

**RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT  
FOR PROCUREMENT OF CYBER LIABILITY INSURANCE**

**WHEREAS**, the Rensselaer County Industrial Development Agency (the “Agency”) is desirous of obtaining cyber liability insurance; and

**WHEREAS**, the Agency has received the attached quote for Cyber Liability Insurance Coverage from NFP Property and Casualty Services, Inc. (NFP), a qualified insurance broker; and

**WHEREAS**, the Agency’s staff has reviewed the proposal and does recommend acceptance of the proposal submitted by NFP, including “Invoice Manipulation Coverage”, as best meeting the needs of the Agency; and

**WHEREAS**, pursuant to Paragraph 4 (A) of the Agency’s Procurement Policy, providing insurance coverage is in the nature of Professional Services, and this procurement is being made pursuant to said Paragraph 4 (A); now, therefore, be it

**RESOLVED**, that the Agency does approve the proposal from NFP, as recommended by staff, and does hereby authorize the Agency Executive Director to purchase from NFP a Cyber Liability Insurance Policy, substantially as proposed by NFP in the attached proposal, with the limits and deductibles shown in said proposal, for an annual premium and fees of One Thousand Eight Hundred Twenty-Nine Dollars.

**Resolution ADOPTED by the following vote:**

**Ayes: 5**

**Nays: 0**

**Abstain: 0**

**November 14, 2024**

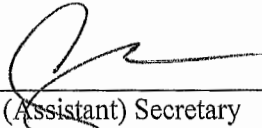
STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF RENSSELAER        )

I, the undersigned (Assistant) Secretary of Rensselaer County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on November 14, 2024 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 14th day of November, 2024.

  
\_\_\_\_\_  
(Assistant) Secretary

(SEAL)



Rensselaer County Industrial Development Agency  
Cyber Liability Insurance Proposal  
10/30/2024

CFC Insurance Company -- Lloyds of London

Cyber Incident Response Limit	\$1,000,000
Legal and Regulatory Cost Coverage	\$1,000,000 with \$2,500 deductible
IT Services and Forensic Cost Coverage	Included
Crisis Communication Cost Coverage	Included
Privacy Breach Cost Coverage	Included
3 <sup>rd</sup> Party Privacy Breach Management	Included
Extortion Coverage	Included
Post Breach Remediation Cost	\$50,000
Funds Transfer Coverage	\$250,000 with \$2,500 deductible
Telephone Hacking Coverage	\$250,000 with \$2,500 deductible
Annual Premium and Fees	\$1,829
Non Admitted Basis	Yes
Invoice manipulation coverage limit	\$250,000
Annual Premium	\$1,600
Admitted Basis	Yes
Invoice manipulation coverage	none

98 B Troy Road / East Greenbush, NY 12061 / 518.479.2004 / NFP.com

*Insurance services provided through NFP Property & Casualty Services, Inc., a subsidiary of NFP Corp. (NFP). Doing business in California as NFP Property & Casualty Insurance Services, Inc. (License # OF15715).*



# Proposal Cover Letter

Policy Type: Cyber Liability  
Proposal #: 0748509A  
Date Prepared: October 29, 2024

**NAMED INSURED**

Rensselaer County Industrial Development Agency  
333 Broadway  
Troy, NY 12180

**PRODUCING BROKER**

NFP Property & Casualty Services, Inc. dba Dignum &  
98 B Troy Road  
East Greenbush, NY 12061

**NAME OF INSURER**

Underwriters at Lloyd's and other insurers

**AM BEST RATING****STATUS**

Non-Admitted

**PROPOSED POLICY PERIOD:**

From 11/1/2024 until 11/1/2025 at 12:01 A.M. Standard Time at mailing address shown above

**POLICY COST**

Policy Premium:	\$1,450.00
Surplus Lines Tax	\$52.20
Stamping Office Fee	\$2.18
Broker Fee - Fully Earned	\$175.00
Company Misc. Fee	\$150.00
<b>Total Cost:</b>	<b>\$1,829.38</b>

**REQUIREMENTS OF BINDING / SUBJECTIVITIES**

Jencap Specialty Insurance Services Inc. must receive request to bind on or before requested effective date.

Required documents may be emailed or faxed for binding.

Additional information requested or otherwise obtained may require this proposal be modified or withdrawn.

- Written request from you to bind, including desired effective date, terms and conditions
- If applicable, signed and completed Surplus Lines Compliance Forms
- Any information requested on the attached carrier quote, subject to review and underwriter approval

**PROPOSAL TERMS**

- The attached is offered by the insurer and is based on underwriting and rating information contained in your application or otherwise provided by you.
- Review carefully as the coverage and terms indicated may not be the same as you have requested. Specimen Forms are available upon request.
- Policy Cost (Full premium, plus any applicable taxes and/or fees), Requirements of Binding / Subjectivities, and Payment Terms are outlined in this Cover Letter and replace those included on the Insurer Indication.
- Coverages, Limits, Deductibles and Forms are found on the attached Insurer Indication.
- New Business terms are valid for no more than 30 calendar days from the date of this proposal or the effective date, whichever is sooner, unless otherwise stated in the requirements of binding / subjectivities. Renewal terms are valid until the expiration date of the current policy. These terms replace any expiration date listed on Insurer Indication.

## PAYMENT TERMS

Earned Premiums are the responsibility of broker ordering coverage.

Broker, Filing or Inspection Fees and Additional Insured charges are Fully Earned.

As a Preferred Broker, a downpayment is not required to bind coverage. Payment in full (including taxes and/or fees if any) is due within 20 days of the effective date of coverage.

Payment can be made as follows:

- **Agency Check** payable to Jencap Specialty Insurance Services
- **E-Check** (\$2.95 Flat Charge Handling Fee) or **Credit Card** (3.15% of the premium Handling Fee) for down payment, or payment in full. Go to [www.jencapgroup.com](http://www.jencapgroup.com) to make payment. You may provide a copy of payment confirmation with order to bind. (Note: The Handling Fee is charged by the Processing Vendor)
- **ACH** - If not currently set up; contact Becky Remington at [becky.remington@jencapgroup.com](mailto:becky.remington@jencapgroup.com) or 1-800-333-7226 x1395

**Commission:** 10%

## PROPOSAL PREPARED BY

ngolubsk

Natalie Golubski  
Professional Lines Broker  
(800) 333-7226, Ext. 6268  
[natalie.golubski@jencapgroup.com](mailto:natalie.golubski@jencapgroup.com)



Jencap Specialty Insurance Services Inc.  
295 Main Street, Suite 866  
Buffalo, NY 14203-2595  
[www.jencapgroup.com](http://www.jencapgroup.com)



## INDICATION OF TERMS

REFERENCE NUMBER:	4778041
COMPANY NAME:	Rensselaer County Industrial Development Agency
TOTAL PAYABLE:	USD1,600.00
Premium breakdown:	
Cyber & Privacy:	USD830.00
Cyber Crime:	USD620.00
Policy Administration Fee:	USD150.00
TRIA:	USD0.00
BUSINESS OPERATIONS:	Municipality
LEGAL ACTION:	Worldwide
TERRITORIAL SCOPE:	Worldwide
RÉPUTATIONAL HARM PERIOD:	12 months
INDEMNITY PERIOD:	12 months
WAITING PERIOD:	8 hours
WORDING:	Cyber, Private Enterprise (US) v3.2
ENDORSEMENTS:	Policyholder Disclosure Notice Of Terrorism Insurance Coverage Jencap Special Amendatory Clause
SUBJECTIVITIES:	This quote is subject to the following being provided by the stated deadline:  <ol style="list-style-type: none"><li>1. Satisfactory confirmation that you have downloaded &amp; registered our incident response mobile app, details of which can be found with your policy documents. (30 days post binding)</li><li>2. Signed version of the application form submitted, dated within 30 days of the required inception date. (14 days post binding)</li><li>3. Please provide name, position, email and telephone number for the designated contact to receive security related alerts and targeted threat intelligence. (14 days post binding)</li></ol>
POLICY PERIOD:	12 months
OPTIONAL EXTENDED REPORTING PERIOD:	12 months for 100% of applicable annualized premium
SECURITY:	Certain underwriters at Lloyd's and other insurers



## DECLARATIONS

### THE FOLLOWING INSURING CLAUSES ARE SUBJECT TO AN EACH AND EVERY CLAIM LIMIT

#### INSURING CLAUSE 1: CYBER INCIDENT RESPONSE

##### SECTION A: INCIDENT RESPONSE COSTS

Limit of liability:	USD1,000,000	each and every claim
Deductible:	USD0	each and every claim

