suit" is brought against you, you must:
  - a. Immediately record the specifics of the "network security liability suit" and the date received; and
  - b. Provide us with written notice, as soon as practicable, but in no event more than 60 days after the date the "network security liability suit" is first received by you.
  - c. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "network security liability suit";
  - d. Authorize us to obtain records and other information;
  - e. Cooperate with us in the investigation, settlement or defense of the "network security liability suit";
  - f. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to you because of loss to which this insurance may also apply; and
  - g. Not take any action, or fail to take any required action, that prejudices your rights or our rights with respect to such "network security liability suit".

#### C. Extended Reporting Periods

1. You shall have the right to the Extended Reporting Periods described in this section, in the event that:
  - a. You or we cancel this CyberOne coverage;

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- b. You or we refuse to renew this CyberOne coverage; or
  - c. We renew this CyberOne coverage on an other than a claims-made basis or with a retroactive date later than the date of the first inception of this CyberOne coverage endorsement or any coverage substantially similar to that described in this endorsement;
2. If an event as specified in Paragraph 1. has occurred, you shall have the right to the following:
- a. An Automatic Extended Reporting Period of 30 days after the effective date of cancellation or nonrenewal at no additional premium in which to give to us written notice of a "network security liability suit" of which you first receive notice during said Automatic Extended Reporting Period for any propagation of malware, denial of service attack, or if applicable, loss, release or disclosure of business data occurring before the end of the coverage period for this CyberOne coverage and which is otherwise covered by this CyberOne coverage; and
  - b. Upon payment of an additional premium of 100% of the full annual premium applicable to this CyberOne coverage, a Supplemental Extended Reporting Period of 1 year immediately following the effective date of cancellation or nonrenewal in which to give to us written notice of a "network security liability suit" of which you first receive notice during said Supplemental Extended Reporting Period for any propagation of malware, denial of service attack, or if applicable, loss, release or disclosure of business data occurring before the end of the coverage period for this CyberOne coverage and which is otherwise covered by this CyberOne coverage.

To obtain the Supplemental Extended Reporting Period, you must request it in writing and pay the additional premium due, within 30 days of the effective date of cancellation or nonrenewal. If we do not receive the written request as required, you may not exercise this right at a later date.

This insurance, provided during the Supplemental Extended Reporting Period, is excess over any other valid and collectible insurance that begins or continues in effect after the Supplemental Extended Reporting Period becomes effective, whether the other insurance applies on a

#### D. Network Security Liability Defense

- 1. We shall have the right and the duty to assume the defense of any applicable "network security liability suit" against you. You shall give us such information and cooperation as we may reasonably require.
- 2. You shall not admit liability for or settle any "network security liability suit" or incur any defense costs without our prior written consent.
- 3. If you refuse to consent to any settlement recommended by us and acceptable to the claimant, we may then withdraw from your defense by tendering control of the defense to you. From that point forward, you shall, at your own expense, negotiate or defend such "network security liability suit" independently of us. Our liability shall not exceed the amount for which the claim or suit could have been settled if such recommendation was consented to, plus defense costs incurred by us, and defense costs incurred by you with our written consent, prior to the date of such refusal.
- 4. We shall not be obligated to pay any damages or defense costs, or to defend or continue to defend any "network security liability suit", after the Network Security Liability Limit has been exhausted.
- 5. We shall pay all interest on that amount of any judgment within the Network Security Liability Limit which accrues:
  - a. After entry of judgment; and
  - b. Before we pay, offer to pay or deposit in court that part of the judgment within the Network Security Liability Limit or, in any case, before we pay or offer to pay the entire Network Security Liability Limit.

These interest payments shall be in addition to and not part of the Network Security Liability Limit.

#### E. Other Data Coverage in This Policy

Some elements of this CyberOne coverage may also be covered under the policy to which this endorsement is attached. If so, this CyberOne coverage will apply as excess, additional coverage. If loss payment has been made under the policy for the same event, the amount of such payment will count towards the deductible that applies to this CyberOne coverage.

#### F. Services

The following conditions apply as respects any services provided to you by any service firm provided or paid for in whole or in part under this

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endorsement:

1. The effectiveness of such services depends on your cooperation and assistance.
2. We do not warrant or guarantee that the services will end or eliminate all problems associated with the covered events.

### DEFINITIONS

With respect to the provisions of this endorsement only, the following definitions are added:

1. "Business Income Loss" means the sum of the:
  - a. Net income (net profit or loss before income taxes) that would have been earned or incurred; and
  - b. Continuing normal and necessary operating expenses incurred, including employee payroll,  
actually lost by you during the "period of restoration".
2. "Computer Attack" means one of the following involving a computer or other electronic hardware that is owned or leased by you and operated under your control:
  - a. Unauthorized Access - meaning the gaining of access to your computer system by an unauthorized person or persons; or
  - b. Malware Attack - meaning damage to your computer system or data arising from malicious code, including viruses, worms, Trojans, spyware and keyloggers. This does not mean damage from shortcomings or mistakes in legitimate electronic code or damage from code installed on your computer system during the manufacturing process.
  - c. Denial of Service Attack - meaning a deliberate act to prevent third parties from gaining access to your computer system through the internet in a manner in which they are legally entitled.
3. "Data Re-creation Costs"
  - a. "Data re-creation costs" means the costs of an outside professional firm hired by you to research, re-create and replace data that has been lost or corrupted and for which there is no electronic source available or where the electronic source does not have the same or similar functionality to the data that has been lost or corrupted.
  - b. "Data re-creation costs" also means your actual "business income loss" and your necessary and reasonable "extra expenses" arising from the lack of the lost or corrupted data during the time required to research, re-create and replace such data.

