

State of West Virginia

Market Reform Contract

1 July 2016

**THIS COMPANY IS NOT LICENSED TO
DO BUSINESS IN WEST VIRGINIA AND IS
NOT SUBJECT TO THE WEST VIRGINIA
INSURANCE GUARANTY ACT.**



Gallagher London

www.ajginternational.com



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MARKET REFORM CONTRACT

UMR: B1262FI0687316

RISK DETAILS

UNIQUE MARKET REFERENCE:

B1262FI0687316

TYPE:

Primary Cyber Liability

NAMED INSURED:

State of West Virginia

ADDRESS:

do West Virginia Board of Risk and Insurance Management
90 MacCorkle Ave. SW, Ste. 203
South Charleston, WV 25303

PERIOD:

From: 1 July 2016 Both days at 12:01 am Local Standard Time
at the Principal Address of the Insured.
To: 1 July 2017

INTEREST:

This Policy will indemnify/cover the Insured for Cyber Liability Insurance and as more fully disclosed within the Policy Wording.

LIMIT OF LIABILITY:

- A. USD 25,000,000 Each and Every Claim (including Claims Expenses)
- B. USD 25,000,000 in the Aggregate (including Claims Expenses) and sublimited as follows:
 - A. Privacy Liability (including Employee Privacy)
USD 25,000,000 in the Aggregate including Claims Expenses
 - B. Privacy Regulatory Claims Coverage
USD 25,000,000 in the Aggregate including Claims Expenses
 - C. Security Breach Response Coverage
USD 25,000,000 in the Aggregate including Claims Expenses
 - D. Security Liability
USD 25,000,000 in the Aggregate including Claims Expenses
 - E. Multimedia Liability
USD 25,000,000 in the Aggregate including Claims Expenses
 - F. Cyber Extortion
USD 25,000,000 in the Aggregate including Claims Expenses
 - G. Business Income and Digital Asset Restoration
 - G.1 Business Income Loss
No Cover Given
 - G.2 Digital Asset Restoration
USD 25,000,000 in the Aggregate including Claims Expenses

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H. PCI DSS Assessment
USD 1,000,000 in the Aggregate including Claims Expenses

**DEDUCTIBLE
(INCLUDING CLAIM
EXPENSES):**

USD 1,000,000 Each and Every Claim (including Claims Expenses)

**TERRITORIAL
LIMITS:**

Worldwide

**RETROACTIVE
DATE:**

13 August 2014 but
1 July 2016 in respect of USD 500,000 excess of USD 500,000 Clause H. PCI
DSS Assessment

**CONTINUITY
DATE**

13 August 2014

PREMIUM:

USD 690,082 for 100% for the Policy Period **TAX: NOT APPLICABLE**

CONDITIONS:

As per Policy Wording:
State of West Virginia 2016-17 Cyber Wording as attached
NMA45 Short Rate Cancellation Table Endorsement as attached
LMA3100 Sanctions & Exclusions Clause as attached
IUA 09-054 (FATCA) as attached
LMA9086 West Virginia Surplus Lines Notice
LMA9087 Guarantee Notice
Endorsement 1 - Breach Vendor Panel as attached
Endorsement 2 - State Attorney General Exclusion as attached
Endorsement 3 - Subsidiary List as attached
NMA2975 (Amended) Special Cancellation Clause, as attached

Jurisdiction Limits: Worldwide

SUBJECTIVITIES:

None

NOTICES:

Complaints Procedure Notice (as attached)

**NOTICE OF
CLAIM TO:**

Clyde & Co
101 2nd Street,
San Francisco
CA 94105
joan.dambrosio@cyldeco.us

Via

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Arthur J. Gallagher (UK) Limited
Gallagher Claims Division
The Walbrook Building,
25 Walbrook,
London
EC4N 8AW

Email: GallagherClaimsUK@ajg.com

**NOTICE OF
ELECTION:**

Arthur J. Gallagher & Co.
200 S. Orange Avenue, Suite 1350,
Orlando, FL 32801
USA

**OUR
REPRESENTATIVE**

FOR SERVICE OF SUIT: Mendes & Mount LLP
750 Seventh Avenue
New York, NY 10019
USA

**CHOICE OF LAW
AND JURISDICTION:**

In case of any dispute arising out of this Insurance, the same shall be governed by the laws of West Virginia and subject to the exclusive jurisdiction of the courts of the United States of America in accordance with the attached

**BUSINESS
ACTIVITIES:**

As more fully described in the Application Form dated 9 June 2016

**PREMIUM
PAYMENT TERMS:**

Premium to be paid to Underwriters via Brokers by 30 August 2016

Premium Payment Clause LSW3001 (Amended) 60 days

Notwithstanding any provision within this contract or any endorsement hereto, in respect of non payment of premium only the following clause will apply.

The (Re)Insured undertakes that premium will be paid in full to (Re)Insurers within the number of days specified in the Premium Payment Terms (or, in respect of instalment premiums, when due).

If the premium due under this contract has not been so paid to (Re)Insurers within the agreed timescale (and, in respect of instalment premiums, by the date they are due) (Re)Insurers shall have the right to cancel this contract by notifying the (Re)Insured via the broker in writing. In the event of cancellation, premium is due to (Re)Insurers on a pro rata basis for the period that (Re)Insurers are on risk but the full contract premium shall be payable to (Re)Insurers in the event of a loss or

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occurrence prior to the date of termination which gives rise to a valid claim under this contract.

It is agreed that (Re)Insurers shall give not less than 15 days prior notice of cancellation to the (Re)Insured via the broker (as outlined in the Notice of Cancellation Provisions). If premium due is paid in full to (Re)Insurers before the notice period expires, notice of cancellation shall automatically be revoked. If not, the contract shall automatically terminate at the end of the notice period.

If any provision of this clause is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of this clause which will remain in full force and effect.

30/09/08
LSW3001 (amended)

**TAXES PAYABLE
BY INSURED AND
ADMINISTERED BY
UNDERWRITERS:**

No taxes applicable

**RECORDING,
TRANSMITTING
AND STORING
INFORMATION:**

Where the Broker maintains risk and claim data / information / documents the Broker may hold data / information / documents electronically.

**INSURER
CONTRACT
DOCUMENTATION:**

This document details the contract terms entered into by the insurer(s) and constitutes the contract document.

Any further documentation changing this contract, agreed in accordance with the contract change provisions set out in this contract, shall form the evidence of such change.

"US Surplus Lines Notice

This contract is subject to US state surplus lines requirements. It is the responsibility of the surplus lines broker to affix a surplus lines notice to the contract document before it is provided to the insured. In the event that the surplus lines notice is not affixed to the contract document the insured should contact the surplus lines broker."

Wherever there is reference to 'Insured' and/or 'Assured' in this document, they shall be deemed to have the same meaning.

Wherever there is reference to 'Insurer' and/or 'Underwriter' in this document, they shall be deemed to have the same meaning.



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COMPLAINTS PROCEDURE

Arthur J. Gallagher take all complaints seriously. If you wish to register a complaint then please contact the Complaints Management Team using any of the following contact details:

Compliance Department
Arthur J. Gallagher (UK) Limited
The Walbrook Building,
25 Walbrook
London EC4N 8AW

Tel: +44 (0) 20 7204 6000

We will acknowledge your complaint within 5 working days.



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SPECIAL CANCELLATION CLAUSE

In the event that an Insurer:

- (a) ceases underwriting (wholly) or formally announces its intention to do so, or
- (b) is the subject of an order or resolution for winding up or formally proposes a scheme of arrangement, or
- (c) has its authority to carry on Insurance business withdrawn, or
- (d) rating falls below "A-" Standard and Poors or "A-" AM Best

the Insured may terminate that Insurer's participation on this risk forthwith by giving notice and the premium payable to that Insurer shall be pro rata to the time on risk unless there is a claim or circumstance, in which event the premium is fully earned.

NMA 2975 (Amended)



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INFORMATION

The following information was provided to Insurer(s) to support the assessment of the risk at the time of the underwriting:

-
- Signed and dated 9th June 2016 No Material Changes and Claims Declaration Form, as seen and agreed by underwriters
- West Virginia Agency Standards, as seen and agreed by underwriters
- West Virginia Loss Control Questionnaire, as seen and agreed by underwriters
- West Virginia List of Covered Entities, as seen and agreed by underwriters

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SECURITY DETAILS

**(RE)INSURERS
LIABILITY CLAUSE
LMA3333:**

LMA 3333 (Re)Insurer's liability several not joint

The liability of a (re)insurer under this contract is several and not joint with other (re)insurers party to this contract. A (re)insurer is liable only for the proportion of liability it has underwritten. A (re)insurer is not jointly liable for the proportion of liability underwritten by any other (re)insurer. Nor is a (re)insurer otherwise responsible for any liability of any other (re)insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by a (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp. This is subject always to the provision concerning "signing" below.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is a (re)insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other (re)insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

Proportion of liability

Unless there is "signing" (see below), the proportion of liability under this contract underwritten by each (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp and is referred to as its "written line".

Where this contract permits, written lines, or certain written lines, may be adjusted ("signed"). In that case a schedule is to be appended to this contract to show the definitive proportion of liability under this contract underwritten by each (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together). A definitive proportion (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of a Lloyd's syndicate taken together) is referred to as a "signed line". The signed lines shown in the schedule will prevail over the written lines unless a proven error in calculation has occurred.

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Although reference is made at various points in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

ORDER HEREON: 100% of 100%

BASIS OF WRITTEN LINES: Percentage of Whole

SIGNING PROVISIONS: **Disproportionate Signing**

In the event that the written lines hereon exceed 100% of the order, any lines written "to stand" will be allocated in full and all other lines will be signed down in equal proportions so that the aggregate signed lines are equal to 100% of the order with further agreement of any of the Insurers.

However:

- a) in the event that the placement of the order is not completed by the commencement date of the period of insurance then all lines written by that date will be signed in full;
- b) the Insured may elect for the disproportionate signing Insurers' lines, without further specific agreement of Insurers, providing that any such variation is made prior to the commencement date of the period of insurance, and that lines written "to stand" may not be varied without the documented agreement of those Insurers.
- c) the signed lines resulting from the application of the above provisions can be varied, before or after the commencement date of the period of insurance, by the documented agreement of the Insured and all Insurers whose lines are to be varied. The variation to the contracts will take effect only when all such Insurers have agreed, with the resulting variation in signed lines commencing from the date set out in that agreement.



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WRITTEN LINES:

In a co-insurance placement, following (re)insurers may, but are not obliged to, follow the premium charged by the lead (re)insurer.

(Re)insurers may not seek to guarantee for themselves terms as favourable as those which others subsequently achieved during the placement.