##### SECTION B: LEGAL AND REGULATORY COSTS

Limit of liability:	USD1,000,000	each and every claim
Deductible:	USD2,500	each and every claim

##### SECTION C: IT SECURITY AND FORENSIC COSTS

Limit of liability:	USD1,000,000	each and every claim
Deductible:	USD2,500	each and every claim

##### SECTION D: CRISIS COMMUNICATION COSTS

Limit of liability:	USD1,000,000	each and every claim
Deductible:	USD2,500	each and every claim

##### SECTION E: PRIVACY BREACH MANAGEMENT COSTS

Limit of liability:	USD1,000,000	each and every claim
Deductible:	USD2,500	each and every claim

##### SECTION F: THIRD PARTY PRIVACY BREACH MANAGEMENT COSTS

Limit of liability:	USD1,000,000	each and every claim
Deductible:	USD2,500	each and every claim

##### SECTION G: POST BREACH REMEDIATION COSTS

Limit of liability:	USD50,000	each and every claim, subject to a maximum of 10% of all sums <b>we</b> have paid as a direct result of the <b>cyber event</b>
Deductible:	USD0	each and every claim



## INSURING CLAUSE 2: CYBER CRIME

### SECTION A: FUNDS TRANSFER FRAUD

Limit of liability: USD250,000 each and every claim

Deductible: USD2,500 each and every claim

### SECTION B: THEFT OF FUNDS HELD IN ESCROW

Limit of liability: USD250,000 each and every claim

Deductible: USD2,500 each and every claim

### SECTION C: THEFT OF PERSONAL FUNDS

Limit of liability: USD250,000 each and every claim

Deductible: USD2,500 each and every claim

### SECTION D: EXTORTION

Limit of liability: USD1,000,000 each and every claim

Deductible: USD2,500 each and every claim

### SECTION E: CORPORATE IDENTITY THEFT

Limit of liability: USD250,000 each and every claim

Deductible: USD2,500 each and every claim

### SECTION F: TELEPHONE HACKING

Limit of liability: USD250,000 each and every claim

Deductible: USD2,500 each and every claim

### SECTION G: PUSH PAYMENT FRAUD

Limit of liability: USD50,000 each and every claim

Deductible: USD2,500 each and every claim

### SECTION H: UNAUTHORIZED USE OF COMPUTER RESOURCES

Limit of liability: USD250,000 each and every claim

Deductible: USD2,500 each and every claim



### INSURING CLAUSE 3: SYSTEM DAMAGE AND BUSINESS INTERRUPTION

#### SECTION A: SYSTEM DAMAGE AND RECTIFICATION COSTS

Limit of liability: USD1,000,000 each and every claim

Deductible: USD2,500 each and every claim

#### SECTION B: INCOME LOSS AND EXTRA EXPENSE

Limit of liability: USD1,000,000 each and every claim, sub-limited to USD1,000,000 in respect of **system failure**

Deductible: USD2,500 each and every claim

#### SECTION C: ADDITIONAL EXTRA EXPENSE

Limit of liability: USD100,000 each and every claim

Deductible: USD2,500 each and every claim

#### SECTION D: DEPENDENT BUSINESS INTERRUPTION

Limit of liability: USD1,000,000 each and every claim, sub-limited to USD1,000,000 in respect of **system failure**

Deductible: USD2,500 each and every claim

#### SECTION E: CONSEQUENTIAL REPUTATIONAL HARM

Limit of liability: USD1,000,000 each and every claim

Deductible: USD2,500 each and every claim

#### SECTION F: CLAIM PREPARATION COSTS

Limit of liability: USD25,000 each and every claim

Deductible: USD0 each and every claim

#### SECTION G: HARDWARE REPLACEMENT COSTS

Limit of liability: USD1,000,000 each and every claim

Deductible: USD2,500 each and every claim



**THE FOLLOWING INSURING CLAUSES ARE SUBJECT TO AN AGGREGATE LIMIT**

**INSURING CLAUSE 4: NETWORK SECURITY & PRIVACY LIABILITY**

SECTION A: NETWORK SECURITY LIABILITY

Aggregate limit of liability:	USD1,000,000	in the aggregate, including <b>costs and expenses</b>
Deductible:	USD2,500	each and every claim, including <b>costs and expenses</b>

SECTION B: PRIVACY LIABILITY

Aggregate limit of liability:	USD1,000,000	in the aggregate, including <b>costs and expenses</b>
Deductible:	USD2,500	each and every claim, including <b>costs and expenses</b>

SECTION C: MANAGEMENT LIABILITY

Aggregate limit of liability:	USD1,000,000	in the aggregate, including <b>costs and expenses</b>
Deductible:	USD2,500	each and every claim, including <b>costs and expenses</b>

SECTION D: REGULATORY FINES

Aggregate limit of liability:	USD1,000,000	in the aggregate, including <b>costs and expenses</b>
Deductible:	USD2,500	each and every claim, including <b>costs and expenses</b>

SECTION E: PCI FINES, PENALTIES AND ASSESSMENTS

Aggregate limit of liability:	USD1,000,000	in the aggregate, including <b>costs and expenses</b>
Deductible:	USD2,500	each and every claim, including <b>costs and expenses</b>

**INSURING CLAUSE 5: MEDIA LIABILITY**

SECTION A: DEFAMATION

Aggregate limit of liability:	USD1,000,000	in the aggregate, including <b>costs and expenses</b>
Deductible:	USD2,500	each and every claim, including <b>costs and expenses</b>

SECTION B: INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT

Aggregate limit of liability:	USD1,000,000	in the aggregate, including <b>costs and expenses</b>
Deductible:	USD2,500	each and every claim, including <b>costs and expenses</b>

**INSURING CLAUSE 6: TECHNOLOGY ERRORS AND OMISSIONS**

NO COVER GIVEN



**INSURING CLAUSE 7: COURT ATTENDANCE COSTS**

Aggregate limit of liability: USD100,000 in the aggregate

Deductible: USDO each and every claim



## POLICYHOLDER DISCLOSURE NOTICE OF TERRORISM INSURANCE COVERAGE

ATTACHING TO POLICY N/A  
NUMBER:

THE INSURED: Rensselaer County Industrial Development Agency  
WITH EFFECT FROM: -

Coverage for acts of terrorism is included in your policy. You are hereby notified that under the Terrorism Risk Insurance Act, as amended in 2015, the definition of act of terrorism has changed. As defined in Section 102(1) of the Act: The term "act of terrorism" means any act or acts that are certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Terrorism Risk Insurance Act, as amended. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019 and 80% beginning on January 1, 2020, of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage.

The Terrorism Risk Insurance Act, as amended, contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurers' liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism is USD0.00 and does not include any charges for the portion of losses covered by the United States government under the Act.

**SUBJECT OTHERWISE TO THE TERMS AND CONDITIONS OF THE POLICY**



4. The following **DEFINITION** is added:  
    **"Bodily injury"** means  
    death, bodily injury, mental injury, illness or disease.
5. The first paragraph of the **DEFINITION** of "Employee" is deleted in its entirety and replaced with the following:  
    **"Employee"** means  
    any employee of the **company**, any volunteer working for the **company**, any intern working for the **company** and any individual working for the **company** as an independent contractor.
6. The "Bodily injury and property damage" **EXCLUSION** is deleted in its entirety and replaced with the following:  
    **Bodily injury and property damage**  
    arising directly or indirectly out of:
  - a. **bodily injury**; or
  - b. tangible property damage.    However, part a. of this Exclusion will not apply to:
  - a. **INSURING CLAUSES 4 (SECTIONS A, B and C only) and 5** for any **claim** as a direct result of mental injury or emotional distress; and
  - b. **INSURING CLAUSE 4 (SECTION F only)**.
7. Where "30 days" is referred to in the first paragraph of the "Cancellation" **CONDITION**, it is deleted in its entirety and replaced with "60 days".
8. Where "60 days" is stated in the "Extended reporting period" **CONDITION**, it is deleted in its entirety and replaced with "90 days".

**SUBJECT OTHERWISE TO THE TERMS AND CONDITIONS OF THE POLICY**



# Cyber

## Private enterprise

Policy document

United States

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## PREAMBLE

**IMPORTANT: COVERAGE TRIGGERS.** It is important for **you** to review this Policy carefully as the trigger for coverage, including when **you** must notify **us** of a claim, under each Section and Insuring Clause may differ.

