

### THIS POLICY PROVIDES CLAIMS MADE AND REPORTED COVERAGE

#### PLEASE READ THE ENTIRE POLICY CAREFULLY

THIS POLICY PROVIDES CLAIMS MADE AND REPORTED COVERAGE, EXCEPT SUBSECTION I.D. **CLAIMS** MUST FIRST BE MADE AGAINST THE **INSUREDS** DURING THE **POLICY PERIOD**, OR ANY APPLICABLE EXTENDED REPORTING PERIOD, AND REPORTED TO THE **UNDERWRITER** PURSUANT TO SUBSECTION VII.F. OF THIS POLICY. THE PAYMENT OF **DEFENSE COSTS** REDUCES THE LIMITS OF LIABILITY.

Various provisions in this Policy restrict coverage. Read the entire Policy carefully to determine an **Insured's** rights, duties and what is and is not covered.

The word **Underwriter** refers to the insurer designated in the Declarations providing this insurance. The word **Insureds** means any person or organization qualifying as such pursuant to Section IV. - DEFINITIONS of this Policy. Refer to Section IV. - DEFINITIONS, of this Policy for the special meaning of words and phrases that appear in bold.

In consideration of payment of the premium and in reliance upon the statements made in the **Application**, which is made a part of this Policy, and subject to the Declarations and the limitations, conditions, provisions, and other terms of this Policy, including any endorsements hereto, the **Underwriter** and the **Insureds** agree as follows:

#### I. INSURING AGREEMENTS

##### A. INFORMATION TECHNOLOGY AND INTERNET LIABILITY (INCLUDING MEDIA LIABILITY)

If Insuring Agreement A. is purchased as designated in Item 4 of the Declarations, the **Underwriter** shall pay on behalf of the **Insureds** all **Loss** for which the **Insureds** become legally obligated to pay on account of any **Claim** for a **Technology Wrongful Act** or a **Media Wrongful Act** taking place on or after the Retroactive Date for this Insuring Agreement, as stated in Item 4 of the Declarations, and prior to the end of the **Policy Period**, if such **Claim** is first made against the **Insureds** during the **Policy Period** or any applicable Extended Reporting Period and reported to the **Underwriter** pursuant to Subsection VII.F. of this Policy.

##### B. MISCELLANEOUS PROFESSIONAL LIABILITY (INCLUDING MEDIA LIABILITY)

If Insuring Agreement B. is purchased as designated in Item 4 of the Declarations, the **Underwriter** shall pay on behalf of the **Insureds** all **Loss** for which the **Insureds** become legally obligated to pay on account of any **Claim** for a **Professional Services Wrongful Act** or a **Media Wrongful Act** taking place on or after the Retroactive Date for this Insuring Agreement, as stated in Item 4 of the Declarations, and prior to the end of the **Policy Period**, if such **Claim** is first made against the **Insureds** during the **Policy Period** or any applicable Extended Reporting Period and reported to the **Underwriter** pursuant to Subsection VII.F. of this Policy.

##### C. SYSTEM SECURITY AND PRIVACY LIABILITY

If Insuring Agreement C. is purchased as designated in Item 4 of the Declarations, the **Underwriter** shall pay on behalf of the **Insureds** all **Loss** for which the **Insureds** become legally obligated to pay on account of any **Claim** for a **Security Wrongful Act** or a **Privacy Wrongful Act** taking place on or after the Retroactive Date for this Insuring Agreement, as stated in Item 4 of the Declarations, and prior to the end of the **Policy Period**, if such **Claim** is first made against the **Insureds** during the **Policy Period** or any applicable Extended Reporting Period and reported to the **Underwriter** pursuant to Subsection VII.F. of this Policy.

The **Underwriter** will reimburse the **Insured** for all **Defense Costs** the **Insured** incurs in responding to any **Regulatory Proceeding** first made against the **Insured** and reported to the **Underwriter** during the **Policy Period** or any Extended Reporting Period, if applicable, for a **Privacy Wrongful Act** or **Security Wrongful Act** concerning a **Privacy Event**, provided such **Privacy Wrongful Act**, **Privacy Event** or **Security Wrongful Act**

first occurs on or after the applicable Retroactive Date shown in Item 4 of the Declarations **Regulatory Proceeding** Sublimit, and before the end of the **Policy Period**.

#### D. PRIVACY BREACH COSTS

If Insuring Agreement D. is purchased as designated in Item 4 of the Declarations, the **Underwriter** shall reimburse the **Insureds** for **Privacy Breach Costs** which the **Insureds** incur on account of a **Privacy Event** commencing during the **Policy Period**, if such **Privacy Event** is reported to the **Underwriter** pursuant to Subsection VII.F. of this Policy, and provided such **Privacy Breach Costs** are incurred within twelve (12) months after the **Privacy Event** is first reported to the **Underwriter**.

### II. CLAIM DEFENSE AND PRIVACY BREACH

- A. The **Underwriter** shall have the right and duty to defend **Claims** other than **Regulatory Proceedings** against the **Insured** to which Insuring Agreement A., B., or C. of this Policy applies, even if the allegations in the **Claim** are groundless, false, or fraudulent. The **Underwriter's** right and duty to defend includes, without limitation, the right and duty to select defense counsel. The **Underwriter's** duty to defend any such **Claim** or to pay **Loss** for such **Claim** ends when any Limit of Liability applicable to such **Claim** has been exhausted.

The **Underwriter** may investigate any such **Claim** as it deems necessary and make any settlement or compromise of such **Claim** as it deems expedient with the **Insured's** consent, but the **Underwriter's** right and duty to defend ends when the applicable Limit of Liability is exhausted by payment of **Loss**. If the **Underwriter** recommends a settlement of any such **Claim** acceptable to the claimant and the **Insured** refuses to consent to such settlement then, subject to the applicable Limit of Liability, the **Underwriter's** liability for such **Claim** will not exceed:

1. the amount for which such **Claim** could have been settled by the **Underwriter** plus **Defense Costs** up to the date the **Insured** refused to settle such **Claim**; plus
2. fifty percent (50%) of any **Loss** in excess of A.1. above incurred in such **Claim**. The remaining **Loss** will be uninsured and borne by the **Insured** at its own risk.

The **Insureds** agree not to settle any **Claim**, incur any **Defense Costs** or **Privacy Breach Costs**, otherwise assume any contractual obligation, or admit any liability with respect to any **Claim** without the **Underwriter's** prior written consent. The **Underwriter** shall not be liable for any settlement, **Defense Costs**, **Privacy Breach Costs**, assumed obligation, or admission to which it has not consented. However, such consent shall not be required if the aggregate **Loss** is equal to or less than any applicable Self Insured Retention shown in Item 4 of the Declarations. Neither the **Underwriter** nor the **Insureds** shall unreasonably withhold any consent referenced in this Section II.

As a condition precedent to their rights under this Policy, the **Insureds** shall provide the **Underwriter** with all information, assistance and cooperation which the **Underwriter** reasonably requests and, in the event of a **Claim**, the **Insureds** will do nothing that shall prejudice the **Underwriter's** position or its potential or actual rights of recovery.