\$5m

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GLOBAL SPECIALTY

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Est. Sign = 100%

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Barbican Cyber Consortium

9354

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All underwriters as per LPSO Registered Consortium No. 9354 being Lloyd's Syndicates
BAR 1955 (40%) AMA1200 (4%)
AUL 1274 (10%) HIS 33 (15%)
NWL 1218 (5%) ARGENTA 2121 (16%)
ANV 1861 (5%) & ANV 5820 (5%)

As per M.W
OKO 21/06/16

\$5m

PRINCIPIA UNDERWRITING

PRCICY20150061

ON BEHALF OF LLOYD'S SECURITY

47.619% Chaucer Syndicate 1084
19.048% Antares Syndicate 1274
19.048% Argenta Syndicate 2121
9.524% Pembroke Syndicate 4000
4.701% AEGIS Syndicate 1225

UMR B0572NA15A004

Underwriting

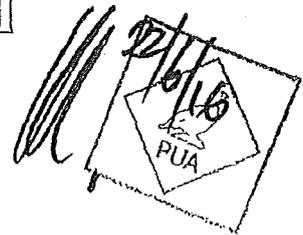
WY 21/6/16

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\$5,000,000

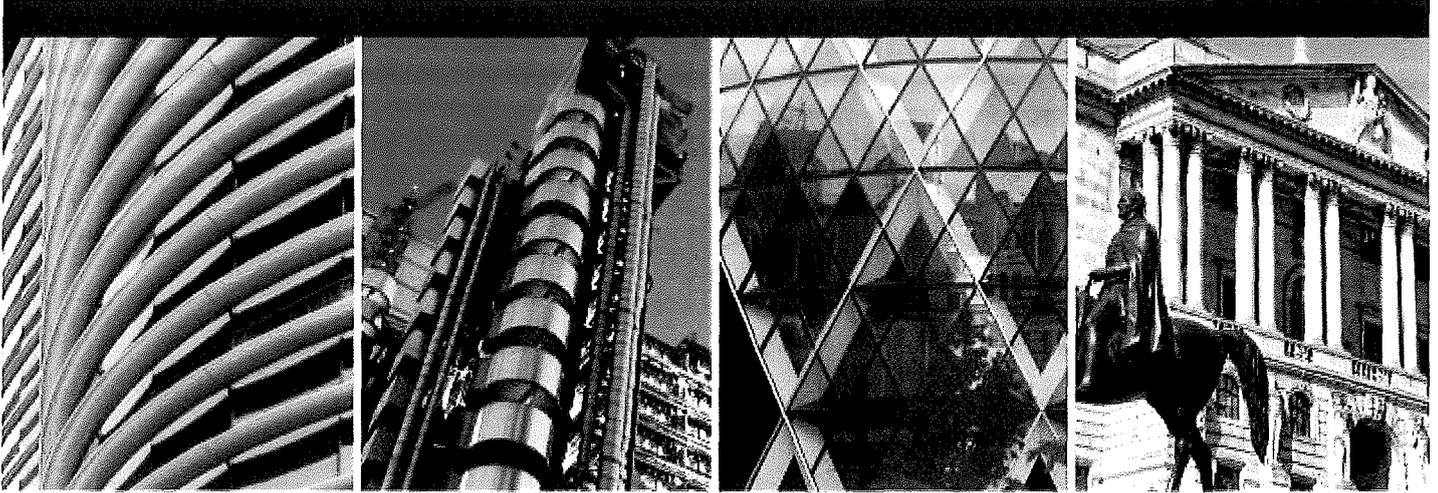
		Contract Number B1129LFL16005									
		On behalf of:									
		20.00% AUL Syndicate 1274									
		29.23% CNP Syndicate 4444									
		14.61% NVA Syndicate 2007									
		16.07% CHN Syndicate 2015									
		20.09% International Insurance Company of Hannover SE									
Ptarmigan Underwriting Agency											
P	U	A	1	6	C	P	4	2	1	D	R



\$5,000,000

		Ascent Underwriting	
		on behalf of Lloyd's Syndicates	
Participation:			
Policy number: ASE16C001207			
UMR: B1150SOL083160J		Section A	
AML 2001 — 40.4762%	FDY 435 — 14.2857%		
ARK 4020 — 19.0476%	NAV 1221 — 7.1429%		
PEM 4000 — 14.2857%	ASC 1414 — 4.7619%		





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Security & Privacy Liability Insurance

POLICY FORM

In consideration of the payment of the premium and reliance upon the statements made by **You** in the **Application** and subject to the Limit of Liability, exclusions, conditions and other terms of this Policy, it is agreed as follows:

I. COVERAGES

A. PRIVACY LIABILITY (INCLUDING EMPLOYEE PRIVACY)

We shall pay on **Your** behalf **damages** and **claim expenses** that **You** become legally obligated to pay in excess of the applicable deductible resulting from a **claim** first made against **You** and reported to **Us** during the **policy period** or **extended reporting period** arising out of a **privacy wrongful act** on or after the **Retroactive Date** and before the end of the **policy period**, harming any third party or **employee**.

B. PRIVACY REGULATORY CLAIMS COVERAGE

We shall pay on **Your** behalf **regulatory fines**, **consumer redress funds** and **claim expenses** that **You** become legally obligated to pay in excess of the applicable deductible resulting from a regulatory **claim** first made against **You** and reported to **Us** during the **policy period** or **extended reporting period** arising out of a **privacy wrongful act** on or after the **Retroactive Date** and before the end of the **policy period**.

C. SECURITY BREACH RESPONSE COVERAGE

We shall reimburse **Your Organization** for **Crisis Management Costs** and **Breach response costs** in excess of the applicable deductible that **Your Organization** incurs in the event of a **security breach** with respect to personal, non-public information of **Your** customers or **employees**.

We will not make any payment under this Coverage unless the **security breach** first occurs on or after the **Retroactive Date** and before the end of the **policy period** and **You** first learn of the **security breach** within the **policy period** and report the **security breach** to **Us** as soon as practicable within the **policy period**.

D. SECURITY LIABILITY

We shall pay on **Your** behalf **damages** and **claim expenses** that **You** become legally obligated to pay in excess of the applicable deductible resulting from a **claim** first made against **You** and reported to **Us** during the **policy period** or **extended reporting period** arising out of a **security wrongful act** on or after the **Retroactive Date** and before the end of the **policy period**.

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E. MULTIMEDIA LIABILITY

We shall pay on **Your** behalf **damages** and **claim expenses** that **You** become legally obligated to pay in excess of the applicable deductible resulting from a **claim** first made against **You** and reported to **Us** during the **policy period** or **extended reporting period** arising out of a **multimedia wrongful act** on or after the **Retroactive Date** and before the end of the **policy period**.

F. CYBER EXTORTION

We shall reimburse **Your Organization** for the **Cyber-extortion expenses** and **Cyber-extortion payments** that **Your Organizations** actually pays directly resulting from a **Cyber-extortion threat** that **Your Organization** first receives and reports to **Us** during the **Policy period**.

G. BUSINESS INCOME AND DIGITAL ASSET RESTORATION

1. We shall pay the **Business Income Loss** that **Your Organization** sustains during a **Period of Restoration** resulting directly from a **Network Disruption** that commences during the **Policy period**, but only if the duration of such **Period of Restoration** exceeds the waiting period set forth in the Policy and such **Network Disruption** results solely and directly from a **Security Compromise** that commenced on or after the **Retroactive Date**.
2. We shall reimburse **Your Organization** for the **Restoration Costs** that **Your Organization** incurs because of the alteration, destruction, damage or **Loss** of **Digital Assets** that commences during the **Policy period** resulting solely and directly from a **Security Compromise**, but only if such **Security Compromise** commenced on or after the **Retroactive Date**.

H. PCI DSS ASSESSMENT

We shall pay on **Your** behalf **damages** and **claim expenses** that **You** become legally obligated to pay in excess of the applicable deductible resulting from a **PCI DSS Assessment** first made against **You** and reported to **Us** during the **policy period** or **extended reporting period** arising out of a **wrongful act** on or after the **Retroactive Date** and before the end of the **policy period**.

II. DEFENSE, SETTLEMENT, AND INVESTIGATION OF CLAIMS

- A. We shall have the right and duty to defend, subject to the applicable **policy aggregate limit** and applicable **sublimits of liability**, exclusions and other terms and conditions of this Policy, any **claim** against **You** seeking **damages** which are payable under the terms of this Policy, even if any of the allegations of the **claim** are groundless, false, or fraudulent and **We** shall have the right to appoint defense counsel.

We agree that **You** may settle any **claim** where the **damages** and **claim expenses** do not exceed 50% of the deductible, provided the entire **claim** is resolved and **You** receive a full release from all **claimants**.





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We shall have the right to make any investigation **We** deem necessary, including, without limitation, any investigation with respect to the **Application** and statements made in the **Application** and with respect to coverage.

The applicable **policy aggregate limit** and **sublimits of liability** available to pay **damages** and **losses** shall be reduced and may be completely **exhausted** by payment of **claim expenses**. **Damages, losses** and **claim expenses** shall be applied against the applicable deductible **You** pay.

- B. If **You** refuse to consent to a settlement or compromise **We** recommend and acceptable to the claimant and elect to contest the **claim**, then:
1. Subject to the applicable limit of liability, our liability for any **damages** and **claim expenses** shall not exceed:
 - a. the amount for which the **claim** could have been settled, plus the **claim expenses** incurred prior to the date of such refusal; and
 - b. fifty percent (50%) of the **damages** and **claim expenses** in excess of the amount in a. above incurred in such **Claim**; provided that **You** bear the remaining 50% of the **damages** and **claim expenses** in excess of the amount in a. above incurred in such **Claim** uninsured and at **Your** own risk; and
 2. **We** shall have the right to withdraw from the further defense of such **Claim** by tendering control of the defense to **You**.

This clause shall not apply to any settlement where the total of the proposed settlement and incurred **claim expenses** do not exceed all applicable deductible .

- C. **We** shall not be obligated to pay any **damages, losses** or **claim expenses**, or to undertake or continue defense of any **claim**, after the applicable **policy aggregate limit** or applicable **sublimits of liability** has been exhausted by payment of **damages, losses** and/or **claim expenses** or after deposit of the applicable limit of liability in a court of competent jurisdiction, and that upon such payment or deposit, **We** shall have the right to withdraw from the further defense thereof by tendering control of said defense to **You**.

III. TERRITORY

This insurance applies to **claims** made and acts, errors or omissions committed or alleged to have been committed anywhere in the world.