This Policy is a contract of insurance between **you** and **us**. **Your** Policy contains all the details of the cover that **we** provide. This Policy consists of and must be read together with the Declarations page and any Endorsements. This Policy is not complete unless it is signed and a Declarations page is attached.

The sections of this Policy are identified by the blue lines across the page with white upper case print, these are for information purposes only and do not form part of the cover given by this Policy. Terms in bold upper case print are references to specific Insuring Clauses, Sections or Conditions. Other terms in bold lower case print are defined terms and have a special meaning as set forth in the Definitions section and elsewhere. Words stated in the singular will include the plural and vice versa.

In consideration of the **premium** and in reliance upon the information that **you** have provided to **us** prior to the commencement of this insurance, **we** agree to provide the cover as set out below:

## INSURING CLAUSES

### INSURING CLAUSE 1: CYBER INCIDENT RESPONSE

#### SECTION A: INCIDENT RESPONSE COSTS

**We** agree to pay on **your** behalf any reasonable sums necessarily incurred by **you**, or on **your** behalf, as a direct result of a **cyber event** first discovered by **you** during the **period of the policy** to:

- a. gain access to **our 24/7 cyber incident response line**;
- b. engage with **our cyber incident manager** who will coordinate the initial response;
- c. obtain initial advice and consultancy from **our cyber incident manager**, including threat intelligence in relation to the **cyber event**; and
- d. obtain initial remote support and assistance from **our cyber incident manager** to respond to the **cyber event**.

#### SECTION B: LEGAL AND REGULATORY COSTS

**We** agree to pay on **your** behalf any reasonable sums necessarily incurred by **you**, or on **your** behalf, as a direct result of a **cyber event** first discovered by **you** during the **period of the policy** to:

- a. obtain legal advice to determine the correct course of action;

- b. draft **privacy breach** notification letters, substitute notices, website notices or e-mail notification templates;
- c. notify any appropriate governmental, regulatory, law enforcement, professional or statutory body;
- d. respond to any **regulatory investigation**; and
- e. defend any regulatory action.

#### SECTION C: IT SECURITY AND FORENSIC COSTS

We agree to pay on **your** behalf any reasonable sums necessarily incurred by **you**, or on **your** behalf, as a direct result of a **cyber event** first discovered by **you** during the **period of the policy** to:

- a. engage with an external IT security consultant to identify the source and scope of the **cyber event**;
- b. obtain initial advice to remediate the impact of the **cyber event**;
- c. conduct a forensic investigation of **your computer systems** where reasonable and necessary or as required by law or a regulatory body (including a requirement for a PCI Forensic Investigator);
- d. contain and remove any malware discovered on **your computer systems**; and
- e. engage with an IT security consultant to provide expert witness testimony at any trial or hearing arising from the **cyber event**.

#### SECTION D: CRISIS COMMUNICATION COSTS

We agree to pay on **your** behalf any reasonable sums necessarily incurred by **you**, or on **your** behalf, as a direct result of a **cyber event** first discovered by **you** during the **period of the policy** to:

- a. engage with a crisis communications consultant to obtain specific advice in direct relation to the **cyber event**;
  - b. coordinate media relations in response to the **cyber event**;
  - c. receive training for relevant spokespeople with respect to media communications in direct relation to the **cyber event**; and
  - d. formulate a crisis communications plan in order to reduce damage to **your** brand and reputation as a direct result of the **cyber event**
- 

#### SECTION E: PRIVACY BREACH MANAGEMENT COSTS

We agree to pay on **your** behalf any reasonable sums necessarily incurred by **you**, or on **your** behalf, as a direct result of a **cyber event** first discovered during the **period of the policy** to:

- a. print and post appropriate notices for any individual affected by the actual or suspected **cyber event** or to send e-mail notices or issue substitute notices;
- b. provide credit monitoring services, identity monitoring services, identity restoration services or identity theft insurance to affected individuals;
- c. set up a call center to manage inbound and outbound calls in direct relation to the **cyber event**; and

- d. provide translation services to manage communications with affected individuals.

#### **SECTION F: THIRD PARTY PRIVACY BREACH MANAGEMENT COSTS**

**We** agree to pay on behalf of any **third party** any reasonable sums necessarily incurred as a direct result of a **cyber event** first discovered by **you** during the **period of the policy** to:

- a. print and post appropriate notices for any individual affected by the actual or suspected **cyber event** or to send e-mail notices or issue substitute notices;
- b. provide credit monitoring services, identity monitoring services, identity restoration services or identity theft insurance to affected individuals;
- c. set up a call center to manage inbound and outbound calls in direct relation to the **cyber event**; and
- d. provide translation services to manage communications with affected individuals;

provided that **you** have contractually indemnified the **third party** against this **cyber event** and they have a legal obligation to notify affected individuals.

#### **SECTION G: POST BREACH REMEDIATION COSTS**

**We** agree to pay on **your** behalf any reasonable sums necessarily incurred by **you**, or on **your** behalf, with **our cyber incident manager** following a **cyber event** covered under **INSURING CLAUSE 1 (SECTIONS A, B, C, D, E and F only)** for the following services in order to mitigate the potential of a future **cyber event**:

- a. complete an information security risk assessment;
- b. conduct an information security gap analysis;
- c. develop an information security document set; and
- d. deliver an information security awareness training session.

#### **INSURING CLAUSE 2: CYBER CRIME**

##### **SECTION A: FUNDS TRANSFER FRAUD**

**We** agree to reimburse **you** for **loss** first discovered by **you** during the **period of the policy** as a direct result of any **third party** committing:

- a. any unauthorized electronic transfer of funds from **your** bank;
- b. theft of money or other financial assets from **your** bank by electronic means;
- c. theft of money or other financial assets from **your** corporate credit cards by electronic means; or
- d. any phishing, vishing or other social engineering attack against any **employee** or **senior executive officer** that results in the transfer of **your** funds to an unintended **third party**.

##### **SECTION B: THEFT OF FUNDS HELD IN ESCROW**

**We** agree to reimburse **you** for **loss** (including compensation **you** are required to pay) first discovered by **you** during the **period of the policy** as a direct result of **you** having to reimburse

any **third party** for theft, committed by a **third party** by electronic means, of their money or other financial assets from a bank account held by **you** on their behalf.

#### SECTION C: THEFT OF PERSONAL FUNDS

We agree to reimburse any **senior executive officer** for personal financial loss first discovered by them during the **period of the policy** as a direct result of any **third party** compromising the **company's** network security which results in:

- a. theft of money or other financial assets from a personal bank account of the **senior executive officer**; or
- b. identity theft of the **senior executive officer** as a result of a **privacy breach** suffered by **you**.

#### SECTION D: EXTORTION

We agree to reimburse **you** for any ransom paid by **you**, or on **your** behalf, in response to an extortion demand first discovered by **you** during the **period of the policy** as a direct result of any threat to:

- a. introduce malware, or the actual introduction of malware, including Ransomware, into **your computer systems**;
- b. prevent access to **your computer systems** or data or any **third party** systems hosting **your** applications or data;
- c. reveal **your** confidential information or confidential information entrusted to **you**; or
- d. damage **your** brand or reputation by posting false or misleading comments about **you** on social media sites.

#### SECTION E: CORPORATE IDENTITY THEFT

We agree to reimburse **you** for **loss** first discovered by **you** during the **period of the policy** arising as a direct result of the fraudulent use or misuse of **your** electronic identity including the establishment of credit in **your** name, the electronic signing of any contract, the creation of any website designed to impersonate **you** or the reliance by any **third party** on a fraudulent version of **your** digital identity.

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#### SECTION F: TELEPHONE HACKING

We agree to reimburse **you** for **loss** first discovered by **you** during the **period of the policy** as a direct result of **your** telephone system being hacked by a **third party** including the cost of unauthorized calls or unauthorized use of **your** bandwidth.

#### SECTION G: PUSH PAYMENT FRAUD

We agree to reimburse **you** in the event of fraudulent electronic communications or websites designed to impersonate **you** or any of **your** products first discovered by **you** during the **period of the policy**, for:

- a. the cost of creating and issuing a specific press release or establishing a specific website to advise **your** customers and prospective customers of the fraudulent communications; and
- b. the cost of reimbursing **your** existing customers for their financial loss arising directly from the fraudulent communications, including fraudulent invoices manipulated to impersonate **you**; and
- c. **your income loss** sustained following **your** discovery of the fraudulent communications as a direct result of the fraudulent communications; and
- d. external costs associated with the removal of websites designed to impersonate **you**.