- B. The **Underwriter** shall have the right, but not the duty, to defend any **Regulatory Proceeding**. The **Insured** may not incur any **Defense Costs** in any **Regulatory Proceeding** without the **Underwriter's** consent, such consent not to be unreasonably withheld. The **Underwriter** will not be liable for any **Defense Costs** to which it has not consented. The **Underwriter** has the right to associate in the defense of, and may investigate, any such **Regulatory Proceeding** as it deems necessary.

### III. EXTENSIONS

- A. Spouse or Domestic Partner Liability

If a **Claim** against an **Insured Person** includes a claim against the **Insured Person's** lawful spouse solely because of:

1. such spouse's status as spouse of the **Insured Person**; or
2. such spouse's ownership interest in property that the claimant seeks as recovery for alleged **Wrongful Acts** of the **Insured Person**,

then all loss which such spouse becomes legally obligated to pay by reason of such claim shall be treated for purposes of this Policy as **Loss** which the **Insured Person** becomes legally obligated to pay on account of the **Claim** made against the **Insured Person**. Such spousal loss shall be covered under this Policy only if and to the extent such loss would be covered if incurred by the **Insured Person**.

The coverage extension afforded by this Subsection III.A. does not apply to any **Claim** alleging any wrongful act or omission by the **Insured Person's** spouse.

For purposes of this Subsection III.A., the term "spouse" shall include any natural person qualifying as a domestic partner under any applicable federal, state, local or foreign law or under the provisions of any formal program established by the **Company**.

#### B. Extended Reporting Periods

##### 1. Automatic Extended Reporting Period

If either the **Underwriter** or the **Parent Company** fails or refuses to renew, or if the **Parent Company** cancels this Policy, other than for nonpayment of premium, coverage granted by this Policy shall be automatically extended for a period of ninety (90) days after such nonrenewal or cancellation, but only with respect to any **Wrongful Act** taking place prior to the effective date of such nonrenewal or cancellation. No additional premium shall be payable for such Automatic Extended Reporting Period. The Automatic Extended Reporting Period shall not apply where an optional Extended Reporting Period has been purchased, or to **Claims** that are covered under any subsequent insurance purchased by or for the benefit of the **Parent Company**.

##### 2. Optional Extended Reporting Period

If either the **Underwriter** or the **Parent Company** fails or refuses to renew, or if the **Parent Company** cancels this Policy other than for nonpayment of premium, then the **Parent Company** on behalf of all **Insureds** shall have the right, upon payment of an additional premium, to an extension of the coverage granted by this Policy as set forth in Item 5 of the Declarations following the effective date of such nonrenewal or cancellation, but only with respect to any **Wrongful Act** taking place prior to the effective date of such nonrenewal or cancellation. This right of extension shall lapse unless written notice of such election, together with payment of the additional premium due, is given by the **Parent Company** to the **Underwriter** within forty-five (45) days following the effective date of nonrenewal or cancellation.

The Automatic Extended Reporting Period pursuant to Subsection III.B.1. and the Optional Extended Reporting Period, if purchased, pursuant to Subsection III.B.2. shall be collectively referred to in this Policy as the Extended Reporting Period. Any **Claim** first made and reported during the Extended Reporting Period, if applicable, shall be considered made during the **Policy Period**. The Extended Reporting Period does not reinstate or increase the Limits of Liability beyond the Limits of Liability available under this Policy nor extend the **Policy Period**. If the Optional Extended Reporting Period is purchased, the Automatic Extended Reporting Period shall be included within and not in addition to the Optional Extended Reporting Period.

Any Optional Extended Reporting Period if purchased shall be non-cancellable and the entire premium shall be deemed earned at its commencement.

#### C. Estates and Legal Representatives

This Policy shall afford coverage for **Claims** for the **Wrongful Acts** of **Insured Persons** made against the estates, heirs, legal representatives, or assigns of any such **Insured Persons** who are deceased or against the legal representatives or assigns of any such **Insured Persons** who are incompetent, insolvent, or bankrupt to the extent that in the absence of such death, incompetence, insolvency, or bankruptcy, such **Claims** would have been covered by this Policy.

#### IV. DEFINITIONS

When used in this Policy:

##### A. **Application** means:

1. the application for this Policy;
2. the application(s) for all previous policies of which this Policy is a direct or indirect renewal or replacement; and

3. all attachments and materials submitted in connection with or incorporated in the application(s) described in Subsection IV.A.1. or IV.A.2. above.

The application(s), attachments and materials described above shall be retained on file by the **Underwriter** and deemed attached to and incorporated into this Policy.

- B. **Bodily Injury** means injury to the body, sickness, disease, or death. **Bodily Injury** also means mental injury, mental anguish, mental tension, emotional distress, pain and suffering, or shock, whether or not resulting from injury to the body, sickness, disease, or death of any person.

However, **Bodily Injury** does not mean mental injury, mental anguish, mental tension, emotional distress, pain and suffering, or shock resulting from a **Wrongful Act**.

- C. **Claim** means:

1. a written demand against any **Insured** for monetary damages or non-monetary relief, or a written demand to cease and desist commenced by the **Insured's** receipt of such demand;
2. a civil proceeding against any **Insured** for damages, injunctive relief, or declaratory relief commenced by the service upon the **Insured** of a complaint, or similar pleading, including any appeal thereof;
3. an arbitration or other alternative dispute resolution proceeding against any **Insured** commenced by the **Insured's** receipt of a request or demand for such proceeding, including any appeal thereof; or
4. a written request received by an **Insured** to toll or waive a statute of limitations relating to a **Claim** as described above.

Solely with respect to (i) **Defense Costs** reimbursement coverage afforded under the second paragraph of Section I. Insuring Agreement C., if purchased, or (ii) payment of a **Consumer Redress Fund, Claim** also means a **Regulatory Proceeding**.

- D. **Company** means, collectively, the **Parent Company** and its **Subsidiaries**.

- E. **Computer System** means computer hardware and **Software**, and the **Electronic Data** stored thereon, as well as associated input and output devices, data storage devices, networking equipment, components, firmware and electronic backup facilities, including systems accessible through the Internet, intranets, extranets or virtual private networks.

- F. **Consumer Redress Fund** means any sum of money the **Insured** is 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 Proceeding**.

- G. **Content** means words, numbers, images, graphics, ideas, data, text, sounds, images, or similar forms of expression, including but not limited to the following, in whole or excerpt form:

1. books, poetry, lyrics, papers, essays, correspondence, newsletters, newspapers, magazines, scripts, plays, computer software, computer software documentation and manuals, encyclopedias, dictionaries, business records, or research materials;
2. recorded music, film, television and radio excerpts, commercials, voiceovers, sound effects, or speeches;
3. television broadcasts, sports footage, professional or amateur videos, or animated and motion pictures;
4. pictures, graphics, sculptures, tables, charts, diagrams, photographs, posters, maps, paintings, drawings, cartoons, cartoon characters, statues, works of fine art, display advertisements, or architectural drawings; or
5. software code, and source code.

