

ARCH CORPORATE CANOPY 2.0SM

Coverage that's all together better.

Market Leading Management Liability
Insurance for Private Companies

 Arch | Insurance

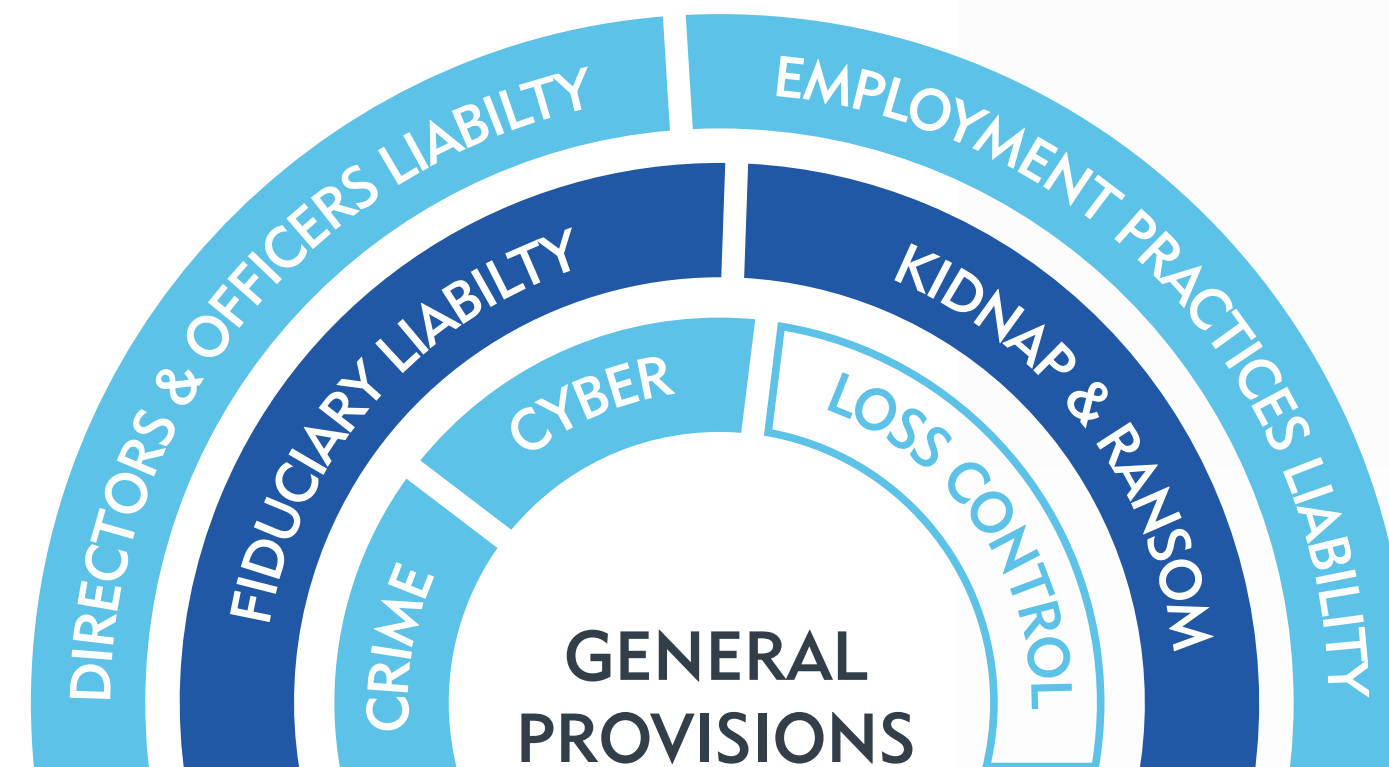


Coverage that's all together better.

Arch Corporate Canopy® 2.0 (CANOPY 2.0) is our comprehensive and integrated management liability solution.

CANOPY 2.0 has our policyholders covered from every angle, with clients able to choose from up to six coverage parts: Directors & Officers Liability, Employment Practices Liability, Fiduciary Liability, Crime, Cyber and Kidnap & Ransom Coverage. Built on decades of experience and with our broking partners' unique insight, our combined coverage has been expertly refined to protect private companies and their employees and executives.

ARCH CORPORATE CANOPY 2.0SM



OUR PEOPLE



Over 100 market-leading underwriting and claims professionals

OUR REACH



Based in 12 cities delivering location-specific expertise

OUR EXPERIENCE



Awarded 5-star Carrier 2022



About



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Coverage that's altogether better.

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+ About



 <h3>Policy Forms</h3> <p>Understand the details within each of our policies</p>	 <h3>Applications</h3> <p>Submit an application on behalf of your client</p>	 <h3>Marketing Guides</h3> <p>Find out more about our cover and share the highlights with your client</p>	 <h3>The Arch Team</h3> <p>Reach out to the relevant member of our expert team with any queries</p>
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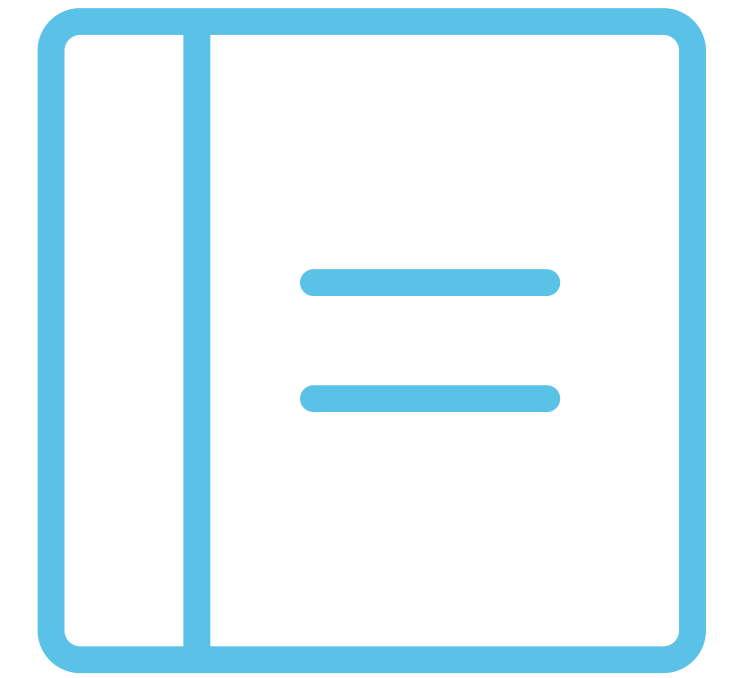


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Policy Forms

Select the policy to review a draft of the details policy wording



Policy Forms



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Policy Forms



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ARCH INSURANCE COMPANY
(A Missouri Corporation)

Home Office Address:
2345 Grand Blvd, Suite 900
Kansas City, MO 64108

Administrative Address:
Harborside 3
210 Hudson Street, Suite 300
Jersey City, NJ 07311-1107
Tel: (866) 413-5550

ARCH CORPORATE CANOPYSM 2.0 POLICY

PRIVATE COMPANY MANAGEMENT LIABILITY, CRIME, KIDNAP & RANSOM, AND NETWORK SECURITY INSURANCE

CERTAIN PARTS OF THIS POLICY PROVIDE CLAIMS MADE COVERAGE. EACH CLAIMS MADE LIMIT OF LIABILITY SHALL BE REDUCED BY DEFENSE COSTS PAYMENTS. IF ANY CLAIMS MADE COVERAGE LIMIT OF LIABILITY IS EXHAUSTED, THE INSURER SHALL HAVE NO FURTHER LIABILITY UNDER SUCH COVERAGE, INCLUDING LIABILITY FOR DEFENSE COSTS PAYMENTS.

DECLARATIONS

Policy No.:

Item 1. Named Organization & Address:

Item 2. Policy Period:

From:

To:

12:01 a.m. local time at the address stated in Item 1

Item 3. Policy Premium:

Premium attributable to Terrorism Risk Insurance:

Included in Policy Premium

In addition to Policy Premium

\$
\$
\$

Item 4. Extended Reporting Period (Liability Coverage Parts only):

Additional Period:

Additional Premium (% of Policy Premium):

\$



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Item 5. Runoff Period Options (Liability Coverage Parts only):

Only those Runoff Period options designated with an X below are included in this Policy:

Runoff Period:	Additional Premium (% of Policy Premium):
<input type="checkbox"/> 1 Year	%
<input type="checkbox"/> 3 Years	%
<input type="checkbox"/> 6 Years	%

Item 6. Coverage Elections:

Only those Coverage Parts, Insuring Agreements, and coverage options designated with an X below are included in this Policy.

<input type="checkbox"/>	A. Liability Coverage Parts Aggregate Limit of Liability: \$
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<input type="checkbox"/>	B. Liability Coverage Parts Subject to Shared Limit of Liability – Shared Limit of Liability: \$
<input type="checkbox"/>	Directors, Officers, & Organization Liability Coverage Part
<input type="checkbox"/>	Employment Practices Liability Coverage Part
<input type="checkbox"/>	Fiduciary Liability Coverage Part
<input type="checkbox"/>	Network Security, Privacy, & Media Liability Coverage Part – Insuring Agreements A.1 Network and Privacy Liability and A.2 Media Liability

<input type="checkbox"/>	C. Directors, Officers, & Organization Liability Coverage Part:		
	Limit of Liability:	Retention:	Prior Litigation Date:
	\$	Insuring Agreement A: \$0 Insuring Agreement B: \$ Insuring Agreement C: \$	
	Coverage Extensions and Sublimits:		
<input type="checkbox"/>	Additional Limit of Liability for Claims against Insured Persons – Limit of Liability: \$		
<input type="checkbox"/>	Derivative and Books & Records Demands Coverage: Investigation Costs – Sublimit of Liability: \$		
<input type="checkbox"/>	Appraisal Claim: Defense Costs and Investigation Costs– Sublimit of Liability: \$		
<input type="checkbox"/>	Asset Protection Costs: Per Executive Sublimit of Liability – \$ Aggregate Sublimit of Liability – \$		
<input type="checkbox"/>	Crisis Management Costs – Sublimit of Liability: \$		
<input type="checkbox"/>	Insured Organization Investigation – Sublimit of Liability: \$		

<input type="checkbox"/>	D. Employment Practices Liability Coverage Part:		
	Limit of Liability:	Retention:	Prior Litigation Date:
	\$	Non-Indemnifiable Loss: \$0 Loss Other Than Non-Indemnifiable Loss or Loss Resulting from a Mass Claim: \$ Loss resulting from a Mass Claim: \$	
<input type="checkbox"/>	Wage & Hour Claim Defense Costs – Sublimit of Liability: \$		
	Coverage Extensions and Sublimits:		
<input type="checkbox"/>	Workplace Violence – Sublimit of Liability: \$		



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<input type="checkbox"/>	Employee Privacy Claim – Sublimit of Liability: \$
<input type="checkbox"/>	Immigration Investigation Defense Costs – Sublimit of Liability: \$

<input type="checkbox"/>	E. Fiduciary Liability Coverage Part:		
	Limit of Liability:	Retention:	Prior Litigation Date:
	\$	Non-Indemnifiable Loss: \$0 All Loss other than Non-Indemnifiable Loss:	
	Coverage Sublimits:		
<input type="checkbox"/>	Settlement Program: Voluntary Settlement and Defense Costs – Sublimit of Liability: \$		
<input type="checkbox"/>	Internal Revenue Code Section 4975 Penalties– Sublimit of Liability: \$		
<input type="checkbox"/>	HIPAA Penalties – Sublimit of Liability: \$		
<input type="checkbox"/>	ERISA Section 502 (c) Penalties – Sublimit of Liability: \$		
<input type="checkbox"/>	Pension Protection Act Penalties – Sublimit of Liability: \$		
<input type="checkbox"/>	Patient Protection and Affordable Care Act Penalties – Sublimit of Liability: \$		

<input type="checkbox"/>	F. Crime Coverage Part:		
	Insuring Agreement:	Limit of Liability:	Retention:
<input type="checkbox"/>	A. Employee Theft	\$	\$
<input type="checkbox"/>	B. Customer Property	\$	\$
<input type="checkbox"/>	C. Inside the Premises	\$	\$
<input type="checkbox"/>	D. Outside the Premises	\$	\$
<input type="checkbox"/>	E. Forgery or Alteration	\$	\$
<input type="checkbox"/>	F. Computer Fraud	\$	\$
<input type="checkbox"/>	G. Fraudulent Transfer Instructions	\$	\$
<input type="checkbox"/>	H. Social Engineering Fraud	\$	\$
<input type="checkbox"/>	I. Currency Fraud	\$	\$
<input type="checkbox"/>	J. Charge Card Fraud	\$	\$
	Coverage Sublimits:		
<input type="checkbox"/>	Investigation Costs – Sublimit of Liability: \$		
<input type="checkbox"/>	Computer Restoration Costs – Sublimit of Liability: \$		

<input type="checkbox"/>	G. Kidnap & Ransom Coverage Part:	
	Security Consultant:	
	Insuring Agreement:	Limit of Liability
<input type="checkbox"/>	A. Kidnap, Express Kidnapping & Extortion Costs	\$
<input type="checkbox"/>	B. Custody Costs	\$
<input type="checkbox"/>	C. Claims Costs	\$
<input type="checkbox"/>	D. Response Costs	\$
	Disappearance Costs Sublimit of Liability: \$	
	Threat Incident Sublimit of Liability: \$	
	R&R Costs Sublimit of Liability: \$	
<input type="checkbox"/>	E. Personal Injury Benefits	
	Death Benefit	\$
	Mutilation Benefit	\$
	Amputation, Blindness, or Deafness/Muteness Benefit	\$
<input type="checkbox"/>	F. Repatriation Costs	\$
<input type="checkbox"/>	G. Recall Costs	\$
<input type="checkbox"/>	H. Express Kidnapping Response Costs	\$
<input type="checkbox"/>	I. Hostage Crisis Response Costs	\$



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<input type="checkbox"/>	H. Network Security, Privacy, & Media Liability Coverage Part:		
	Limit of Liability:	Prior Litigation Date:	
	\$		
	Insuring Agreement:	Sublimit of Liability:	Retention:
<input type="checkbox"/>	A.1 Network and Privacy Liability	\$	\$
<input type="checkbox"/>	A.2 Media Liability	\$	\$
<input type="checkbox"/>	B.1 Data Incident Response	\$	\$
<input type="checkbox"/>	B.2 Business Interruption Forensic Accounting Firm Costs Sublimit of Liability: \$ Waiting Period:	\$	\$
<input type="checkbox"/>	B.3 Extortion	\$	\$
<input type="checkbox"/>	B.4 Reputation Harm Waiting Period:	\$	\$

<input type="checkbox"/>	I. Additional Defense Costs:		
	Coverage Parts	Additional Defense Costs Limit	Shared Defense Limit
	Directors, Officers, & Organization Liability	\$0	<input type="checkbox"/>
	Employment Practices Liability	\$0	<input type="checkbox"/>
	Fiduciary Liability	\$0	<input type="checkbox"/>

Item 7. Notices to Insurer:

Claims or Potential Claims:
 Arch Insurance Company
 Executive Assurance Claims
 1299 Farnam Street, Suite 500
 Omaha, NE 68102
 P.O. Box 542033
 Omaha, NE 68154
 Phone: 877 688-ARCH (2724)
 Fax: 866 266-3630
 E-mail: Claims@ArchInsurance.com

All Other Notices:
 Arch Insurance Company
 Executive Assurance Underwriting
 Harborside 3
 210 Hudson Street, Suite 300
 Jersey City, NJ 07311-1107
 Tel: (866) 413-5550

Item 8. Endorsements:

See attached schedule of endorsements and notices.