#### SECTION H: UNAUTHORIZED USE OF COMPUTER RESOURCES

We agree to reimburse **you** for **loss** first discovered by **you** during the **period of the policy** as a direct result of **cryptojacking** or **botnetting**.

#### INSURING CLAUSE 3: SYSTEM DAMAGE AND BUSINESS INTERRUPTION

##### SECTION A: SYSTEM DAMAGE AND RECTIFICATION COSTS

We agree to reimburse **you** for the additional cost of employing:

- a. contract staff or overtime costs for **employees** to rebuild **your** data, including the cost of data re-entry or data re-creation;
- b. specialist consultants, including IT forensic consultants, to recover **your** data or applications; and
- c. specialist consultants or overtime costs for **employees** working within **your** IT department to reconstitute **your computer systems** to the position they were in immediately prior to the **cyber event**;

reasonably and necessarily incurred as a direct result of a **cyber event** first discovered by **you** during the **period of the policy**.

##### SECTION B: INCOME LOSS AND EXTRA EXPENSE

We agree to reimburse **you** for **your income loss** and **extra expense** during the **indemnity period** as a direct result of an interruption to **your business operations** caused by **computer systems** downtime arising directly out of a **cyber event** or **system failure** which is first discovered by **you** during the **period of the policy**, provided that the **computer systems** downtime lasts longer than the **waiting period**.

##### SECTION C: ADDITIONAL EXTRA EXPENSE

We agree to reimburse **you** for any reasonable sums necessarily incurred during the **indemnity period** that are in addition to **your** normal operating expenses and the **extra expense** recoverable under **INSURING CLAUSE 3 (SECTION B)** only):

- a. to source **your** products or services from alternative sources in order to meet contractual obligations to supply **your** customers;

- b. to employ contract staff or overtime costs for **employees** in order to continue **your business operations**;
- c. to employ specialist consultants, including IT forensic consultants to diagnose the source of the **computer systems** downtime; and
- d. for **employees** working overtime within **your** IT department to diagnose and fix the source of the **computer systems** downtime;

to mitigate an interruption to **your business operations** caused by **computer systems** downtime arising directly out of a **cyber event** or **system failure** which is first discovered by **you** during the **period of the policy**, provided that the **computer systems** downtime lasts longer than the **waiting period**.

#### SECTION D: DEPENDENT BUSINESS INTERRUPTION

We agree to reimburse **you** for **your income loss** and **extra expense** sustained during the **indemnity period** as a direct result of an interruption to **your business operations** arising directly out of any sudden, unexpected and continuous outage of computer systems used directly by a **supply chain partner** which is first discovered by **you** during the **period of the policy**, provided that the computer systems downtime lasts longer than the **waiting period** and arises directly out of any **cyber event** or **system failure**.

#### SECTION E: CONSEQUENTIAL REPUTATIONAL HARM

We agree to reimburse **you** for **your income loss** sustained during the **reputational harm period** as a direct result of the loss of current or future customers caused by damage to **your** reputation as a result of a **cyber event** first discovered by **you** during the **period of the policy**.

#### SECTION F: CLAIM PREPARATION COSTS

We agree to pay on **your** behalf any reasonable sums necessarily incurred to determine the amount of **your income loss** sustained following an interruption to **your business operations** covered under **INSURING CLAUSE 3 (SECTIONS A, B, C, D and E only)**. We will only pay these costs where they are incurred with an independent expert appointed by the **cyber incident manager**.

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#### SECTION G: HARDWARE REPLACEMENT COSTS

We agree to pay on **your** behalf any reasonable sums necessarily incurred to replace any computer hardware or tangible equipment forming part of **your computer systems** that have been damaged as a direct result of a **cyber event** first discovered by **you** during the **period of the policy**, provided that replacing the computer hardware or tangible equipment is a more time efficient and cost effective solution than installing new firmware or software onto **your** existing hardware.

## INSURING CLAUSE 4: NETWORK SECURITY & PRIVACY LIABILITY

### SECTION A: NETWORK SECURITY LIABILITY

We agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including the establishment of any consumer redress fund and associated expenses) as a result of any **claim** arising out of a **cyber event** first discovered by **you** during the **period of the policy** that results in:

- a. the transmission of malware to a **third party's** computer system;
- b. **your computer systems** being used to carry out a denial of service attack;
- c. **your** failure to prevent unauthorized access to information stored or applications hosted on **your computer systems** or a **third party's** computer systems; and
- d. identity theft, experienced by **your employees, senior executive officers** or any **third party**.

We will also pay **costs and expenses** on **your** behalf.

### SECTION B: PRIVACY LIABILITY

We agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including the establishment of any consumer redress fund and associated expenses) as a result of any **claim** arising out of a **cyber event** first discovered by **you** during the **period of the policy** that results in:

- a. an actual or suspected disclosure of or unauthorized access to any Personally Identifiable Information (PII), including payment card information or Protected Health Information (PHI);
- b. **your** failure to adequately warn affected individuals of a **privacy breach**, including the failure to provide a data breach notification in a timely manner;
- c. a breach of any rights of confidentiality as a direct result of **your** failure to maintain the confidentiality of any data pertaining to an **employee** or a **senior executive officer**;
- d. a breach of any rights of confidentiality, including a breach of any provisions of a non-disclosure agreement or breach of a contractual warranty relating to the confidentiality of commercial information, PII, or PHI;
- e. a breach of any part of **your** privacy policy; or
- f. actual or suspected disclosure of or unauthorized access to **your** data or data for which **you** are responsible.

We will also pay **costs and expenses** on **your** behalf.

### SECTION C: MANAGEMENT LIABILITY

We agree to pay on behalf of any **senior executive officer** all sums they become legally obliged to pay as a result of any **claim** made against them arising directly out of a **cyber event** first discovered by **you** during the **period of the policy**.

We will also pay **costs and expenses** on behalf of **your senior executive officers**.

However, **we** will not make any payment under this Section for which the **senior executive officer** is entitled to indemnity under any other insurance, except for any additional sum which is payable over and above the other insurance.

#### **SECTION D: REGULATORY FINES**

**We** agree to pay on **your** behalf any fines and penalties resulting from a **regulatory investigation** arising as a direct result of a **cyber event** first discovered by **you** during the **period of the policy**.

**We** will also pay **costs and expenses** on **your** behalf.

#### **SECTION E: PCI FINES, PENALTIES AND ASSESSMENTS**

**We** agree to pay on **your** behalf any fines, penalties and card brand assessments including fraud recoveries, operational reimbursements, non-cooperation costs and case management fees which **you** become legally obliged to pay **your** acquiring bank or payment processor as a direct result of a **payment card breach** first discovered by **you** during the **period of the policy**.

**We** will also pay **costs and expenses** on **your** behalf.

#### **INSURING CLAUSE 5: MEDIA LIABILITY**

##### **SECTION A: DEFAMATION**

**We** agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim** first made against **you** during the **period of the policy** for any:

- a. defamation, including but not limited to libel, slander, trade libel, product disparagement and injurious falsehood; or
- b. emotional distress or outrage based on harm to the character or reputation of any person or entity;

arising out of any **media content**.

**We** will also pay **costs and expenses** on **your** behalf.

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##### **SECTION B: INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT**

**We** agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim** first made against **you** during the **period of the policy** for any:

- a. infringement of any intellectual property rights, including, but not limited to, copyright, trademark, trade dilution, trade dress, commercial rights, design rights, domain name rights, image rights, moral rights, service mark or service name, but not including patent;
- b. act of passing-off, piracy or plagiarism or any misappropriation of content, concepts, format rights or ideas or breach of a contractual warranty relating to intellectual property rights;

- c. breach of any intellectual property rights license acquired by **you**; or
- d. failure to attribute authorship or provide credit;

arising out of any **media content**.

**We** will also pay **costs and expenses** on **your** behalf.

#### INSURING CLAUSE 6: TECHNOLOGY ERRORS AND OMISSIONS

**We** agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including liability for claimants' **costs and expenses**) as a result of any **claim** first made against **you** during the **period of the policy** arising out of any act, error, omission or breach of contract in the provision of **your technology services**.

**We** will also pay **costs and expenses** on **your** behalf.

#### INSURING CLAUSE 7: COURT ATTENDANCE COSTS

**We** agree to reimburse **you** for any reasonable sums necessarily incurred by **you** with **our** prior written agreement (which will not be unreasonably withheld) to attend court or any tribunal, arbitration, adjudication, mediation or other hearing in connection with any claim for which **you** are entitled to indemnity under this Policy.