- H. **Defense Costs** means that part of **Loss** consisting of reasonable costs, charges, fees (including but not limited to attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries or fees of the directors, officers or employees of the **Company**) incurred in defending or investigating **Claims**, including the premium for appeal, attachment or similar bonds.

- I. **Denial of Service Attack** means a malicious attack by a third party which is designed to slow or completely interrupt access to a targeted **Computer System** or website by other third parties authorized to gain access to that **Computer System** or website.

- J. **Electronic Data** means information that exists in electronic form, including **Personal Information**; provided, however, **Electronic Data** does not include **Software**.
- K. **Executive Officer** means any natural person who has been, now is, or shall become the Chief Executive Officer, Chief Financial Officer, Chief Security Officer, Chief Technology Officer, Chief Information Officer, General Counsel, or Risk Manager of the **Company** or, with respect to a **Subsidiary** incorporated outside the United States, the functional equivalent of such an officer.
- L. **Insured Persons**, either in the singular or plural, means any natural person who has been, now is, or shall become:
1. a director, officer, or employee of the **Company** acting in such capacity or, with respect to a **Subsidiary** incorporated outside the United States, the functional equivalent of a director, officer or employee acting in such capacity;
  2. an independent contractor of the **Company** but solely with respect to a **Wrongful Act** committed within the scope of such individual's duties on behalf of the **Company**; or
  3. a temporary worker or worker that is leased to the **Company** but solely with respect to a **Wrongful Act** committed within the scope of such individual's duties on behalf of the **Company**.
- M. **Insureds**, either in the singular or plural, means the **Company** and the **Insured Persons**.
- N. **Interrelated Wrongful Acts** means all **Wrongful Acts** that are related, including all **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of causally connected facts, circumstances, situations, events, transactions, or causes.
- O. **Loss** means the total amount which the **Insureds** become legally obligated to pay on account of each **Claim** and for all **Claims** in each **Policy Period** and the Extended Reporting Period, if purchased, made against them for **Wrongful Acts** for which coverage applies, including but not limited to damages, judgments, pre-judgment and post-judgment interest, settlements and **Defense Costs**.

**Loss** shall include:

1. punitive, exemplary, or multiple damages, or
2. solely with respect to Insuring Agreement C., civil fines, sanctions, or penalties imposed pursuant to **Privacy Regulations**, and
3. **Consumer Redress Funds**

to the extent such damages, civil fines, sanctions, or penalties are insurable under the laws of any state or jurisdiction most favorable to the **Insured** including without limitation any state or jurisdiction where: (a) such damages, civil fines, sanctions or penalties were awarded or imposed; (b) any **Wrongful Act** underlying the **Claim** took place; (c) either the **Underwriter** or any **Insured** is incorporated, has its principal place of business or resides; or (d) this Policy was issued or became effective.

If the **Insured** determines in good faith that such damages, civil fines, sanctions or penalties are insurable, the **Underwriter** shall not challenge such determination unless required to do so as a matter of public policy.

**Loss** does not include:

1. any amount for which the **Insureds** are absolved from payment by any covenant, agreement, or court order;
2. taxes, fines, or penalties imposed by law on the **Insured**, except as expressly provided above with respect to civil fines, sanctions, or penalties otherwise covered under Insuring Agreement C.;
3. the cost to comply with any injunctive, affirmative, or other non-monetary relief or any agreement to provide any such relief, other than reasonable **Defense Costs** associated with such costs to comply;
4. loss of fees or profits by the **Insured**; return by the **Insured** of fees, commissions, or royalties; or re-performance of services by the **Insured** or under the **Insured's** supervision; or
5. matters uninsurable under the law pursuant to which the terms of this Policy are construed.

Solely with respect to Insuring Agreement D., if purchased, **Loss** means **Privacy Breach Costs**.

- P. **Malicious Code** means unauthorized, corrupting, or harmful software code, including but not limited to computer viruses, Trojan horses, keystroke loggers, cookies, spyware, adware, worms, and logic bombs.
- Q. **Media Services** means:
1. publishing, disseminating, uttering, releasing, gathering, transmitting, producing, or other distributing of **Content** on behalf of the **Insured** or by the **Insured** on behalf of others, by any means, including but not limited to the following forms: print; music; film; directories; broadcasting; webcasting; or telecasting, through any medium including but not limited to, wireless or electronic medium; or
  2. advertising, through any medium, which consists of publicity or promotion on the **Insured's** behalf, or by the **Insured** on behalf of others.
- R. **Media Wrongful Act** means any act, error, omission, misstatement, misleading statement, neglect, or breach of duty actually or allegedly committed or attempted by an **Insured**, or by someone for whom the **Insured** is legally responsible, in connection with the **Insured's** rendering or failure to render **Media Services**, including without limitation any such actual or alleged conduct which constitutes:
1. libel, slander, defamation or other tort related to the disparagement or harm to the reputation or character of any person or organization;
  2. invasion, infringement, or interference with the right to privacy or publicity;
  3. plagiarism, piracy, or the misappropriation or unauthorized use of advertising ideas, advertising material, titles, literary or artistic formats, styles, performances, names or likenesses;
  4. the infringement of any copyright, domain name, trademark, trade name, trade dress, title or slogan, service mark, or service name;
  5. negligence with respect to the **Insured's** creation or dissemination of **Content**; or
  6. an unintentional breach of a contract to render **Media Services**.
- S. **Network Security** means the use of hardware, **Software**, firmware and written security policies and procedures by **Insureds**, or by others on behalf of the **Company**, to protect against **Unauthorized Access** to or the **Unauthorized Use** of the **Company's Computer System** including the use of the **Company's Computer System** in a **Denial of Service Attack**.
- T. **Parent Company** means the organization shown in Item 1 of the Declarations.
- U. **Personal Information** means any information from which an individual may be uniquely and reliably identified or contacted, including an individual's name, telephone number, social security number, medical or healthcare data or other protected health information, driver's license number or state identification number, account number, credit card number, debit card number, access code or password that would permit access to that individual's financial account or any other non-public personal information as defined in **Privacy Regulations**; provided, however, **Personal Information** does not include information lawfully available to the general public for any reason, including information from federal, state, or local government records.
- V. **Policy Period** means the period shown in Item 2 of the Declarations, subject to prior termination pursuant to Subsection VII.H. of this Policy.
- W. **Pollutants** means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by, the United States Environmental Protection Agency or a state, county, municipality or locality counterpart thereof. **Pollutants** shall also mean any other air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products, silica, noise, fungus (including mold, mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi, but not any fungi intended by the **Insured** for consumption) and electric or magnetic or electromagnetic field. Such matters shall include, without limitation, solids, liquids, gaseous, thermal, biological, nuclear or radiological irritants, contaminants or smoke, soot, fumes, acids, alkalis, chemicals or waste materials.
- X. **Privacy Event** means:
1. an unauthorized disclosure or loss of:
    - a. **Personal Information** in the care, custody or control of any **Insured** or **Service Provider**; or

b. corporate information in the care, custody or control of any **Insured** or **Service Provider** that is specifically identified as confidential and protected under a nondisclosure agreement or similar contract; or

2. a violation of any **Privacy Regulation**.