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GENERAL PROVISIONS

TABLE OF CONTENTS

1. **APPLICABILITY OF GENERAL PROVISIONS**
2. **DEFINITIONS**
3. **COVERAGE TERRITORY**
4. **SPOUSAL, DOMESTIC PARTNER, ESTATE, & LEGAL REPRESENTATIVE COVERAGE**
5. **EXTENDED REPORTING PERIOD**
6. **LIMIT OF LIABILITY & COVERAGE COORDINATION**
7. **RETENTION**
8. **DEFENSE & SETTLEMENT OF CLAIMS**
9. **ALLOCATION**
10. **CLAIM AND POTENTIAL CLAIM NOTICES**
11. **INTERRELATED CLAIMS**
12. **SUBROGATION**
13. **OTHER INSURANCE**
14. **ORGANIZATIONAL CHANGES**
15. **RUNOFF PERIOD**
16. **PRIORITY OF LOSS PAYMENTS**
17. **APPLICATION**
18. **SUITS AGAINST THE INSURER**
19. **ENTIRE AGREEMENT**
20. **POLICY CHANGES**
21. **ASSIGNMENT**
22. **NAMED ORGANIZATION'S AUTHORITY**
23. **CANCELLATION**
24. **BANKRUPTCY**
25. **NOTICES**
26. **TITLES**
27. **REFERENCES TO LAWS**
28. **STATE AMENDATORY INCONSISTENCY**



In consideration of the payment of the premium and in reliance upon the **Application**, the Insurer specified in the Declarations (the “**Insurer**”) and the **Insureds** agree as follows:

GENERAL PROVISIONS

1. APPLICABILITY OF GENERAL PROVISIONS

- A. Except as specifically provided herein, the General Provisions apply to all Coverage Parts.
- B. Except as specifically provided therein, the provisions of each Coverage Part apply to such Coverage Part only.
- C. If there is a conflict between the General Provisions and any Coverage Part, the provisions of the Coverage Part shall control.

2. DEFINITIONS

Whether used in the singular or plural, the following terms shall have the meanings specified below:

- A. “**Antitrust Claim**” means any **Claim** for, based upon, arising from, or in any way related to any **Antitrust Wrongful Act**, regardless of whether such **Claim** includes non-**Antitrust Wrongful Act** allegations.
- B. “**Antitrust Wrongful Act**” means any actual or alleged price fixing, restraint of trade, price discrimination, predatory pricing, monopolization, unfair competition, or violation of any law regulating any of the foregoing, including, without limitation, the Federal Trade Commission Act, Sherman Act, Clayton Act, or any similar law.
- C. “**Application**” means any:
 - 1. application for this Policy, including any information submitted in connection with or incorporated therein;
 - 2. public documents filed by an **Insured Organization** with the Securities and Exchange Commission or any similar state, local, or foreign regulatory agency during the 12 months prior to the inception of the **Policy Period**; and
 - 3. warranty provided to the **Insurer** within the past 3 years in connection with any coverage part or policy of which this Policy is a renewal or replacement.

Application excludes any such public documents filed more than 12 months prior to the inception of the **Policy Period**.

Regarding the Crime Coverage Part, **Application** also means any application, including any information submitted in connection with or incorporated therein, submitted to the **Insurer** for any insurance policy of which this Policy is a direct or indirect renewal or replacement provided that coverage has been continuously maintained between the time that such insurance policy was issued and the issuance of this Policy.

- D. “**Appraisal Claim**” means any written demand or civil proceeding brought by a security holder of an **Insured Organization** pursuant to any law which provides appraisal rights to determine the value of such **Insured Organization’s** securities, including, without limitation, Section 262 of the Delaware General Corporation Law or any similar law, commenced by the



receipt by, or service upon, an **Insured** of such demand or a petition or similar document initiating such proceeding.

E. **“Claim”** shall have the meaning specified in each applicable Coverage Part.

F. **“Claim Manager”** means any:

1. chief executive officer;
2. chief financial officer;
3. chief legal officer; or
4. risk manager,

of the **Named Organization**. If the Employment Practices Liability Coverage Part is elected in Item 6 of the Declarations, **“Claim Manager”** also means any manager responsible for overseeing the human resources activities of the **Named Organization**.

G. **“Contract Claim”** is a **Claim** for, based upon, arising from, or in any way related to any liability under any written contract or agreement, regardless of whether such **Claim** includes allegations other than those specified above.

H. **“Debtor in Possession”** means a “debtor in possession” as defined in Chapter 11 of the United States Bankruptcy Code or any similar law.

I. **“Defense Costs”** shall have the meaning specified in each applicable Coverage Part.

J. **“Domestic Partner”** means any natural person qualifying as a domestic partner under any federal, state or local law or under the provisions of any formal program established by any **Insured Organization**.

K. **“Employee”** shall have the meaning specified in each applicable Coverage Part.

L. **“Employee Privacy Claim”** means any **Claim** for, based upon, arising from, or in any way related to any **Employee Privacy Wrongful Act**, regardless of whether such **Claim** includes non-**Employee Privacy Wrongful Act** allegations.

M. **“Employee Privacy Wrongful Act”** means:

1. any actual or alleged failure by an **Insured** to protect the **Personal Information** of any **Employee, Executive**, applicant for employment with an **Insured Organization**, or **Independent Contractor** while in the care, custody or control of an **Insured**; or
2. any actual or alleged violation of any **Privacy Law** by any **Insured** regarding the **Personal Information** of any **Employee, Executive**, applicant for employment with an **Insured Organization**, or **Independent Contractor**.

N. **“ERISA”** means the Employee Retirement Income Security Act of 1974 (including amendments relating to the Consolidated Omnibus Budget Reconciliation Act of 1985, and the Health Insurance Portability and Accountability Act of 1996), the English Pension Scheme Act 1993, the English Pensions Act 1995, or any similar law.

O. **“Executive”** means any natural person who is, was, or becomes a duly elected or appointed:



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1. director, officer, risk manager, or member of the board of managers or management committee of an **Insured Organization**;
 2. in-house chief legal officer of an **Insured Organization** as well as any other natural person employed by an **Insured Organization** as an in-house attorney;
 3. general partner of an **Insured Organization** organized as a limited partnership; or
 4. manager of an **Insured Organization** organized outside the United States of America if such position is equivalent to those specified in 1, 2 or 3 above.
- P.** “**Extradition**” means any formal process by which an **Insured Person** is surrendered from his or her current country of employment and domicile to any other country for trial or to otherwise answer any criminal accusation.
- Q.** “**Extradition Costs**” means **Defense Costs** incurred to lawfully oppose any **Extradition**, including the appeal of any order or other grant of **Extradition**.
- R.** “**Immigration Investigation Claim**” means an investigation of any **Insured** commenced by the service upon such **Insured** of a notice of inspection, audit or investigation by any governmental agency for an **Immigration Investigation Wrongful Act**.
- S.** “**Immigration Investigation Wrongful Act**” means any actual or alleged violation of the Immigration Reform and Control Act of 1986 or any similar law.
- T.** “**Independent Contractor**” means any natural person working for an **Insured Organization** in the capacity of an independent contractor pursuant to an express contract or agreement with an **Insured Organization** governing the nature of such person’s engagement.
- U.** “**Inquiry**” shall have the meaning specified in the Directors, Officers, & Organization Liability Coverage Part.
- V.** “**Insolvency**” means the status of an **Insured Organization** due to:
1. the appointment of any conservator, liquidator, receiver, trustee, or similar official to control, supervise, or liquidate such **Insured Organization**; or
 2. such **Insured Organization** becoming a **Debtor in Possession**.
- W.** “**Insured Organization**” means:
1. the **Named Organization**; or
 2. any **Subsidiary**;
- including any such organization as a **Debtor in Possession**.
- X.** “**Insured Person**” shall have the meaning specified in each Coverage Part.
- Y.** “**Insured Person Investigation**” shall have the meaning specified in the Directors, Officers, & Organization Liability Coverage Part.
- Z.** “**Insureds**” shall have the meaning specified in each Coverage Part.



- AA. “Interrelated Wrongful Acts”** means **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.
- BB. “Liability Coverage Part”** means each of the following coverages: Directors, Officers, & Organization Liability Coverage Part; Employment Practices Liability Coverage Part; Fiduciary Liability Coverage Part; and Insuring Agreements A.1 Network and Privacy Liability and A.2 Media Liability of the Network Security, Privacy, & Media Liability Coverage Part. When used in the plural, this term means all such coverages.
- CC. “Loss”** shall have meaning specified in each Coverage Part.
- DD. “Management Control”** means the **Named Organization**:
1. directly or indirectly owning interests representing more than 50% of the voting, appointment or designation power for the selection of:
 - a. a majority of the board of directors of a corporation;
 - b. the members of the board of managers of a limited liability company; or
 - c. the general partners of a limited partnership; or
 2. having the right, pursuant to a written contract or the articles of incorporation, bylaws, operating agreement, or equivalent organizational or governance documents of an entity, to control the operation of such entity.
- EE. “Named Organization”** means the organization named in Item 1 of the Declarations.
- FF. “Non-Indemnifiable Loss”** means any **Loss** incurred by an **Insured Person** that no **Insured Organization** can advance or indemnify because of:
1. legal prohibition; or
 2. **Insolvency**.
- GG. “Non-Liability Coverage Part”** means each of the following coverages: Crime Coverage Part; Kidnap & Ransom Coverage Part; and Insuring Agreements B.1 Data Incident Response, B.2 Business Interruption, B.3 Extortion, and B.4 Reputation Harm of the Network Security, Privacy, & Media Liability Coverage Part. When used in the plural, this term means all such coverages.
- HH. “Personal Information”** means any:
1. information from which a person may be uniquely and reliably identified or contacted, including, without limitation, any: (i) name; (ii) address; (iii) telephone number; (iv) social security number; (v) drivers license number or any other state identification number; (vi) medical or healthcare data, including protected health information; or (vii) credit, debit or other account numbers in combination with security codes, access codes, passwords or PIN numbers for such account numbers; or
 2. non-public personal information as defined in any **Privacy Law**.
- II. “Plan”** shall have the meaning specified in the Fiduciary Liability Coverage Part.



JJ. “Policy Period” means the period specified in Item 2 of the Declarations, subject to any cancellation prior to the scheduled expiration date.

KK. “Privacy Law” means:

1. those parts of the following laws regulating the use and protection of non-public personal information:
 - a. Health Insurance Portability and Accountability Act of 1996 (HIPAA);
 - b. Gramm-Leach-Bliley Act of 1999 (GLBA);
 - c. Biometric Information Privacy Act (BIPA);
 - d. consumer protection and unfair and deceptive trade practice laws enforced by state Attorneys General or the Federal Trade Commission, including, without limitation, Section 5(a) of the Federal Trade Commission Act, 15. U.S.C § 45 (a); or
 - e. security breach notification laws that require notice to any person of the actual or potential theft of their non-public personal information, including, without limitation, the California Security Breach Notification Act of 2003 (CA SB1386); or
2. any similar law to those specified in 1 above that regulates the use and protection of non-public personal information.

LL. “Pollutants” means any solid, liquid, gaseous, biological, radiological or thermal contaminant or irritant, including, without limitation, smoke, vapor, soot, fumes, acids, alkalis, chemicals, mold, fungi, odors, noise, lead, oil or oil products, radiation, asbestos or asbestos containing products, waste or any electric, magnetic, or electromagnetic field of any frequency. “Waste” includes, without limitation, material to be recycled, reconditioned, or reclaimed. “Pollutants” also means any substance identified on a list of hazardous substances issued by any governmental agency, including, without limitation, the Environmental Protection Agency.

MM. “Products-Services Claim” means any **Claim** for, based upon, arising from, or in any way related to any products or services offered by any **Insured Organization** for a customer or client, including, without limitation, any defect, deficiency, inadequacy, malfunction, misrepresentation or false advertising, failure to warn, warranty, failure to perform or meet expectations, of or for any product or service, regardless of whether such **Claim** includes allegations other than those specified above.

NN. “Subsidiary” means any:

1. for-profit organization while under **Management Control**; or
2. not-for-profit organization or entity that is a foundation, charitable trust, or political action committee in which, and for as long as, the **Named Organization** exclusively sponsors such entity or organization.

OO. “Wage & Hour Claim” means any **Claim** for, based upon, arising from, or in any way related to any **Wage & Hour Wrongful Act**, regardless of whether such **Claim** includes non-**Wage & Hour Wrongful Act** allegations.



PP. “Wage & Hour Wrongful Act” means any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty involving any: (i) violation of federal, state, local or common law regarding the payment of compensation to any person; (ii) violation of the Fair Labor Standards Act (except the Equal Pay Act) or any similar law; (iii) overtime compensation; (iv) on-call time compensation, including, without limitation, compensation for waiting time and dressing time; (v) minimum wage or prevailing wage compensation; (vi) classification of employees for the purpose of determining eligibility for compensation; (vii) meal or rest periods; (viii) work scheduling, including, without limitation, predictive work scheduling; (ix) reimbursement of expenses; or (x) maintenance of accurate records relating to any law, compensation or activity mentioned in items (i) through (ix).

QQ. “Wrongful Act” shall have the meaning specified in each **Liability Coverage Part**.

3. COVERAGE TERRITORY

- A.** This Policy shall apply on a worldwide basis.
- B.** If a judgment is rendered, a settlement is denominated, or any other element of **Loss** is stated or incurred in a currency other than in United States of America dollars, payment of such **Loss** shall be made in either such other currency, at the option of the **Insurer** and if agreeable to the **Named Organization**, or in United States of America dollars at the rate of exchange published in the Wall Street Journal on the date that the **Insurer’s** obligation to pay such **Loss** is established. If the Wall Street Journal is not published on such date, the rate of exchange published in the Wall Street Journal on its next publication date shall apply.

4. SPOUSAL, DOMESTIC PARTNER, ESTATE, & LEGAL REPRESENTATIVE COVERAGE

Regarding the **Liability Coverage Parts**, coverage shall apply to a **Claim** made against the lawful spouse or **Domestic Partner** of an **Insured Person** or, if an **Insured Person** dies, becomes incapacitated, or files for bankruptcy, such **Insured Person’s** estate, trustee, beneficiaries, heirs, assigns, or legal representatives provided that:

- A.** such **Claim** arises solely out of such person’s:
 - 1. status as the spouse, **Domestic Partner**, trustee, beneficiary, heir, assign, or legal representative of such **Insured Person**; or
 - 2. ownership of property sought as recovery for a **Wrongful Act**; and
- B.** no coverage shall apply to any **Claim** for any actual or alleged act, error, omission, misstatement, misleading statement, neglect, or breach of duty of such persons or entities.

Coverage for such **Claim** shall be on the same terms and conditions (including, without limitation, the Retention) as apply to a **Claim** made against an **Insured Person**.