IV. EXCLUSIONS

The coverage under this Policy shall not apply to any **Damages** , **Claim expenses** or **Loss** incurred with respect to any **Claim**, or any **Crisis Management Costs, Breach response costs** or other amounts, arising out of or resulting, directly or indirectly, from:

- A. **Bodily injury** or **property damage**;





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- B. **Your** employment practices or any alleged or actual discrimination against any person or entity on any basis, including without limitation, race, creed, color, religion, ethnic background, national origin, age, handicap, disability, sex, sexual orientation, or pregnancy;
- C. The failure, malfunction or inadequacy of any satellite; any electrical or mechanical failure and/or interruption, including but not limited to electrical disturbance, spike, brownout or blackout; or any outage to gas, water, telephone, cable, telecommunications or other infrastructure, unless such infrastructure is under **Your** operational control; however this exclusion shall not apply to any **Privacy Wrongful Act** that is caused by such electrical or mechanical failure or that is caused by such failure of telephone lines, data transmission lines or other infrastructure comprising or supporting the Internet;
- D. Fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, an act of God or any other physical event, however caused;
- E. Breach of any express, implied, actual or constructive contract, agreement, warranty, guarantee or promise, provided, however, this exclusion shall not apply to:
 - 1. any liability or obligation **You** would have in the absence of such contract or agreement;
 - 2. any breach of **Your** privacy statement; or
 - 3. any indemnity by **You** in a written contract or agreement with **Your** client regarding any **Privacy wrongful act** or **Security wrongful act** by **You** in failing to preserve the confidentiality or privacy of personal information of customers of **Your** client;
- F. Any of the following:
 - 1. Any presence of pollutants or contamination of any kind;
 - 2. Any actual, alleged or threatened discharge, dispersal, release, or escape of pollutants or contamination of any kind;
 - 3. Any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize pollutants or in any way respond to or assess the effects of pollutants or contamination of any kind; or
 - 4. Manufacturing, mining, use, sale, installation, removal, distribution of or exposure to asbestos, materials, or products containing asbestos, asbestos fibers or dust;
 - 5. Ionizing radiation or contamination by radioactivity from any nuclear fuel or any nuclear waste from the combustion of nuclear fuel;
 - 6. Actual, potential or alleged presence of mold, mildew or fungi of any kind;
 - 7. The radioactive, toxic, or explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; or





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8. The existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment or that affects the value, marketability, condition or use of any property;
- G. Any of the following:
1. Purchase, sale, offer of or solicitation of an offer to purchase or sell securities, or alleged or actual violation of any securities law, including but not limited to the provisions of the Securities Act of 1933, or the Securities Exchange Act of 1934, as amended, the Sarbanes-Oxley Act of 2002, or any regulation promulgated under the foregoing statutes, or any federal, state, local or foreign laws similar to the foregoing statutes (including "Blue Sky" laws), whether such law is statutory, regulatory or common law;
 2. Alleged or actual violation of the Organized Crime Control Act of 1970 (commonly known as "Racketeer Influenced And Corrupt Organizations Act" or "RICO"), as amended, or any regulation promulgated thereunder, or any federal, state, local or foreign law similar to the foregoing statute, whether such law is statutory, regulatory or common law;
 3. Alleged or actual violation of the responsibilities, obligations or duties imposed upon fiduciaries by the **Employee** Retirement Income Security Act of 1974, as amended;
 4. Alleged or actual anti-trust violations, restraint of trade or unfair competition, including without limitation, violations of the Sherman Act, the Clayton Act or the Robinson-Patman Act, or any other federal, state, local, or foreign laws regulating the same or similar conduct; provided, however, this exclusion G.4 shall not apply to a **claim** for a **multimedia wrongful act** or **regulatory claim**;
- H. Any **Act of terrorism**; strike or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against these actions; including all amounts, **damages**, or **claim expenses** of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing, or in any way relating to the above; however, if **We** allege that by reason of this exclusion any **Damages** or **Claim expenses** are not covered by this Policy, the burden of proving the contrary shall be upon **You**. However this exclusion does not apply to acts perpetuated electronically.
- I. Any of the following:
1. Any circumstance occurring, or act, error, or omission committed, prior to the **Continuity Date**, if on or before the **Continuity Date** of this Policy, the **Control Group** knew or could have reasonably foreseen that such circumstance or **Wrongful Act** would be the basis of a **Claim**;
 2. Any **claim** or circumstance previously notified to a prior insurer that could reasonably be expected to be the type of **claim** or loss covered by this Policy; or





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3. Any circumstance occurring, or act, error, or omission committed prior to the **Retroactive date**;
- J. Any criminal, dishonest, intentional violation of the law, unfair or deceptive business practice, fraudulent or malicious act, error or omission committed by **You** with actual criminal, dishonest, fraudulent or malicious purpose or intent; provided, however, this exclusion shall not apply to:
1. **claim expenses** incurred in defending any such **claim** until there is a final adjudication, judgment, binding arbitration decision or conviction against **You** in such **Claim** or an admission by **You** establishing such conduct, or a plea of *nolo contendere* or no contest by **You** regarding such conduct, in which event **You** shall reimburse **Us** for all **claim expenses** that **We** have paid and **We** shall have no further liability for **claim expenses** from such **Claim**; and
 2. any of **You** who did not personally commit or personally participate in committing or personally acquiesce in such conduct, except that the exclusion shall apply with respect to **Your Organization** if an admission, final adjudication, or finding in a proceeding separate or collateral to the **claim** establishes that a current principal, partner, director, or officer of **Your Organization** in fact engaged in such conduct;
- K. Any **claim** made by or on behalf of:
1. any person or entity within the definition of **You** against any other Insured person or entity within the definition of **You** provided this exclusion shall not apply to an otherwise covered **Claim** under Coverage A made by a current or former **employee** of **Your Organization**; or
 2. Any entity which:
 - a. Is operated, managed, or controlled by **You** or in which **You** have an ownership interest in excess of 15% or in which **You** are an officer or director; or
 - b. Operates, controls, or manages **Your Organization**, or has an ownership interest of more than 15% in **Your Organization**;
- L. **Your** activities as a trustee, partner, officer, director, or **employee** of any **employee** trust, charitable organization, corporation, company or business other than **Your Organization**;
- M. Any alleged or actual infringement or violation of patent rights or misappropriation, theft, copying, display or publication of any trade secret by, or with active cooperation, participation, or assistance of, **You**, any of **Your** former **employees**, **subsidiaries**, directors, officers, partners, trustees, or any of **Your** successors or assignees; provided, however this exclusion shall not apply to misappropriation of any trade secret obtained as a result of a **Privacy wrongful act** or a **Security wrongful act**;





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- N. Any trading losses or trading liabilities; the monetary value of any electronic fund transfers or transactions by or on behalf of **You** which is lost, diminished, or damaged during transfer from, into or between accounts; or the face value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount.

With respect to Insuring Coverage G only this Policy does not apply to any **Loss** arising out of, or resulting, directly or indirectly, from:

- O. Any costs of updating, upgrading or remediation of **Your Computer systems** or **Your Digital Assets**; provided, however, this exclusion shall not apply to **Restoration Costs** otherwise covered under Coverage G.2.;
- P. Any failure of:
1. Telephone lines;
 2. Data transmission lines or wireless communications connection; or
 3. Other telecommunications equipment, facilities or electronic infrastructure, including equipment, facilities or infrastructure that supports the operation of computer networks, including the internet, which are Used to transmit or receive voice or data communications and which are not under **Your** direct operational control or, if applicable, not under the direct operational control of **Your Service Provider**;
- Q. Any seizure, confiscation, nationalization, or destruction of, or damage to or **Loss of Use** of any digital asset or **Your Computer systems** by order of any governmental authority;
- R. Ordinary wear and tear, gradual deterioration of or failure to maintain **Digital Assets** or **Computer systems** on which **Digital Assets** are processed or stored, whether owned by **You** or others;
- S. The physical **Loss** of, damage to or destruction of tangible property, including the **Loss** of use thereof; provided, however, "tangible property" does not include **Digital Assets**, but does include all computer hardware;
- T. Any form of third party liability or other legal liability, including but not limited to, any lawsuits, claims or demands by any third party, employee, officer, director or partner;.

V. DEFINITIONS

- A. **Act of terrorism** means:
1. any act certified an Act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002 or otherwise declared an Act of terrorism by any government;
 2. any act committed by any person or group of persons designated by any government as a terrorist or terrorist group or any act committed by any person or group of persons acting on behalf of or in connection with any organization designated by any government as a terrorist organization; or





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3. the **Use** of force or violence and/or the threat thereof by any person or group of persons, whether acting alone or on behalf of or in connection with any organization or government, committed for political, religious, ideological, or similar purposes, including the intention to influence any government and/or put the public, or any section of the public, in fear.

- B. **Acquiring Bank** means a bank or financial institution that accepts credit and or debit card payments (including credit cards, debit cards, stored value cards and pre-paid cards) for products or services on behalf of a merchant, including processing and crediting those payments to a merchant's account.

- C. **Application** means all applications, including any attachments thereto, and all other information and materials submitted by **You** or on **Your** behalf to **Us** in connection with the underwriting of this Policy. All such applications, attachments, information and materials are deemed attached to and incorporated into this Policy.

- D. **Bodily injury** means injury to the body, sickness, or disease sustained by any person, and where resulting from such injuries, mental anguish, mental injury, shock, humiliation, emotional distress, loss of consortium, or death.

- E. **Breach response costs** means the following fees, costs, charges or expenses, if reasonable and necessary, that **You** incur in responding to a **security breach** during the period of twelve (12) months after **You** first learn of such **security breach**:
 1. forensic professional fees and expenses to determine the cause and extent of such **security breach** and terminate the **security breach** (however, betterment of the **computer system** is not covered);
 2. legal fees and expenses to determine whether **You** are obligated under applicable **Privacy Regulations** to notify applicable regulatory agencies or customers or **employees** affected or reasonably believed to be affected by such **security breach**, effect compliance with any applicable **Privacy Regulations**, draft the text of privacy notifications to customers or **employees** affected or reasonably believed to be affected by such **security breach**, and coordinate the investigation of such **security breach**;
 3. costs to notify customers or **employees** affected or reasonably believed to be affected by such **security breach**, including printing costs, publishing costs, postage expenses, call center costs or costs of notification via phone or e-mail; or
 4. **credit monitoring expenses**

You are able to incur any costs under E.1 (forensic) and E.2 (legal advice) without **Our** prior written consent if **You** use a vendor from the **Breach Response Panel**. A use of a vendor not on the **Breach Response Panel** is permitted, but only with **Our** prior written consent.

Provided, however, **We** shall have no obligation to reimburse **You** for such **Breach response costs** as identified under E.3 and/or E.4 unless:





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- (a) **You** provide an opinion from legal counsel that **You Were** obligated under applicable **Privacy Regulations** to notify applicable regulatory agencies or customers or **employees** affected or reasonably believed to be affected by such **security breach** of such **security breach**; or
- (b) **You** voluntarily incur with **Our** prior written consent such **Breach response costs** (including **credit monitoring expenses**), such as in a jurisdiction where **You** have no obligation to notify applicable regulatory agencies or customers or **employees** affected or reasonably believed to be affected by such **security breach** of such **security breach** or where **You** wish to voluntarily notify to help protect and mitigate any damage to **Your** brand and reputation.

Breach response costs do not include **Your** overhead expenses or any salaries, wages, fees, or benefits of **Your employees**.

F. **Breach Response Panel** means the breach vendors as identified in the attached Breach Vendor Panel

G. **Business Income Loss** means:

- 1. Earnings **Loss**; and/or
- 2. Expenses **Loss**.

Business Income Loss does not include:

- 1) any contractual penalties;
- 2) any costs or expenses incurred to update, upgrade, replace, restore or otherwise improve any **Computer system** to a level beyond that which existed prior to a **Network Disruption**;
- 3) any costs or expenses incurred to identify, remove or remediate computer program errors or vulnerabilities, or costs to update, upgrade, replace, restore, maintain or otherwise improve any **Computer system**; or
- 4) any legal costs or expenses or **Loss** arising out liability to any third party;
- 5) any **Loss** incurred as a result of unfavorable business conditions; or
- 6) any other consequential **Loss** or damage.