- c. "Data re-creation costs" means the costs to research, re-create and replace:
  - 1) Software programs or operating systems that are not commercially available; or
  - 2) Data that is obsolete, unnecessary or useless to you.

#### 4. "Data Restoration Costs"

- a. "Data restoration costs" means the costs of an outside professional firm hired by you to replace electronic data that has been lost or corrupted. In order to be considered "data restoration costs," such replacement must be from one or more electronic sources with the same or similar functionality to the data that has been lost or corrupted.
  - b. "Data restoration costs" does not mean costs to research, restore or replace:
    - 1) Software programs or operating systems that are not commercially available; or
    - 2) Data that is obsolete, unnecessary or useless to you.
5. "Extra Expense" means the additional cost you incur to operate your business during the "period of restoration" over and above the cost that you normally would have incurred to operate your business during the same period had no "computer attack" occurred.
  6. "Network Security Liability Defense Costs"
    - a. "Network security liability defense costs" means reasonable and necessary expenses resulting solely from the investigation, defense and appeal of any "network security liability suit" against you. Such expenses may be incurred by us. Such expenses may include premiums for any appeal bond, attachment bond or similar bond. However, we have no obligation to apply for or furnish such bond.
    - b. "Network security liability defense costs" does not mean your salaries or your loss of earnings.
  7. "Network Security Liability Settlement Costs"
    - a. "Network security liability settlement costs" means the following, when they arise from a "network security liability suit":
      - 1) Damages, judgments or settlements; and
      - 2) Defense costs added to that part of any judgment paid by us, when such defense costs are awarded by law or court order; and
      - 3) Pre-judgment interest on that part of any judgment paid by us.
    - b. "Network security liability settlement costs"

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does not mean:

- 1) Civil or criminal fines or penalties imposed by law;
- 2) Punitive or exemplary damages;
- 3) The multiplied portion of multiplied damages;
- 4) Taxes; or
- 5) Matters which may be deemed uninsurable under the applicable law.

### 8. "Network Security Liability Suit"

- a. "Network security liability suit" means a civil proceeding against you in which damages are alleged. Such proceeding must be brought in the United States of America, Puerto Rico or Canada. Such proceeding must be based on an allegation that a negligent security failure or weakness with respect to a computer or other electronic hardware that is owned or leased by you and operated under your control allowed one or more of the following to happen:
  - 1) The unintended propagation or forwarding of malware, including viruses, worms, Trojans, spyware and keyloggers. Malware does not include shortcomings or mistakes in legitimate electronic code.
  - 2) The unintended abetting of a denial of service attack against one or more other systems.
- b. If the 3<sup>rd</sup> Party Business Information line under Network Security Liability Optional Coverage on the SCHEDULE at the top of this endorsement is marked as Included, then "network security liability suit" also means a civil proceeding against you in which damages are alleged which is brought in the United States of America, Puerto Rico or Canada and which is based on an allegation that a negligent security failure or weakness with respect to a computer or other electronic hardware that is owned or leased by you and operated under your control allowed the loss, release or disclosure of business data that is owned by or proprietary to a third party. This does not include personally identifying information or other information that is sensitive or personal to individuals. If the 3<sup>rd</sup> Party Business Information line under Network Security Liability Optional Coverage on the SCHEDULE at the top of this endorsement is marked as Excluded or is blank, then "network security liability suit" does not include such suits.
- c. "Network security liability suit" includes the following:

1) An arbitration proceeding in which you are required to submit to or which we agree you should submit to; or

2) A written demand for money, when such demand could reasonably result in a civil proceeding as described in this definition.

d. "Network security liability suit" does not mean any demand or action alleging or arising from property damage or bodily injury.

e. "Network security liability suit" does not mean any demand or action brought by or on behalf of someone who is:

- 1) Your director or officer;
- 2) Your owner or part-owner; or
- 3) A holder of your securities;

in their capacity as such, whether directly, derivatively, or by class action.

9. "Period of Restoration" means the period of time that begins at the time that the "computer attack" is discovered by you and continues until the earlier of:

- a. The date that all data restoration, data re-creation and system restoration directly related to the "computer attack" has been completed; or
- b. The date on which such data restoration, data re-creation and system restoration could have been completed with the exercise of due diligence and dispatch.