5. EXTENDED REPORTING PERIOD

Regarding the **Liability Coverage Parts**:

- A.** If this Policy is canceled or not renewed, other than cancellation for non-payment of premium, the **Insureds** shall have the right to elect a continuation of coverage for the Additional Period stated in Item 4 of the Declarations (the “Extended Reporting Period”). If elected, the Extended Reporting Period shall commence upon the effective date of such cancellation or non-renewal. Such continuation of coverage shall apply only to any:



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1. **Claim** first made against the **Insureds** during the Extended Reporting Period for a **Wrongful Act** occurring prior to the end of the **Policy Period**; or
2. **Inquiry** first made against an **Insured Person** during the Extended Reporting Period for matters, circumstances, or **Wrongful Acts** occurring prior to the end of the **Policy Period**,

that is otherwise covered under this Policy.

- B. The rights contained in this Section shall terminate unless a written notice of election together with the additional premium stated in Item 4 of the Declarations is received by the **Insurer** within 30 days after the effective date of cancellation or non-renewal.
- C. The additional premium for the Extended Reporting Period shall be fully earned at the inception of the Extended Reporting Period. The Extended Reporting Period is not cancelable.
- D. There is no separate limit of liability for the Extended Reporting Period.

6. LIMIT OF LIABILITY & COVERAGE COORDINATION

A. Regarding the **Liability Coverage Parts**:

1. The Limit of Liability specified in Item 6 of the Declarations for each **Liability Coverage Part** shall be the maximum aggregate amount that the **Insurer** shall pay under such **Liability Coverage Part**.
2. Notwithstanding 1 above, if the Liability Coverage Parts Aggregate Limit of Liability option is elected in Item 6.A of the Declarations:
 - a. such single Aggregate Liability Coverage Parts Limit of Liability shall be the maximum aggregate amount that the **Insurer** shall pay under all **Liability Coverage Parts** combined; and
 - b. any amount specified as a Limit of Liability for an elected **Liability Coverage Part** shall be:
 1. the maximum aggregate amount that the **Insurer** shall pay under such **Liability Coverage Part**; and
 2. part of, and not in addition to, the amount specified as the Aggregate Liability Coverage Parts Limit of Liability.
3. Notwithstanding 1 above, if the Liability Coverage Parts Subject to Shared Limit of Liability - Shared Limit of Liability option is elected in Item 6.B of the Declarations:
 - a. such single shared Limit of Liability shall apply to all **Liability Coverage Parts** designated in Item 6.B of the Declarations and be:
 1. the maximum aggregate amount that the **Insurer** shall pay under all shared **Liability Coverage Parts** combined; and
 2. part of, and not in addition to, the amount specified as the Aggregate Liability Coverage Parts Limit of Liability; and



- b. any amount specified as a Limit of Liability for any designated shared **Liability Coverage Part** shall be:
 - 1. the maximum aggregate amount that the **Insurer** shall pay under such **Liability Coverage Part**; and
 - 2. part of, and not in addition to, the amount specified as the Shared Liability Coverage Parts Limit of Liability.

4. **Defense Costs** shall be part of, and not in addition to, each applicable Limit of Liability. Payment of **Defense Costs** by the **Insurer** shall reduce each applicable Limit of Liability.

5. If any **Loss** is covered under two or more **Liability Coverage Parts**:

- a. **Loss** covered under the Employment Practices Liability Coverage Part shall be paid prior to paying **Loss** under any other **Liability Coverage Part**;
- b. the **Insureds** shall be entitled to recover **Loss** only once; and
- c. the maximum aggregate amount that the **Insurer** shall pay for all **Loss** arising from a **Claim**, including **Loss** resulting from any **Claims** arising out of the same **Wrongful Act, Interrelated Wrongful Acts** or fact, circumstance, situation, event, transaction, or cause that are deemed a single **Claim**, shall not exceed the single greatest remaining Limit of Liability of any applicable **Liability Coverage Part**.

B. Additional Defense Costs Limit of Liability

- 1. If Additional Defense Costs coverage is elected in Item 6.I of the Declarations, the Additional Defense Costs Limit specified shall be available to pay **Defense Costs** for **Claims** covered under the designated **Liability Coverage Part** ("Additional Defense Costs").
- 2. The Additional Defense Costs Limit specified shall be the maximum amount the **Insurer** shall pay for Additional Defense Costs for each designated **Liability Coverage Part**; however, if the Shared Defense Limit option is elected, the maximum amount the **Insurer** shall pay for Additional Defense Costs for all designated **Liability Coverage Parts** combined shall not exceed the largest Additional Defense Cost Limit listed.
- 3. Notwithstanding 6.A.4 above, the Additional Defense Costs Limits shall be: (i) in addition to, and not part of, any limit of liability otherwise applicable to any designated **Liability Coverage Part**; and (ii) part of, and not in addition to, any Liability Coverage Parts Aggregate Limit of Liability specified in Item 6 of the Declarations.
- 4. **Loss** shall be allocated between, and paid by the **Insurer** under, the Additional Defense Costs Limit and any limit of liability otherwise applicable to the elected **Liability Coverage Parts** in whatever portions will maximize the total amount of covered **Loss** being paid under this Policy.

C. If any applicable Limit of Liability of this Policy is exhausted by the payment of **Loss**, the premium for this Policy shall be fully earned.

7. RETENTION



Regarding the **Liability Coverage Parts**:

- A. The **Insurer** shall pay **Loss** resulting from each **Claim** covered under any **Liability Coverage Part** only to the extent such **Loss** exceeds the applicable Retention specified in Item 6 of the Declarations or elsewhere in this Policy.
- B. Each Retention shall be uninsured, provided that any Retention applicable to a **Claim** made against an **Insured Person** may be paid by any Side A DIC insurer.
- C. Any **Loss** paid by the **Insurer** under any **Liability Coverage Part** pursuant to a duty to defend or otherwise that is within any applicable Retention shall be reimbursed by any **Insured Organization** upon the **Insurer's** request.
- D. If a **Claim** is subject to multiple Retentions, then each Retention shall apply separately to such **Claim**, provided that the total Retention for such **Claim** shall not exceed the largest applicable Retention.
- E. No Retention shall apply to **Non-Indemnifiable Loss**.
- F. All **Insured Organizations** shall provide indemnification for **Loss**, and advance **Defense Costs**, on behalf of any **Insured Person** to the fullest extent permitted or required by law. If such indemnification or advancement is permitted or required by law and all such **Insured Organizations**:
 - 1. refuse in writing to indemnify or advance; or
 - 2. fail to indemnify or advance within 60 days after any written request of an **Insured Person** for such indemnification or advancement,

then any coverage under any **Liability Coverage Part** for such **Insured Person** shall apply without any Retention and such **Insured Organizations** shall reimburse the **Insurer** for the Retention that would have applied if such indemnification or advancement had been made. Such reimbursement shall become immediately due and payable as a direct obligation of such **Insured Organizations** to the **Insurer**. The refusal or failure of any **Insured Organization** to indemnify or advance shall not impair the rights of any **Insured Person** under this Policy.

8. DEFENSE & SETTLEMENT OF CLAIMS

Regarding the **Liability Coverage Parts**:

A. Insured Duty to Defend & Current Advancement of Defense Costs

- 1. It shall be the duty of the **Insureds** to defend any **Claim**, provided that the **Insurer** shall have the right to effectively associate with the **Insureds** in the defense of any **Claim** and make any investigation it deems appropriate.
- 2. At the written request of the **Insureds**, the **Insurer** shall advance on a current basis covered **Defense Costs** excess of the applicable Retention. If the **Insurer** and the **Insureds** disagree on the amount of covered **Defense Costs**, then the **Insurer** shall advance **Defense Costs** on a current basis that it believes to be covered under this Policy, if any, until a different amount shall be agreed upon or determined pursuant to the provisions of this Policy and applicable law. If it is subsequently determined that **Defense Costs** that have been advanced are not covered under this Policy, then such **Defense Costs** shall be repaid to the **Insurer** by any **Insured Organization** or



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Insured Person severally by the entity or person on whose behalf such advancement was made.

B. Insurer Duty to Defend after Tender of Defense

1. The **Named Organization** shall have the option to tender the defense of any **Claim** against an **Insured** to the **Insurer** other than any:
 - a. **Antitrust Claim**;
 - b. **Appraisal Claim**;
 - c. **Contract Claim**;
 - d. **Employee Privacy Claim**;
 - e. **Immigration Investigation Claim**;
 - f. **Product-Services Claim**; or
 - g. **Wage & Hour Claim**.
2. To elect the option described in 1 above, the **Named Organization** shall provide written notice of its election to the **Insurer** no later than the earlier of: (i) 30 days after a **Claim** is deemed first made; or (ii) such time as a **Claim** is first reported to the **Insurer**.
3. If the **Named Organization** properly tenders the defense of a **Claim** to the **Insurer**:
 - a. the **Insurer** shall have the right and duty to defend such **Claim**, even if such **Claim** is groundless, false or fraudulent;
 - b. the **Insurer's** duty to defend such **Claim** shall end upon exhaustion of any applicable Limit of Liability; and
 - c. the **Insurer** may settle any **Claim** for a monetary amount that the **Insurer** deems reasonable, provided the **Insurer** has the written consent of the **Insureds**, such consent not to be unreasonably withheld.

C. Insurer Consent

The **Insureds** shall neither admit nor assume any liability, make any settlement offer, enter into any settlement agreement, stipulate to any judgment, or incur any **Defense Costs** or any other fees or expenses for any **Claim** or other matter without the prior written consent of the **Insurer**, such consent not to be unreasonably withheld. The **Insurer** shall not be liable for any admission, assumption, offer, settlement, stipulation, **Defense Costs** or any other costs or expenses to which it has not consented.

D. Duty of Cooperation and Severability

The **Insureds** shall give to the **Insurer** all information and cooperation as the **Insurer** may reasonably request. The failure of any **Insured Person** to cooperate with the **Insurer** shall not affect coverage for any other **Insured Person**.

E. Claim Settlement – Retention Discount and Waiver



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1. If the **Insureds** consent to the first settlement offer by the **Insurer** for a **Claim** and such offer is accepted by the claimant, the applicable Retention specified in Item 6 of the Declarations shall be reduced by 10% and the **Insurer** shall reimburse the **Insureds** for any covered **Loss** paid by the **Insureds** within such Retention.
2. Notwithstanding any other provision of this Policy, the **Insurer** shall reimburse the **Insureds** for any covered **Defense Costs** paid by the **Insureds** within the Retention otherwise applicable to a **Claim**, provided that such **Claim**:
 - a. has been resolved by a:
 1. final adjudication with prejudice pursuant to a trial, motion to dismiss, or motion for summary judgment; or
 2. complete and final settlement with prejudice,establishing that none of the **Insureds** named in such **Claim** are liable for any **Loss**; and
 - b. is not subject to a Retention of \$100,000 or any greater amount.

9. ALLOCATION

Regarding the **Liability Coverage Parts**:

A. Defense Costs – Insured Duty to Defend

If the **Insureds** have the duty to defend a **Claim** and the **Insureds** incur **Defense Costs** that are only partially covered by this Policy because a **Claim** includes both covered and uncovered matters or because a **Claim** is made against both covered and uncovered parties, then **Defense Costs** shall be allocated based upon the relative legal and financial exposures of any covered and uncovered matters or covered and uncovered parties.

B. Defense Costs – Insurer Duty to Defend

If the **Insurer** has the duty to defend a **Claim** pursuant to Section 8.B of this Policy and the **Insureds** incur **Defense Costs** that are only partially covered by this Policy because a **Claim** includes both covered and uncovered matters or because a **Claim** is made against both covered and uncovered parties, then 100% of **Defense Costs** incurred by an **Insured** shall be allocated to covered **Loss**.

C. Allocation of Loss Other Than Defense Costs

If **Loss** other than **Defense Costs** arising from a **Claim** is only partially covered by this Policy because a **Claim** includes both covered and uncovered matters or because a **Claim** is made against both covered and uncovered parties, then such **Loss** shall be allocated based upon the relative legal and financial exposures of any covered and uncovered matters or covered and uncovered parties.

If the **Insurer** and the **Insureds** cannot agree on allocation of **Loss**, then the **Insurer** shall make an interim payment of the amount of **Loss** which the parties agree is not in dispute until a final amount is agreed upon or determined pursuant to the provisions of this Policy and applicable law.

10. CLAIM AND POTENTIAL CLAIM NOTICES



Regarding the **Liability Coverage Parts**:

- A. As a condition precedent to coverage, the **Insureds** shall give the **Insurer** written notice of any **Claim** as soon as practicable after any **Claim Manager** first becomes aware of such **Claim**, but no later than 90 days after the end of the **Policy Period** or the Extended Reporting Period, if applicable. Such notice shall specify the **Liability Coverage Part** under which notice is being given.
- B. If, during the **Policy Period**, any **Claim Manager** becomes aware of a **Wrongful Act** that may reasonably be expected to give rise to a **Claim** against an **Insured** for which coverage may be available under a **Liability Coverage Part**, and if written notice of such **Wrongful Act** is given to the **Insurer** during the **Policy Period** specifying the: (i) reasons for anticipating such a **Claim**; (ii) nature and date of the **Wrongful Act**; (iii) identity of the **Insureds** involved; (iv) injuries or damages sustained; (v) names of potential claimants; (vi) manner in which the **Insureds** first became aware of the **Wrongful Act**; and (vii) **Liability Coverage Part** under which such notice is being given; then any **Claim** subsequently arising from such **Wrongful Act** shall be deemed to be a **Claim** first made at the time that the **Insurer** receives such notice.
- C. Notice of an **Inquiry** is optional and at the **Insureds'** sole discretion. An **Inquiry** shall not be deemed a **Claim** unless and until it is noticed to the **Insurer**. If the **Insureds** elect to seek coverage for an **Inquiry**, written notice of such **Inquiry** must be provided to the **Insurer** during the **Policy Period**. If written notice of an **Inquiry** is provided to the **Insurer** during the **Policy Period**, then such **Inquiry** shall be deemed a **Claim** first made at the time that the **Insurer** receives such notice.

An **Inquiry** received by the **Insureds** prior to the **Policy Period** may be noticed under this Policy provided that: (i) such **Inquiry** was received by the **Insureds** at a time when a previous policy issued by the **Insurer** was in effect and such previous policy would have provided coverage for such **Inquiry** had such **Inquiry** been noticed under such policy; and (ii) the coverage described in (i) has been continuously maintained in effect with the **Insurer** up until the commencement of this Policy. Except for the foregoing, no coverage is provided under this Policy for any **Inquiry** received by the **Insureds** prior to the **Policy Period**.

- D. Regardless of the **Liability Coverage Part** under which a notice of **Claim** or potential **Claim** is given by the **Insureds**, the **Insurer** shall be entitled to make its own determination as to which **Liability Coverage Part**, if any, **Loss** is covered and should be paid.
- E. No coverage shall be provided for any fees or expenses for any **Claim** to the extent that such fees or expenses have been incurred prior to the furnishing of written notice of such **Claim** to the **Insurer**.

11. INTERRELATED CLAIMS

Regarding the **Liability Coverage Parts**, all **Claims** arising from, based upon, or in any way related to the same **Wrongful Act**, any **Interrelated Wrongful Acts**, or the same or related fact, circumstance, situation, event, transaction, or cause shall be deemed to be a single **Claim** for all purposes under this Policy that is first made on the earliest date that:

- A. any of such **Claims** was commenced, even if such date is before the **Policy Period**;
- B. proper notice of such **Wrongful Act** or **Interrelated Wrongful Act** was given and accepted as sufficient to the **Insurer** pursuant to Section 10.B above; or



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- C. notice of such **Wrongful Act, Interrelated Wrongful Act**, or fact, circumstance, situation, event, transaction, or cause was given and accepted as sufficient under any prior directors and officers liability, employment practices liability, fiduciary liability, or similar liability policy.