H. **Claim** means:

- 1. A written demand received by **You** for money or services, including the service of a civil suit or institution of arbitration proceedings;
- 2. Initiation of a civil suit against **You** seeking injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction); or





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3. Solely with respect to Coverage B., a **regulatory claim** made against **You**.

4. **A PCI DSS Assessment**

Multiple **claims** arising from the same or a series of related or repeated acts, errors, or omissions or from any continuing acts, errors, or omissions shall be considered a single **claim** for the purposes of this policy, irrespective of the number of **claimants** or **You** involved in the **claim**. All such **claims** shall be deemed to have been made at the time of the first such **claim** was made or deemed made under Section IX.A.

I. **Claim expenses** means:

1. reasonable and necessary fees charged in the defense or settlement of a **Claim** by an attorney whom **We** designate or whom **You** designate with our prior written consent, such consent not to be unreasonably withheld; and
2. all other legal costs and expenses resulting from the investigation, adjustment, defense and appeal of a **claim**, if incurred by **Us** or by **You** with **Our** prior written consent; however, **claim expenses** do not include **Your** overhead expenses or any salaries, wages, fees, or benefits of **Your employees** for any time spent in cooperating in the defense or investigation of any **claim** or circumstance that might lead to a **claim**.

J. **Computer system** means electronic, wireless, web or similar systems (including all hardware and software) used to process data or information in an analog, digital, electronic or wireless format, including computer programs, electronic data, operating systems, and components thereof, including but not limited to laptops, personal digital assistants, cellular phones, media storage and peripheral devices, media libraries, associated input and output devices, networking equipment, and electronic backup equipment. With respect to Insuring Coverage G only **Computer System** means a **Computer System**, over which **You** have direct operational control or that is under the direct operational control of a **Service Provider**, used to process, maintain or store **Your Digital Assets**.

K. **Consumer redress funds** means any sums of money **You** are legally required to deposit in a fund for the payment of consumer **claims** due to a settlement of, or an adverse judgment in, a **Regulatory Claim**.

L. **Continuity Date** means the date specified in the Policy.

M. **Control Group** means all personnel in the West Virginia Office of Technology, the West Virginia State Privacy Office and the West Virginia Board of Risk and Insurance Management (BRIM).

N. **Credit monitoring expenses** means the reasonable and necessary expense of providing free credit report, identity theft protection services, credit monitoring services, credit freezes, fraud alerts or call center services for customers affected or reasonably believed to be affected by a **security breach**; provided, however, **We** shall not be obligated to reimburse **You** for more than one (1) year of credit monitoring services or identity theft protection services for customers who are at least eighteen (18) years old unless there is a rule,





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regulation, court ruling, requirement by a regulator or statutory requirement requiring otherwise.

O. **Crisis Management Costs** means any other reasonable and necessary fees and expenses **You** incur with **Our** prior written consent to to avert or mitigate any material damage to any of **Your** brands due to a **newsworthy event** that has arisen due to a **security breach** or a **claim** or **regulatory claim** for a **privacy wrongful act**, regardless of whether the expenses are incurred prior or subsequent to any such **claim** or **regulatory claim** being made against **You**.

P. **Cyber-extortion threat** means a credible threat or connected series of threats made by someone other than a director, trustee or partner of **Your Organization**:

1. to introduce **Malicious Code** into **Your Computer system**;
2. to interrupt **Your Computer system** or interrupt access to **Your Computer system**, such as through a denial of service attack;
3. to corrupt, damage or destroy **Your Computer system**; or
4. to disseminate, divulge, or improperly utilize any personal or confidential corporate information residing on **Your Computer systems** taken as a result of a **Network Disruption**.

Q. **Cyber-extortion payment** means any sum paid to or at the direction of any third party that **You** reasonably believe to be responsible for a **Cyber-extortion threat**; provided that:

1. **You** obtain **Our** written consent prior to making such **Cyber-extortion payment**;
2. **You** make such **Cyber-extortion payment** to terminate the **Cyber-extortion threat**; and
3. the **Cyber-extortion payment** does not exceed the amount **We** reasonably believe would have been incurred had such **Cyber-extortion payment** not been made.

R. **Cyber-extortion expenses** means the reasonable and necessary expenses **You** incur with **Our** approval in evaluating and responding to a **Cyber-extortion threat**. However, **Cyber-extortion expenses** do not include **Your** overhead expenses or any salaries, wages, fees, or benefits of **Your employees**.

S. **Damages** means:

1. Solely with respect to Coverages A, D and E, a monetary judgment, award or settlement, including:
 - a. Pre-judgment interest;
 - b. Post-judgment interest that accrues after entry of the judgment or award and before **We** have paid, offered to pay or deposited in court that part of the judgment or award within the applicable limit of liability; and





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- c. subject to this Policy's terms, conditions, and exclusions, punitive or exemplary **damages** (where insurable by the applicable law that most favors coverage for such **damages**); and
2. Solely with respect to Coverage B, **regulatory fines** and **Consumer redress funds**.
3. Solely with respect to Coverage H **PCI DSS Assessments**

Damages shall not include or mean:

1. **Your** future profits, restitution, or disgorgement of profits; or **Your** cost to comply with any order granting injunctive or non-monetary relief, including specific performance, or any agreement to provide such relief;
 2. **Your** return or offset of fees, charges, royalties, or commissions for goods or services already provided or contracted to be provided;
 3. Fines or penalties of any nature, except **Regulatory fines, Consumer redress funds** and **PCI DSS Assessments** as identified above;
 4. Any amount **You** are not financially or legally obligated to pay;
 5. Multiple **damages**;
 6. Any donations or contributions to any charitable organization; or
 7. Matters that may be deemed uninsurable under the law pursuant to which this Policy may be construed.
- T. **Denial of Service Attack** means inability of a third party to gain access to **Your Computer systems** through the Internet due to unauthorized attacks or deliberate overloading of bandwidth connections and/or web servers by means of the sending of substantial quantities of repeat or irrelevant communication or data with the intent of blocking access to the **Computer system** by third parties
- U. **Digital Assets** means any electronic data, including personally identifiable, non-public information, or computer software over which **You** have direct control or for which such control has been contractually assigned by **Your Organization** to a **Service Provider**. **Digital Assets** do not include computer hardware of any kind.
- V. **Earnings Loss** means the difference between the revenue that **Your Organization** would have earned, based on reasonable projections and the variable costs that would have been incurred, but which **Your Organization** would have saved as a result of not earning that revenue.





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- W. **Employee** means any individual in **Your Organization's** service, including any part-time, seasonal, and temporary **employee**, who is compensated by salary, wages, fees or commissions and over whom **You** have the right to direct and control, but excluding any partner or director of **Your Organization**.
- X. **Expenses Loss** means the additional expenses **Your Organization** incurred to minimize the suspension of business and to continue operations during the **Period of Restoration** that are over and above the cost that **Your Organization** reasonably and necessarily would have incurred to conduct **Your** business had no **Network Disruption** occurred. These additional expenses do not include any **Restoration Costs** or any actual, reasonable and necessary expenses **You** incur in response to a **Network Disruption** in order to prevent, minimize or mitigate any further damage to **Your Digital Assets**, minimize the duration of a **Network Disruption** or preserve critical evidence of any wrongdoing.
- Y. **Extended reporting period** means the period of time after the end of the **policy period** for reporting **claims** as provided in Section VIII. of this Policy.
- Z. **Intranet** means a private computer network inside a company or organization that **Uses** the same kinds of software found on the **Internet**, but only for internal **Use**.
- AA. **Internet** means the worldwide public network of computer networks which enables the transmission of electronic data between different **Users**, commonly referred to as the **internet**, including a private communications network existing within a shared or public network platform.
- BB. **Loss(es)** means:
1. **Business Income Loss**;
 2. **Restoration Costs**; and
 3. **Cyber-extortion payments** and **Cyber-extortion expenses**.
- All **Losses** arising from the same or related underlying facts, circumstances, situations, transactions or events or related **Security Compromises** shall be deemed a single **Loss**.
- CC. **Malicious code** means any unauthorized and corrupting or harmful computer code, including but not limited to computer viruses, spyware, Trojan horses, worms, logic bombs, and mutations of any of the proceeding.
- DD. **Media content** means data, digital code, images, graphics, sounds, text or any other similar material.
- EE. **Multimedia wrongful act** means any of the following acts committed in the ordinary course of **Your Organization's** business in gathering, communicating, reproducing, publishing, disseminating, displaying, releasing, transmitting or disclosing **Media content** via any **Computer system** that **You** own or operate or is operated on **Your** behalf by a third party, including any web-based social media authorized or operated by **Your Organization** or any **internet** or **intranet** website:





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1. defamation, libel, slander, product disparagement, trade libel, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;
2. invasion of or interference with the right to privacy or publicity;
3. false arrest, detention or imprisonment or malicious prosecution;
4. infringement of any right to private occupancy, including trespass, wrongful entry, eviction or eavesdropping;
5. infringement of copyright, domain name, trade dress, title or slogan, or the dilution or infringement of trademark, service mark, service name or trade name;
6. plagiarism, piracy or misappropriation of ideas; or
7. liability regarding any Media Content for which **You** are responsible;

provided always that any **Multimedia wrongful act** was committed or alleged to have been committed by **You**, or any person for whom or entity for which **You** are legally responsible, including an independent contractor or outsourcing organization.

FF. **Newsworthy event** means an event that has been caused by a **claim** or **security breach** within one of the coverages which **You** have purchased, that has been, or will be publicized through any media channel, including television, print media, radio or electronic networks, the **Internet**, and/or electronic mail.

GG. **Network Disruption** means any of the following events:

1. A detectable failure, interruption or degradation of the operation of **Your Computer system**; or
2. The denial, restriction or hindrance of access to or **Use of Your Computer system** or **Your Digital Assets** by any party who is otherwise authorized to have access.

More than one such event that results from the same or related underlying facts, circumstances, situations, transactions or **Security Compromises** shall be considered a single **Network Disruption** which commences on the date of the earliest of such events.

HH. **PCI DSS Assessment(s)** means a written demand received by **You** from **Your Acquiring Bank** or a card association (MasterCard, VISA, Discover, American Express or JCB) for a monetary assessment of a penalty or fine due to **Your** non-compliance with **PCI Data Security Standards**.

II. **PCI Data Security Standards** (known as PCI DSS) means the published data security standard in effect now or as hereafter amended that all merchants and processors must follow when storing, processing and transmitting cardholder data.

JJ. **Period of Restoration** means the time period from the commencement of a **Network Disruption** to the earlier of:





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1. the date that **Your Computer system** is, or with reasonable diligence could have been, restored to the condition and functionality that existed immediately prior to the **Network Disruption**; or
2. sixty (60) consecutive days after the termination of the **Network Disruption**.

KK. **Policy period** means the period of time from the effective date to the expiration date specified in the Policy, or any earlier cancellation date.