Y. **Privacy Breach Costs** means the reasonable and necessary fees, costs, charges and expenses incurred by the **Company** within twelve (12) months of the **Insured** first having knowledge of a **Privacy Event** for the purposes of retaining an accountant, attorney, public relations consultant or other third party to:

1. conduct a computer forensic analysis to investigate the **Company's Computer System** to determine the cause and extent of such **Privacy Event**;
2. determine indemnification obligations under any written contract with respect to a **Wrongful Act** by a **Service Provider** in connection with such **Privacy Event**;
3. determine if the **Company** is obligated to notify affected individuals or applicable regulatory agencies of such **Privacy Event**;
4. effect compliance with any **Privacy Regulation** under the applicable **Privacy Regulation** most favorable to the **Company's** affected individuals;
5. notify the **Company's** affected individuals or applicable regulatory agencies of such **Privacy Event** and establish new account numbers for the **Company's** affected individuals;
6. plan, implement, execute and manage a public relations campaign to counter or minimize any actual or anticipated adverse effects of negative publicity from such **Privacy Event** or to protect or restore the **Company's** business reputation in response to negative publicity following such **Privacy Event**; or
7. procure credit monitoring services for the **Company's** affected individuals in responding to such **Privacy Event**.

**Privacy Breach Costs** do not include:

1. regular or overtime wages, salaries or fees of the **Company's** directors, officers or employees;
2. the cost to comply with any injunctive or other non-monetary relief;
3. principal, interest or other monies paid or due as the result of any loan, lease or extension of credit; or
4. taxes, fines, sanctions or penalties.

Z. **Privacy Regulations** means any of the following statutes, including any amendments thereto or regulations thereunder, associated with the control and use of personally identifiable financial, medical or other sensitive information:

1. Health Information Technology for Economic and Clinical Health Act (HITECH) (American Recovery and Reinvestment Act of 2009);
2. Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191);
3. Gramm-Leach-Bliley Act of 1999;
4. California Security Breach Notification Act (CA SB 1386), CA AB 211 and CA SB 541;
5. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)), but solely for alleged unfair or deceptive acts or practices in or affecting commerce;
6. Massachusetts 201 CMR 17;
7. the Identity Red Flags under the Fair and Accurate Credit Transactions Act of 2003; and
8. any similar state, federal or foreign identity theft or privacy protection statute.

AA. **Privacy Wrongful Act** means any actual or alleged act, error, omission, neglect or breach of duty by an **Insured**, someone for whom the **Company** is legally responsible, or a **Service Provider**, that results in a **Privacy Event**.

BB. **Professional Services** means those services specified in Item 6 of the Declarations.

CC. **Professional Services Wrongful Act** means any act, error, omission, misstatement, misleading statement, neglect, or breach of duty actually or allegedly committed or attempted by an **Insured**, or by someone for whom the **Insured** is legally responsible, in connection with rendering or failure to render **Professional Services** to others.

DD. **Property Damage** means:

1. physical injury to, loss or destruction of tangible property, including loss of use thereof; or
2. loss of use of tangible property which has not been physically injured or destroyed;

however, **Property Damage** does not mean injury to, loss or destruction of intangible property, including data.

EE. **Regulatory Proceeding** means:

1. a formal investigation of an **Insured** by an administrative or regulatory agency or similar governmental body concerning a **Privacy Event**; or
2. an administrative adjudicative proceeding against an **Insured** by an administrative or regulatory agency or similar governmental body for a **Privacy Wrongful Act** or **Security Wrongful Act**, including an appeal thereof,

commenced by the **Insured's** receipt of a subpoena, investigative demand, complaint or similar document.

FF. **Security Wrongful Act** means any actual or alleged act, error, omission, neglect, or breach of duty by an **Insured**, someone for whom the **Company** is legally responsible, or a **Service Provider**, which causes a breach of the **Company's Network Security** that results in:

1. the theft, alteration, or destruction of **Electronic Data** on the **Company's Computer System**;
2. the **Unauthorized Access** to or **Unauthorized Use** of the **Company's Computer System**;
3. the denial of an authorized user's access to the **Company's Computer System**, unless such denial of access is caused by a mechanical or electrical failure outside the control of the **Insured**;
4. the participation by the **Company's Computer System** in a **Denial of Service Attack** directed against a third party's **Computer System**; or
5. the transmission of **Malicious Code** from the **Company's Computer System** to a third party's **Computer System**.

For purposes of this definition, only facts pertaining to and knowledge possessed by any director, **Executive Officer** of a **Company**, or any person serving in a functionally equivalent position of a **Company**, shall be imputed to all **Companies**.

GG. **Service Provider** means a business the **Company** does not own, operate, or control, but that the **Company** hires for a fee pursuant to a written contract to perform services related to the conduct of the **Company's** business, including but not limited to,

1. maintaining, managing, or controlling **Computer Systems**;
2. hosting or facilitating the **Company's** internet website; or
3. providing other **Technology Services** to the **Company**.

HH. **Software** means operations and applications, codes and programs by which **Electronic Data** are electronically collected, transmitted, processed, stored or received. **Software** does not include **Electronic Data**.

II. **Subsidiary**, either in the singular or plural, means, subject to Subsection VII.E.1. below, any organization, including non-profit/501(c)3 entities, while more than fifty percent (50%) of the outstanding voting securities or voting rights representing the present right to vote for election of directors or equivalent executives of such organization is owned or controlled, directly or indirectly, in any combination, by the **Parent Company**.

JJ. **Technology Products** means technology, computer or telecommunications hardware, software, or related electronic equipment, including the design, development, manufacture, assembly, distribution, licensing, leasing, sale, installation, repair, or maintenance thereof.