No coverage is provided for any **Claim** first made, or deemed first made, prior to the **Policy Period**.

12. SUBROGATION

- A. The **Insurer** shall be subrogated to all of the **Insureds'** rights of recovery regarding any payment of **Loss** under this Policy. The **Insureds** shall do everything necessary to secure and preserve such rights, including, without limitation, the execution of any documents necessary to enable the **Insurer** to effectively bring suit in the name of the **Insureds**. The **Insureds** shall do nothing to prejudice the **Insurer's** position or any rights of recovery. The failure of any **Insured Person** to comply with this section shall not affect the rights of any other **Insured Person**. Any successful subrogation by the **Insurer** shall reinstate the Limit of Liability by the amount of the net recovery of such successful subrogation.
- B. Regarding the **Liability Coverage Parts**, the **Insurer** shall not subrogate against any **Insureds** or any direct or indirect shareholder of the **Named Organization**.
- C. If the **Insurer** exercises its subrogation rights and recovers **Loss** from a person or entity causing such **Loss**, such recovery shall be applied as follows:
 1. first, to the costs incurred by the **Insurer** in making such recovery;
 2. second, to **Loss** incurred by an **Insured** in excess of the sum of the applicable Limit of Liability and Retention of this Policy;
 3. third, to **Loss** paid by the **Insurer** under this Policy; and
 4. last, to the Retention applicable to such **Loss** under this Policy.

13. OTHER INSURANCE

Coverage under this Policy shall apply only in excess of any other valid and collectible insurance or bond regardless of whether such other insurance or bond is stated to be excess, contributory, contingent or otherwise, unless such other insurance or bond is written specifically excess of this Policy by reference in such other insurance or bond to this Policy's policy number.

Notwithstanding the above, if **Loss** is covered under this Policy and is also covered under any:

- A. management liability insurance policy issued to a security holder of an **Insured Organization**;
- B. personal umbrella excess liability insurance purchased by or on behalf of an **Insured Person**; or
- C. personal director liability insurance purchased by or on behalf of an **Insured Person**,

coverage under this Policy shall apply as primary insurance for **Loss** resulting from a **Wrongful Act** of an **Executive**, regardless of any indemnification that may be owed to such **Executive** by a security holder of an **Insured Organization**.

14. ORGANIZATIONAL CHANGES



A. Takeover of Named Organization

If, during the **Policy Period**:

1. any person or entity or group of persons and/or entities acting in concert acquires securities which result in ownership by such person(s) and/or entity(ies) of more than 50% of the outstanding securities representing the present right to vote for the election of directors or equivalent positions of the **Named Organization**; or
2. the **Named Organization** merges into or consolidates with another organization such that the **Named Organization** is not the surviving organization,

then coverage shall continue for: (i) regarding any **Liability Coverage Part, Loss** resulting from any **Wrongful Act**, matter or circumstance occurring before such transaction; and (ii) regarding any **Non-Liability Coverage Part, Loss** resulting from any covered event occurring before such transaction. Regarding any **Liability Coverage Part**, no coverage shall be available for any act, error, omission, misstatement, misleading statement, neglect, breach of duty, matter or circumstance occurring, or alleged to have occurred, after such transaction. Regarding any **Non-Liability Coverage Part**, no coverage shall be available for any **Loss** resulting from any event occurring after such transaction. Upon such transaction, the entire premium for this Policy shall be deemed fully earned. The **Insureds** shall give the **Insurer** written notice of such transaction as soon practicable, but not later than 90 days after the effective date of such transaction.

B. Acquisition or Creation of New Subsidiary

If, before or during the **Policy Period**, any **Insured Organization**:

1. acquires or creates a **Subsidiary**; or
2. merges with another organization such that the **Insured Organization** is the surviving entity,

then such newly acquired, created, or merged organization and its **Insureds** shall be covered for: (i) regarding any **Liability Coverage Part, Loss** resulting from any otherwise covered **Wrongful Act**, matter or circumstance occurring after such transaction; and (ii) regarding any **Non-Liability Coverage Part, Loss** resulting from any covered event occurring after such transaction.

C. Subsidiary Coverage

Regarding any **Subsidiary**, coverage shall be limited to: (i) regarding any **Liability Coverage Part, Loss** resulting from any otherwise covered **Wrongful Act**, matter or circumstance occurring while such entity or organization is a **Subsidiary**; and (ii) regarding any **Non-Liability Coverage Part, Loss** resulting from any covered event occurring while such entity or organization is a **Subsidiary**. No coverage is provided for any actual or alleged act, error, omission, misstatement, misleading statement, neglect, breach of duty, matter, circumstance, or event of any **Subsidiary** or any **Insured Person** or **Plan** of such **Subsidiary** occurring or alleged to have occurred prior to such entity or organization becoming a **Subsidiary** or after such entity or organization ceased to be a **Subsidiary**.

15. RUNOFF PERIOD

Regarding the **Liability Coverage Parts**:



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- A. If a transaction described in Section 14. Organizational Changes, A. Takeover of Named Organization (the "Takeover") occurs during the **Policy Period**, other than an acquisition by, merger into, or consolidation with, an entity or organization whose securities are offered to the public or any direct or indirect subsidiary of such entity or organization, the **Insureds** shall have the right to elect a continuation of coverage for one of the Runoff Period options stated in Item 5 of the Declarations (the "Runoff Period"). If no Runoff Option is designated in Item 5 of the Declarations, the **Insureds** shall not have the right to elect such continuation of coverage. If elected, the Runoff Period shall commence upon the effective date of the Takeover and the **Policy Period** shall end at such time. Such continuation of coverage shall apply only to any:
 - 1. **Claim**, other than an **Insured Person Investigation** or an **Inquiry**, first made against the **Insureds** during the Runoff Period for a **Wrongful Act** occurring prior to the Takeover; or
 - 2. **Insured Person Investigation** or **Inquiry** first made against an **Insured Person** during the Runoff Period for matters or circumstances occurring prior to the Takeover, that is otherwise covered under this Policy.
- B. The rights contained in this Section shall terminate unless a written notice of election together with the applicable additional premium stated in Item 5 of the Declarations is received by the **Insurer** within 30 days after the effective date of the Takeover. Such written notice shall specify the Runoff Period option selected by the **Insureds**.
- C. The additional premium for the Runoff Period shall be fully earned at the inception of the Runoff Period. The Runoff Period is not cancelable.
- D. There is no separate limit of liability for the Runoff Period.

16. PRIORITY OF LOSS PAYMENTS

Regarding the **Liability Coverage Parts**:

- A. If **Loss** is incurred that is acknowledged by the **Insurer** to be covered under this Policy except that such **Loss** exceeds the remaining Limit of Liability for this Policy, the **Insurer** shall pay such **Loss**, subject to the applicable Limits of Liability, in the following priority:
 - 1. first, the **Insurer** shall pay **Loss** incurred by an **Insured Person** other than **Loss** indemnified by an **Insured Organization**;
 - 2. second, the **Insurer** shall pay **Loss** incurred by an **Insured Person** that is indemnified by an **Insured Organization**;
 - 3. third, the **Insurer** shall pay any other **Loss**.
- B. If **Loss** is incurred by an **Insured Organization** that is acknowledged by the **Insurer** to be covered under this Policy, the **Named Organization** shall have the right to direct the **Insurer** to delay payment of such **Loss** until such time as the **Named Organization** specifies. Any such direction by the **Named Organization** to delay payment of **Loss** shall be authorized by the board of directors or other governing board of the **Named Organization** and conveyed by written notice to the **Insurer** from the chief executive officer of the **Named Organization**. The **Insurer's** liability under this Policy shall not be increased, and the **Insurer** shall not be liable for any interest, as a result of any such delayed **Loss** payment. Any such delayed **Loss** payment shall be available to the **Insurer** to pay **Loss** incurred by an **Insured Person**



other than **Loss** indemnified by an **Insured Organization**. Any such payment of **Loss** incurred by an **Insured Person** out of funds withheld pursuant to this provision shall terminate the **Insurer's** obligation to make a delayed **Loss** payment on behalf of an **Insured Organization**.

- C. Except as otherwise provided in this Section, the **Insurer** may pay **Loss** without regard to any other current or future payment obligations under this Policy.

17. APPLICATION

- A. If the **Application** contains any material misrepresentation or omission of information made with intent to deceive or that materially affects the acceptance of the risk or the hazard assumed by the **Insurer** under this Policy, the **Insurer** shall not pay **Loss**, including **Loss** in connection with any **Claim**, for, based upon, arising from, or in any way related to any:

- 1. **Insured Person** who knew at the inception of the **Policy Period** of such information, including **Loss** resulting from indemnification of any such **Insured Person**; or

- 2. **Insured Organization** or **Plan** if:

- a. regarding all Coverage Parts other than the Crime Coverage Part, the **Named Organization's** chief executive officer or chief financial officer; or

- b. regarding the Crime Coverage Part, the **Named Organization's** chief executive officer or chief financial officer or the person signing the **Application**,

knew at the inception of the **Policy Period** of such information.

The above provision shall apply regardless of whether the **Insured Person**, the **Named Organization's** chief executive officer or chief financial officer, or the person signing the **Application** was aware that the above described information had been misrepresented or omitted from the **Application**.

- B. Except as described above, knowledge possessed by any **Insured** shall not be imputed to any other **Insured**.

- C. Notwithstanding any provision of this Policy, the **Insurer** shall not rescind this Policy.

- D. The **Application** shall be deemed attached to, and incorporated into, this Policy.

18. SUITS AGAINST THE INSURER

- A. No suit or other proceeding shall be commenced by the **Insureds** against the **Insurer** unless there shall have been full compliance with all the terms and conditions of this Policy.

- B. No person or organization shall have any right under this Policy to join the **Insurer** as a party to any **Claim** against the **Insureds** nor shall the **Insurer** be impleaded by the **Insureds** in any **Claim**.

19. ENTIRE AGREEMENT

This Policy, including the Declarations, General Provisions, elected Coverage Parts, written endorsements, and the **Application** shall constitute the entire agreement between the **Insurer** and the **Insureds** regarding the insurance provided hereunder.



20. POLICY CHANGES

This Policy shall not be changed in any manner except by a written endorsement issued by the **Insurer**.

21. ASSIGNMENT

Assignment of any interest under this Policy shall not bind the **Insurer** unless such assignment is acknowledged by a written endorsement issued by the **Insurer**.

22. NAMED ORGANIZATION'S AUTHORITY

The **Named Organization** shall act on behalf of all **Insureds** regarding all matters under this Policy, including, without limitation, cancellation, election of the Extended Reporting Period, transmission and receipt of notices, reporting of **Claims** and potential **Claims**, acceptance of endorsements, payment of premiums, and receipt of return premiums.

23. CANCELLATION

- A. The **Insurer** may cancel this Policy for non-payment of premium by sending not less than 20 days notice to the **Named Organization**. This Policy may not otherwise be cancelled by the **Insurer**.
- B. Except as otherwise provided, the **Named Organization** may cancel this Policy by sending written notice of cancellation to the **Insurer**. Such notice shall be effective upon receipt by the **Insurer** unless a later cancellation date is specified therein.
- C. If the **Insurer** or the **Named Organization** cancels this Policy, unearned premium shall be calculated on a pro rata basis. Payment of any unearned premium shall not be a condition precedent to the effectiveness of a cancellation. The **Insurer** shall make payment of any unearned premium as soon as practicable.

24. BANKRUPTCY

- A. Bankruptcy or **Insolvency** of any **Insureds** shall not relieve the **Insurer** of any of its obligations under this Policy.
- B. If a bankruptcy or **Insolvency** of an **Insured Organization** occurs, the **Insurer** and **Insureds** shall cooperate to obtain relief from any stay or injunction preventing the payment of policy proceeds for the benefit of **Insured Persons**.

25. NOTICES

- A. Notices to the **Insureds** shall be sent to the **Named Organization** at the address specified in Item 1 of the Declarations.
- B. Notices to the **Insurer** shall be sent to the applicable address specified in Item 7 of the Declarations and become effective upon receipt at such address.
- C. All notices and supporting documents shall be submitted in writing in English.

26. TITLES

The titles of the sections of, and endorsements to, this Policy are for reference only. Such titles shall not be part of the terms and conditions of coverage.



27. REFERENCES TO LAWS

- A. Any statute, act, or code mentioned in this Policy shall be deemed to include all amendments of, and rules and regulations promulgated under, such statute, act, or code.
- B. The phrase “any similar law” following any statute, act, or code mentioned in this Policy shall be deemed to include all similar laws of all jurisdictions throughout the world, including, without limitation, any common law.

28. STATE AMENDATORY INCONSISTENCY

If there is an inconsistency in language between a state amendatory endorsement to this Policy and any provisions of this Policy, the **Insurer** shall apply the language that is more favorable to the **Insureds** provided such application is permitted by law.



Policy Forms



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DIRECTORS, OFFICERS, & ORGANIZATION LIABILITY COVERAGE PART

TABLE OF CONTENTS

1. INSURING AGREEMENTS
2. DEFINITIONS
3. COVERAGE EXTENSIONS AND SUBLIMITS
4. EXCLUSIONS
5. ADDITIONAL LIMIT OF LIABILITY FOR CLAIMS AGAINST INSURED PERSONS
6. PUBLIC OFFERING OF SECURITIES



DIRECTORS, OFFICERS, & ORGANIZATION LIABILITY COVERAGE PART

1. INSURING AGREEMENTS

A. Insured Person Liability

Except for **Loss** paid as indemnification by an **Insured Organization**, the **Insurer** shall pay **Loss** on behalf of any **Insured Person** resulting from a **Claim** first made against such **Insured Person** during the **Policy Period** or Extended Reporting Period, if applicable.

B. Organization Reimbursement

The **Insurer** shall pay **Loss** on behalf of an **Insured Organization** that such **Insured Organization** is permitted or required to indemnify any **Insured Person** resulting from a **Claim** first made against such **Insured Person** during the **Policy Period** or Extended Reporting Period, if applicable.

C. Organization Liability

The **Insurer** shall pay **Loss** on behalf of an **Insured Organization** resulting from a **Claim** first made against such **Insured Organization** during the **Policy Period** or Extended Reporting Period, if applicable.

2. DEFINITIONS

Whether used in the singular or plural, the following terms shall have the meanings specified below:

A. “Asset Protection Costs” means reasonable fees and expenses incurred by or on behalf of an **Executive** to:

1. oppose any efforts by any **Investigating Authority** to seize or otherwise enjoin the personal assets or real property of an **Executive** or to revoke, overturn or set aside a court order which in any way impairs the use of such assets or property; or
2. seek the release of an **Executive** from any arrest, detention or incarceration by an **Investigating Authority**.

B. “Books & Records Demand” means a written demand or proceeding brought by a security holder of an **Insured Organization** pursuant to any law which provides a right to inspect such **Insured Organization’s** books and records, including, without limitation, Section 220 of the Delaware General Corporation Law or any similar law, commenced by the receipt by, or service upon, any **Insured** of such demand or proceeding.