LL. **Privacy breach** means a common law breach of confidence, infringement, or violation of any rights to privacy, including but not limited to breach of **Your** privacy statement, breach of a person's right of publicity, false light, intrusion upon a person's seclusion, public disclosure of a person's private information, or misappropriation of a person's picture or name for commercial gain.

MM. **Privacy Regulations** means any federal, state, local or foreign statute or regulation requiring **You** to limit or control the collection, use of, or access to, personally identifiable, non-public information in **Your** possession or under **Your** control, or obligating **You** to inform customers of the **unauthorized access** to or disclosure of such personally identifiable, non-public information, including the following statutes and regulations:

1. The Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), including Title II requiring protection of confidentiality and security of electronic protected health information, and as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH), any rules and regulations promulgated thereunder as they currently exist and as amended, and any related state medical privacy laws as they currently exist and as amended;
2. The Gramm-Leach-Bliley Act of 1999, also known as the Financial Services Modernization Act of 1999, including sections concerning security protection and standards for customer records maintained by financial services companies, and the rules and regulations promulgated thereunder as they currently exist and as amended;
3. Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a), but solely with respect to alleged unfair or deceptive acts or practices in or affecting commerce;
4. Federal, state or local privacy protection regulations or laws, such as the California Database Protection Act of 2003 (previously called SB 1386), as they currently exist now or may be amended, associated with the control and **Use** of, or limiting **unauthorized access** to, personal information, including but not limited to requirements to post privacy policies, adopt specific privacy controls, or inform customers of breaches of security that has or may impact their personal information;
5. Federal, state or local data breach regulations or laws, as they currently exist now or in the future, imposing liability for failure to take reasonable care to guard against **unauthorized access** to credit or debit account information that is in **Your** possession or under **Your** control;





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6. Identity Theft Red Flags under the Fair and Accurate Credit Transactions Act of 2003;
7. Federal and state consumer credit reporting laws, such as the Federal Fair Credit Reporting Act (FCRA) and the California Consumer Credit Reporting Agencies Act (CCCRAA);
8. the Children's Online Privacy Protection Act of 1998; or
9. Privacy protection regulations or laws adopted by countries outside of the United States, such as the EU Data Protection Directive and the Canadian Personal Information Protection and Electronic Documents Act, as they currently exist now or may be amended, associated with the collection, control and **Use** of, or limiting **unauthorized access** to, personal information.

NN. **Privacy wrongful act** means any **privacy breach** or breach of **Privacy Regulations** committed by **You** or by any person or entity for which **You** are legally responsible, including an independent contractor or outsourcing organization.

OO. **Property damage** means physical injury to or destruction of any tangible property, including the loss thereof. Data is not considered tangible property.

PP. **Regulatory claim** means:

1. any request for information, civil investigative demand or formal investigation of **You** by an administrative or regulatory agency or similar governmental body concerning a **Privacy breach** or possible breach of **Privacy regulations**; or
2. any administrative adjudicative proceeding against **You** by an administrative or regulatory agency or similar governmental body for a breach of **Privacy regulations**.

QQ. **Regulatory fines** means fines, penalties, or sanctions awarded for a violation of any **privacy regulation**.

RR. **Restoration Costs** means the actual, reasonable and necessary costs **You** incur to replace, restore, or re-create **Your Digital Assets** to the level or condition at which they existed prior to sustaining any **Loss**. If such **Digital Assets** cannot be replaced, restored or recreated, then **Restoration Costs** will be limited to the actual, reasonable and necessary costs **You** incur to reach this determination. **Restoration Costs** do not include:

1. any costs **You** incur to replace, restore or recreate any of **Your Digital Assets** that were not subject to regular network back-up procedures at the time of the **Loss**;
2. any costs or expenses incurred to update, upgrade, replace, restore or otherwise improve **Your Digital Assets** to a level beyond that which existed prior to sustaining any **Loss**;





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3. any costs or expenses incurred to identify, remove or remediate computer program errors or vulnerabilities, or costs to update, upgrade, replace, restore, maintain or otherwise improve any **Computer system**; or
4. the economic or market value of any **Digital Assets**, including trade secrets.

SS. **Retroactive Date** means the date specified in the Policy.

TT. **Security breach** means:

1. the loss or disclosure of personal, non-public information of customers or **employees** in **Your** care, custody or control, including such information stored on paper or on a **Computer system** operated by **You** or on **Your** behalf; or
2. **Theft of data, unauthorized access** to or **unauthorized use** of personal, non-public information of customers or **employees** in **Your** care, custody or control, including such information stored on paper or on a **Computer system** operated by **You** or on **Your** behalf;

that results in or may result in the compromise of the privacy or confidentiality of such personal, non-public information.

More than one **security breach** arising from the same or a series of continuous, repeated or related acts, errors, or omissions shall be considered a single **security breach**, which shall be deemed to have first occurred at the time of the first such **security breach**.

UU. **Security Compromise** means:

1. The **unauthorized access** or **Use of Your Computer system** or **Your Digital Assets**;
2. The unauthorized transmission of computer code into **Your Computer system** that causes **Loss** or damage to **Your Digital Assets**; or
3. A **Denial of Service Attack** on **Your Computer system** that causes **Loss** or damage to **Your Digital Assets**.

VV. **Security wrongful act** means any act, error, or omission committed by **You** or a person or entity for which **You** are legally responsible, including an independent contractor or outsourcing organization, in the conduct of **Computer systems** security and the protection of the security and confidentiality of **Your** customer records or information, that results in:

1. The inability of a third party, who is authorized to do so, to gain access to **Your Computer systems**;
2. The failure to prevent or hinder **unauthorized access** to or unauthorized **Use** of a **Computer system** operated by **You** or on **Your** behalf, the failure to prevent physical theft of hardware or firmware **You** control, the failure to prevent people or processes security failures, or the failure to prevent false communications designed





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to trick the **User** into surrendering personal information (such as “phishing”, “pharming” or “vishing”), any of which results in:

- a. The alteration, copying, corruption, destruction or deletion of, or damage to, electronic data on a **Computer system** operated by **You** or on **Your** behalf;
 - b. Unauthorized disclosure of commercial, personal or private information;
 - c. **Theft of data** (including identity theft); or
 - d. Denial of service attacks against **Internet** sites or **Computer systems** of a third party; or
3. The failure to prevent transmission of **malicious code** from a **Computer system** operated by **You** or on **Your** behalf to a third party’s **Computer system**.

WW. **Service Provider** means any third party that is responsible for the processing, maintenance, protection or storage of **Your Digital Assets** pursuant to a written contract directly with **Your Organization**. A **Service Provider** does not include any provider of telecommunications services, including internet access, to **You**.

XX. **Subsidiary** means an entity as listed in Endorsement 3 – Subsidiary List and any subordinate entities to these.

YY. **Theft of data** means the unauthorized taking, misuse or disclosure of information on **Computer systems**, including but not limited to charge, debit, or credit information, banking, financial and investment services account information, proprietary information, and personal, private or confidential information.

ZZ. **Unauthorized access** means the gaining of access to a **Computer system** by an unauthorized person or an authorized person in an unauthorized manner.

AAA. **Unauthorized Use** means the **Use** of a **Computer system** by an unauthorized person or persons or an authorized person in an unauthorized manner.

BBB. **We, Us** or **Our** means the underwriters providing this insurance.

CCC. **You** or **Your** or **Yours** means:

1. the entity named in the Policy (“**Named Insured**”), but only in respect of **subsidiaries** (together “**Your Organization**”);
2. Any present or future director, officer, or trustee of **Your Organization**, but only with respect to the performance of his or her duties as such on behalf of **Your Organization**;
3. Any present or future **employee** of **Your Organization** but only with respect to work done while acting within the scope of his or her employment and related to the conduct of **Your Organization’s** business;





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4. In the event that the **Named Insured** is a partnership, limited liability partnership, or limited liability company, then any general or managing partner, principal, or owner thereof, but only while acting within the scope of his or her duties as such;
5. Any person who previously qualified as **You** under 2, 3, or 4 above prior to the termination of the required relationship with **Your Organization**, but only with respect to the performance of his or her duties as such on behalf of **Your Organization**; and
6. The estate, heirs, executors, administrators, assigns and legal representatives of any of **You** in the event of **Your** death, incapacity, insolvency or bankruptcy, but only to the extent that **You** would otherwise be provided coverage under this insurance.
7. Any agent or independent contractor, including any distributor, licensee or sub-licensee, but only while acting on **Your** behalf, at **Your** direction, and under **Your** control
8. Any natural person or entity that **You** have expressly agreed in writing to add as an additional Insured under this Policy prior to the commission of any act for which such person or entity would be provided coverage for under this Policy, but only to the extent that You would have been liable and coverage afforded under the terms and conditions of this Policy had such claim been made against You. Nothing herein shall confer any rights, duties or obligations to such third party entity under this **Policy** and there shall be no coverage afforded to such entity as a result of any independent acts committed by such third party.

VI. LIMITS OF LIABILITY

- A. The amount indicated in the Policy, as stated within the Limits of Liability (herein the "**policy aggregate limit**") is the most **We** will pay in the aggregate under this Policy, under all coverages combined, for:
 1. all **damages**, including **regulatory fines**, **consumer redress funds** and all **claim expenses** from all **claims**;
 2. all **Crisis Management Costs** and **Breach response costs** from all **security breaches**; and
 3. all **Losses**regardless of the number of acts, errors, or omissions, persons or entities covered by this Policy, claimants, **claims**, **losses** or **security breaches**, or Coverages triggered.
- B. When purchased as indicated in the Policy as stated within the Limits of Liability:
 1. the amount indicated as the Per Claim/Breach Sub-Limit of Liability applicable to Coverage A. is the most **We** will pay for all **damages** and **claim expenses** from each **Claim** arising out of a privacy act, subject to the amount indicated as the





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- Aggregate Sub-Limit of Liability under Coverage A. for all **damages** and **claim expenses** from all such **Claims**;
2. the amount indicated as the Per Claim/Breach Sub-Limit of Liability applicable to Coverage B. is the most **We** will pay for all **regulatory fines, consumer redress funds** and **claim expenses** from each **Regulatory claim** arising out of a privacy act, subject to the amount indicated as the Aggregate Sub-Limit of Liability under Coverage B. for all **regulatory fines** and **claim expenses** from all such **Claims**;
 3. the amount indicated as the Per Claim/Breach Sub-Limit of Liability applicable to Coverage C. is the most **We** will pay for all **Crisis Management Costs** and **Breach response costs** from each **Security breach**, subject to the amount indicated as the Aggregate Sub-Limit of Liability under Coverage C. for all **Crisis Management Costs** and **Breach response costs** from all **Security breaches**;
 4. the amount indicated as the Per Claim/Breach Sub-Limit of Liability applicable to Coverage D. is the most **We** will pay for all **damages** and **claim expenses** from each **Claim** arising out of a security act, subject to the amount indicated as the Aggregate Sub-Limit of Liability under Coverage D. for all **damages** and **claim expenses** from all such **Claims**; and
 5. the amount indicated as the Per **Claim**/Breach Sub-Limit of Liability applicable to Coverage E. is the most **We** will pay for all **damages** and **claim expenses** from each **Claim** arising out of a **multimedia wrongful act**, subject to the amount indicated as the Aggregate Sub-Limit of Liability under Coverage E. for all **damages** and **claim expenses** from all such **Claims**; and
 6. the amount indicated as the Sub-Limit of Liability applicable to Coverage F. is the most **We** will pay for all **Cyber-extortion payments** and **Cyber-extortion expenses** from each **Cyber-extortion threat** and all **Cyber-extortion threats** in the aggregate
 7. the amount indicated as the Sub-Limit of Liability applicable to Coverage G. is the most **We** will pay for all **Business Income Loss, Dependent Business Income Loss** and from each **Security Compromise** and all **Security Compromises** in the aggregate; **Restoration Costs** from each **Security Compromise** and all **Security Compromises** in the aggregate such Per Claim/Breach/**Cyber-extortion threat/Security Compromise** Sub-Limits of Liability and Aggregate Sub-Limits of Liability being referred to herein as the "**Sublimits of liability**", each of which is part of, and not in addition to the, **policy aggregate limit**; and
 8. the amount indicated as the Sub-Limit of Liability applicable to Coverage H. is the most **We** will pay for all for all **damages** and **claim expenses** from each **Claim** arising out of a **PCI DSS Assessment**, subject to the amount indicated as the Aggregate Sub-Limit of Liability under Coverage H. for all **damages** and **claim expenses** from all such **Claims**.
- C. If any **claim** or any single **claim** is covered under more than one Coverage, the highest applicable **sublimit of liability** shall be the most **We** shall pay as to such **claim** or single **claim** and such **claim** or single **claim** shall be subject to the highest applicable deductible.