### 10. "System Restoration Costs"

a. "System restoration costs" means the costs of an outside professional firm hired by you to do any of the following in order to restore your computer system to its pre- "computer attack" level of functionality:

- 1) Replace or reinstall computer software programs;
- 2) Remove any malicious code; and
- 3) Configure or correct the configuration of your computer system.

b. "System restoration costs" does not mean:

- 1) Costs to increase the speed, capacity or utility of your computer system;
- 2) Labor of your employees;
- 3) Any costs in excess of the actual cash value of your computer system; or
- 4) Costs to repair or replace hardware.

All other provisions of this policy apply.

POLICY NUMBER:

SPARTA Insurance Company

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COMMERCIAL GENERAL LIABILITY  
FL OFFICE OF INSURANCE REGULATION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## DATA BREACH COVERAGE

THIS FORM PROVIDES CLAIMS-MADE COVERAGE.  
PLEASE READ THE ENTIRE FORM CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SCHEDULE

<b>A. Data Breach Expense Aggregate Limit Of Insurance – \$10,000 unless otherwise indicated below:</b>		
\$		
<b>B. Data Breach Expense Each Data Breach Deductible – \$500 unless otherwise indicated below:</b>		
<b>C. Data Breach Liability Aggregate Limit of Insurance – \$50,000 unless otherwise indicated below:</b>		
\$		
<b>D. Premium</b>		
\$		
Effective Date: / /		Expiration Date: / /
Retroactive Date:		If no date entered, the Retroactive Date is the same as the effective date shown above.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.		

The provisions of the Commercial General Liability Coverage Part apply except as otherwise provided in this endorsement. This endorsement applies only if the Coverage Forms and Coverage Part named above are all included in this policy. All numbers and letters used to designate paragraphs in this endorsement are specific to this endorsement only. They do not reference paragraphs in the Commercial General Liability Coverage Parts.

**I. The following are added to COVERAGES:**

**A. Data Breach Expenses**

**1. Insuring Agreement**

We will pay for "data breach expenses" that you incur as a result of a "data breach" of "personally identifiable information" but this insurance applies only if:

- a. The "data breach" occurs on or after the Retroactive Date and before the end of the policy period.

- b. You first become aware of the "data breach" during the policy period and you report the "data breach" in accordance with the provisions of section V., paragraph A.- **DUTIES IN THE EVENT OF LOSS.**

- c. You had no knowledge of the "data breach" at the time you applied for this insurance.

- d. The "data breach" is reported to us as soon as practicable, but in no event later than 30 days after it is first discovered by you.

- e. The "data breach" involves "personally identifiable information" that was stored or processed by you or on your behalf in the United States (including its territories and possessions), Puerto Rico and Canada.

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**B. Data Breach Liability** FL OFFICE OF INSURANCE REGULATION

**1. Insuring Agreement**

We will pay those sums that the insured becomes legally obligated to pay as "loss" because of any "data breach claim" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking damages arising from a covered "data breach claim". However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error, omission, defect or deficiency that may result in a "data breach claim" and settle any "data breach claim" or "suit" that may result. But:

- a. Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of "loss".
- b. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

**2. This insurance applies to "loss" only if:**

- a. The "data breach claim" is first made against you during the policy period or during any Extended Reporting Period that may apply. A "data breach claim" will be deemed to have been made when notice of such "claim" is received by you or by us, whichever comes first.
- b. At the time you applied for this insurance you had no knowledge of the "data breach" out of which the "data breach claim" arises.
- c. The "data breach claim" is reported to us within 30 days after you receive notice of the claim, but in no event later than 30 days after the end of the policy period or after any Extended Reporting Period that may apply.
- d. The "data breach claim" arises out of a "data breach" that occurs in the "coverage territory", and takes place on or after the Retroactive Date and before the end of the policy period.

We will have no duty or obligation to pay any sums for which this insurance does not apply.

**2. Limit of Insurance**

- a. We will pay for "data breach expenses" up to the limit of insurance shown in Item A of the Schedule. This is the maximum aggregate amount payable for all "data breach expenses" combined for all "data breaches" covered under this policy, regardless of the number of insureds, number of breaches, or number of records breached. A sublimit applies for the following "data breach expenses":

- (1) The maximum aggregate amount we will pay for "legal and forensic services" relating to any and all "data breaches" covered by this policy is \$5,000.
- (2) The maximum aggregate amount we will pay for "good faith advertising services" relating to any and all "data breaches" covered by this policy is \$5,000.
- (3) The insurance under (1) and (2) above are part of, not in addition to, the Data Breach Expense Aggregate Limit of Insurance in the Schedule.

- b. Regardless of when "data breach expenses" are incurred, we will not pay in excess of the limit of insurance shown in the Schedule that is applicable to the policy period when the "data breach" was first discovered.

**c. Deductible**

We will not pay for "data breach expenses" until the amount of loss exceeds the deductible shown in the Schedule. Such deductible shall apply to each and every "data breach". Subject to the terms and conditions of the policy, we will pay the amount of loss in excess of the deductible up to the limit of insurance shown in the Schedule.