## HOW MUCH WE WILL PAY

### YOUR MAXIMUM LIMITS UNDER THIS POLICY

The maximum amount payable by **us** under this Policy for any one claim or series of related claims is the **policy limit** plus the **incident response limit**.

The maximum amount payable by **us** under any Insuring Clause for any one claim or series of related claims is the amount shown as the limit in the Declarations page for that Insuring Clause.

The maximum amount payable by **us** under any Section for any one claim or series of related claims is the amount shown as the limit in the Declarations page for that Section.

### YOUR MAXIMUM LIMIT FOR RELATED INCIDENTS

Where more than one claim arises from the same original cause or single source or event, all of those claims will be deemed to be one claim and only one **policy limit** and one **incident response limit** will apply in respect of that claim.

In the event that cover is provided under multiple Insuring Clauses or multiple Sections for any one claim, only one **policy limit** and one **incident response limit** will apply in total for that claim.

### YOUR AGGREGATE LIMIT FOR LIABILITY CLAIMS

In respect of **INSURING CLAUSES 4, 5, 6 and 7**, the maximum amount payable under this Policy in total aggregate will be the **policy limit**.

In respect of **INSURING CLAUSES 4, 5, 6 and 7**, we may at any time pay to **you** in connection with any **claim** the amount of the **policy limit** (after deduction of any amounts already paid). Upon that payment being made **we** will relinquish the conduct and control of the **claim** and be under no further liability in connection with that **claim** except for the payment of **costs and expenses** incurred prior to the date of such payment (unless the **policy limit** is stated to be inclusive of **costs and expenses**).

If **costs and expenses** are stated in the Declarations page to be in addition to the **policy limit** plus the **incident response limit**, or if the operation of local laws require **costs and expenses** to be paid in addition to the **policy limit** plus the **incident response limit**, and if a damages payment in excess of the **policy limit** plus the **incident response limit** has to be made to dispose of any **claim**, our liability for **costs and expenses** will be in the same proportion as the **policy limit** plus the **incident response limit** bears to the total amount of the damages payment.

## YOUR DEDUCTIBLE

**We** will only be liable for that part of each and every claim which exceeds the amount of the **deductible**. If any expenditure is incurred by **us** which falls within the amount of the **deductible**, then **you** will reimburse that amount to **us** upon **our** request.

Where more than one claim arises from the same original cause or single source or event all of those claims will be deemed to be one claim and only one **deductible** will apply.

In respect of **INSURING CLAUSE 3 (SECTIONS B and D only)**, a single **waiting period, deductible and indemnity period** will apply to each claim. Where the same original cause or single source or event causes more than one period of computer systems downtime these will be considered one period of computer systems downtime whose total duration is equal to the cumulative duration of each individual period of computer systems downtime.

Where cover is provided under multiple Sections or multiple Insuring Clauses only one **deductible** will apply to that claim and this will be the highest **deductible** of the Sections under which cover is provided.

## DEFINITIONS

1. **"Approved claims panel providers"** means  
the approved claims panel providers stated in the Declarations page.

2. **"Botnetting"** means  
the unauthorized use of **your computer systems** by a **third party** for the purpose of launching a denial of service attack or hacking attack against another **third party**.
3. **"Business operations"** means  
the business operations stated in the Declarations page.
4. **"Claim"** means
- a written demand for compensation;
  - a written request for a retraction or a correction;
  - a threat or initiation of a lawsuit; or
  - a disciplinary action or **regulatory investigation**.
- made against **you**.
5. **"Client"** means  
any **third party** with whom **you** have a contract in place for the supply of **your** business services in return for a fee, or where a fee would normally be expected to be paid.
6. **"Company"** means  
the company named as the Insured in the Declarations page or any **subsidiary**.
7. **"Computer systems"** means  
all electronic computers used directly by **you**, including operating systems, software, hardware and all communication and open system networks and any data or websites wheresoever hosted, off-line media libraries and data back-ups and mobile devices including but not limited to smartphones, iPhones, tablets or personal digital assistants.
8. **"Continuity date"** means  
the **inception date** or if **you** have maintained uninterrupted insurance of the same type with **us**, the date this insurance was first incepted with **us**.

- 
9. **"Costs and expenses"** means
- third party** legal and professional expenses (including disbursements) reasonably incurred in the defense of **claims** or circumstances which could reasonably be expected to give rise to a **claim** or in quashing or challenging the scope of any injunction, subpoena or witness summons;
  - any post judgment interest; and
  - the cost of appeal, attachment and similar bonds including bail and penal bonds.

Subject to all **costs and expenses** being incurred with the **cyber incident manager's** prior written agreement.

10. "**Cryptojacking**" means

the unauthorized use of **your computer systems** by a **third party** for the sole purpose of cryptocurrency mining activities.

11. "**Cyber event**" means

any actual or suspected unauthorized system access, electronic attack or **privacy breach**, including denial of service attack, cyber terrorism, hacking attack, Trojan horse, phishing attack, man-in-the-middle attack, application-layer attack, compromised key attack, malware infection (including spyware or Ransomware) or computer virus.

"**Cyber event**" does not mean **system failure**.

12. "**Cyber incident manager**" means

the company or individual named as the cyber incident manager in the Declarations page.

13. "**Cyber incident response line**" means

the telephone number stated as the cyber incident response line in the Declarations page.

14. "**Cyber war**" means

any unauthorized access to or electronic attack on computer systems, carried out by or on behalf of a **state**, that directly results in another **state** becoming an **impacted state**.

15. "**Deductible**" means

the amount stated as the deductible in the Declarations page.

16. "**Employee**" means

any employee of the **company**, any volunteer working for the **company** and any individual working for the **company** as an independent contractor.

"**Employee**" does not mean any **senior executive officer**.

17. "**Expiry date**" means

~~the expiry date stated in the Declarations page.~~

18. "**Extra expense**" means

**your** reasonable sums necessarily incurred in addition to **your** normal operating expenses to mitigate an interruption to and continue **your business operations**, provided that the costs are less than **your** expected **income loss** sustained had these measures not been taken.

19. "**Impacted state**" means

any **state** that suffers a major detrimental impact on its:

- a. ability to function; or
- b. defense and security capabilities;

as a direct result of any unauthorized access to or electronic attack on computer systems, carried out by or on behalf of another **state**.

20. "**Inception date**" means  
the inception date stated in the Declarations page.
21. "**Incident response limit**" means  
the highest individual limit available where cover is applicable under **INSURING CLAUSE 1** as stated in the Declarations page.
22. "**Income loss**" means  
**your** income that, had the **cyber event** or **system failure** which gave rise to the claim not occurred, would have been generated directly from **your business operations** (less sales tax) during the **indemnity period** or **reputational harm period**, less:
- a. actual income (less sales tax) generated directly from **your business operations** during the **indemnity period** or **reputational harm period**; and
  - b. any cost savings achieved as a direct result of the reduction in income.
23. "**Indemnity period**" means  
the period starting from the first occurrence of:
- a. the **computer systems** downtime; or
  - b. the downtime of computer systems used directly by a **supply chain partner**;
- and lasting for the period stated as the indemnity period in the Declarations page.
24. "**Loss**" means  
any direct financial loss sustained by the **company**.
25. "**Media content**" means  
any content created or disseminated by **you** or on **your** behalf, including but not limited to content disseminated through books, magazines, brochures, social media, billboards, websites, mobile applications, television and radio.
- 
- "**Media content**" does not include any:
- a. tangible product design;
  - b. industrial design;
  - c. architectural or building services;
  - d. any advertisement created by **you** for a **third party**;
  - e. business, company, product or trading name;
  - f. product packaging or labeling; or
  - g. software products.

26. **"Payment card breach"** means

an actual or suspected unauthorized disclosure of payment card data stored or processed by **you** arising out of an electronic attack, accidental disclosure or the deliberate actions of a rogue **employee**.

**"Payment card breach"** does not mean a situation where payment card data is deliberately shared with or sold to a **third party** with the knowledge and consent of a **senior executive officer**.

27. **"Period of the policy"** means

the period between the **inception date** and the **expiry date** or until the Policy is canceled in accordance with **CONDITION 5**

28. **"Policy limit"** means

the highest individual limit available where cover is applicable under any Insuring Clause or Section as stated in the Declarations page.

29. **"Premium"** means

the amount stated as the premium in the Declarations page and any subsequent adjustments.

30. **"Privacy breach"** means

an actual or suspected unauthorized disclosure of information arising out of an electronic attack, accidental disclosure, theft or the deliberate actions of a rogue **employee** or **third party**.