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VII. DEDUCTIBLE

With respect of all Coverage's you must immediately reimburse us up to the deductible for any amounts we have so paid as **damages, Crisis Management Costs** and **Breach response costs** and **claim expenses** resulting from **claims** first made and reported to **Us** during the **policy period** or **extended reporting period**. One deductible shall apply to each single **Claim** or **Loss** under such Coverage's.

With respect to Coverage G., the applicable deductible amount set forth in the Policy applies once the **Period of Restoration** resulting from a **Network Disruption** has exceeded the **Waiting Period** in hours set forth in the Policy; then the **Business Income Loss** applicable to the deductible amount set forth in the Policy shall be computed as of the commencement of such **Network Disruption**.

VIII. EXTENDED REPORTING PERIOD

A. **Basic Extended reporting period:** In the event of cancellation or non-renewal of this Policy by **You** or **Us**, an **Extended reporting period** of thirty (30) days immediately following such cancellation or non-renewal shall be automatically granted hereunder at no additional premium. Such **extended reporting period** shall cover **claims** first made and reported to **Us** during such thirty (30) day **extended reporting period** but only in respect of any act, error, or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions, and exclusions of this Policy. **No claim** in such thirty (30) day extended reported period shall be covered under this Policy if **You** are entitled to indemnity under any other insurance or would have been entitled to indemnity under such insurance but for the exhaustion thereof.

B. **Optional Extended Reporting Period:** In the event of cancellation or non-renewal of this Policy by **You** or **Us**, **You** shall have the right, upon payment in full and not proportionally or otherwise in part, the percentage of the annual premium shown below, to have issued an endorsement providing an optional **extended reporting period** from the cancellation or non-renewal date, as below::

- 12 months – 100% of the annual premium shown in the Policy
- 24 months - 150% of the annual premium shown in the Policy
- 36 months - 200% of the annual premium shown in the Policy

1. Such optional **extended reporting period** shall cover **claims** made and reported to **Us** during this optional **extended reporting period**, but only in respect of any **claim** arising out of any act, error, or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions, and exclusions of the Policy.
2. In order for **You** to invoke the optional **extended reporting period**, the payment of additional premium as stated in this provision must be paid to **Us** within thirty (30) days of the non-renewal or cancellation.
3. At the commencement of the optional **extended reporting period**, the entire premium shall be deemed fully earned, and in the event **You** terminate the optional **extended reporting period** for whatever reason prior to its natural expiration, **We**





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will not be liable to return any premium paid for the optional **extended reporting period**.

C. Terms and conditions of basic and optional **extended reporting period**

1. At renewal of this policy, **Our** quotation of different premium, deductible or limit of indemnity or changes in policy language shall not constitute non-renewal by **Us** for the purposes of granting the optional **extended reporting period**.
2. The right to the **extended reporting period** shall not be available to **You** where **We** cancel or non-renew due to non-payment of premium.
3. The limit of liability for the **extended reporting period** shall be part of, and not in addition to, the limit of liability for the **policy period**.
4. All notices and premium payments with respect to the **extended reporting period** shall be directed to **Us** through the entity named in the Policy.

IX. TERMS AND CONDITIONS

A. NOTICE OF CLAIM OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM

1. If any **claim** is made against **You** during the **policy period**, then as soon as practicable after **Your Control Group** first becomes aware of such **claim** and no later than 30 days after the expiry of the **policy period**, **You** must forward to **Us** through persons named in the Policy every demand, notice, summons or other process **You** or **Your** representative receive.
2. If during the **policy period**, **Your Control Group** first becomes aware of any act, error or omission that might reasonably give rise to a **claim** or **loss**, **You** must give written notice to **Us** through persons named in the Policy as soon as practicable during the **policy period** of:
 - a. The specific details of the act, error or omission that might reasonably give rise to a **claim** or **loss**;
 - b. The possible damage which may result or has resulted from the act, error or omission;
 - c. The facts by which **You** first became aware of the act, error, omission or **loss**; and
 - d. Any **Computer system** security and event logs which provide evidence of the act, error or omission.

Any subsequent **claim** made against **You** arising out of such act, error or omission or **loss** which is the subject of the written notice will be deemed to have been made at the time written notice complying with the above requirements was first given to **Us**.





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3. A **claim** or **loss** shall be considered to be reported to **Us** when notice is first given to **Us** through persons named in the Policy or when notice of a Wrongful Act which might reasonably give rise to a **claim** is first provided in compliance with IX.A.2 above.
4. If **You** report any **claim, loss** or request any payment under this Policy knowing such **claim, loss** or request to be false or fraudulent, as regards amounts or otherwise, this Policy shall become null and void and all coverage hereunder shall be forfeited.
5. Whenever coverage under this Policy would be lost because of non-compliance of Section IX.A.1. relating to the giving of notice of **claim** or **loss** to **Us** with respect to which any other of **You** shall be in default solely because of the failure to give such notice or concealment of such failure by one or more **You** responsible for the loss or damage otherwise insured hereunder, then **We** agree that such insurance as would otherwise be afforded under this Policy shall cover and be paid with respect to those of **You** who did not personally commit or personally participate in committing or personally acquiesce in such failure to give notice, provided that those of **You** entitled to the benefit of this provision under Section IX.A.1. have complied with such condition promptly after obtaining knowledge of the failure of any others of **You** to comply therewith, and any such **claim** or **loss** was reported during the **policy period** or **extended reporting period**, if applicable.

However, such insurance as afforded by this provision shall not cover a **claim** or **loss** against **Your Organization** if a current principal, partner, director, or officer failed to give notice as required by Section IX.A.1. for a **claim** or **loss** against **Your Organization** arising from acts, errors, or omissions that **Were** known to a current principal, partner, director, or officer.

B. ASSISTANCE AND COOPERATION

1. **You** shall cooperate with **Us** in all investigations. **You** shall execute or cause to be executed all papers and render all assistance as requested by **Us**. Part of this assistance may require **You** to provide soft copies of **Your** system security and event logs.
2. Upon **Our** request, **You** shall assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to **You** because of acts, errors, or omissions with respect to which insurance is afforded under this Policy; and **You** shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.
3. **You** shall not admit liability, make any payment, assume any obligation, incur any expense, enter into any settlement, stipulate to any judgment or award or dispose of any **claim** without **Our** written consent, unless otherwise provided under Section II.
4. As soon as practicable after **You** give **Us** notice of any **Claim**, circumstance, **Loss**, or **security breach**, **You** must also give **Us** copies of reports, photographs, investigations, pleadings and all other papers in connection therewith, including



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allowing **Us** to question **You** under oath at such times as may be reasonably required regarding **Your Organization's** books, records, and any other matters relating to such **security breach** or **Claim**.

5. In the event of a **security breach** or **loss**, **You** must take all reasonable steps to protect **Computer systems** and personally identifiable, non-public information from further access, disclosure, loss or damage.

C. DUTIES IN THE EVENT OF A LOSS (applicable to Coverage G only)

You must see that the following are done if **You** send **Us** a **Loss** Notification:

1. At our request, notify the police, FBI, CERT or other applicable law enforcement authority, central reporting or investigative organization that **We** may designate, if it appears that a law may have been broken;
2. Immediately take all reasonable steps and measures necessary to limit or mitigate the **Loss**;
3. Send **Us** copies of every demand, notice, summons, or any other applicable information **You** receive;
4. If requested, permit **Us** to question **You** under oath at such times and places as may be reasonably required about matters relating to this insurance, including **Your** books and records;
5. Send **Us** a sworn statement of **Loss** containing the information **We** request to resolve, settle or otherwise handle the **Loss**. **We** will provide **You** with the necessary forms;
6. Cooperate with **Us** and counsel **We** may appoint in the investigation of any **Loss** covered by this Policy;
7. Assist **Us** and counsel **We** may appoint in the investigation or settlement of **Losses**;
8. Assist **Us** in protecting and enforcing any right of subrogation, contribution or indemnity against any person, organization or other entity that may be liable to **You**, including attending depositions, hearings and trials; and
9. Otherwise assist in securing and giving documentation and evidence, and obtaining the attendance of witnesses.

D. SUBROGATION

In the event of any payment under this Policy, **You** agree to give **Us** the right to any subrogation and recovery to the extent of our payments. **You** agree to execute all papers required and will do everything that is reasonably necessary to secure these rights to enable **Us** to bring suit in **Your** name. **You** agree to fully cooperate in our prosecution of that suit. **You** agree not to take any action that could impair our right of subrogation without our written consent whether or not **You** have incurred any un-reimbursed Loss. Any recoveries



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shall be applied first to subrogation expenses, second to **damages** and **claim expenses** paid by **Us**, and third to the deductible. Any additional amounts recovered shall be paid to **You**.

E. INSPECTIONS AND SURVEYS

We may choose to perform inspections or surveys of **Your** operations, conduct interviews and review documents as part of our underwriting, our decision whether to provide continued or modified coverage, or our processing of any **Loss**. If **We** make recommendations as a result of these inspections, **You** should not assume that every possible recommendation has been made or that **Your** implementation of a recommendation will prevent a **Loss**. **We** do not indicate by making an inspection or by providing **You** with a report that **You** are complying with or violating any laws, regulations, codes or standards.

F. OTHER INSURANCE

This insurance shall apply in excess of any other valid and collectible insurance available to **You**, including any deductible or deductible portion thereof, unless such other insurance is written only as specific excess insurance over the Limit of Liability of this Policy.