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### 3. Notice of Claim

- a. As a condition precedent to coverage, you shall provide us with notice of any "data breach claim" within 30 days after you receive notice of the claim, and in no event later than 30 days after the policy period or after any Extended Reporting Period that may apply.
- b. All "data breach claims" arising from the same "data breach" shall be considered as one "data breach claim", first made on the earliest date that:
  - (1) any such "data breach claim" was first made, whether such date is before or during the policy period or during any Extended Reporting Period that may apply;
  - (2) notice of the "data breach" was provided to us pursuant to 3. d. below; or,
  - (3) notice of the "data breach" was provided pursuant to any other insurance policy.
- c. All "data breach(es)" that occur at the same time, or are caused by the same act, error, omission, defect or deficiency, or series of related acts, errors, omissions, defects or deficiencies, shall be considered to be a single "data breach", regardless of the number of claimants, or the number of entities that obtained access to the "personally identifiable information" involved in the breach.
- d. If, during the policy period, you become aware of any "data breach" that may lead to a claim and if written notice of such "data breach" is provided to us during the policy period, then any "data breach claims" arising from that "data breach" shall be deemed to be a "data breach claim" first made during the policy period, on the date when we receive such notice, provided that the notice to us contains all of the information described in section V., paragraph A., **DUTIES IN THE EVENT OF LOSS**, sub-paragraphs 3.(a) through (i).

### 4. Limit of Insurance

- a. Subject to the Aggregate Limit shown in the Declarations, the Data Breach Liability Aggregate Limit of Insurance shown in Item C of the Schedule is the most we will pay for all "loss" resulting from all "data breach claims" combined covered under this policy, regardless of the number of insureds, number of "data breach claims" or claimants, or number of "data breaches" or records breached.
- b. Regardless of when "data breach claims" are incurred, we will not pay in excess of the Data Breach Liability Aggregate Limit of Insurance shown in the Schedule that is applicable to the policy period when the "data breach" was first discovered.

### 5. Basic Extended Reporting Period

We will automatically provide a Basic Extended Reporting Period if this coverage part is:

- a. Cancelled;
- b. Non-renewed; or
- c. Renewed by us with insurance that does not apply on a claims made or claims made and reported basis.

The Basic Extended Reporting Period begins with the end of the "policy period" and lasts for 60 days. The Basic Extended Reporting Period is provided at no charge.

Under this provision, coverage is provided for claims first made against any of you during the policy period or during the Basic Extended Reporting Period, arising from a "data breach" that occurred on or after the Retroactive Date but before the end of the policy period.

The Basic Extended Reporting Period will not reinstate or increase the Limits of Insurance.

### 6. Supplemental Extended Reporting Period

A Supplemental Extended Reporting Period is available, but only by an endorsement and for an extra charge. This supplemental period, if purchased, will run concurrently with the automatic Extended Reporting Period set forth in Paragraph 5. above.

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You must give us written request for the endorsement within 60 days after the end of this policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due. The Supplemental Extended Reporting Period will not reinstate or increase the Limits of Insurance. We will determine the additional premium in accordance with our rules and rates.

Under the Supplemental Extended Reporting Period provision, coverage is provided for claims first made against any of you during the policy period or during the Supplemental Extended Reporting Period, arising from a "data breach" that occurred on or after the Retroactive Date but before the end of the policy period.

### II. The following are added to **EXCLUSIONS**:

This insurance does not apply to:

- A. Any "data breach" arising out of a criminal, fraudulent or dishonest act, error or omission, or any intentional or knowing violation of the law by an insured.
- B. Expenses arising out of any criminal investigations or proceedings or arising out of Governmental Action for the seizure or destruction of property by order of governmental authority, or War and Military Action including undeclared or civil war, insurrection rebellion, revolution or action taken by governmental authority in hindering or defending against any of these.
- C. Any costs to correct a deficiency in your systems, including but not limited to, data security, data storage or physical security and procedures.
- D. Any "data breach" arising out of any virus or other malicious code, software, spyware or malware that is, on the date the "data breach" occurred, named and recognized by the CERT Coordination Center or any industry acceptable third party antivirus, antimalware or other provider that monitors malicious code activity.
- E. Any "data breach" arising out of any failure to apply or the improper application of software patches, antivirus software or security updates to your computer operating system.
- F. Any fines, penalties, surcharges or any civil actions by a regulatory authority.

- G. Any costs or losses incurred by an insured whose "personally identifiable information" was the subject of a "data breach" except as provided under "data breach expenses".
- H. Any "data breach" that was known to an insured prior to the policy period or any "data breach claim" arising out of any shortcoming in a computer system that was known to an insured prior to the inception date of the policy. This includes any failure to take steps to use, design, maintain or upgrade a computer system and the inability to use, or lack of performance of software due to:
  - 1. expiration, cancellation, or withdrawal of such software.
  - 2. it not being released from its developmental state; or
  - 3. it not having passed all test runs or proven successful in applicable daily operations.
- I. Liability for any act, error or omission by any third party provider of services.
- J. "Bodily injury", "property damage" or "personal and advertising injury".
- K. Any "data breach expenses" or "data breach claims" arising directly or indirectly out of any action or omission that violates or is alleged to violate:
  - 1. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
  - 2. The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
  - 3. The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
  - 4. Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.
- L. Any "data breach claim" arising out of any discrimination of any kind, including but not limited to race, creed, religion, age, handicap, sex, marital status or financial condition; refusal to employ, termination of employment, coercion, demotion, evaluation, reassignment, discipline, harassment, humiliation, discrimination or any employment related practices, policies, acts, errors or omissions.