C. “Claim” means:

1. any:
 - a. written demand for civil monetary damages or injunctive or other civil non-monetary relief commenced by the receipt by any **Insured** of such demand, including, without limitation, any **Derivative Demand** or **Books & Records Demand** subject to the provisions of Section 3 Coverage Extensions and Sublimits A;



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- b. civil proceeding or arbitration, mediation or other alternative dispute resolution proceeding, commenced by the receipt by, or service upon, any **Insured** of a complaint, arbitration demand, mediation request or similar document;
- c. criminal proceeding, including any related **Extradition**, commenced by the return of an indictment, information or similar document;
- d. administrative or regulatory proceeding commenced by the receipt by, or service upon, any **Insured** of a notice of charges or similar document;
- e. any **Insured Organization Investigation**, subject to the provisions of Section 3 Coverage Extensions and Sublimits E;

provided that: (i) such demand, proceeding or investigation is for a **Wrongful Act**; (ii) a and b shall not include any administrative, regulatory, or criminal proceeding or investigation; and (iii) c and d shall not include any administrative, regulatory, or criminal investigation;

- 2. any **Insured Person Investigation**;
- 3. regarding Insuring Agreements A and B only, any **Inquiry**, which shall be deemed a **Claim** only if the **Insured** provides written notice in accordance with General Provisions Section 10. Claim and Potential Claim Notices;
- 4. any written request to an **Insured** to toll or waive a period or statute of limitations regarding a potential **Claim** as described in 1.b, c or d above commenced by the receipt by any **Insured** of such request; or
- 5. any **Appraisal Claim**, subject to the provisions of Section 3 Coverage Extensions and Sublimits B.

D. "Computer System" means any

- 1. computer hardware, electronic mobile device, software or firmware, and components thereof, including data stored thereon, that is: (i) owned or leased by an **Insured Organization**; and (ii) under the direct operational control of an **Insured Organization**; or
- 2. electronic mobile device owned and under the direct operational control of an employee of an **Insured Organization**.

E. "Crisis Management Costs" means reasonable fees and expenses incurred by an **Insured** in response to any **Network Breach** or **Privacy Violation** for:

- 1. public relations firm services to mitigate reputational damage; and
- 2. legal services by an attorney approved by the **Insurer** to:
 - a. provide counsel on the obligations of any applicable **Privacy Law**; and
 - b. draft notices required by any applicable **Privacy Law**.

Crisis Management Costs excludes any compensation, internal expenses, or overhead of any **Insured**.



Speak to an expert

- F. “**Defense Costs**” means reasonable fees and expenses incurred in the defense or appeal of a **Claim**, including **Extradition Costs** and **UK Corporate Manslaughter Act Defense Costs**. **Defense Costs** include the premium for any appeal, attachment or similar bond, provided that the **Insurer** shall have no obligation to issue, or provide collateral for, such bond. **Defense Costs** exclude any: (i) compensation, benefit expenses, or overhead of any **Insureds**; (ii) **Investigation Costs**; or (iii) **Inquiry Response Costs**.
- G. “**Derivative Demand**” means any written demand by any security holder of an **Insured Organization**, in their capacity as such, upon the board of directors or other governing board of such **Insured Organization** to bring a lawsuit against an **Insured Person** for a **Wrongful Act**.
- H. “**Derivative Suit**” means any lawsuit against an **Insured Person** for a **Wrongful Act** of such **Insured Person** made on behalf of an **Insured Organization** by any securities holder of such **Insured Organization**, in their capacity as such, including any lawsuit naming the **Insured Organization** as a nominal defendant.
- I. “**Employee**” means any natural person who is, was, or becomes an employee of an **Insured Organization**, including any full time, part-time, seasonal, leased, loaned and temporary employee, as well as any volunteer or intern of an **Insured Organization**. **Employee** excludes any **Independent Contractor**.
- J. “**Employment Claim**” means any **Claim** for wrongful employment termination, employment discrimination or any other employment related **Wrongful Act**.
- K. “**Inquiry**” means any:
 - 1. subpoena or similar document compelling witness testimony or document production by an **Insured Person** regarding such **Insured Person’s** capacity in an **Insured Organization** or an **Insured Organization’s** business activities;
 - 2. written request by an **Investigating Authority** for an **Insured Person** to appear for an interview or meeting or to produce documents regarding such **Insured Person’s** capacity in an **Insured Organization** or an **Insured Organization’s** business activities; or
 - 3. written request by an **Insured Organization** for an **Insured Person** to appear for an interview or meeting or to produce documents regarding such **Insured Person’s** capacity in an **Insured Organization** or an **Insured Organization’s** business activities if such request is in response to any investigation: (i) by an **Insured Organization’s** board of directors or other governing board of a **Derivative Demand** or a **Derivative Suit**; or (ii) by an **Investigating Authority** of an **Insured Organization’s** business activities.

Inquiry excludes any routine or regularly scheduled oversight, compliance, audit, examination or inspection conducted by an **Investigating Authority** or an **Insured Organization**.
- L. “**Inquiry Response Costs**” means reasonable fees and expenses incurred by an **Insured Person** in response to an **Inquiry**, including, without limitation, fees and expenses incurred in preparation for, and attendance at, an interview or meeting requested by an **Investigating Authority** or an **Insured Organization**. **Inquiry Response Costs** exclude any: (i) compensation, benefits expenses, or overhead of any **Insureds**; or (ii) fees or expenses to comply with any discovery or production request seeking documents, records or electronic information in the possession of an **Insured Organization** or any third-party.



Speak to an expert

- M. “**Insured Organization Investigation**” means any civil, criminal, administrative or regulatory investigation of any **Insured Organization** for a **Wrongful Act** commenced by the receipt by, or service upon, such **Insured Organization** of a formal order of investigation, Wells Notice, subpoena or target letter (within the meaning of title 9-11.151 of the United States Attorneys Manual) from an **Investigating Authority** identifying such **Insured Organization** in writing as a target of an investigation against whom a civil, criminal, administrative or regulatory proceeding may be brought.
- N. “**Insured Person**” means any:
 - 1. **Executive**;
 - 2. **Employee**;
 - 3. natural person who is, was, or becomes a duly elected or appointed member of an advisory board of any **Insured Organization**, including, without limitation, a medical, scientific, or technology advisory board, provided that such member shall not be considered an **Insured Person** for purposes of Section 4. Exclusions, A.6;
 - 4. natural person who is a manager or member of the Board of Governors of an **Insured Organization**; or
 - 5. **Independent Contractor**, if, within 60 days of a **Claim** being made against such person, any **Insured Organization** agrees in writing to indemnify such person for such **Claim**.
- O. “**Insured Person Investigation**” means any civil, criminal, administrative or regulatory investigation of an **Insured Person**, in their capacity as such, commenced by: (1) receipt by, or service upon, such **Insured Person** of a formal order of investigation, Wells Notice, subpoena or target letter (within the meaning of title 9-11.151 of the United States Attorneys Manual) from an **Investigating Authority** identifying such **Insured Person** in writing as a target of an investigation against whom a civil, criminal, administrative or regulatory proceeding may be brought; or (ii) the arrest and detainment or incarceration for more 24 hours of such **Insured Person** by any law enforcement authority in a jurisdiction other than the United States of America or its territories or possessions.
- P. “**Insureds**” means any:
 - 1. **Insured Organization**; or
 - 2. **Insured Person**.
- Q. “**Investigating Authority**” means any federal, state, local or foreign law enforcement or governmental entity (including, without limitation, the U.S. Department of Justice, the U.S. Securities and Exchange Commission and any attorney general) or the enforcement unit of any securities or commodities exchange or other self-regulatory body.
- R. “**Investigation Costs**” means reasonable fees and expenses incurred by an **Insured Organization**, or on its behalf by its board of directors or other governing board or any committee thereof, to investigate, evaluate, and respond to a **Derivative Demand**, **Derivative Suit**, or **Books & Records Demand**. **Investigation Costs** exclude any: (i) compensation, benefits expenses, or overhead of any **Insureds**; or (ii) **Defense Costs**.
- S. “**Loss**” means **Defense Costs**, damages, settlements, judgments, and pre- and post-judgment interest, including plaintiff legal fees and costs awarded pursuant to a covered



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settlement or judgment. Regarding Insuring Agreements A and B only, “**Loss**” also means **Inquiry Response Costs** and **SOX 304/Dodd-Frank 954 Costs**. Regarding Section 3. Coverage Extensions and Sublimits, A. Derivative and Books & Records Demands Coverage, “**Loss**” means **Investigation Costs** only. Regarding Section 3. Coverage Extensions and Sublimits B. Appraisal Claim Coverage, “**Loss**” includes **Investigation Costs**. Regarding Section 3. Coverage Extensions and Sublimits C. Asset Protection Costs Coverage, “**Loss**” means **Asset Protection Costs** only. Regarding Section 3. Coverage Extensions and Sublimits, D. Crisis Management Costs Coverage, “**Loss**” means **Crisis Management Costs** only.

The following items are specifically included in, or excluded from, **Loss**:

1. **Loss** includes any:
 - a. judgment or settlement amounts attributable to violations of Sections 11, 12 or 15 of the Securities Act of 1933, provided that if any **Insured Persons** and an **Insured Organization** are co-defendants in any **Claim** in which such judgment or settlement occurs, the **Insurer** shall allocate 100% of such **Loss** to the **Insured Persons**;
 - b. punitive, exemplary or multiple damages awarded pursuant to a covered judgment or settlement;
 - c. civil penalties assessed against an **Insured Person** pursuant to Section 2(g)(2)(B) of the Foreign Corrupt Practices Act, the UK Bribery Act, or any similar law;
 - d. civil fines or civil penalties incurred by **Insured Persons** imposed in a jurisdiction outside of the United States of America and where insurable by applicable law;
 - e. civil fines or civil penalties incurred by **Insured Persons** that all **Insured Organizations** cannot indemnify solely because of **Insolvency** and where insurable by applicable law; or
 - f. regarding Insuring Agreement A, taxes assessed against an **Insured Organization** that an **Insured Person** becomes liable to pay because of **Insolvency**.

Except where required by law, the **Insurer** shall not assert that the above types of **Loss** are uninsurable. Notwithstanding 2.e below, the insurability of the above types of **Loss** shall be governed by the laws of any applicable jurisdiction that does not prohibit coverage for such **Loss**.

2. **Loss**, other than **Defense Costs**, excludes any:
 - a. fines or penalties imposed by law, except as provided in 1.c, 1.d, and 1.e above;
 - b. taxes, except as provided in 1.f above;
 - c. amount for which the **Insureds** are not financially liable or for which the claimants are without legal recourse to the **Insureds**;
 - d. non-monetary relief;



- e. matters that are uninsurable pursuant to applicable law; or
 - f. amount representing, or substantially equivalent to, an increase in consideration paid, or proposed to be paid, in connection with any purchase of securities or assets of, or by, an **Insured Organization**.
 - 3. Regarding any **Employment Claim, Loss**, other than **Defense Costs**, also excludes any:
 - a. amounts sought under any contract or agreement;
 - b. future compensation for any person hired, promoted or reinstated to employment;
 - c. employment-related benefits (including, without limitation, retirement benefits, perquisites, vacation or sick days, medical or insurance benefits, stock benefits, stock options, stock appreciation rights, deferred compensation or any other type of compensation);
 - d. costs of any accommodation required by the Americans with Disabilities Act or any similar law;
 - e. employment termination severance payments other than payments negotiated with and consented to by the **Insurer** as part of a settlement; or
 - f. compensation earned by, or due to, a claimant in the course of employment but not paid.
- T. "**Malicious Code**" means any virus, Trojan, worm or other similar malicious software program, code or script designed to infect, harm, harm data on, or steal data from, a **Computer System**.
- U. "**Network Breach**" means any:
 - 1. unauthorized access to, or unauthorized use of, a **Computer System**;
 - 2. transmission of **Malicious Code** into or from a **Computer System**; or
 - 3. malicious attack intended to overwhelm the capacity of any **Computer System** by sending an excessive volume of electronic data to such **Computer System** in order to prevent authorized access to such **Computer System**.
- V. "**Outside Capacity**" means service by an **Insured Person** as a director, officer, trustee, regent, governor or equivalent executive of an **Outside Organization** with the knowledge and consent of or at the request of an **Insured Organization**.
- W. "**Outside Organization**" means any not-for-profit corporation, community chest, fund or foundation that is: (i) not an **Insured Organization**; and (ii) exempt from federal income tax as an entity described in Section 501(c)(3), (4), (7) or (10) of the Internal Revenue Code of 1986, or any other entity organized for a religious or charitable purpose under any non-profit organization act or statute.
- X. "**Privacy Violation**" means any:



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1. failure to protect **Private Information** while in the care, custody or control of an **Insured**;
 2. violation of a **Privacy Law** by an **Insured**; or
 3. violation of an **Insured's** privacy policy prohibiting any **Insured** from disclosing **Private Information**.
- Y. "**Private Information**" means any:
1. **Personal Information**; or
 2. confidential or proprietary business information that is not available to the general public.
- Z. "**Public Shell Company**" means any entity that:
1. is a special purpose acquisition company, blank check company or other publicly traded company with substantially no operations;
 2. directly or indirectly controls, is controlled by, or is under common control with, the entity specified in 1 above; or
 3. is a successor in interest to, or is the resulting or surviving entity after, a merger, consolidation, or business combination involving an entity specified in 1 or 2 above.
- AA. "**Securities Wrongful Act**" means any **Wrongful Act**:
1. in the purchase or sale, or an offer or solicitation of an offer to purchase or sell, any securities issued by an **Insured Organization**, regardless of whether such purchase, sale or offer occurs in the open market or in a transaction with such **Insured Organization**; or
 2. alleged by a securities holder of an **Insured Organization** in their capacity as such in a **Claim**, including a **Derivative Demand** or **Derivative Suit**.
- BB. "**SOX 304/Dodd-Frank 954 Costs**" means reasonable fees and expenses (including a premium or origination fee for a loan or bond) incurred by any **Insured Person** to facilitate any reimbursement under Section 304(a) of the Sarbanes-Oxley Act of 2002 or Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. **SOX 304/Dodd-Frank 954 Costs** exclude any amounts required to be reimbursed under Section 304(a) or Section 954.
- CC. "**UK Corporate Manslaughter Act Defense Costs**" means **Defense Costs** incurred by an **Insured Person** resulting from a **Claim** made against an **Insured Organization** for violation of the United Kingdom Corporate Manslaughter and Corporate Homicide Act of 2007 or any similar law.
- DD. "**Whistleblowing**" means the lawful provision of information or other assistance by an **Insured Person** to any investigation conducted by any:
1. regulatory or any legal enforcement;
 2. governmental legislative body or committee thereof;



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3. **Employee** with supervisory authority over the **Insured Person**; or
4. **Employee** with authority to investigate corporate misconduct.

EE. “**Wrongful Act**” means:

1. regarding an **Insured Person**, any actual or alleged:
 - a. act, error, omission, misstatement, misleading statement, neglect or breach of duty by an **Insured Person** in their capacity as such; or
 - b. matter claimed against an **Insured Person** by reason of their serving in such capacity, including service in an **Outside Capacity**; or
2. regarding an **Insured Organization**, any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by such **Insured Organization**.