**"Privacy breach"** does not mean a situation where information is deliberately shared with or sold to a **third party** with the knowledge and consent of a **senior executive officer**.

31. **"Regulatory investigation"** means

a formal hearing, official investigation, examination, inquiry, legal action or any other similar proceeding initiated by a governmental, regulatory, law enforcement, professional or statutory body against **you**.

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32. **"Reputational harm period"** means

the period starting from when the **cyber event** is first discovered and lasting for the period stated as the reputational harm period in the Declarations page.

33. **"Senior executive officer"** means

board members, C-level executives, in-house lawyers and risk managers of the **company**.

34. **"State"** means

sovereign state.

35. "Subsidiary" means

any entity in which the **company** has majority ownership of on or before the **inception date**.

36. "Supply chain partner" means

any:

- a. **third party** that provides **you** with hosted computing services including infrastructure, platform, file storage and application level services; or
- b. **third party** listed as a supply chain partner in an endorsement attaching to this policy which **we** have issued.

37. "System failure" means

any sudden, unexpected and continuous downtime of **your computer systems** which renders them incapable of supporting their normal business function and is caused by an application bug, an internal network failure or hardware failure.

However, in respect of **INSURING CLAUSE 3 (SECTION D only)**, **system failure** also means any sudden, unexpected and continuous downtime of computer systems used directly by a **supply chain partner** which renders them incapable of supporting their normal business function and is caused by an application bug, an internal network failure or hardware failure.

"System failure" does not mean a **cyber event**.

38. "Technology services" means

the supply by **you** of technology services to **your client**, including but not limited to hardware, software, data processing, internet services, data and application hosting, computer systems analysis, consulting, training, programming, installation, integration, support and network management.

39. "Third party" means

any person who is not an **employee** or any legal entity that is not the **company**.

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40. "Waiting period" means

the number of hours stated as the waiting period in the Declarations page.

41. "War" means

any physical:

- a. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), civil war, rebellion, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- b. action taken in controlling, preventing, suppressing or in any way relating to a. above.

42. "We/our/us" means  
the underwriters stated in the Declarations page.
43. "You/your" means  
the **company, employees and senior executive officers** solely acting in the normal course of  
the **company's business operations**.

## EXCLUSIONS

We will not make any payment under this Policy:

### EXCLUSIONS RELATING TO SYSTEM DAMAGE AND BUSINESS INTERRUPTION

In respect of **INSURING CLAUSE 3** only:

1. **Business interruption liability**

for that part of any **claim** that constitutes actual or alleged liability to a **third party**, or legal costs in the defense of any **claim**, including customer compensation.

### EXCLUSIONS RELATING TO ALL INSURING CLAUSES

2. **Antitrust**

in respect of **INSURING CLAUSES 5 and 6**, for or arising out of any actual or alleged antitrust violation, restraint of trade, unfair competition, false, deceptive or unfair trade practices, violation of consumer protection laws or false or deceptive advertising.

3. **Associated companies**

- a. in respect of any **claim** made by any company, firm or partnership in which the **company** has greater than a 10% executive or financial interest, unless the **claim** emanates from an independent **third party**;
- b. in respect of any **claim** made by any company, firm, partnership or individual which has greater than a 10% executive or financial interest in the **company**, unless the **claim** emanates from an independent **third party**;
- c. arising out of or resulting from any of **your** activities as a trustee, partner, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than that of the **company**; or
- d. in respect of any **claim** made by or on behalf of the **company** against a **third party**.

4. **Betterment**

which results in **you** being in a better financial position or **you** benefitting from upgraded versions of **your computer systems** as a direct result of the event which gave rise to the claim under this policy.

However, in the event of a hacking attack, malware infection or computer virus, when rebuilding **your computer systems we** will pay the additional costs and expenses incurred to install a more secure and efficient version of the affected **computer system**, provided that the maximum amount **we** will pay is 25% more than the cost that would have been incurred to repair or replace the original model or license. Under no circumstances will **we** pay the cost of acquiring or installing **computer systems** which did not form a part of **your computer systems** immediately prior to the incident which gave rise to the claim.

This Exclusion will not apply to **INSURING CLAUSES 1 (SECTION G only) and 3 (SECTION G only)**.

#### 5. **Bodily injury and property damage**

arising directly or indirectly out of bodily injury, or tangible property damage.

However, this Exclusion will not apply to **INSURING CLAUSES 4 (SECTIONS A, B and C only) and 5** for any **claim** as a direct result of mental injury or emotional distress.

#### 6. **Chargebacks**

for any credit card company or bank, wholly or partially, reversing or preventing a payment transaction, unless specifically covered under **INSURING CLAUSE 4 (SECTION E only)** for which **you** have purchased coverage.

#### 7. **Core internet infrastructure failure**

arising directly from a failure, material degradation or termination of any core element of the internet, telecommunications or GPS infrastructure that results in a regional, countrywide or global outage of the internet or core telecommunications network, including a failure of the core DNS root servers, satellite network or the IP addressing system or an individual state or non-state actor turning off all or part of the internet.

#### 8. **Domain name suspension or revocation**

arising directly or indirectly from the suspension, cancellation, revocation or failure to renew any of **your** domain names or uniform resource locators.

#### 9. **Insolvency**

arising out of or relating directly or indirectly to **your** insolvency or bankruptcy, or the insolvency or bankruptcy of any **third party**. However, **your** insolvency will not relieve **us** of any of **our** legal obligations under this contract of insurance where this insolvency does not give rise to a claim under this Policy.

#### 10. **Known claims and circumstances**

arising out of any actual or suspected **cyber event, claim** or circumstance which might give rise to a claim under this Policy which a **senior executive officer** was aware of, or ought

reasonably to have been aware of, prior to the **continuity date**, including any claim or circumstance notified to any other insurer.

**11. Liquidated damages, service credits and penalty clauses**

for liquidated damages or service credits, or arising out of penalty clauses unless **you** would have been liable in the absence of any contract stipulating the liquidated damages or service credits or penalty clauses.

**12. Loss of economic value**

for the reduction in economic or market value (including loss of potential future sales) of any of **your** intellectual property assets.

**13. Management liability**

for any sums that **your senior executive officers** become legally obliged to pay, including **costs and expenses**, as a result of any **claim** made against them arising out of a **cyber event**.

However, this Exclusion will not apply to **INSURING CLAUSE 4 (SECTION C)** only).

**14. Misleading advertising**

arising directly or indirectly from any advertisement, promotion or product description that is actually or alleged to be false or misleading.

**15. Nuclear**

arising directly or indirectly from or contributed to by:

- a. ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component.

**16. Patent infringement**

arising directly or indirectly out of the actual or alleged infringement of any patent or inducing the infringement of any patent.

**17. Payment card industry related fines, penalties and assessments**

for fines, penalties and card brand assessments, including fraud recoveries, operational reimbursements, non-cooperation costs and case management fees which **you** become legally obliged to pay **your** acquiring bank or payment processor as a direct result of a **payment card breach**.

However, this Exclusion will not apply to **INSURING CLAUSE 4 (SECTION E)** only).

**18. Power and utility failure**

arising directly or indirectly from any:

- a. failure in the power supply, including that caused by any surge or spike in voltage, electrical current or transferred energy; or
- b. failure, disruption or reduction in the supply of utilities, including but not limited to gas and water infrastructure or services.

**19. Product IP infringement**

arising directly or indirectly from the actual or alleged theft or misappropriation of any trade secret by an **employee** from a former employer of theirs or infringement of any intellectual property right by any product manufactured, designed, formulated, licensed, distributed, or sold by **you** or the misappropriation of any trade secret by **you** or a **third party**.

**20. Professional liability**

arising directly out of any negligent advice or professional services provided to a **client** for a fee except when arising directly from a **cyber event**.

However, this Exclusion will not apply to **INSURING CLAUSE 6**.

**21. Property and hardware costs**

for any tangible property repair or replacement including the cost of repairing any hardware or replacing any tangible property or equipment that forms part of **your computer systems**.

However, this Exclusion will not apply to **INSURING CLAUSE 3 (SECTION G)** only).

**22. Regular hours staff costs**

for contracted salary and bonus costs paid to **employees** or **senior executive officers**.

**23. Terrorism**

arising directly or indirectly out of:

- a. any act or threat of force or violence by an individual or group, 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 or to put the public, or any section of the public, in fear; or~~
- b. any action taken in controlling, preventing, suppressing or in any way relating to a. above.

However, this Exclusion does not apply to a **cyber event** affecting **your computer systems** or a **supply chain partner's** computer systems.