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- M. Any "data breach claim" arising out of any intentional or knowing violation of the insured's privacy policy.
- N. Any "data breach claim" arising out of any actual or alleged infringement or patent, trade secret, copyright, service mark, trademark, trade name, or misappropriation of ideas or any other intellectual property right.
- O. Any "data breach claim" arising out of any rendering of or failure to render any professional services for others, including without limitation, services performed by the insured for or on behalf of a customer or client.
- P. Any "data breach claim" arising out of any breach of any express, implied, actual or constructive contract, warranty, guarantee, or promise, including liability of others assumed by you under any contract or agreement or breach of contract, unless such liability would have attached to you in the absence of such an agreement.

### III. The following replaces **WHO IS AN INSURED**:

#### A. **WHO IS AN INSURED**

If you are designated in the Declarations as:

- 1. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- 2. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- 3. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- 4. An organization, other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors.
- 5. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

- 6. Any organization you name on the REGULATION form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if no other similar insurance applies to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
- b. Coverage under this provision does not apply to any act, error, omission, defect or deficiency was committed before you acquired or formed the organization.

### IV. The following are added to **CONDITIONS**:

- A. Our obligation to pay "data breach expenses" will only be in excess of the applicable deductible and up to the applicable limit of insurance as shown in the Schedule.
- B. "Data breach expenses" will only be paid for services performed by our designated third party provider(s) or by a third party provider that is approved by us in writing prior to the start of any services.
- C. Subject to all the terms, conditions and exclusions of this policy, this policy will apply only as excess insurance over any other valid insurance available to any insured unless such insurance is written to apply specifically as excess of this policy. This policy is written as specific excess of any coverage available under an extended reporting period on any other policy of insurance for any insured that took effect prior to the inception date of this policy as shown in the Declarations and whether such prior extended reporting period coverage is provided on an automatic or optional basis.

### V. The following replaces Paragraph 2. in **CONDITIONS**

#### A. **DUTIES IN THE EVENT OF LOSS**

- 1. You must report the "data breach" to us on or within 30 days of your discovery of the "data breach" and you must:
  - a. Immediately record the specifics of the "data breach", and the date discovered;

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- b. Cooperate with us in the investigation of the "data breach".
  - c. Assist us, upon our request, in the enforcement of any right against any person or organization which may have accessed, lost, stolen or disclosed the information or data giving rise to a "data breach".
  - d. You may not, except at your own cost, voluntarily make a payment, assume any obligation, or incur any expense without our prior written consent.
2. You have up to one year from the date of reporting a "data breach" to initiate the services provided to you as part of "data breach expenses".
  3. As soon as possible, give us, and/or our agent, a description of how, when and where the "data breach" occurred, including but not limited to all of the following information as it becomes known to you:
    - a. The method of "data breach";
    - b. The approximate date and time of the "data breach";
    - c. The approximate number of files compromised as a result of the "data breach";
    - d. A detailed description of the type and nature of the information that was compromised;
    - e. Whether or not the information was encrypted, and, if so, the level of encryption;
    - f. Whether or not law enforcement has been notified;
    - g. If available, the states in which the person(s) whose "personally identifiable information" was the subject of a "data breach" is domiciled;
    - h. If available, who received the information contained in the "data breach" and
    - i. Any other access, information or documentation we reasonably require to investigate or adjust the loss.
  4. Take all reasonable steps to protect "personally identifiable information" remaining in your care, custody or control.
  5. Preserve and permit us to inspect all evidence of the "data breach".
  6. If requested, permit us to question you under oath, orally or in writing, at such times as may be reasonably required about any matter relating to this insurance or the loss, including copies of your books and records. In answering questions in writing, your answers must be signed.
- VI. The following is deleted from **SUPPLEMENTARY PAYMENTS**:
- A. All expenses we incur.
- VII. The following are added to **DEFINITIONS**:
- A. "Data breach" means the loss, theft, accidental release or accidental publication of "personally identifiable information", or circumstances objectively giving rise to a substantial risk that such a loss, theft, release or publication has occurred.
  - B. "Data breach claim" means a written demand for monetary or non-monetary relief based upon a "data breach" or a civil suit or arbitration against an insured commenced by the filing of a complaint, indictment or similar document, seeking monetary or non-monetary relief based upon a "data breach".
  - C. "Data breach expenses" means:
    1. **Advertising Services Expenses**  
Expenses for "good faith advertising services", subject to section IV.B.
    2. **Crisis Management Expenses**  
Expenses for services performed by a public relations firm, crisis management firm or law firm to minimize potential harm to the insured, subject to section IV.B.
    3. **Legal Services Expenses**  
Expenses for "legal and forensic services", subject to section IV.B.
    4. **Monitoring Services Expenses**  
Expenses to provide victims with up to one year of monitoring services, including but not limited to credit and fraud monitoring services, if determined to be warranted by us, subject to section IV.B.
    5. **Notification Expenses**  
Expenses to notify a person in compliance with state and federal laws, statutes or regulations whose "personally identifiable information" was the subject of a "data breach", subject to section IV.B.