3. **COVERAGE EXTENSIONS AND SUBLIMITS**

A. **Derivative and Books & Records Demands Coverage**

1. The **Insurer** shall pay **Investigation Costs** resulting from a **Derivative Demand**, **Derivative Suit**, or **Books & Records Demand** first made during the **Policy Period** or Extended Reporting Period, if applicable. Such coverage shall be subject to the Derivative and Books & Records Demands Coverage: Investigation Costs Sublimit of Liability specified in Item 6.C of the Declarations. Such Sublimit of Liability shall be the maximum aggregate amount that the **Insurer** shall pay under this **Liability Coverage Part** for all **Investigation Costs** resulting from all **Derivative Demands**, **Derivative Suits**, or **Books & Records Demands** combined. Such Sublimit of Liability shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**.
2. No Retention shall apply to **Investigation Costs** under this Coverage Extension.

B. **Appraisal Claim Coverage**

The **Insurer** shall pay **Defense Costs** and **Investigation Costs** resulting from an **Appraisal Claim** first made during the **Policy Period** or Extended Reporting Period, if applicable. Coverage for **Appraisal Claims** shall be limited to **Defense Costs** and **Investigation Costs** only and shall be subject to the Appraisal Claim: Defense Costs and Investigation Costs Sublimit of Liability specified in Item 6.C of the Declarations. Such Sublimit of Liability shall be the maximum aggregate amount that the **Insurer** shall pay under this **Liability Coverage Part** for all **Appraisal Claims** combined. Such Sublimit of Liability shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**.

C. **Asset Protection Costs Coverage**

1. The **Insurer** shall pay **Asset Protection Costs** resulting from a **Claim** first made against an **Executive** during the **Policy Period** or Extended Reporting Period, if applicable. Such coverage shall be subject to the Per Executive and Aggregate Asset Protection Costs Sublimits of Liability specified in Item 6.C of the Declarations. Such Sublimits of Liability shall be the maximum aggregate amount that the **Insurer** shall pay under this **Liability Coverage Part** for all **Asset Protection Costs** combined.



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Such Sublimits of Liability shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**.

2. No Retention shall apply to **Asset Protection Costs** under this Coverage Extension.
3. The **Insurer** shall provide coverage for **Asset Protection Costs** only if:
 - a. such **Asset Protection Costs** result from a **Wrongful Act** by an **Executive**;
 - b. such **Asset Protection Costs** are not otherwise covered under this Policy;
 - c. an **Insured Organization** fails, refuses or is financially unable to indemnify, advance or pay such **Asset Protection Costs**; and
 - d. the **Claim** described in 1 above has been reported in compliance with General Provisions Section 10. Claim and Potential Claim Notices.

D. Crisis Management Costs Coverage

1. The **Insurer** shall pay **Crisis Management Costs** resulting from a **Network Breach** or **Privacy Violation** occurring during the **Policy Period**. Such coverage shall be subject to the Crisis Management Costs Sublimit of Liability specified in Item 6.C of the Declarations. Such Sublimit of Liability shall be the maximum aggregate amount that the **Insurer** shall pay under this **Liability Coverage Part** for all **Crisis Management Costs** resulting from all **Network Breaches** and **Privacy Violations** combined. Such Sublimit of Liability shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**.
2. No Retention shall apply to **Crisis Management Costs**.
3. Any **Claim Manager** shall give the **Insurer** written notice of any **Network Breach** or **Privacy Violation** as soon as practicable but no later than 60 days after the end of the **Policy Period**. Notice shall be given to the **Insurer** at the address for Claims or Potential Claims specified in Item 7 of the Declarations.
4. Section 4. Exclusions shall not apply to Crisis Management Costs Coverage.

E. Insured Organization Investigation Coverage

The **Insurer** shall pay **Loss** resulting from an **Insured Organization Investigation** first made during the **Policy Period** or Extended Reporting Period, if applicable. Such coverage shall be subject to the Insured Organization Investigation Sublimit of Liability specified in Item 6.C of the Declarations. Such Sublimit of Liability shall be the maximum aggregate amount that the **Insurer** shall pay under this **Liability Coverage Part** for all **Insured Organization Investigations** combined. Such Sublimit of Liability shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**.

F. Outside Positions

Subject to the provisions applicable to this **Liability Coverage Part**, coverage shall apply to a **Claim** made against an **Insured Person** for a **Wrongful Act** while serving in an **Outside Capacity**. Such coverage shall be specifically excess of any: (i) indemnification available from or provided by the **Outside Organization**; and (ii) valid and collectible insurance issued to the **Outside Organization**. Payment by the **Insurer**, or any insurance company controlling, controlled by or under common control with the **Insurer**, under any other



insurance policy as a result of such **Claim** shall reduce, by the amount of such payment, the limit of liability available under this Policy for such **Claim**.

4. EXCLUSIONS

A. The **Insurer** shall not pay **Loss**:

1. in connection with any **Claim** for, based upon, arising from, or in any way related to any fact, circumstance or situation that, before the inception date of this Policy, was the subject of any notice given and accepted as sufficient under any directors and officers liability, employment practices liability, fiduciary liability, or similar liability policy;
2. in connection with any **Claim** for, based upon, arising from, or in any way related to any: (i) written demand, suit or proceeding made or initiated against any **Insured** on or prior to the applicable Prior Litigation Date in Item 6.C of the Declarations; or (ii) **Wrongful Act** described in any such demand, suit or proceeding or any **Interrelated Wrongful Acts** thereto;
3. for bodily injury, sickness, disease, or death of any person, or damage to or destruction of any tangible property, including loss of use thereof, provided that this exclusion shall not apply to any **Loss**: (i) resulting from any **Securities Wrongful Act**; (ii) resulting from emotional distress, humiliation or mental anguish in any **Employment Claim**; or (iii) constituting **UK Corporate Manslaughter Act Defense Costs**;
4. in connection with any **Claim** for, based upon, arising from, or in any way related to any:
 - a. discharge, dispersal, release, escape, seepage, migration or disposal of **Pollutants**, nuclear material or nuclear waste or any threat of such discharge, dispersal, release, escape, seepage, migration or disposal; or
 - b. direction, request or voluntary decision to test for, abate, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, nuclear material or nuclear waste,provided that this exclusion shall not apply to any (i) **Non-Indemnifiable Loss**; or (ii) **Loss** resulting from a **Securities Wrongful Act**;
5. for any violation of **ERISA** involving any employee benefit plan sponsored by an **Insured Organization**;
6. in connection with any **Claim** by or on behalf of: (i) any **Insured** in any capacity or any entity that is majority owned or controlled by an **Insured**; or (ii) a security holder of an **Insured Organization** with the assistance, active participation or solicitation of any **Executive** against an **Insured**; provided that this exclusion shall not apply to any:
 - a. **Claim** that is a **Derivative Demand** or **Derivative Suit** that is initiated and maintained without the assistance, active participation or solicitation of any **Executive** who has served as an **Executive** during the two years prior to such **Claim** being made;



- b. **Claim** by an **Insured Person** for contribution or indemnification if such **Claim** directly results from a **Claim** that it otherwise covered under this **Liability Coverage Part**;
- c. **Claim** by any **Employee** who has not served as an **Executive** during the two years prior to such **Claim** being made, if such **Claim** is made without the assistance, active participation or solicitation of any **Executive** who has served as an **Executive** during the two years prior to such **Claim** being made;
- d. **Loss** resulting from any wrongful employment termination, employment discrimination or any other employment practices **Wrongful Act** in a **Claim** by an **Executive** who has served as an **Executive** during the two years prior to such **Claim** being made;
- e. **Claim** by a former **Executive** who has not served as an **Executive** during the two years prior to such **Claim** being made, provided that such **Claim** is made without the assistance, active participation or solicitation of any **Executive** who has served as an **Executive** during the two years prior to such **Claim** being made;
- f. **Claim** by any bankruptcy or insolvency trustee, examiner, receiver, creditors committee or similar official for any **Insured Organization** or **Outside Organization** or any assignee of such trustee, examiner, receiver, creditors committee or similar official; or
- g. **Claim** made in a jurisdiction outside the United States of America, Canada or Australia by an **Insured Person** of an **Insured Organization** organized in such jurisdiction,

provided that assistance, active participation or solicitation shall not include **Whistleblowing**;

- 7. in connection with any **Claim** for, based upon, arising from, or in any way related to any **Insured Person** serving at any time as a director, officer, trustee, regent, governor or equivalent executive, or as an employee, of any entity other than an **Insured Organization** even if such service is with the knowledge and consent, or at the request, of an **Insured Organization**, provided that this exclusion shall not apply to **Loss** resulting from a **Wrongful Act** by an **Insured Person** in an **Outside Capacity**;
- 8. by or on behalf of any **Outside Organization** for which an **Insured Person** serves or has served in an **Outside Capacity**, or any director, officer, trustee, regent, governor or equivalent executive of any such **Outside Organization**, provided that this exclusion shall not apply to any **Claim**:
 - a. that is a derivative suit made on behalf of such **Outside Organization** by any person who is not an:
 - 1. **Insured Person**; or
 - 2. director, officer, trustee, regent, governor or equivalent executive of the **Outside Organization**,

and who makes such **Claim** without the assistance, active participation or solicitation of any such person; or



- b. by any:
 - 1. **Insured Person**; or
 - 2. director, officer, trustee, regent, governor or equivalent executive of such **Outside Organization**,

for contribution or indemnification if such **Claim** results directly from a **Claim** that is otherwise covered under this **Liability Coverage Part**;

- 9. in connection with any **Claim** for, based upon, arising from, or in any way related to any:
 - a. public offering of securities issued by or on behalf of: (i) an **Insured Organization** if such offering commences and trading of such securities begins; or (ii) a **Public Shell Company** if an **Insured Organization** completes a merger, consolidation, or other business combination with such **Public Shell Company**; or
 - b. purchase or sale of securities of an **Insured Organization** or **Public Shell Company** subsequent to an offering described in a above,

provided that this exclusion shall not apply to **Loss** resulting from any **Wrongful Act**: (i) in an offering, purchase, or sale of securities of an **Insured Organization** that is exempt from registration under the Securities Act of 1933 and any similar law; (ii) in an offering, purchase or sale of debt securities of an **Insured Organization**; or (iii) in the failure of an **Insured Organization** to complete an offering, merger, consolidation, or other business combination, including, without limitation, any presentations or representations made in connection with such failed offering, merger, consolidation, or other business combination;

- 10. in connection with any **Wage & Hour Claim**, provided that this exclusion shall not apply to **Loss** resulting from a **Securities Wrongful Act**;
- 11. in connection with any **Claim** for, based upon, arising from, or in any way related to the gaining of any personal profit, remuneration or financial advantage to which such **Insured** is not legally entitled, if established by any final, non-appealable adjudication against any such **Insured** in any proceeding other than a proceeding initiated by the **Insurer**, provided that this exclusion shall not apply to: (i) **Defense Costs**; or (ii) amounts attributable to actual or alleged violations of the Securities Act of 1933, as amended (including Sections 11,12 or 15 therein); or
- 12. in connection with any **Claim** for, based upon, arising from, or in any way related to any deliberately fraudulent or criminal act or omission or any willful violation of law by such **Insured**, if established by any final, non-appealable adjudication against any such **Insured** in any proceeding other than a proceeding initiated by the **Insurer**, provided that: (i) a fraudulent or criminal act or omission under foreign law that is not a fraudulent or criminal act or omission under the federal or state laws of the United States of America shall not, by itself, be conclusive proof that a deliberately fraudulent or criminal act or omission occurred; and (ii) this exclusion shall not apply to **Defense Costs**.

Regarding exclusions 11 and 12 above: (i) no **Wrongful Act** of any **Insured Person** shall be imputed to any other **Insured Person**, and (ii) only a **Wrongful Act** by a past, present or



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future chief executive officer or chief financial officer of the **Named Organization** shall be imputed to an **Insured Organization**.

B. Regarding Insuring Agreement C, the **Insurer** shall not pay **Loss** in connection with any **Claim**:

1. that is a **Contract Claim**, provided that this exclusion shall not apply:
 - a. to the extent that liability would have been incurred in the absence of such contract or agreement; or
 - b. to **Loss** resulting from a **Securities Wrongful Act**;
2. that is an **Employment Claim**, provided that this exclusion shall not apply to **Loss** resulting from a **Securities Wrongful Act**;
3. that is a **Product-Services Claim**, provided that this exclusion shall not apply to **Loss** resulting from a **Securities Wrongful Act**;
4. for, based upon, arising from, or in any way related to any defamation or disparagement, invasion of privacy, wrongful entry or eviction, false arrest or imprisonment, malicious prosecution, abuse of process, assault, battery or loss of consortium, provided that this exclusion shall not apply to **Loss** resulting from a **Securities Wrongful Act**;
5. for, based upon, arising from, or in any way related to infringement of any intellectual property rights, including, without limitation, copyrights, patents, trademarks, trade names, trade dress, service marks, or trade secrets, provided that this exclusion shall not apply to **Loss** resulting from a **Securities Wrongful Act**;
6. that is an **Antitrust Claim**, provided that this exclusion shall not apply to **Loss** resulting from a **Securities Wrongful Act**;
7. for, based upon, arising from, or in any way related to discrimination or sexual harassment, provided that this exclusion shall not apply to **Loss** resulting from a **Securities Wrongful Act**; or
8. for, based upon, arising from, or in any way related to any: (i) **Network Breach**; (ii) failure to properly collect, handle, protect, use, manage, store, destroy or otherwise control data; (iii) violation of any state, federal or foreign identity theft or privacy protection law, including, without limitation, a **Privacy Law**; or (iv) violation of any **Insured Organization's** privacy policy prohibiting the disclosure of private information, provided that this exclusion shall not apply to **Loss** resulting from a **Securities Wrongful Act**.

5. ADDITIONAL LIMIT OF LIABILITY FOR CLAIMS AGAINST INSURED PERSONS

- A.** The Additional Limit of Liability for Claims against Insured Persons specified in Item 6.C (the "Additional Limit of Liability") shall be available to pay **Non-Indemnifiable Loss** covered for **Claims** against **Insured Persons** under Insuring Agreement A.
- B.** Any Additional Limit of Liability shall be in addition to, and not part of, the Limit of Liability otherwise applicable to this **Liability Coverage Part**.



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- C. Any Additional Limit of Liability shall be excess of any valid and collectible insurance that is specifically excess of this Policy. Such excess insurance must be exhausted by the payment of loss covered thereunder before the **Insurer** shall be liable to pay the Additional Limit of Liability.
- D. **Non-Indemnifiable Loss** covered under Insuring Agreement A shall be allocated between, and paid by the **Insurer** under, the Limit of Liability applicable to this **Liability Coverage Part** and the Additional Limit of Liability in whatever portions will maximize the total amount of covered **Loss** to be paid under this Policy.

6. PUBLIC OFFERING OF SECURITIES

If a public offering of an **Insured Organization's** equity securities occurs during the **Policy Period** that is not exempt from registration under the Securities Act of 1933, the **Insurer** shall furnish the **Insureds** with a quote for directors and officers liability insurance coverage of such offering, provided that:

- A. at least 30 days prior to the effective date of such offering, the **Insureds** shall give the **Insurer** written notice of such offering together with all information requested by the **Insurer**; and
- B. such quote shall be on such terms and conditions, including any additional premium, as the **Insurer**, in its sole discretion, chooses.