**24. Theft of funds held in escrow**

for theft of money or other financial assets belonging to a **third party** from a bank account held by **you** on their behalf.

However, this Exclusion will not apply to **INSURING CLAUSE 2 (SECTION B)** only).

25. **Uninsurable fines**

for fines, penalties, civil or criminal sanctions or multiple, punitive or exemplary damages, unless insurable by law.

26. **Unlawful surveillance**

in respect of any actual or alleged eavesdropping, wiretapping, or unauthorized audio or video recording committed by **you** or by a **third party** on **your** behalf with the knowledge and consent of **your senior executive officers**.

27. **Unsolicited communications**

arising directly or indirectly from any actual or alleged violation of:

- a. the CAN-SPAM Act of 2003 or any subsequent amendments to that Act;
- b. the Telephone Consumer Protection Act (TCPA) of 1991 or any subsequent amendments to that Act; or
- c. any other law, regulation or statute relating to unsolicited communication, distribution, sending or transmitting of any communication via telephone or any other electronic or telecommunications device.

However, this Exclusion will not apply to **INSURING CLAUSE 4 (SECTION A only)**.

28. **War and cyber war**

arising directly or indirectly out of:

- a. **war**; or
- b. **cyber war**.

However, part b. above will not apply to:

- a. **INSURING CLAUSE 1 (SECTION A only)**; and
- b. that part of any claim relating to any computer systems which are physically located outside of an **impacted state**.

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29. **Willful or dishonest acts of senior executive officers**

arising directly or indirectly out of any willful, criminal, malicious or dishonest act, error or omission by a **senior executive officer** as determined by final adjudication, arbitral tribunal or written admission.

## CONDITIONS

### 1. What you must do if an incident takes place

If any **senior executive officer** becomes aware of any incident which may reasonably be expected to give rise to a claim under this Policy, **you** must:

- a. other than in accordance with **CONDITION 2**, notify the **cyber incident manager** as soon as is reasonably practicable and follow their directions. However, this notification must be made no later than the end of any applicable extended reporting period. A telephone call to **our cyber incident response line** or confirmed notification via **our** cyber incident response app will constitute notification to the **cyber incident manager**;
- b. in respect of **INSURING CLAUSE 2 (SECTIONS A, B and C only)**, report the incident to the appropriate law enforcement authorities; and
- c. in respect of **INSURING CLAUSES 4, 5 and 6**, not admit liability for or settle or make or promise any payment or incur any **costs and expenses** without **our** prior written agreement (which will not be unreasonably withheld).

Due to the nature of the coverage offered by this Policy, any unreasonable delay by **you** in notifying the **cyber incident manager** could lead to the size of the claim increasing or to **our** rights of recovery being restricted. **We** will not be liable for that portion of any claim that is due to any unreasonable delay in **you** notifying the **cyber incident manager** of any incident in accordance with this clause. However, if **you** are prevented from notifying **us** by a legal or regulatory obligation then **your** rights under this Policy will not be affected.

If **you** discover a **cyber event** **you** may only incur costs without **our** prior written consent within the first 72 hours following the discovery and any **third party** costs incurred must be with a company forming part of the **approved claims panel providers**. All other costs may only be incurred with the prior written consent of the **cyber incident manager** (which will not be unreasonably withheld).

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### 2. What you must do in the event of a circumstance which could give rise to a claim

In respect of **INSURING CLAUSES 5 and 6**, should a **senior executive officer** become aware of:

- a. a situation during the **period of the policy** that could give rise to a **claim**; or
- b. an allegation or complaint made or intimated against **you** during the **period of the policy**;

then **you** have the option of whether to report this circumstance to **us** or not. However, if **you** choose not to report this circumstance **we** will not be liable for that portion of any **claim** that is greater than it would have been had **you** reported this circumstance.

If **you** choose to report this circumstance **you** must do so no later than the end of any applicable extended reporting period for it to be considered under this Policy and **we** will require **you** to provide full details of the circumstance, including but not limited to:

- a. the time, place and nature of the circumstance;
- b. the manner in which **you** first became aware of this circumstance;
- c. the reasons why **you** believe that this circumstance could give rise to a **claim**;
- d. the identity of the potential claimant; and
- e. an indication as to the size of the **claim** that could result from this circumstance.

Any subsequent **claim** arising directly from this circumstance will be deemed to have been made at the time this circumstance was notified to **us** and **we** will regard this **claim** as having been notified under this Policy.

### 3. Additional insureds

**We** will indemnify any **third party** as an additional insured under this Policy, but only in respect of sums which they become legally obliged to pay (including liability for claimants' costs and expenses) as a result of a **claim** arising solely out of an act, error or omission committed by **you**, provided that:

- a. **you** contracted in writing to indemnify the **third party** for the **claim** prior to it first being made against them; and
- b. had the **claim** been made against **you**, then **you** would be entitled to indemnity under this Policy.

Before **we** indemnify any additional insured they must:

- a. prove to **us** that the **claim** arose solely out of an act, error or omission committed by **you**; and
- b. fully comply with **CONDITION 1** as if they were **you**.

Where a **third party** is treated as an additional insured as a result of this Condition, any **claim** made by that **third party** against **you** will be treated by **us** as if they were a **third party** and not as an insured.

### 4. Agreement to pay claims (duty to defend)

**We** have the right and duty to take control of and conduct in **your** name the investigation, settlement or defense of any **claim**. **We** will not have any duty to pay **costs and expenses** for any part of a **claim** that is not covered by this Policy.

**You** may ask the **cyber incident manager** to consider appointing **your** own lawyer to defend the **claim** on **your** behalf and the **cyber incident manager** may grant **your** request if they consider **your** lawyer is suitably qualified by experience, taking into account the subject matter of the **claim**, and the cost to provide a defense.

We will endeavor to settle any **claim** through negotiation, mediation or some other form of alternative dispute resolution and will pay on **your** behalf the amount **we** agree with the claimant. If **we** cannot settle using these means, **we** will pay the amount which **you** are found liable to pay either in court or through arbitration proceedings, subject to the **policy limit** and **incident response limit**.

We will not settle any **claim** without **your** consent. If **you** refuse to provide **your** consent to a settlement recommended by **us** and elect to continue legal proceedings in connection with the **claim**, any further **costs and expenses** incurred will be paid by **you** and **us** on a proportional basis, with 80% payable by **us** and 20% payable by **you**. As a consequence of **your** refusal, **our** liability for the **claim**, excluding **costs and expenses**, will not be more than the amount for which the **claim** could have been settled.

## 5. Cancellation

This Policy may be canceled with 30 days written notice by either **you** or **us**.

If **you** give **us** notice of cancellation, the return **premium** will be in proportion to the number of days that the Policy is in effect. However, if **you** have made a claim under this Policy there will be no return **premium**.

If **we** give **you** notice of cancellation, the return **premium** will be in proportion to the number of days that the Policy is in effect.

We also reserve the right of cancellation in the event that any amount due to **us** by **you** remains unpaid more than 60 days beyond the **inception date**. If **we** exercise this right of cancellation it will take effect from 14 days after the date the written notice of cancellation is issued.

The Policy Administration Fee will be deemed fully earned upon inception of the Policy.

## 6. Continuous cover

If **you** have neglected, through error or oversight only, to report an incident discovered by **you** that might give rise to a **claim** under this Policy during the period of a previous renewal of this Policy issued to **you** by **us**, then provided that **you** have maintained uninterrupted insurance of the same type with **us** since the expiry of that earlier Policy, then, notwithstanding **EXCLUSION 10**, **we** will permit the matter to be reported under this Policy and **we** will indemnify **you**, provided that:

- a. the indemnity will be subject to the applicable limit of liability of the earlier Policy under which the matter should have been reported or the **policy limit** plus the **incident response limit**, whichever is the lower;
- b. **we** may reduce the indemnity entitlement by the monetary equivalent of any prejudice which has been suffered as a result of the delayed notification; and

- c. the indemnity will be subject to all of the terms, Conditions, Definitions and Exclusions of this Policy, other than a) above.

## 7. Dispute resolution

All disputes or differences between **you** and **us** will be referred to mediation or arbitration and will take place in the country of registration of the company named as the insured in the Declarations page.

In respect of any arbitration proceeding **we** will follow the applicable rules of the arbitration association in the country where the company stated as the insured in the Declarations page is registered, the rules of which are deemed incorporated into this Policy by reference to this Condition. Unless the applicable arbitration association rules state otherwise, a single arbitrator will be appointed who will be mutually agreed between **you** and **us**. If **you** and **we** cannot agree on a suitable appointment then **we** will refer the appointment to the applicable arbitration association.