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- D. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- E. "Good faith advertising services" means services to assist in planning, organizing and implementing the insured's media responses to a "data breach".
- F. "Legal and forensic services" means services to determine if a "data breach" has occurred and for the verification of compliance with "data breach" notification laws, statutes and regulations.
- G. "Loss" means settlements and judgments (including any award or prejudgment interest) that you are legally obligated to pay as a result of a "data breach claim", as well as reasonable and necessary legal fees and expenses incurred in the defense of a "Suit" alleging a "data breach claim". "Loss" does not include civil damages, fines, penalties or punitive damages, or the cost of non-monetary relief.

- H. "Personally identifiable information" means information collected by an insured in the normal conduct of its business and that is required by law to be protected from public disclosure, including but not limited to social security numbers, bank account numbers, credit and debit card numbers and patient medical histories.

**VIII. The following DEFINITIONS are replaced:**

- A. "Suit" means a civil proceeding in which damages because of an act, error, omission, defect or deficiency to which this insurance applies are alleged. "Suit" includes:
  - 1. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - 2. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

## ELECTRONIC DATA LIABILITY COVERAGE FORM

THIS FORM PROVIDES CLAIMS-MADE COVERAGE.  
PLEASE READ THE ENTIRE FORM CAREFULLY.

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section VI – Definitions.

### SECTION I – COVERAGES

#### DAMAGE TO ELECTRONIC DATA LIABILITY

##### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "loss of electronic data" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any "electronic data incident" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limit Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- b. This insurance applies to "loss of electronic data" only if:

- (1) The "loss of electronic data":
  - (a) Is caused by an "electronic data incident";

- (b) Takes place in the "coverage territory"; and

- (c) Did not occur before the Retroactive Date, if any, shown in the Declarations or after the end of the policy period; and

- (2) A claim for damages because of the "loss of electronic data" is first made against any insured, in accordance with Paragraph c. below, during the policy period or any Extended Reporting Period we provide under Section V – Extended Reporting Period.

- c. A claim by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:

- (1) When notice of such claim is received and recorded by any insured or by us, whichever comes first; or
- (2) When we make a settlement in accordance with Paragraph a. above.

All claims for damages because of "loss of electronic data" arising out of an "electronic data incident" shall be deemed to have been made at the time the first of those claims is made against any insured.

A claim received and recorded by the insured within 30 days after the end of the policy period will be considered to have been received within the policy period. However, this 30-day period does not apply to claims that are covered under any subsequent insurance you purchase, or that would be covered but for the exhaustion of the amount of insurance applicable to such claims.

##### 2. Exclusions

This insurance does not apply to:

###### a. Expected Or Intended Loss

"Loss of electronic data" expected or intended from the standpoint of the insured.

**b. Contractual Liability**

"Loss of electronic data" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

**c. Computer Products Or Services Exclusion**

"Loss of electronic data" arising out of a negligent act, error or omission, by or for you, or anyone acting on your behalf in providing "computer products or services".

**d. Bodily Injury, Property Damage Or Personal And Advertising Injury**

Damages that are "bodily injury", "property damage" or "personal and advertising injury".

**e. Damage To Your Data**

"Loss of electronic data" that:

- (1) Is owned by you;
- (2) Was developed by or for you; or
- (3) Is "your work" or "your product".

**f. Performance Of A Contract**

"Loss of electronic data" arising out of a delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

**g. Infringement Of Intellectual Property Rights**

"Loss of electronic data" arising out of or resulting from the actual or alleged infringement of trademark, copyright, patent, trade secret or other intellectual property rights.

**h. Unauthorized Use Of Electronic Data**

"Loss of electronic data" arising out of theft or unauthorized viewing, copying, use, corruption, manipulation or deletion, of "electronic data" by any Named Insured, past or present "employee", "temporary worker" or "volunteer worker" of the Named Insured.

**i. Violation Of An Antitrust Law**

Any claim for damages arising out of the violation of an antitrust law.

**j. Criminal Or Fraudulent Acts**

"Loss of electronic data" arising out of a criminal or fraudulent act committed by or at the direction of the insured.