Policy Forms



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EMPLOYMENT PRACTICES LIABILITY COVERAGE PART

TABLE OF CONTENTS

1. INSURING AGREEMENTS
2. EEOC CHARGE & WRITTEN DEMAND CONTINUITY PROTECTION
3. DEFINITIONS
4. COVERAGE EXTENSIONS AND SUBLIMITS
5. EXCLUSIONS
6. RETENTION
7. OTHER INSURANCE



EMPLOYMENT PRACTICES LIABILITY COVERAGE PART

1. INSURING AGREEMENTS

A. Employment Practices Liability

The **Insurer** shall pay **Loss** on behalf of an **Insured** resulting from a **Claim** by or on behalf of an **Employee**, applicant for employment, governmental agency, or **Independent Contractor** first made against such **Insured** during the **Policy Period** or Extended Reporting Period, if applicable.

B. Third Party Liability

The **Insurer** shall pay **Loss** on behalf of an **Insured** resulting from a **Claim** by or on behalf of a **Third Party** first made against such **Insured** during the **Policy Period** or Extended Reporting Period, if applicable.

2. EEOC CHARGE & WRITTEN DEMAND CONTINUITY PROTECTION

A. All **Claims** arising from, based upon, or in any way related to the same **Employment Practices Wrongful Act**, any **Interrelated Wrongful Acts**, or the same or related facts, circumstances, or situations shall be deemed "Related Claims" and each such **Claim** shall be deemed a "Related Claim".

B. Notwithstanding General Provisions Section 11. Interrelated Claims, if the **Insureds** have a **Prior EPL Policy** and a **Claim** for an **Employment Practices Wrongful Act** that is an **EEOC Charge** or **Written Demand** commenced during the policy period of such **Prior EPL Policy** and notice of such **EEOC Charge** or **Written Demand** was not given under such **Prior EPL Policy**, then:

1. such **EEOC Charge** or **Written Demand**; and
2. any Related Claim to such **EEOC Charge** or **Written Demand** that is commenced during the **Policy Period** and is a: (i) civil lawsuit, arbitration or alternative dispute resolution proceeding; (ii) administrative or regulatory proceeding; or (iii) administrative or regulatory investigation (each a "Subsequent Related Claim"),

shall be deemed a **Claim** first made during the **Policy Period**.

C. Coverage for any **EEOC Charge**, **Written Demand**, or Subsequent Related Claim described in B above shall only be available if:

1. no **Claim Manager** was aware of such **EEOC Charge** or **Written Demand** prior to the expiration of the time to give notice of such **Claim** under the **Prior EPL Policy**;
2. no Related Claim to such **EEOC Charge** or **Written Demand** that is a: (i) civil lawsuit, arbitration or alternative dispute resolution proceeding; (ii) administrative or regulatory proceeding; or (iii) administrative or regulatory investigation, was commenced prior to the **Policy Period**;
3. such **EEOC Charge** or **Written Demand** would have been covered under the **Prior EPL Policy** had notice of such **Claim** been given under the **Prior EPL Policy**; and



4. written notice is given to the **Insurer** of such **Claim** no later than 60 days after the earlier of: (i) the date that any **Claim Manager** became aware of such **Claim**; or (ii) the end of the **Policy Period**.

D. Coverage for any **EEOC Charge**, **Written Demand**, or Subsequent Related Claim described in B above shall only apply to **Loss** incurred after the earliest date that: (i) any **Claim Manager** became aware of such **EEOC Charge** or **Written Demand**; or (ii) the date the Subsequent Related Claim was commenced. The maximum coverage available under this Policy for any such **EEOC Charge**, **Written Demand**, or Subsequent Related Claim shall be the lesser of the coverage available under the **Prior EPL Policy** or this Policy taking into account all of the terms, conditions and exclusions of each policy, including, without limitation, the applicable retention and available limit of liability under each policy as reduced by payments of **Loss**.

3. DEFINITIONS

Whether used in the singular or plural, the following terms shall have the meanings specified below:

A. “**Claim**” means:

1. any:

- a. written demand for civil monetary damages or injunctive or other civil non-monetary relief commenced by the receipt by any **Insured** of such demand;
- b. civil proceeding or arbitration, mediation or other alternative dispute resolution proceeding, commenced by the receipt by, or service upon, any **Insured** of a complaint, arbitration demand, mediation request or similar document;
- c. administrative or regulatory proceeding, including, without limitation, any proceeding before the Equal Employment Opportunity Commission, any state or local fair employment practices agency, or the Office of Federal Contract Compliance Programs, commenced by the receipt by, or service upon, any **Insured** of an **EEOC Charge**, notice of charges, order to show cause or similar document;
- d. administrative or regulatory investigation of any **Insured** commenced by the receipt by, or service upon, any **Insured** of a formal investigative order;

provided that such demand, proceeding or investigation: (i) is for a **Wrongful Act**; and (ii) shall not include any criminal proceeding or investigation, labor or grievance proceeding initiated pursuant to a collective-bargaining agreement, or audit by the Office of Federal Contract Compliance Programs;

2. any written request to an **Insured** to toll or waive a period or statute of limitations regarding a potential **Claim** as described in 1.b or 1.c above commenced by the receipt by any **Insured** of such request; or

3. any **Immigration Investigation Claim**, subject to the provisions of Section 4 Coverage Extensions and Sublimits C.

B. “**Defense Costs**” means reasonable fees and expenses incurred in the defense or appeal of a **Claim**. **Defense Costs** include the premium for any appeal, attachment or similar bond, provided that the **Insurer** shall have no obligation to issue, or provide collateral for, such



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bond. **Defense Costs** exclude any compensation, benefit expenses, or overhead of any **Insureds**.

- C. **“EEOC Charge”** means any written charge filed by an **Employee**, applicant for employment with any **Insured Organization**, or **Independent Contractor** with the Equal Employment Opportunity Commission or any state or local fair employment practices agency. **EEOC Charge** excludes any lawsuit, proceeding, or investigation initiated by the Equal Employment Opportunity Commission or any state or local fair employment practices agency.
- D. **“Employee”** means any natural person who is, was, or becomes an employee of an **Insured Organization**, including any full time, part-time, seasonal, leased, loaned and temporary employee, as well as any volunteer or intern of an **Insured Organization**. **Employee** excludes any **Independent Contractor**.
- E. **“Employment Practices Wrongful Act”** means any actual or alleged:
 - 1. wrongful dismissal, discharge or termination of employment, including constructive dismissal, discharge, or termination;
 - 2. employment discrimination based on age, gender, race, color, national origin, religion, creed, sexual orientation or preference, marital status, gender identity or expression, pregnancy, disability, health status, HIV status, military or veteran status, genetic makeup, political affiliation, or any other protected status specified under federal, state or local law;
 - 3. sexual or other workplace harassment, including, without limitation, hostile work environment, bullying, or quid-pro-quo;
 - 4. wrongful deprivation of a career opportunity, demotion, failure to employ or promote, discipline of employees, or failure to grant tenure;
 - 5. breach of any oral, written, or implied employment contract or agreement including, without limitation, any obligation arising out of any employee manual, handbook, or policy statement;
 - 6. **Retaliation**;
 - 7. violation of the Family and Medical Leave Act; or
 - 8. provided that the following conduct relates to matters described in 1 through 7 above:
 - a. invasion of privacy;
 - b. infliction of emotional distress, humiliation, or mental anguish;
 - c. employment related defamation, including, without limitation, a negative or defamatory employment reference;
 - d. employment related misrepresentation;
 - e. failure to provide or enforce adequate or consistent corporate employment policies and procedures; or
 - f. negligent hiring, retention, supervision, evaluation or training of **Employees**,



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committed or attempted: (i) against any **Employee**, applicant for employment with any **Insured Organization**, or **Independent Contractor**; and (ii) by any **Insured Person** in their capacity as such or any **Insured Organization**.

Without limitation, the conduct described in 1 through 8 above shall include matters carried out by any means in any location, including, without limitation, the Internet (i.e. e-mail, instant messaging, social networking services, blogs, or similar social media), regardless of whether access to the Internet is effected (i) on or off the premises of any **Insured Organization**; or (ii) through any computer or device owned or leased by any **Insured Organization**, **Insured Person**, or others.

F. “**Insured Person**” means any:

1. **Executive**;
2. **Employee**; or
3. **Independent Contractor**, if, within 60 days of a **Claim** being made against such person, any **Insured Organization** agrees in writing to indemnify such person for such **Claim**.

G. “**Insureds**” means any:

1. **Insured Organization**; or
2. **Insured Person**.

H. “**Loss**” means **Defense Costs**, damages (including front and back pay), settlements, judgments, and pre- and post-judgment interest, including plaintiff legal fees and costs awarded pursuant to a covered settlement or judgment. Regarding Section 4 Coverage Extensions and Sublimits A. Workplace Violence Coverage, “**Loss**” means any **Workplace Violence Costs** only.

The following items are specifically included in, or excluded from, **Loss**:

1. **Loss** includes any:
 - a. punitive, exemplary or multiple damages awarded pursuant to a covered judgment or settlement; or
 - b. liquidated damages awarded pursuant to the Age Discrimination in Employment Act or Equal Pay Act.

Except where required by law, the **Insurer** shall not assert that the above types of **Loss** are uninsurable. Notwithstanding 2.e below, the insurability of the above types of **Loss** shall be governed by the laws of any applicable jurisdiction that does not prohibit coverage for such **Loss**.

2. **Loss**, other than **Defense Costs**, excludes any:

- a. fines or penalties imposed by law;
- b. taxes;



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- c. amount for which the **Insureds** are not financially liable or for which the claimants are without legal recourse to the **Insureds**;
- d. non-monetary relief;
- e. matters that are uninsurable pursuant to applicable law;
- f. future compensation of a claimant who was, is or shall be hired, promoted or reinstated to employment;
- g. employment-related benefits (including, without limitation, retirement benefits, perquisites, vacation or sick days, medical or insurance benefits, stock benefits stock options, stock appreciation rights, deferred compensation or any other type or compensation other than salary, wages or bonus compensation);
- h. costs of any accommodation required by the Americans with Disabilities Act or any similar law;
- i. employment termination severance amounts, including, without limitation, severance amounts offered and rejected, other than any amounts negotiated with and consented to by the **Insurer** as part of a settlement; or
- j. compensation earned by, or due to, a claimant in the course of employment but not paid, other than back pay or front pay.

I. “Mass Claim” means any Claim:

- 1. that is a civil proceeding pursuant to Rule 23 of the Federal Rules of Civil Procedure or any similar law; or
- 2. by or on behalf of 2 or more persons.

J. “Prior EPL Policy” means an insurance policy that:

- A. immediately precedes; and
- B. offers employment practices liability coverage that is substantially equivalent to, this Policy.

K. “Retaliation” means any negative treatment of an Employee or Independent Contractor in response to such Employee or Independent Contractor:

- 1. exercising his or her rights under law, including, without limitation, rights under any workers compensation laws, the Family and Medical Leave Act, or the Americans with Disabilities Act;
- 2. refusing to violate any law;
- 3. assisting, testifying in, or cooperating with, a proceeding or investigation regarding alleged violations of law;
- 4. disclosing or threatening to disclose to a superior or to any governmental agency any alleged violations of law; or



5. filing any claim under the False Claims Act, the Sarbanes–Oxley Act of 2002, the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010, or any similar law that protects a “whistleblower.”
- L. “**Third Party**” means any natural person who is not an **Employee, Independent Contractor, or Insured Person**.
- M. “**Third Party Wrongful Act**” means any actual or alleged:
 1. discrimination or sexual harassment directed against a **Third Party**; or
 2. violation of a **Third Party’s** civil rights relating to such discrimination or harassment,by any **Insured Person** in their capacity as such or by any **Insured Organization**.

Without limitation, the conduct described in 1 and 2 above shall include matters carried out by any means in any location, including, without limitation, the Internet (i.e. e-mail, instant messaging, social networking services, blogs, or similar social media), regardless of whether access to the Internet is effected (i) on or off the premises of any **Insured Organization**; or (ii) through any computer or device owned or leased by any **Insured Organization, Insured Person**, or others.
- N. “**Workplace Violence**” means an intentional and unlawful act perpetrated against an **Executive or Employee** within the buildings, facilities or properties occupied by an **Insured Organization** in conducting its business activities involving use of a deadly weapon, or threat of such use.
- O. “**Workplace Violence Costs**” means the following reasonable costs incurred by an **Insured Organization** in response to any **Workplace Violence**:
 1. security guard services for up to 15 days;
 2. security consulting for up to 90 days;
 3. public-relations consulting for up to 90 days;
 4. a single group counseling for **Employees**; and
 5. forensics analysis.
- P. “**Written Demand**” means any **Claim** that is a written demand or request as described in Section 3. Definitions, A. “Claim”, 1.a or 2.
- Q. “**Wrongful Act**” means:
 1. regarding Insuring Agreement A, any **Employment Practices Wrongful Act**;
 2. regarding Insuring Agreement B, any **Third Party Wrongful Act**;
 3. regarding the Employee Privacy Coverage Extension, any **Employee Privacy Wrongful Act**; or
 4. regarding the Immigration Investigation Defense Costs Coverage Extension, any **Immigration Investigation Wrongful Act**.



4. COVERAGE EXTENSIONS AND SUBLIMITS

A. WORKPLACE VIOLENCE COVERAGE

1. The **Insurer** shall reimburse **Workplace Violence Costs** resulting from any **Workplace Violence** first commenced during the **Policy Period**. Such coverage shall be subject to the Workplace Violence Costs Sublimit of Liability specified in Item 6.D of the Declarations. Such Sublimit of Liability shall be the maximum aggregate amount that the **Insurer** shall pay under this **Liability Coverage Part** for all **Workplace Violence** incidents combined. Such Sublimit of Liability shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**.
2. No Retention shall apply to coverage for **Workplace Violence Costs**.
3. Any **Claim Manager** shall give the **Insurer** written notice of any **Workplace Violence** as soon as practicable but no later than 60 days after the end of the **Policy Period**. Notice shall be given to the **Insurer** at the address for Claims or Potential Claims specified in Item 7 of the Declarations.
4. Section 5. Exclusions shall not apply to this Coverage Extension.
5. The **Insurer** shall not be liable to pay **Workplace Violence Costs** resulting from any:
 - a. **Workplace Violence** initiated in connection with a demand for money, securities or other property;
 - b. declared or undeclared war, civil war, insurrection, rebellion or revolution, military, naval or usurped power, governmental intervention or authority, expropriation or nationalization, or any act or condition incident or related to any of the foregoing; or
 - c. attorneys fees, expenses, settlements, judgments, penalties or other amounts incurred in defending or prosecuting any legal proceeding or claim involving any **Workplace Violence**.

B. EMPLOYEE PRIVACY CLAIM COVERAGE

The **Insurer** shall pay **Loss** on behalf of an **Insured** resulting from an **Employee Privacy Claim** by or on behalf of an **Employee** or **Executive**, applicant for employment, governmental agency, or **Independent Contractor** first made against such **Insured** during the **Policy Period** or Extended Reporting Period, if applicable. Coverage for **Employee Privacy Claims** shall be subject to the Employee Privacy Claim Sublimit of Liability specified in Item 6.D of the Declarations. Such Sublimit of Liability shall be the maximum aggregate amount that the **Insurer** shall pay under this **Liability Coverage Part** for all **Employee Privacy Claims** combined. Such Sublimit of Liability shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**.