KK. **Technology Services** means:

1. analysis, design, development, integration, installation, programming, conversion, service, support, maintenance, repair, sale, or resale of **Computer Systems**, computer networks, electronic systems, computer software, computer hardware, or computer firmware;
  2. database design and the collection, compilation, processing, warehousing, mining, storage, management, or analysis of data;
  3. information technology consulting, management, education, or training;
  4. **Telecommunication Services**;
  5. internet services, including but not limited to:
    - a. internet access provision, application service provision, domain name registration, or the provision of search engine, web browser, or electronic mail services;
    - b. website design, programming, hosting, managing, or maintenance;
    - c. e-commerce transaction services, electronic exchange services, auction services, managed and network security services, web portal services; and
    - d. the development, design, and maintenance of chat rooms, e-mail services or bulletin boards;
  6. any other consulting, training, management, education or information systems services substantially similar to or related to the services described above.
- LL. **Technology Wrongful Act** means any act, error, omission, misstatement, misleading statement, neglect, or breach of duty actually or allegedly committed or attempted by an **Insured**, or by someone for whom the **Insured** is legally responsible, in connection with the **Insured's** rendering or failure to render **Technology Services** to others, including the **Insured's** unintentional breach of a contract to render such services to others, or the failure of the **Insured's Technology Products** to perform the function or serve the purpose intended.
- MM. **Telecommunication Services** means local, regional and long distance wireline and wireless dial tone access and switched services, including value added services such as directory assistance, toll free services, voice mail, call forwarding, call waiting and caller ID; ground based satellite communication services; DSL, ISDN and VoIP services; video conferencing services; paging services; basic wire maintenance; 911 emergency services; directory services and operator assistance; analysis, design, integration and conversion of telecommunication systems; directory publishing; or project management or consulting services related to any matter described in this definition.
- NN. **Unauthorized Access** means the gaining of access to a **Computer System** by an unauthorized person or persons, or by an authorized person or persons in an unauthorized manner.
- OO. **Unauthorized Use** means the use of a **Computer System** by an unauthorized person or persons or by an authorized person or persons in an unauthorized manner.
- PP. **Underwriter** means the insurer designated in the Declarations providing this insurance.
- QQ. **Wrongful Act** means:
1. with respect to Insuring Agreement A., if purchased, a **Technology Wrongful Act** or a **Media Wrongful Act**;
  2. with respect to Insuring Agreement B., if purchased, a **Professional Services Wrongful Act** or a **Media Wrongful Act**;
  3. with respect to Insuring Agreement C., if purchased, a **Security Wrongful Act** or a **Privacy Wrongful Act**; and
  4. with respect to Insuring Agreement D., if purchased, a **Privacy Event**.

## V. EXCLUSIONS

The **Underwriter** shall not be liable for **Loss** on account of any **Claim** or any **Privacy Event**:

A. based upon, arising out of, or attributable to any:

1. dishonest, fraudulent, criminal, or malicious **Wrongful Act**, or any intentional or knowing violation of law by the **Insured**; or

2. the gaining of any profit, remuneration, or financial or non-financial advantage to which the **Insured** was not legally entitled;

provided, however, this exclusion shall not apply to **Defense Costs** or the **Underwriter's** duty to defend any such **Claim** unless and until there is a judgment against, binding arbitration decision against, adverse admission under oath by, finding of fact against, or plea of *nolo contendere* or no contest by, the **Insured** which establishes such **Wrongful Act** occurred or such profit, remuneration, financial or non-financial advantage was gained, at which time the **Insured** shall reimburse the **Underwriter** for any **Defense Costs** paid by the **Underwriter** on behalf of such **Insured** resulting from such **Claim**; provided, however, for purposes of determining the applicability of this Exclusion to Insuring Agreement C. System Security & Privacy Liability and Insuring Agreement D. Privacy Breach Costs:

- a. the facts pertaining to and knowledge possessed by any **Insured Person** shall not be imputed to any other **Insured Person**; and
  - b. only facts pertaining to and knowledge possessed by any director, **Executive Officer** of a **Company**, or any person serving in a functionally equivalent position of a **Company**, shall be imputed to all **Companies**;
- B. based upon, arising out of or attributable to:
1. any fact, circumstance, or situation which has been the subject of any written notice given under any insurance policy or any policy of which this Policy is a direct or indirect renewal or replacement, or any policy expiring prior to the inception date of this Policy;
  2. any act, error, omission, **Wrongful Act**, fact, circumstance or situation occurring prior to (i) the inception date of this Policy, (ii) the inception date of the first policy in an uninterrupted series of errors and omissions or privacy and security liability insurance policies continuously issued by the **Underwriter** to the **Company** of which this Policy is a renewal, whichever inception date is earlier, or (iii) the Retroactive Date shown in Item 4 of the Declarations, if on or before such earlier inception date or Retroactive Date the **Insured** knew or could have reasonably foreseen that such **Wrongful Act**, fact, circumstance or situation would give rise to a **Claim** or **Privacy Event**; or
  3. any written demand, suit or proceeding pending, or order, decree or judgment entered, against any **Insured** on or prior to the effective date of this Policy or the effective date of any policy issued by the **Underwriter** of which this Policy is a continuous renewal, replacement, or is alleging or derived from the same or substantially the same **Wrongful Act**, **Interrelated Wrongful Acts**, fact, circumstance or situation underlying or alleged therein;
- C. based upon, arising out of, or attributable to **Bodily Injury or Property Damage**;
- D. based upon, arising out of or attributable to any actual or alleged violation by the **Insured** of: (1) the Employee Retirement Income Security Act of 1974; (2) the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisors Act, or any other foreign, federal, state or local securities law; or (3) any rules or regulations promulgated under the statutes listed in V.D.(1).or V.D.(2); any amendments thereof, or any other foreign, federal, state or common law similar thereto;
- E. based upon, arising out of or attributable to any actual or alleged:
- (1) refusal to employ; (2) termination of a person's employment, including constructive dismissal; (3) violations of employment-related practices, policies, acts, or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination, malicious prosecution; or (4) other wrongful employment-related practices, provided this exclusion applies:
- a. whether such conduct occurs before employment, during employment or after employment of that person; or
  - b. whether the **Insured** may be liable as an employer or in any other capacity.

Provided, however, this exclusion shall not apply to any **Claim** by an employee of a **Company** for a **Privacy Event** relating to the unauthorized disclosure of such employee's **Personal Information**;