**SUPPLEMENTARY PAYMENTS**

We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

1. All expenses we incur.
2. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
3. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
4. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
5. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

**SECTION II – WHO IS AN INSURED**

1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
  - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:
  - a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.
  - b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
  - c. Any person or organization having proper temporary custody of your property if you die, but only until your legal representative has been appointed.
  - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
  - a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - b. Coverage does not apply to "loss of electronic data" that occurred before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### **SECTION III – LIMITS OF INSURANCE**

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".
2. The Aggregate Limit is the most we will pay for the sum of all damages because of "loss of electronic data".

3. Subject to Paragraph 2. above, the Each Electronic Data Incident Limit is the most we will pay for the sum of all damages because of the "loss of electronic data" arising out of any one "electronic data incident".

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### **SECTION IV – ELECTRONIC DATA LIABILITY CONDITIONS**

#### **1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

#### **2. Duties In The Event Of An Electronic Data Incident**

- a. You must see to it that we are notified as soon as practicable once you, or any insured listed under Paragraph 1. of Section II – Who Is An Insured, know or suspect that an "electronic data incident" has occurred, which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the known or suspected "electronic data incident" took place;
- (2) The name and address of any person or organization whose "electronic data" was lost or damaged; and
- (3) The nature and location of any damage arising out of the known or suspected "electronic data incident".

Notice of a known or suspected "electronic data incident" is not notice of a claim.

- b. If a claim is received by any insured, you must:

- (1) Immediately record the specifics of the claim and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim as soon as practicable.

- c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";



(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense.

### **3. Legal Action Against Us**

No person or organization has a right under this Coverage Part:

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### **4. Other Insurance**

If any other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, this insurance is excess over such other insurance, unless that other insurance was bought specifically to apply in excess of the Limit of Insurance shown in the Declarations of this Coverage Part.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance.

### **5. Premium Audit**

a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

### **6. Representations**

By accepting this policy, you agree:

a. The statements in the Declarations are accurate and complete;

b. Those statements are based upon representations you made to us; and

c. We have issued this policy in reliance upon your representations.

### **7. Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom claim is made or "suit" is brought.

### **8. Transfer Of Rights Of Recovery Against Others To Us**

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

### **9. When We Do Not Renew**

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

#### **SECTION V – EXTENDED REPORTING PERIOD**

1. You will have the right to purchase an Extended Reporting Period from us if:
  - a. This Coverage Part is canceled or not renewed for any reason; or
  - b. We renew or replace this Coverage Part with insurance that:
    - (1) Has a Retroactive Date later than the date shown in the Declarations of this Coverage Part; or
    - (2) Does not apply to "loss of electronic data" on a claims-made basis.

2. An Extended Reporting Period, as specified in Paragraph 1. above, lasts three years and is available only by endorsement and for an additional charge.

You must give us a written request for the Extended Reporting Period Endorsement within 30 days after the end of the policy period. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due and any premium or deductible you owe us for coverage provided under this policy. Once in effect, the Extended Reporting Period may not be canceled.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- a. The exposures insured;
- b. Previous types and amounts of insurance;
- c. Limits of Insurance available under this policy for future payment of damages; and
- d. Other related factors.

The additional premium will not exceed 100% of the annual premium for this policy.

3. The Extended Reporting Period starts with the end of the policy period and does not extend the policy period or change the scope of coverage provided. It applies only to claims to which the following applies:
  - a. The claim is first made during the Extended Reporting Period;
  - b. The "loss of electronic data" occurs before the end of the policy period; and
  - c. The "loss of electronic data" did not commence before the Retroactive Date, if any.

4. The Extended Reporting Period Endorsement applicable to this coverage shall set forth the terms, not inconsistent with this section, applicable to the Extended Reporting Period, including a provision to the effect that the insurance afforded for claims first received during such period is excess over any other valid and collectible insurance available under policies in force after the Extended Reporting Period starts.
5. The Extended Reporting Period does not reinstate or increase the Limits of Insurance.

#### **SECTION VI – DEFINITIONS**

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
3. "Coverage territory" means all parts of the world provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the United States of America (including its territories and possessions), Puerto Rico or Canada, or in a settlement we agree to.
4. "Computer products or services" means:
  - a. Manufacturing, developing, designing, creating, selling, handling, marketing, distributing, licensing, or disposing of computer or electronic goods, by you or on your behalf. Computer or electronic goods includes, but is not limited to:
    - (1) Computer software or computer programming;
    - (2) Electronic or computer equipment, components or peripherals;
    - (3) Communications or broadcasting equipment; or
    - (4) Industrial or robotic equipment;and any containers (other than vehicles), materials, parts or equipment furnished in connection with such computer or electronic goods, by you or on your behalf; or

**16. "Your product":**

**a. Means:**

- (1)** Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
  - (a)** You;
  - (b)** Others trading under your name; or
  - (c)** A person or organization whose business or assets you have acquired; and
- (2)** Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

**b. Includes:**

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2)** The providing of or failure to provide warnings or instructions.

**c. Does not include vending machines or other property rented to or located for the use of others but not sold.**

**17. "Your work":**

**a. Means:**

- (1)** Work or operations performed by you or on your behalf; and
- (2)** Materials, parts or equipment furnished in connection with such work or operations.