Each party will bear its own fees and costs in connection with any mediation or arbitration proceeding but the fees and expenses of the arbitrator will be shared equally between **you** and **us** unless the arbitration award provides otherwise.

Nothing in this Condition is intended to remove **your** rights under **CONDITION 19**. However, if a determination is made in any mediation or arbitration proceeding, **CONDITION 19** is intended only as an aid to enforce this determination.

## 8. Extended reporting period

An extended reporting period of 60 days following the **expiry date** will be automatically granted at no additional premium. This extended reporting period will cover, subject to all other terms, conditions and exclusions of this Policy:

- a. any **claim** first made against **you** during the **period of the policy** and reported to **us** during this extended reporting period;
- b. any **cyber event, loss** or **system failure** first discovered by **you** during the **period of the policy** and reported to **us** during this extended reporting period; and
- c. any circumstance that a **senior executive officer** became aware of during the **period of the policy** and reports to **us** during this extended reporting period.

No claim will be accepted by **us** in this 60 day extended reporting period if **you** are entitled to indemnity under any other insurance, or would be entitled to indemnity under such insurance if its limit of liability was not exhausted.

## 9. Optional extended reporting period

If **we** or **you** decline to renew or cancel this Policy then **you** will have the right to have issued an endorsement providing an optional extended reporting period for the duration stated in the Declarations page which will be effective from the cancellation or non-renewal date. This

optional extended reporting period will cover, subject to all other terms, conditions and exclusions of this Policy:

- a. any **claim** first made against **you** and reported to **us** during this optional extended reporting period, provided that the **claim** arises out of any act, error or omission committed prior to the date of cancellation or non-renewal; and
- b. any **cyber event, loss** or **system failure** first discovered by **you** during this optional extended reporting period, provided that the **cyber event, loss** or **system failure** occurred during the **period of the policy**.

If **you** would like to purchase the optional extended reporting period **you** must notify **us** and pay **us** the optional extended reporting period premium stated in the Declarations page within 30 days of cancellation or non-renewal.

The right to the optional extended reporting period will not be available to **you** where cancellation or non-renewal by **us** is due to non-payment of the **premium** or **your** failure to pay any amounts in excess of the applicable **policy limit** and **incident response limit** or within the amount of the applicable **deductible** as is required by this Policy in the payment of claims.

At the renewal of this Policy, **our** quotation of different **premium, deductible**, limits of liability or changes in policy language will not constitute non-renewal by **us**.

#### 10. Fraudulent claims

If it is determined by final adjudication, arbitral tribunal or written admission by **you**, that **you** notified **us** of any claim knowing it to be false or fraudulent in any way, **we** will have no responsibility to pay that claim, **we** may recover from **you** any sums paid in respect of that claim and **we** reserve the right to terminate this Policy from the date of the fraudulent act. If **we** exercise this right **we** will not be liable to return any **premium** to **you**. However, this will not affect any claim under this Policy which has been previously notified to **us**.

#### 11. Innocent non-disclosure

**We** will not seek to avoid the Policy or reject any claim on the grounds of non-disclosure or misrepresentation except where the non-disclosure or misrepresentation was reckless or deliberate.

#### 12. Mergers and acquisitions

If **you** acquire an entity during the **period of the policy** whose annual revenue does not exceed 20% of the **company's** annual revenue, as stated in its most recent financial statements, cover is automatically extended under this Policy to include the acquired entity as a **subsidiary**.

If **you** acquire an entity during the **period of the policy** whose annual revenue exceeds 20% of the **company's** annual revenue, as stated in its most recent financial statements, cover is

automatically extended under this Policy to include the acquired entity as a **subsidiary** for a period of 45 days.

**We** will consider providing cover for the acquired entity after the period of 45 days if:

- a. **you** give **us** full details of the entity within 45 days of its acquisition; and
- b. **you** accept any amendment to the terms and conditions of this Policy or agree to pay any additional **premium** required by **us**.

In the event **you** do not comply with a. or b. above, cover will automatically terminate for the entity 45 days after the date of its acquisition.

Cover for any acquired entity is only provided under this Policy for any act, error or omission committed on or after the date of its acquisition.

No cover will be automatically provided under this Policy for any acquired entity:

- a. whose business activities are materially different from **your** business activities;
- b. that has been the subject of any lawsuit, disciplinary action or regulatory investigation in the 3 year period prior to its acquisition; or
- c. that has experienced a **cyber event** in the 3 year period prior to its acquisition, if the **cyber event** cost more than the highest **deductible** of this Policy.

If during the **period of the policy you** consolidate, merge with or are acquired by another entity then all coverage under this Policy will terminate at the date of the consolidation, merger or acquisition unless **we** have issued an endorsement extending coverage, and **you** have agreed to any additional **premium** and terms of coverage required by **us**.

### 13. Our rights of recovery

**You** must maintain all of **your** rights of recovery against any **third party** and make these available to **us** where possible.

**We** will not exercise any rights of recovery against any **employee** or **senior executive officer**, ~~unless this is in respect of any fraudulent or dishonest acts or omissions as proven by final adjudication, arbitral tribunal or written admission by **you**.~~

Any recoveries will be applied in proportion to the amounts paid by **you** and **us**.

### 14. Prior subsidiaries

Should an entity cease to be a **subsidiary** after the **inception date**, cover in respect of the entity will continue as if it was still a **subsidiary** during the **period of the policy**, but only in respect of an act, error, omission or event occurring prior to the date that it ceased to be a **subsidiary**.

#### 15. Process for adjustment of business interruption losses

In order to determine the amount of **loss** following an interruption to **your business operations** covered under **INSURING CLAUSE 3 (SECTIONS B, C, D and E only)**, the **cyber incident manager** will appoint an independent expert agreed between **you** and **us** which will be paid for by **us** in accordance with **INSURING CLAUSE 3 (SECTION F only)**.

If an independent expert cannot be agreed upon, one will be appointed by an arbitrator mutually agreed between **you** and **us** whose decision will be final and binding.

Once an independent expert has been appointed, their calculation of **loss** will be final and binding.

#### 16. Process for paying privacy breach notification costs

Any **privacy breach** notification transmitted by **you** or on **your** behalf must be done with **our** prior written consent. **We** will ensure that notification is compliant with any legal or regulatory requirements and contractual obligations. No offer must be made for financial incentives, gifts, coupons, credits or services unless with **our** prior written consent which will only be provided if the offer is commensurate with the risk of harm.

**We** will not be liable for any portion of the costs **you** incur under **INSURING CLAUSE 1 (SECTION E only)** that exceed the costs that **you** would have incurred had **you** gained **our** prior written consent. In the absence of **our** prior written consent **we** will only be liable to pay **you** the equivalent cost of a notification made using the most cost effective means permissible under the governing law.

#### 17. Sanctions suspension

It is a condition under this Policy that the provision of cover, the payment of any claim and the provision of any benefit will be suspended, to the extent that the provision of the cover, payment of the claim or provision of the benefit would expose **us** to any sanction, prohibition or restriction under the United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, Canada, the European Union, United Kingdom or United States of America. ~~The suspension will continue until such time we would no longer be exposed to the~~ sanction, prohibition or restriction.

#### 18. Supply chain interruption events

In respect of **INSURING CLAUSE 3 (SECTION D only)**, it is a condition precedent to liability under this Policy that **you** submit to **us** a written report from the **supply chain partner** confirming the root cause and length of the outage.

#### 19. Choice of law and service of suit

In the event of a dispute between **you** and **us** regarding this Policy, the dispute will be governed by the laws of the State of the United States of America shown as the choice of law

stated in the Declarations page. **We** agree, at **your** request, to submit to the jurisdiction of a court of competent jurisdiction within the United States of America.

Nothing in this Condition 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 of America, to move an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States of America or the laws of any State of the United States of America.

It is further agreed that service of process in such suit may be made upon the law firm stated in the Declarations page and that in any suit instituted against **us**, **we** will abide by the final decision of such court or of any appellate court in the event of an appeal. The law firm stated in the Declarations page is authorized and directed to accept service of process on **our** behalf in any such suit and, at **your** request, to give a written undertaking to **you** that they will enter a general appearance on **our** behalf in the event such suit is instituted.

Additionally, in accordance with the statute of any state, territory or district of the United States which makes such a provision, **we** hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as **our** true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by **you** arising out of this Policy. The law firm stated in the Declarations page is hereby designated as the firm to whom the above mentioned officer is authorized to mail such process or a copy thereof.