- F. by or on behalf of, or for the benefit of any
1. **Insured**;
  2. entity controlled, operated or managed by the **Insured** at the time the **Wrongful Act** giving rise to such **Claim** took place;
  3. entity in which the **Insured** acted as a partner, director, officer, or employee at the time the **Wrongful Act** giving rise to such **Claim** took place;
  4. publicly held entity in which the **Insured** owned ten percent (10%) or more of the voting securities, or a privately held entity in which the **Insured** owned forty percent (40%) or more of the voting securities;  
provided, however, this exclusion shall not apply to any **Claim** brought by any **Insured Person** in his or her capacity:
    - a. as a customer or client of the **Company**; or
    - b. as an employee of the **Company** for a **Privacy Event** relating to the unauthorized disclosure of such employee's **Personal Information**;
- G. based upon, arising out of, or attributable to any actual or alleged deceptive or unfair trade practice, consumer fraud, false or deceptive advertising or misrepresentation;
- H. based upon, arising out of, or attributable to any actual or alleged unfair competition, price fixing, restraint of trade, monopolization, consumer fraud or other violation of the Federal Trade Commission Act, the Sherman Anti-Trust Act, the Clayton Act, as amended, or any other federal, state, local, or common law or rules or regulations involving antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade, or otherwise protecting competition. However, this Exclusion shall not apply to a **Regulatory Proceeding** that may constitute a violation of Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)), including a **Consumer Redress Fund** established in resolving such a **Regulatory Proceeding**;
- I. based upon, arising out of or alleging a breach of any express, implied, actual, constructive, oral or written contract, warranty, guarantee, or promise including any actual or alleged liability assumed by the **Insured**, unless such liability would have attached to the **Insured** even in the absence of such contract, warranty, guarantee, or promise;
- J. based upon, arising out of, or attributable to the failure or destruction of any satellite;
- K. based upon, arising out of, or attributable to the inaccurate, inadequate, or incomplete description of the price of the **Insured's** goods, products or services; the disclosure of the **Insured's** fees; the failure by the **Insured** to meet deadlines, or the **Insured's** cost guarantees, cost representations, contract price, pricing guarantees or estimates of probable costs or cost estimates being exceeded; or any guarantee or promise by the **Insured** of costs savings, return on investment, or profitability;
- L. based upon, arising out of or attributable to any failure, interruption, or outage to Internet access service provided by the Internet service provider that hosts the **Insured's** website, including without limitation any failure of telephone lines, data transmission lines, or other infrastructure comprising or supporting the Internet unless such infrastructure is under the **Insured's** operational control;
- M. based upon, arising out of, or attributable to any actual or alleged infringement of, or the validity, invalidity or misappropriation of, any patent or any trade secret; provided, however, this Exclusion shall not apply to that part of a **Claim** alleging an inadvertent disclosure of a trade secret if such disclosure constitutes a **Privacy Event**;
- N. by or on behalf of any content licensing organization or agency, including without limitation Broadcast Music, Inc., SESAC, Inc., or the American Society of Composers, Authors and Publishers; provided, however, this Exclusion shall not apply to any **Claim** by or on behalf of any such organization or agency in its capacity as a client or customer of the **Insured**;
- O. based upon, arising out of, or attributable to the unauthorized collection of **Personal Information** by the **Insured**, including but not limited to the collection of **Personal Information** using cookies or other **Malicious Code**, or the failure to provide adequate notice that such information is being collected; provided, however, this Exclusion shall not apply if such collection of **Personal Information** is without the knowledge or approval of any director, **Executive Officer** of a **Company**, or any person serving in a functionally equivalent position of a **Company**;

P. based upon, arising out of, or attributable to:

1. the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal of **Pollutants** into or on real or personal property, water or the atmosphere; or
2. any direction or request that any **Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, or any voluntary decision to do so.

This pollution exclusion applies whether or not such **Pollutants** have any function in the **Insured's** business, operations, premises, site or location and regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to any **Loss** associated with such **Pollutants**;

Q. based upon, arising out of, or attributable to:

1. war, including undeclared or civil war;
2. warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign, or other authority using military personnel or other agents; or
3. insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these;

R. based upon, arising out of, or attributable to any mechanical or electrical failure or interruption caused by a third party, acting independently of the **Insured**, or by an event outside of the **Insured's** control, including any electrical power interruption or surge, brownout, blackout, short circuit, over voltage, or power fluctuations;

S. based upon, arising out of, or attributable to fire, smoke, explosion, lightning, wind, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God, or any other similar physical event however caused;

T. based upon, arising out of, or attributable to the recall, repair, replacement, upgrade, supplement or removal of the **Insured's** products, including products which incorporate the **Insured's** products or services, from the marketplace; provided, however, this Exclusion shall not apply to any **Claim** solely for the loss of use of any property by a third party, provided as used herein, loss of use means the inability to use or access such property;

U. based upon, arising out of, or attributable to any over-redemption of coupons, awards or prizes from advertisements, promotions, games, sweepstakes, or contests;

V. based upon, arising out of or attributable to any unsolicited electronic dissemination of faxes, emails, or other communications to multiple actual or prospective customers by the **Insured** or any other third party, including actual or alleged violations of:

1. the Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
2. the CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
3. any other federal, state or foreign anti-spam statute or federal, state or foreign statute, law, ordinance or regulation relating to a person's or entity's right of seclusion or that prohibits or limits the sending, transmitting, communicating or distribution of material or information;

W. based upon, arising out of or attributable to the integrity of **Personal Information**, including whether the **Personal Information** is relevant and reliable for the purpose for which it is collected or to be used, accurate, complete or current;

X. based upon arising out of or attributable to the **Insured's** intentional failure to disclose the loss of **Personal Information** in violation of any law or regulation;

Y. based upon, arising out of, or attributable to the **Insured's** provision of, or failure to provide, access to **Personal Information** to those individuals or entities with an actual or alleged right to such access, including without limitation failing to provide an individual or entity the ability to correct, amend or delete **Personal Information**;

Z. for any **Claim** that would otherwise be covered by any other Insuring Agreement available under this policy if not for the **Insured's** failure or refusal to purchase such Insuring Agreement.

## VI. LIMITS OF LIABILITY AND SELF-INSURED RETENTION

### A. Limits of Liability

The maximum aggregate liability of the **Underwriter** under this Policy for all **Loss**, including **Defense Costs** and **Privacy Breach Costs**, on account of all **Claims** or **Privacy Events** covered under this Policy shall not exceed the Aggregate Policy Limit of Liability shown in Item 3 of the Declarations.

Subject to the Aggregate Policy Limit of Liability described above:

1. The maximum liability of the **Underwriter** under each purchased Insuring Agreement for all **Loss**, including **Defense Costs** and **Privacy Breach Costs**, on account of all **Claims** or **Privacy Events**, combined, covered under such Insuring Agreement shall not exceed the respective Aggregate Limit of Liability shown in Item 4 of the Declarations for such Insuring Agreement.
2. The maximum liability of the **Underwriter** under each purchased Insuring Agreement for **Loss**, including **Defense Costs** and **Privacy Breach Costs**, on account of each **Claim** or **Privacy Event** covered under such Insuring Agreement shall not exceed the respective Each **Claim** Limit of Liability shown in Item 4 of the Declarations for such Insuring Agreement.
3. The maximum liability of the **Underwriter** under Insuring Agreement C. for all **Loss**, including **Defense Costs** on account of all **Regulatory Proceedings** covered under such Insuring Agreement shall not exceed the **Regulatory Proceeding** Sublimit under Insuring Agreement C. shown in Item 4 of the Declarations.
4. The Each **Claim** Limit of Liability and the **Regulatory Proceedings** Sublimit as shown in Item 4 of the Declarations are part of and not in addition to the respective Aggregate Limit of Liability for each purchased Insuring Agreement, as shown in Item 4 of the Declarations.
5. The Each **Claim** and Aggregate Limits of Liability and the **Regulatory Proceeding** Sublimit as shown in Item 4 of the Declarations are part of and not in addition to the Aggregate Policy Limit of Liability shown in Item 3 of the Declarations.

**Defense Costs** are part of and not in addition to any applicable Limit of Liability or Sublimit, and the payment by the **Underwriter** of **Defense Costs** reduces such applicable Limits of Liability or Sublimits.