**b. Includes:**

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2)** The providing of or failure to provide warnings or instructions.

This endorsement changes the Commercial  
Liability Coverage provided by this policy  
-- PLEASE READ THIS CAREFULLY --

APPROVED  
Date Received: 12/03/2014 Date Of Action: 12/19/2014  
FL OFFICE OF INSURANCE REGULATION

## EXCLUSION -- DATA BREACH LIABILITY

The Commercial Liability Coverage is amended as follows. All other "terms" of the policy apply, except as amended by this endorsement.

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### DEFINITIONS

The following definition is added:

"Data records" means files, documents, and information in an electronic format that are stored on instruments used with computer hardware, networks, or other computer programs and applications, including those used with electronically controlled equipment.

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### EXCLUSIONS

The following exclusion is added:

"We" do not pay for:

1. "bodily injury" or "property damage" (or "personal injury" or "advertising injury", if provided by the Commercial Liability Coverage) arising out of disclosure of or access to private or confidential information belonging to any person or organization; or
2. any loss, cost, expense, or "damages" arising out of damage to, corruption of, loss of use or function of, or inability to access, change, or manipulate "data records".

This exclusion also applies to "damages" for any expenses incurred by "you" or others arising out of 1. or 2. above, including expenses for credit monitoring, notification, forensic investigation, and legal research.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **EXCLUSION – ACCESS, DISCLOSURE OR UNAUTHORIZED USE OF ELECTRONIC DATA**

This endorsement modifies insurance provided under the following:

### **ELECTRONIC DATA LIABILITY COVERAGE PART**

Exclusion 2.h. of Section I – Coverages – Damage To Electronic Data Liability is replaced by the following:

#### **2. Exclusions**

This insurance does not apply to:

##### **h. Access, Disclosure Or Unauthorized Use Of Electronic Data**

Damages arising out of:

- (1)** Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2)** Theft or unauthorized viewing, copying, use, corruption, manipulation or deletion, of "electronic data" by any Named Insured, past or present "employee", "temporary worker" or "volunteer worker" of the Named Insured.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 04 37 05 14

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ELECTRONIC DATA LIABILITY**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

<b>Loss Of Electronic Data Limit:   \$</b>
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A. Exclusion 2.p. of Coverage A – Bodily Injury And Property Damage Liability in Section I – Coverages is replaced by the following:**

**2. Exclusions**

This insurance does not apply to:

**p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1)** Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2)** The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data" that does not result from physical injury to tangible property.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph **(1)** or **(2)** above.

However, unless Paragraph **(1)** above applies, this exclusion does not apply to damages because of "bodily injury".

**B. The following is added to Paragraph 2. Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**

**2. Exclusions**

This insurance does not apply to:

**Access Or Disclosure Of Confidential Or Personal Information**

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

**C. The following paragraph is added to Section III – Limits Of Insurance:**

Subject to **5.** above, the Loss Of Electronic Data Limit shown in the Schedule above is the most we will pay under Coverage **A** for "property damage" because of all loss of "electronic data" arising out of any one "occurrence".

- b. Computer related services performed by you or on your behalf, including but not limited to:
  - (1) Installation, testing, service, maintenance, technical support, repair, integration, networking, consulting or analysis of or training for:
    - (a) Computer software or computer programming;
    - (b) Electronic or computer equipment, components or peripherals;
    - (c) Communications or broadcasting equipment; or
    - (d) Industrial or robotic equipment;
  - (2) Processing, storage, transmission or other handling of "electronic data" for others; or
  - (3) Provision of broadcasting or communication services for others, or consulting, evaluating or advising on such services, including but not limited to broadcasts or communications via television, cable, satellite, radio, Internet, wireless transmissions or cellular transmissions.
- 5. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
- 6. "Electronic data incident" means an accident, or a negligent act, error or omission, or a series of causally related accidents, negligent acts, or errors or omissions, which results in "loss of electronic data".
- 7. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 8. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- 9. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- 10. "Loss of electronic data" means damage to, loss of, loss of use of, corruption of, inability to access, or inability to properly manipulate, "electronic data".
- 11. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
  - a. False arrest, detention or imprisonment;
  - b. Malicious prosecution;
  - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
  - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
  - f. The use of another's advertising idea in your "advertisement"; or
  - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
- 12. "Property damage" means:
  - a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
  - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "electronic data incident" that caused it.

For the purposes of this insurance, "electronic data" is not tangible property.
- 13. "Suit" means a civil proceeding in which damages because of "loss of electronic data" to which this insurance applies are alleged. "Suit" includes:
  - a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
- 14. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- 15. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

**D. The following definition is added to the Definitions section:**

"Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

**E. For the purposes of the coverage provided by this endorsement, the definition of "property damage" in the Definitions section is replaced by the following:**

**17. "Property damage" means:**

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;**

- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it; or**

- c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate "electronic data", resulting from physical injury to tangible property. All such loss of "electronic data" shall be deemed to occur at the time of the "occurrence" that caused it.**

For the purposes of this insurance, "electronic data" is not tangible property.