G. ACTION AGAINST US

No action shall lie against **Us** or **Our** representatives unless, as a condition precedent thereto: (1) there shall have been full compliance with all terms of this insurance; and (2) until the amount of **Your** obligation to pay shall have been finally determined either by judgment or award against **You** after trial, regulatory proceeding, arbitration or by written agreement between **You**, the **claimant**, and **Us**.

Any person or organization or the legal representative thereof who has secured such judgment, award, or written agreement shall thereafter be entitled to make a **claim** under this Policy to the extent of the insurance afforded by this Policy. No person or organization shall have the right under this Policy to join **Us** as a party to an action or other proceeding against **You** to determine **Your** liability, nor shall **We** be impleaded by **You** or **Your** legal representative.

Your bankruptcy or insolvency shall not relieve **Us** of our obligations hereunder.

H. ENTIRE AGREEMENT

By acceptance of the policy, **You** agree that this Policy embodies all agreements between **You** and **Us** relating to this insurance. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or stop **Us** from asserting any right under the terms of this Policy; nor shall the terms of this Policy be waived or changed, except by endorsement issued to form a part of this Policy signed by **Us**.





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I. NEW SUBSIDIARIES/CHANGES IN NAMED INSURED OR YOUR ORGANIZATION

1. During the **policy period**, if **You** acquire another corporation whose annual revenues are more than fifteen percent (15%) of **Your Organization's** annual revenues as set forth in its most recent audited financial statements there shall be no coverage under this Policy for acts, errors, or omissions committed or allegedly committed by the newly acquired **subsidiary** unless **You** give **Us** written notice of the acquisition containing full details thereof, and **We** have agreed to add coverage for the newly acquired **subsidiary** upon such terms, conditions, and limitations of coverage and such additional premium as **We**, in **Our** sole discretion, may require.
2. During the **policy period**, if the **Named Insured** consolidates or merges with or is acquired by another entity, or sells substantially all of its assets to another entity, or a receiver, conservator, trustee, liquidator, or rehabilitator, or any similar official is appointed for or with respect to the **Named Insured**, then all coverage under this Policy shall continue to the expiration of the **policy period** but only for losses, acts, errors, or omissions that occurred prior to the date of such consolidation, merger or appointment.
3. Should a corporation cease to be a **subsidiary** after the inception date of this policy, coverage with respect to such corporation shall continue as if it was still a **subsidiary** until the expiration date of this policy, but only with respect to a **claim** that arises out of any act, error, or omission committed such corporation prior to the date that it ceased to be a **subsidiary**.
4. All notices and premium payments made under this paragraph shall be directed to **Us** through the entity named in the Policy.

J. ASSIGNMENT

Your interest under this Policy may not be assigned to any other person or organization, whether by operation of law or otherwise, without our written consent. If **You** shall die or be adjudged incompetent, such insurance shall cover **Your** legal representative as **You** as would be covered under this Policy.

K. CANCELLATION

1. This Policy may be cancelled by **You**, by surrender thereof to **Us** or by mailing to **Us** through the entity named in the Policy, written notice stating when the cancellation shall be effective.
2. This Policy may be cancelled by **Us** by mailing to **You** at the address shown in the Policy written notice stating when, not less than sixty (60) days thereafter, such cancellation shall be effective. However, if **We** cancel this Policy because **You** have failed to pay a premium when due, this Policy may be cancelled by **Us** by mailing a written notice of cancellation to **You** at the address shown in the Policy stating when, not less than ten (10) days thereafter, such cancellation shall be effective. Mailing of notice shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of





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the **policy period**. Delivery (where permitted by law) of such written notice either by **You** or by **Us** shall be equivalent of mailing.

3. If **You** cancel this Policy, the earned premium shall be computed in accordance with the Lloyd's short rate table and procedure, provided that the premium shall be deemed fully earned if any **claim** has been notified to **Us** under this Policy. In that event, **We** agree that the Policy will not be cancelled midterm solely on the basis of any valid **claim** notified to **Us**.
4. If **We** cancel this Policy prior to any **claim** or **security breach** being reported under this Policy, the earned premium shall be computed pro rata. The premium shall be deemed fully earned if any **claim** or **security breach** under this Policy is reported to **Us** on or before the date of cancellation.
5. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

L. WORDS AND TITLES OF PARAGRAPHS

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

M. NAMED INSURED AUTHORIZATION

The **Named Insured** first specified in the Policy has the right and duty to act on **Your** behalf for:

1. The giving and receiving of notice of cancellation;
2. The payment of premiums, including additional premiums;
3. The receiving of any return premiums;
4. The acceptance of any endorsements added after the effective date of coverage;
5. The payment of any deductible ;
6. The receiving of any loss payments; and
7. Otherwise corresponding with **Us**.

N. WARRANTY BY YOU

By acceptance of this Policy, **You** agree that the statements contained in the **Application**, any **Application** for coverage of which this Policy is a renewal, and any supplemental materials submitted therewith, are **Your** agreements and representations, that they shall be





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deemed material to the risk assumed by **Us**, and that this Policy is issued in reliance upon the truth thereof.

The intentional misrepresentation or non-disclosure of any matter by **You** or **Your** agent in the **Application**, any **Application** for coverage of which this Policy is a renewal, or any supplemental materials submitted therewith will render the Policy null and void and relieve **Us** from all liability under the Policy.

The **Application** and any **Application** for coverage of which this Policy is a renewal, and any supplemental materials submitted therewith, are deemed incorporated into and made a part of this Policy.

O. SERVICE OF SUIT CLAUSE (U.S.A.)

1. It is agreed that in the event of our failure to pay any amount claimed to be due under this Policy, at **Your** request **We** will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this clause constitutes or should be understood to constitute a waiver of our rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or seek a transfer of a case to another court as permitted by the laws of the United States or any state in the United States. It is further agreed that service of process in such suit may be made upon our representative, designated in the Policy, and that in any suit instituted against any one of **Us** upon this contract, **We** will abide by the final decision of such court or of any appellate court, in the event of an appeal.
2. **Our** representative designated in the Policy is authorized and directed to accept service of process on our behalf in any such suit and/or upon **Your** request to give a written undertaking to **You** that they will enter a general appearance upon our behalf in the event such a suit shall be instituted.
3. Pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, **We** hereby designate the Superintendent, Commissioner, or Director of Insurance or other officer specified for that purpose in the statute, or his successor in office, as our true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of **You** or any beneficiary hereunder arising out of this Policy, and hereby designate our representative listed in the Policy as the person to whom the said officer is authorized to mail such process or a true copy thereof.

P. CHOICE OF LAW

Any disputes involving this Policy shall be resolved applying the law designated in the Policy.

Q. DISPUTE RESOLUTION

We and **You** agree to attempt in good faith to resolve any dispute arising out of or relating to this Policy promptly by negotiation in accordance with the following schedule:





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1. If the dispute has not been resolved by negotiation within thirty (30) days of the disputing party's notice, either party may demand that the dispute be submitted for non-binding resolution by mini-trial.
2. The parties shall have ten (10) business days to agree on a mini-trial neutral.
3. If the parties are unable to agree on a mini-trial neutral, no more than three (3) business days after the expiration of the ten (10) day period set forth in subpart 2. above, each party shall submit to the other party the name of a single proposed mini-trial neutral who is available and able to comply with the requirements set forth herein.
4. If the parties are unable to agree after such disclosure, the mini-trial neutral will be determined as follows: **Your** proposed mini-trial neutral will be selected if the first digit to the left of the decimal point of the Dow Jones Industrial Average's closing number two (2) business days after the expiration of the period set forth in 3. above is an even number. **Our** proposed mini-trial neutral will be selected if that digit is an odd number.
5. The parties must submit confidential briefs no longer than twenty-five (25) double-spaced pages, along with no more than five exhibits, to the mini-trial neutral within twenty (20) business days of the selection of the neutral.
6. The meeting with the mini-trial neutral must take place within fourteen (14) business days of the submission of the briefs set forth in 5. above.
7. The mini-trial neutral shall submit a written decision to the parties within ten (10) business days of the meeting set forth in 6. above.

No person or organization will have any right under this policy to join **Us** as a party to any action against **You** to determine **Your** liability.





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NEW SHORT RATE CANCELLATION TABLE ENDORSEMENT (U.S.A.)

Notwithstanding anything to the contrary contained herein and in consideration of the premium for which this Insurance is written it is agreed that in the event of cancellation thereof by the Assured the Earned Premium shall be computed as follows:-

SHORT RATE CANCELLATION TABLE

A. For insurances written for one year:-

Days Insurance in Force	Per cent. of One Year Premium	Days Insurance in Force	Per cent. of One Year Premium
1-73	30	201 - 205	65
74 - 76	31	206 - 209	66
77 - 80	32	210 - 214 (7 months)	67
81 - 83	33	215 - 218	68
84 - 87	34	219 - 223	69
88 - 91 (3 months)	35	224 - 228	70
92 - 94	36	229 - 232	71
95 - 98	37	233 - 237	72
99 - 102	38	238 - 241	73
103 - 105	39	242 - 246 (8 months)	74
106 - 109	40	247 - 250	75
110 - 113	41	251 - 255	76
114 - 116	42	256 - 260	77
117 - 120	43	261 - 264	78
121 - 124 (4 months)	44	265 - 269	79
125 - 127	45	270 - 273 (9 months)	80
128 - 131	46	274 - 278	81
132 - 135	47	279 - 282	82
136 - 138	48	283 - 287	83
139 - 142	49	288 - 291	84
143 - 146	50	292 - 296	85
147 - 149	51	297 - 301	86
150 - 153 (5 months)	52	302 - 305 (10 months)	87
154 - 156	53	306 - 310	88
157 - 160	54	311 - 314	89
161 - 164	55	315 - 319	90
165 - 167	56	320 - 323	91
168 - 171	57	324 - 328	92
172 - 175	58	329 - 332	93
176 - 178	59	333 - 337 (11 months)	94





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179 – 182	(6 months)	60		338 - 342	95
183 – 187	61		343 - 346	96
188 – 191	62		347 - 351	97
192 – 196	63		352 - 355	98
197 – 200	64		356 - 360	99
				361 - 365	(12 months).....	100

B. For Insurances written for more or less than one year:-

1. If insurance has been in force for 12 months or less, apply the standard short rate table for annual insurances to the full annual premium determined as for an insurance written for a term of one year.
2. If insurance has been in force for more than 12 months:
 - (a) Determine full annual premium as for an insurance written for a term of one year.
 - (b) Deduct such premium from the full insurance premium, and on the remainder calculate the pro rata Earned Premium on the basis of the ratio of the length of time beyond one year the insurance has been in force to the length of time beyond one year for which the insurance was originally written.
 - (c) Add premium produced in accordance with items (a) and (b) to obtain Earned Premium during full period insurance has been in force.

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SANCTION LIMITATION AND EXCLUSION CLAUSE

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)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.

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ENDORSEMENT 1 – BREACH VENDOR PANEL

The following vendors have been approved to support **You** in the event of a **security breach**. **You** do not require **our** prior written consent to incur reasonable costs with vendors under 1 and 2:

1. Forensic Consultants:
2. Privacy Attorneys:

Baker & Hostetler LLP

Ted Kobus

1-212-271-1504

tkobus@bakerlaw.com

24/7 breach response hotline - **1-855-217-5204**

3. Notification Providers:
4. Credit Monitoring Services:

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ENDORSEMENT 2 – STATE ATTORNEY GENERAL EXCLUSION

It is hereby understood and agreed that this Policy shall not cover any **Regulatory claim** or **Regulatory fine** by the Office of the West Virginia Attorney General.