If any Limit of Liability or Sublimit applicable to any **Claim** is exhausted prior to settlement or judgment of such **Claim**, the **Underwriter's** obligations under the respective Insuring Agreement shall be terminated, and the **Underwriter** shall have the right to withdraw from the further investigation or defense of any **Claim** which is subject to such exhausted Limit of Liability or Sublimit by tendering control of such investigation or defense to the **Insured**, and the **Insureds** agree, as a condition to the issuance of this Policy, to accept such tender.

### B. Self-Insured Retention

The **Underwriter's** liability for **Loss** on account of each **Claim** or **Privacy Event** shall apply only to that part of such **Loss** in excess of the applicable Self-Insured Retention for each Insuring Agreement, as shown in Item 4 of the Declarations. The portion of the **Loss** within the Self-Insured Retention shall be borne by the **Insureds** at their own risk. The **Underwriter** shall have no obligation for any **Loss** within such Self-Insured Retention. In the event more than one Self-Insured Retention applies to any **Claim**, the maximum total Self-Insured Retention applicable to such **Claim** shall be the highest of such applicable Self-Insured Retention.

### C. Multiple **Insureds**, **Claims**, Claimants and **Privacy Events**

The inclusion of more than one **Insured** in any **Claim**, or the making of **Claims** by more than one person or entity shall not increase the Limits of Liability. All **Claims** arising out of the same **Wrongful Act** and all **Interrelated Wrongful Acts** shall be deemed one **Claim**, and all such **Claims** shall be deemed to be first made when the earliest of such **Claims** is first made, whether before or during the **Policy Period** or any applicable Extended Reporting Period.

All **Privacy Events** that have as a common nexus any fact, circumstance, situation, event, transaction, cause, or series of causally connected facts, circumstances, situations, events, transactions, or causes shall be deemed one **Privacy Event**, and all such **Privacy Events** shall be deemed to have commenced when the earliest of such **Privacy Events** first commenced.

## VII. CONDITIONS

### A. Action Against the **Underwriter**

No action shall lie against the **Underwriter** unless, as a condition precedent thereto, there has been full compliance with all the terms of this Policy. No person or organization shall have any right under this Policy to join the **Underwriter** as a party to any action against the **Insureds** to determine the **Insured's** liability nor shall the **Underwriter** be impleaded by the **Insureds** or their legal representatives.

### B. Alteration and Assignment

No change in, modification of, or assignment of interest under this Policy shall be effective except when made by a written endorsement to this Policy which is signed by an authorized representative of the **Underwriter**.

### C. Authorization Clause

By acceptance of this Policy, the **Parent Company** agrees to act on behalf of the **Insureds** with respect to the payment of premiums and the receiving of any return premiums that may become due under this Policy; the agreement to and acceptance of endorsements; and the giving or receiving of any notice provided for in this Policy, including the giving of notice for any Optional Extended Reporting Period, and the **Insureds** agree that the **Parent Company** shall act on their behalf.

### D. Bankruptcy

Bankruptcy or insolvency of a **Company** or the **Insured Persons** or of the estate of any **Insured Person** shall not relieve the **Underwriter** of its obligations nor deprive the **Underwriter** of its rights or defenses under this Policy.

### E. Changes in Exposure

#### 1. Acquisition or Creation of Another Organization

If during the **Policy Period** the **Company**:

- a. acquires securities or voting rights in another organization or creates another organization, which as a result of such acquisition or creation becomes a **Subsidiary**; or
- b. acquires any organization by merger into or consolidation with the **Company**,

then such organization and its **Insured Persons** shall be covered under this Policy but only with respect to **Wrongful Acts** taking place after such acquisition or creation unless and until the **Underwriter** agrees after presentation of all appropriate information, to provide coverage by endorsement for **Wrongful Acts** by such **Insureds** taking place prior to such acquisition or creation.

If the annual revenue of such acquired organization immediately preceding such acquisition is more than twenty five percent (25%) of the consolidated annual revenue of all **Companies** immediately preceding such acquisition, the **Parent Company**, as a condition precedent to coverage with respect to such organization and its **Insured Persons**, shall give written notice of such acquisition or creation to the **Underwriter** at the address shown in Item 7.B of the Declarations as soon as practicable, but in no event later than sixty (60) days after the effective date of such acquisition or creation. The **Insured** shall also provide such information as the **Underwriter** may require and shall pay any additional premium required by the **Underwriter**.

#### 2. Acquisition of **Parent Company**

If during the **Policy Period**:

- a. the **Parent Company** merges into or consolidates with another organization; or
- b. another organization, or person or group of organizations and/or persons acting in concert acquires securities or voting rights which result in ownership or voting control by the other organization(s) or person(s) of more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of directors or equivalent executives of the **Parent Company**,

then coverage under this Policy shall continue until the later of:

- i. any subsequent date to which the **Underwriter** may agree by endorsement; or
- ii. termination of this Policy;

but only with respect to **Claims** for **Wrongful Acts** taking place or **Privacy Events** commencing prior to such merger, consolidation or acquisition. As a condition precedent to any coverage extension pursuant to Subsection VII.E.2.(i) above, the **Parent Company** shall give written notice of such merger, consolidation or acquisition to the **Underwriter** at the address shown in Item 7.B of the Declarations as soon as practicable but in no event later than forty-five (45) days after the effective date of such merger, consolidation or acquisition, the **Insureds** shall provide such information as the **Underwriter** may require, and the **Parent Company** shall pay any additional premium required by the **Underwriter**.

Any **Claim** made and reported during such coverage extension shall be considered made during the **Policy Period** in which such merger, consolidation or acquisition occurred.

### 3. Cessation of **Subsidiaries**

If during the **Policy Period** an organization ceases to be a **Subsidiary**, then coverage with respect to such **Subsidiary** and its **Insured Persons** shall continue until termination of this Policy, but only with respect to **Claims** for **Wrongful Acts** taking place and **Privacy Events** commencing prior to the date such organization ceased to be a **Subsidiary**.

## F. Notice

### 1. Notice of **Claims**

The **Insureds** shall, as a condition precedent to their rights under this Policy, give to the **Underwriter** written notice of any **Claim** first made against any **Insured** as soon as practicable once any director, **Executive Officer** of a **Company**, or any person serving in a functionally equivalent position of a **Company**, becomes aware or receives notification of such **Claim** but in no event later than:

- a. ninety (90) days after expiration of the **Policy Period**; or
- b. if purchased, the termination date of the Optional Extended Reporting Period.

Coverage, if any, for a **Claim** first made during the **Policy Period** or any applicable Extended Reporting Period and reported to the **Underwriter** after the **Policy Period** as described above shall be determined under this Policy, not any renewal or replacement policy issued by the **Underwriter** in effect at the time such **Claim** is reported to the **Underwriter**.

### 2. Notice of Potential **Claims**

If during the **Policy Period** the **Insureds** become aware of specific **Wrongful Act(s)** which could give rise to a **Claim** and the **Insureds** give written notice of such specific **Wrongful Act(s)** to the **Underwriter** during the **Policy Period**, then any **Claim** subsequently arising from such **Wrongful Act(s)** shall be considered to have been made during the **Policy Period** in which such **Wrongful Act(s)** was first reported to the **Underwriter**.

### 3. Notice of a **Privacy Event**

The **Company** shall give to the **Underwriter** written notice of a **Privacy Event** as soon as practicable but no later than thirty (30) days after the expiration of the **Policy Period**, whichever comes first. The **Underwriter** and its employees and representatives shall maintain as confidential and shall not disclose such information or otherwise use such information except as required in the ordinary course of business of the **Underwriter**.

Any notice to the **Underwriter** of a **Privacy Event** shall not constitute notice to the **Underwriter** of a **Claim** or potential **Claim** which could give rise to a **Claim** pursuant to Subsection VII.F.1. or VII.F.2. of this Policy, unless such notice expressly states it also is a notice of **Claim** or potential **Claim** pursuant to Subsection VII.F.1. or VII.F.2. and otherwise conforms to the provisions of such subsection.

### 4. Address and Content of Notices

For a notice pursuant to Subsections VII.F.1., VII.F.2., and VII.F.3. above to be effective, the **Insureds** shall:

- a. provide notice to the **Underwriter** at the address shown in Item 7.A of the Declarations for notice of **Claims**, potential **Claims** or **Privacy Events**;
- b. include within any notice of **Claim** or potential **Claim**, a description of the **Claim** or potential **Claim**, the nature of the alleged **Wrongful Act(s)**, the nature of the alleged or potential damage or loss, the names

of actual or potential claimants, and the manner in which the **Insureds** first became aware of the **Claim** or potential **Claim**; and

- c. include within any notice of **Privacy Event**, a description of the **Privacy Event** and the manner in which the **Insureds** first became aware of the **Privacy Event**.

Notice attempted in any other manner or to any address other than the address shown in Item 7.A of the Declarations for notice of **Claims**, potential **Claims** or **Privacy Events**, including without limitation information provided in connection with the application for a successor, renewal or replacement policy to this Policy, shall not be considered effective notice of a **Claim**, potential **Claim** or **Privacy Event**.

#### 5. Other Notices

Notice to the **Insureds** shall be given to the **Parent Company** at the address as shown in Item 1 of the Declarations. Notice to the **Underwriter** of any information other than the notice of a **Claim**, potential **Claim** or **Privacy Event** shall be given to the **Underwriter** at the address shown in Item 7.B of the Declarations.

#### 6. Form and Delivery of Notice

All notices under this Policy shall be in writing and given by prepaid express courier, certified mail, e-mail or facsimile, properly addressed to the appropriate party and shall be deemed to be received and effective upon actual receipt thereof by the respective party or one day following the date such notice is sent, whichever is earlier, subject to proof of transmittal.

All notices under this Policy, including all required or otherwise provided supporting information, must be submitted in English. In the event any such information is not available as an original document in English, the **Insured** shall supply, as a condition precedent to coverage, a complete copy of the original source material together with an English language translation certified by an independent expert. Any required translation costs shall be at the **Insured's** expense.

#### G. Other Insurance

If an **Insured** is entitled to coverage for any **Loss** or other amount, **Claim** or **Privacy Event** under one or more valid and collectible bonds or other policies of insurance, then the coverage under this Policy will apply as excess insurance over, and will not contribute with, any other such valid and collectible existing insurance including any such insurance where there is a duty to defend, and regardless of whether any **Loss** or other amount is collectible or recoverable under such other insurance, unless such other insurance is specifically excess of this Policy, and except to the extent that such other insurance does not provide coverage with respect to a particular **Loss, Claim, Privacy Event**, or any other amount claimed under this Policy, in which event the coverage under this Policy will be primary. This Policy will not be subject to the terms or conditions of any other insurance.

#### H. Policy Termination

This Policy, including all purchased Insuring Agreements, shall terminate at the earliest of the following times:

1. upon expiration of the **Policy Period** as set forth in Item 2 of the Declarations;
2. at such other time as may be agreed upon by the **Underwriter** and the **Parent Company**.

#### 3. Cancellation

- a. This Policy may be canceled by the **Parent Company** by surrender thereof to the **Underwriter** or any of its authorized representatives, or by mailing to the **Underwriter** written notice stating when, thereafter, cancellation shall be effective.
- b. If this Policy has been in effect for sixty (60) days or more or is a renewal of a policy issued by the **Underwriter**, this Policy may not be canceled except for one (1) or more of the following reasons:
  - (1) nonpayment of premium; or
  - (2) fraud or material misrepresentation affecting the Policy.
- c. Written notice of cancellation shall be mailed or delivered by the **Underwriter** to the **Parent Company** at least:

(1) ten (10) days prior to the effective date of cancellation, if this Policy is canceled for nonpayment of premium; or

(2) sixty (60) days prior to the effective date of cancellation, if this policy is canceled for any other reason.

d. The **Underwriter** shall refund the unearned premium computed at customary short rates if this Policy is terminated by the **Parent Company**. Under any other circumstances, the refund shall be computed pro rata.

#### 4. Nonrenewal

If the **Underwriter** elects not to renew this Policy, the **Underwriter** shall send written notice of nonrenewal at least sixty (60) days prior to expiration unless:

a. the reason for the nonrenewal is due to nonpayment of premium; or

b. the **Parent Company** has obtained replacement coverage with another insurance company.

Any notice of cancellation or nonrenewal shall be given as provided in Subsection VII.F.5. and VII.F.6. of this Policy.

#### I. Representations and Severability

In granting coverage under this Policy, the **Underwriter** has relied upon the declarations, representations and warranties in the **Application**. All such declarations, representations and warranties are the basis of coverage under this Policy and are incorporated in and constitute part of this Policy.

Such **Application** shall be construed as a separate **Application** by each of the **Insured Persons**. No statement in the **Application** or knowledge possessed by any of the **Insured Persons** shall be imputed to any other **Insured Person** for the purpose of determining if coverage is available. The declarations, representations, and warranties in the **Application** and knowledge possessed by any **Executive Officer** of a **Company**, or any person serving in a functionally equivalent position of a **Company**, shall be imputed to all **Companies** for the purpose of determining if coverage is available for any **Company**.

#### J. Subrogation

In the event of any payment under this Policy, the **Underwriter** shall be subrogated to the extent of such payment to all the **Insureds'** rights of recovery, and the **Insureds** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the **Underwriter** effectively to bring suit in the name of the **Insureds**.

#### K. Territory and Valuation

All premiums, Limits of Liability, Self-Insured Retentions, **Loss**, and other amounts under this Policy are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or another element of **Loss** under this Policy is stated in a currency other than United States dollars, payment under this Policy shall be made in United States dollars at the rate of exchange published in *The Wall Street Journal* on the date the final judgment is reached, the amount of the settlement is agreed upon, or the other element of **Loss** is due, respectively.

To the extent legally allowed, coverage under this Policy shall extend to **Claims** made, **Wrongful Acts** occurring and **Privacy Events** taking place anywhere in the world.