All other terms and conditions remain unchanged.

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ENDORSEMENT 3 – SUBSIDIARY LIST

The following entities are covered under the Policy as members of **Your Organization**:

Department of Administration

- Cabinet Secretary's Office Department of Administration
- Aviation
- Children's Health Insurance Program
- Consolidated Public Retirement Board
- Ethics Commission
- Finance Division
- Fleet Management Office
- General Services Division
- Office of Technology/IS&C
- Division of Personnel
- Prosecuting Attorneys Institute
- Public Defender Services
- Public Employees Insurance Agency
- Purchasing Division
- Real Estate Division
- Risk and Insurance Management, Board of Technology
- Office of WV Public Employee's Grievance Board

- Bureau for Child Support Enforcement
- Bureau for Children and Families
- Bureau for Medical Services
- Bureau for Public Health

Department of Military Affairs and Public Safety

- Cabinet Secretary's Office of Military Affairs
- Adjutant General/National Guard
- Division of Criminal Justice Services
- Division of Corrections
- Division of Homeland Security & Emergency Mgt.
- Division of Juvenile Services
- Parole Board
- Division of Protective Services
- Regional Jail and Correctional Facilities Authority
- State Police
- Armory Board

Department of Education and the Arts

- Cabinet Secretary's Office of Education and Arts
- Commission for National & Community Service (Volunteer WV)
- Dept of Culture & History
- Educational Broadcasting Authority (WV Public Broadcasting)
- Library Commission
- Center for Professional Development
- Div. of Rehabilitation Services

Department of Revenue

- Alcohol Beverage Control Administration
- Division of Financial Institutions
- Insurance Commissioner
- Lottery Commission
- Office of Tax Appeals
- Racing Commission
- Tax Department
- Budget Office
- Municipal Bond Commission

Department of Environmental Protection

- Air & Environmental Quality Board
- Division of Environmental Protection
- Oil & Gas Conservation Commission
- Solid Waste Management Board

Department of Transportation

- Aeronautics Commission
- Division of Highways
- Department of Motor Vehicles
- Office of Administrative Hearings
- Parkways Authority
- Public Port Authority
- Division of Public Transit
- State Rail Authority

Department of Health and Human Resources

- Office of the Cabinet Secretary
- Bureau for Behavioral Health and Health Facilities

Department of Commerce

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- Cabinet Secretary's Office Commerce
- Development Office
- Division of Energy
- Division of Forestry
- Geological and Economic Survey
- Department of Labor
- Division of Health Safety
- Division of Natural Resources
- Division of Tourism
- Workforce West Virginia
- Office of Economic Opportunity
- Department of Natural Resources

Department Veterans' Assistance

- Homeless Veterans Resource Centers
- VA Medical Centers
- Outpatient Clinics
- Community Based Outpatient Clinics
- Vet Centers

Chapter 30 Licensing Boards & Other

- West Virginia Health Care Authority
- West Virginia Health Information Network
- Governor's Office
- Bureau of Senior Services
- Board of Accountancy
- Board of Acupuncture
- Board of Architects
- Board of Barbers and Cosmetologists
- Board of Physical Therapy
- Board of Practical Nurses
- Board of Professional Engineers
- Professional Surveyors
- Board of Psychologists Examiners
- Real Estate Licensing Board
- Real Estate Commission
- Board of Registered Nurses
- Board of Respiratory Care
- Board of Social Work Examiners
- Speech Pathology & Audiology Examiners
- Board of Veterinary Medicine
- WV Medical Imaging & Radiation Therapy
- Board of Landscape Architects
- Board of Massage Therapy Licensure
- Board of Medicine Occupational Therapy
- Board of Occupational Therapy
- Board of Optometry

- Chiropractic Examiners Board
- Board of Dental Examiners
- Board of Licensed Dieticians
- Board of Examiners in Counseling
- Board of Registration for Foresters
- Board of Funeral Service Examiners

Other

- West Virginia Economic Development Authority
- West Virginia Courthouse Facilities Improvement Authority
- Human Rights Commission
- Coal Heritage Highway Authority
- Municipal Pensions Oversight Board
- Southern West Virginia Community College
- WV State University
- Blue Ridge CTC
- RESA 3
- RESA 8
- WV Schools for the Deaf & Blind
- Mountwest Community & Technical College
- Water Development Authority
- RESA 1
- Fire Commission
- Bluefield State College
- Board of Osteopathy
- Board of Pharmacy
- Pierpont Community & Tech College
- Concord University
- Fairmont University
- Marshall University
- WV University at Parkersburg
- New River Community & Tech College
- WV Senate
- RESA 7
- WV Northern Community College
- WNET
- WV School of Osteopathic Medicine
- WV Joint committee on Government and Finance
- Bridge Valley
- WV State Treasurer's Office
- Eastern WV Community and Technical College

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- West Virginia School of Osteopathic Medicine Clinic
- RESA 6
- WV House of Delegates
- WV Secretary of State
- West Liberty University
- Attorney General Office
- Glenville University
- Higher Education Policy Commission
- Cedar Lakes Conference Center
- School Building Authority
- RESA 2
- WV State Bar
- Shepherd University
- University Physician and Surgeons, Inc
- RESA 4
- Public Service Commission
- West Virginia Enterprise Resource Planning Board
- Virginia Investment Management Board
- Office of Privacy
- West Virginia Investment Management Board
- West Virginia Enterprise Resource Planning Board

All other terms and conditions remain unchanged.

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Foreign Account Tax Compliance Act ("FATCA")

Each (Re)Insurer hereby acknowledges the requirements of Sections 1471-1474 US Internal Revenue Code of 1986, as amended, and the Treasury regulations and other guidance issued from time to time thereunder ("FATCA") and the obligation of each of them to provide to the Broker [insert name of Broker] a valid Internal Revenue Service ("IRS") Form W-8BEN-E, W-9 or other documentation meeting the requirements of the FATCA regulations to establish they are not subject to any withholding requirement pursuant to FATCA (the "Required Documentation").

Furthermore:

- a) If a (Re)Insurer becomes non-compliant with FATCA during the contract period or has not provided the Broker with the Required Documentation 14 days prior to any premium due date, the Withholding Agent (as defined in U.S. Treasury Regulation Section 1.1471-1(b)(147)) shall withhold 30% of the premium (to the extent all or a portion of that premium is subject to withholding pursuant to FATCA) due to that (Re)Insurer under this contract on that premium due date and shall promptly notify that (Re)Insurer via the Broker.
- b) The withholding of premium by virtue of (a) above shall not be, and shall not be treated by the (Re)Insurer as a breach of any premium payment condition, warranty or other clause whether or not entitling the (Re)Insurer to cancel, terminate or restrict this contract, refuse, restrict or delay payment of any claim or invoke any interest, penalty or other late payment provision. The (Re)Insurer shall be liable under this contract as if no such withholding had been made.
- c) The (Re)Insurer shall not recoup sums withheld under (a) above by deducting equivalent sums from any payments due to the (Re)Insured or by set off against any other sums owed by the (Re)Insurer and any general or contractual right of set-off enjoyed by the (Re)Insurer is hereby varied and qualified to that extent.
- d) Where premium is withheld in error, has not yet been paid to the IRS and the underwriter has been paid only the net premium following such withholding, the broker will cooperate with the (re)insurer to process the requisite refund.

IUA09-054 (FATCA)
10 November 2014

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MARKET REFORM CONTRACT

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WEST VIRGINIA SURPLUS LINES NOTICE (GUARANTY ACT)

THIS COMPANY IS NOT LICENSED TO DO BUSINESS IN WEST VIRGINIA, AND IS NOT SUBJECT TO THE WEST VIRGINIA INSURANCE GUARANTY ACT.

LMA9087
01 September 2013

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Arthur J. Gallagher

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MARKET REFORM CONTRACT

UMR: B1262FI0687316

WEST VIRGINIA SURPLUS LINES NOTICE

Notice:

1. An insurer that is not licensed in this state is issuing the insurance policy that you have applied to purchase. These companies are called 'nonadmitted' or 'surplus lines' insurers.
2. The insurer is not subject to the financial solvency regulation and enforcement that applies to licensed insurers in this state.
3. These insurers generally do not participate in insurance guaranty funds created by state law. These guaranty funds will not pay your claims or protect your assets if the insurer becomes insolvent and is unable to make payments as promised.
4. Some states maintain lists of approved or eligible surplus lines insurers and surplus lines brokers may use only insurers on the lists. Some states issue orders that particular surplus lines insurers cannot be used.
5. For additional information about the above matters and about the insurer, you should ask questions of your insurance agent or surplus lines licensee. You may also contact your insurance commission consumer help line.

LMA9086
01 September 2013

Handwritten initials/signature

CONTRACT ENDORSEMENT	
Unique Market Reference:	BI262FI0687316
Endorsement Reference:	001
(Re)Insured:	State of West Virginia
CONTRACT CHANGES	
This contract is amended as follows:	
Endorsement Effective Date: 1 July 2016	
It is hereby noted and agreed that the following entities are added as subsidiaries forming part of Your Organization under Section V Definitions GGG.	
<ul style="list-style-type: none"> • West Virginia State Auditor's Office • Department of Education 	
Additional Premium of USD 58,656 is charged	
All other terms and conditions remain unchanged.	
<u>Subjectivities</u>	
None	
<u>Information</u>	
<ul style="list-style-type: none"> • Signed and dated applications from West Virginia State Auditor's Office and Department of Education as seen and agreed by underwriter • Email from Louisa Wimbush (Arthur J. Gallagher) to Adam Taylor (Brit) cc Matthew Waller (Barbican) Titled "State of WV – Auditors Office and Department of Education" sent 9 August 2016, as seen and agreed by underwriters 	
Dated in London 15 August 2016	

**THIS COMPANY IS NOT LICENSED TO
DO BUSINESS IN WEST VIRGINIA AND IS
NOT SUBJECT TO THE WEST VIRGINIA
INSURANCE GUARANTY ACT.**



Gallagher London

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CONTRACT ENDORSEMENT	
Unique Market Reference:	BI262FI0687316
Endorsement Reference:	001
(Re)Insured:	State of West Virginia
CONTRACT ADMINISTRATION AND ADVISORY SECTION	
Settlement Due Date:	In the absence of an insurer specified Settlement Due Date, the Settlement Due Date will be calculated by applying the terms of trade for the original premium to whichever is the later of either: <ol style="list-style-type: none"> 1. the latest effective date of the subject matter of the contract endorsement; or 2. the date on which the final insurer agreement is obtained.
Allocation of Premium to Coding:	100% CY
All other terms and conditions remain unchanged.	

AGREEMENT

GENERAL UNDERWRITERS AGREEMENT (GUA)		
Each Underwriter's proportion is several not joint		
Slip Leader only	Slip Leader and Agreement Parties	All Underwriters
		



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