C. IMMIGRATION INVESTIGATION DEFENSE COSTS COVERAGE

The **Insurer** shall pay **Defense Costs** on behalf of an **Insured** resulting from an **Immigration Investigation Claim** first made during the **Policy Period** or Extended Reported Period, if applicable. Coverage for **Immigration Investigation Claims** shall be limited to **Defense Costs** only and shall be subject to the Immigration Investigation Defense Costs Sublimit of Liability specified in Item 6.D of the Declarations. Such Sublimit of Liability shall be the maximum aggregate amount that the **Insurer** shall



pay under this **Liability Coverage Part** for all **Immigration Investigation Claims** combined. Such Sublimit of Liability shall be part of, and not in addition to, the limit of liability applicable to this **Liability Coverage Part**.

5. EXCLUSIONS

A. The Insurer shall not pay Loss:

1. in connection with any **Claim** for, based upon, arising from, or in any way related to any fact, circumstance or situation that, before the inception date of this Policy, was the subject of any notice given and accepted as sufficient under any directors and officers liability, employment practices liability, fiduciary liability, or similar liability policy;
2. in connection with any **Claim** for, based upon, arising from, or in any way related to any: (i) written demand, suit or proceeding made or initiated against any **Insured** on or prior to the applicable Prior Litigation Date in Item 6.D of the Declarations; or (ii) any **Wrongful Act** described in any such demand, suit or proceeding or any **Interrelated Wrongful Acts** thereto;
3. for bodily injury, sickness, disease, or death of any person, or damage to or destruction of any tangible property, including loss of use thereof, provided that this exclusion shall not apply to any **Loss** resulting from emotional distress, humiliation or mental anguish;
4. for any violation of: (i) any workers' compensation, unemployment, social security, disability or pension benefits laws; (ii) **ERISA** (except Section 510 thereof); (iii) the National Labor Relations Act; (iv) the Worker Adjustment and Retraining Notification Act; (v) the Consolidated Omnibus Budget Reconciliation Act of 1985; (vi) the Occupational Safety and Health Act, or (vii) any similar laws to those mentioned in (i) through (vi) above, provided that this exclusion shall not apply to **Loss** resulting from **Retaliation**;
5. in connection with any **Wage & Hour Claim**, provided that this exclusion shall not apply to any: (i) **Loss** resulting from **Retaliation**; (ii) **Defense Costs**, provided that coverage for such **Defense Costs** shall be subject to the Sublimit of Liability specified in Item 6.D of the Declarations which Sublimit of Liability shall be the maximum aggregate amount that the **Insurer** shall pay for all such **Defense Costs** under this **Liability Coverage Part** resulting from all **Wage & Hour Claims** combined and be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**; or (iii) **Loss** resulting from any **Wrongful Act** that is not a **Wage & Hour Wrongful Act** in a **Claim** that is not a **Mass Claim**;
6. for any breach of a written employment contract or agreement, provided that this exclusion shall not apply to any: (i) liability that would have been incurred in the absence of such written employment contract or agreement; or (ii) **Defense Costs**;
7. for any liability of others assumed by any **Insured** under any written contract or agreement, provided that this exclusion shall not apply to the extent that liability would have been incurred in the absence of such contract or agreement; or
8. in connection with any **Claim** for, based upon, arising from, or in any way related to any breach of contract or agreement specifying the terms of an **Insured Organization's** engagement of an **Independent Contractor**.

B. Regarding Insuring Agreement B, the Insurer shall not pay Loss in connection with any Claim for, based upon, arising from, or in any way related to any: (i) price discrimination; (ii) distribution, underwriting, design, marketing, manufacture or other policies or decisions



relating to any products or services; or (iii) violation of any anti-trust law or other law designed to protect competition or prevent unfair trade practices, including, without limitation, redlining or any similar practice.

6. RETENTION

- A. The **Insurer** shall pay **Loss** resulting from each **Claim** covered under this **Liability Coverage Part** only to the extent that such **Loss** exceeds the applicable Retention specified in Item 6.D of the Declarations.
- B. If a **Claim** ceases to be a **Mass Claim**, the Retention applicable to a **Claim** other than a **Mass Claim** shall apply, provided that no Retention incurred by the **Insureds** while a **Claim** was a **Mass Claim** shall be reimbursed or indemnified by the **Insurer**. If a **Claim** becomes a **Mass Claim**, the **Mass Claim** Retention shall apply. In no event shall the maximum Retention for any **Claim** exceed the largest applicable Retention specified in Item 6.D of the Declarations.

7. OTHER INSURANCE

- A. To the extent that any **Claim** is covered under this **Liability Coverage Part** and any other insurance, the coverage provided under this **Liability Coverage Part** shall be primary.
- B. Notwithstanding the above:
 - 1. regarding any **Claim** made against a leased or temporary **Employee** or an **Independent Contractor**, coverage under this **Liability Coverage Part** shall be excess of, and not contribute with, any valid and collectible insurance insuring the employee leasing company, temporary employee agency, or **Independent Contractor**; and
 - 2. regarding any **Claim** made by or on behalf of a **Third Party**, coverage under this **Liability Coverage Part** shall be excess of, and not contribute with, any other valid and collectible insurance insuring the **Insureds** on a duty to defend basis,

regardless of whether such other insurance is stated to be excess, contributory, contingent or otherwise, unless such other insurance is written specifically excess of this Policy by reference in such other insurance to this Policy's Policy Number.



Policy Forms



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FIDUCIARY LIABILITY COVERAGE PART

TABLE OF CONTENTS

1. INSURING AGREEMENTS
2. DEFINITIONS
3. COVERAGE EXTENSION
4. EXCLUSIONS
5. TERMINATED PLAN COVERAGE
6. RECOURSE WAIVER
7. RETENTION WAIVER FOR CERTAIN PENALTIES
8. DISPROVEN ALLEGATION COVERAGE
9. PRIORITY OF LOSS PAYMENTS



FIDUCIARY LIABILITY COVERAGE PART

1. INSURING AGREEMENTS

A. Fiduciary Liability

The **Insurer** shall pay **Loss** on behalf of an **Insured** resulting from a **Claim** first made against such **Insured** during the **Policy Period** or Extended Reporting Period, if applicable.

B. Settlement Programs

The **Insurer** shall pay a **Voluntary Settlement** and **Defense Costs** on behalf of an **Insured** resulting from a **Settlement Program Notice** first given to the **Insurer** during the **Policy Period** or Extended Reporting Period, if applicable, provided such **Voluntary Settlement** and **Defense Costs** are incurred after such **Settlement Program Notice** is first given to the **Insurer**.

This Insuring Agreement shall be subject to the Settlement Program Sublimit of Liability specified in Item 6.E of the Declarations. Such Sublimit of Liability shall be the maximum aggregate amount that the **Insurer** shall pay under this Insuring Agreement. Such Sublimit of Liability shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**. No Retention shall apply to this Insuring Agreement.

2. DEFINITIONS

Whether used in the singular or plural, the following terms shall have the meanings specified below:

A. "Administration" means:

1. advising, counseling or giving notice to **Employees**, participants or beneficiaries regarding any **Plan**;
2. providing interpretations regarding any **Plan**; or
3. handling records or enrolling, terminating or canceling **Employees**, participants or beneficiaries regarding any **Plan**.

B. "Claim" means:

1. any
 - a. written demand for civil monetary damages or injunctive or other civil non-monetary relief commenced by the receipt by any **Insured** of such demand;
 - b. civil proceeding or arbitration, mediation or other alternative dispute resolution proceeding, commenced by the receipt by, or service upon, any **Insured** of a complaint, arbitration demand, mediation request or similar document;
 - c. criminal proceeding, including any related **Extradition**, commenced by the return of an indictment, information or similar document;
 - d. administrative or regulatory proceeding commenced by the receipt by, or service upon, any **Insured** of a notice of charges or similar document;



- e. civil, criminal, administrative or regulatory investigation commenced by such **Insured's** receipt of a: (i) formal order of investigation; or (ii) target letter (within the meaning of title 9-11.151 of the United States Attorneys Manual), from an investigating authority identifying such **Insured** as a target against whom a proceeding described in 1.b, c, or d above may be commenced;

provided that: (i) such demand, proceeding or investigation is for a **Wrongful Act** by the **Insureds** or by any person for whose **Wrongful Acts** the **Insureds** are legally responsible; (ii) a and b shall not include any administrative, regulatory, or criminal proceeding or investigation; and (iii) c and d shall not include any administrative, regulatory, or criminal investigation;

- 2. regarding Insuring Agreement B, any **Settlement Program Notice**;
 - 3. any **Fact-Finding Investigation** or **Procedural Appeal**, but only after such **Fact-Finding Investigation** or **Procedural Appeal** is noticed to the **Insurer**; or
 - 4. any written request to an **Insured** to toll or waive a period or statute of limitations regarding a potential **Claim** as described in 1.b, c, or d above commenced by the receipt by any **Insured** of such request.
- C. "**Defense Costs**" means reasonable fees and expenses incurred in the defense or appeal of a **Claim**. **Defense Costs** include any: (i) premium for an appeal, attachment or similar bond, provided that the **Insurer** shall have no obligation to issue, or provide collateral for, such bond; or (ii) fees and expenses of an independent fiduciary retained by an **Insured Organization** to review a proposed settlement of a covered **Claim** and any law firm retained by such fiduciary to facilitate a review of such proposed settlement. **Defense Costs** exclude any compensation, benefit expenses, or overhead of any **Insureds**.
- D. "**Employee**" means any natural person who is, was, or becomes an employee of an **Insured Organization**, including any full time, part-time, seasonal, leased, loaned and temporary employee, as well as any volunteer or intern of an **Insured Organization**. **Employee** excludes any **Independent Contractor**.
- E. "**Fact-Finding Investigation**" means any written notice of an investigation regarding a **Plan** by the Department of Labor ("DOL"), Pension Benefit Guaranty Corporation or any similar domestic or foreign government agency, including, without limitation, the United Kingdom's Pensions Ombudsman or Pensions Regulator.
- Fact-Finding Investigation** excludes any routine or regularly scheduled oversight, compliance, audit, examination or inspection conducted by a government agency or regulator.
- F. "**Insured Person**" means any:
- 1. **Executive**;
 - 2. **Employee**;
 - 3. natural person who is, was, or becomes a duly elected or appointed: (i) trustee of any **Plan**; or (ii) pension or **Plan** committee or advisory board member of any **Insured Organization**, including any committee with one member;
 - 4. former **Executive** serving in a consulting or an advisory capacity to any **Plan**, if, within 60 days of a **Claim** being made against such person, any **Insured Organization**



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agrees in writing to indemnify such person for such **Claim** on the same terms as is provided to any current **Executive**; or

5. **Independent Contractor**, if, within 60 days of a **Claim** being made against such person, any **Insured Organization** agrees in writing to indemnify such person for such **Claim**.

G. “**Insureds**” means any:

1. **Insured Organization**;
2. **Insured Person**; or
3. **Plan**.

H. “**Loss**” means **Defense Costs**, damages, settlements, judgments, and pre- and post-judgment interest, including plaintiff legal fees and costs awarded pursuant to a covered settlement or judgment. Regarding Insuring Agreement B, “**Loss**” means **Voluntary Settlements** and **Defense Costs**.

The following items are specifically included in, or excluded from, **Loss**:

1. **Loss** includes any:

- a. 5% or less civil penalties imposed under Section 502(i) of **ERISA**;
- b. 20% or less civil penalties imposed under Section 502(l) of **ERISA**;
- c. 15% or less civil penalties imposed under Section 4975 of the Internal Revenue Code of 1986 for covered judgments, provided that the **Insurer’s** maximum aggregate liability for all such civil monetary penalties under this Policy shall be subject to the Internal Revenue Code Section 4975 Penalties Sublimit of Liability specified in Item 6.E of the Declarations that shall be the maximum aggregate amount that the **Insurer** shall pay for all such penalties and shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**;
- d. civil penalties imposed for violation of the privacy provisions of the Health Insurance Portability and Accountability Act of 1996, provided that the **Insurer’s** maximum aggregate liability for all such civil monetary penalties under this Policy shall be subject to the HIPAA Penalties Sublimit of Liability specified in Item 6.E of the Declarations that shall be the maximum aggregate amount that the **Insurer** shall pay for all such penalties and shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**;
- e. civil penalties imposed for violation of Section 502(c) of **ERISA**, other than civil penalties under the Pension Protection Act of 2006, provided that the **Insurer’s** maximum aggregate liability for all such civil monetary penalties under this Policy shall be subject to the ERISA Section 502(c) Penalties Sublimit of Liability specified in Item 6.E of the Declarations that shall be the maximum aggregate amount that the **Insurer** shall pay for all such penalties and shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**;



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- f. civil penalties under the Pension Protection Act of 2006, provided that the **Insurer's** maximum aggregate liability for all such civil monetary penalties under this Policy shall be subject to the Pension Protection Act Penalties Sublimit of Liability specified in Item 6.E of the Declarations that shall be the maximum aggregate amount that the **Insurer** shall pay for all such penalties and shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**;
- g. civil penalties or other awards imposed by the Pension Ombudsman appointed by the United Kingdom Secretary of State for Social Services or by the Occupational Pensions Regulatory Authority in the United Kingdom or any successor thereto, provided that any coverage for such penalties applies only if the funds or assets of a **Plan** are not used to fund, pay or reimburse the premium for this Policy;
- h. civil penalties for inadvertent violation of the Patient Protection and Affordable Care Act, provided that the **Insurer's** maximum aggregate liability for all such civil monetary penalties under this Policy shall be subject to the Patient Protection and Affordable Care Act Penalties Sublimit of Liability specified in Item 6.E of the Declarations that shall be the maximum aggregate amount that the **Insurer** shall pay for all such penalties and shall be part of, and not in addition to, the Limit of Liability applicable to this **Liability Coverage Part**;
- i. punitive, exemplary or multiple damages awarded pursuant to a covered judgment or settlement;
- j. regarding Insuring Agreement B, **Voluntary Settlements**;
- k. benefits that become payable by an **Insured Person** as a personal obligation; or
- l. amounts representing a decrease in value of a **Sponsored Plan's** assets or a participant's account in a **Plan** due to investment losses, lost investment opportunities, excessive costs or failure to comply with a participant's investment directions, regardless of whether such amounts have been characterized as "benefits" by a claimant or any court or tribunal adjudicating any **Claim**.

Except where required by law, the **Insurer** shall not assert that the above types of **Loss** are uninsurable. Notwithstanding 2.c below, the insurability of the above types of **Loss** shall be governed by the laws of any applicable jurisdiction that does not prohibit coverage of such **Loss**.

2. **Loss**, other than **Defense Costs**, excludes any:
- a. taxes, fines or penalties other than those specifically included above;
 - b. costs incurred in cleaning up, removing, containing, treating, detoxifying, neutralizing, assessing the effects of, testing for, or monitoring hazardous materials, **Pollutants**, or product defects;
 - c. matters that are uninsurable pursuant to applicable law;
 - d. amount for which the **Insureds** are not financially liable or for which the claimants are without legal recourse to the **Insureds**;



- e. non-monetary relief; or
 - f. benefits under any **Plan**, including benefits that would be due under any **Plan** if such **Plan** complied with all applicable laws, except as provided in 1.k and 1.l above.
 - I. **“Managed Care Benefits”** means health care benefits provided through a **Plan** which utilizes cost control mechanisms, including, without limitation, utilization review, case management, disease management, or the use of a preferred provider network. **Managed Care Benefits** exclude any:
 - 1. benefits provided by a **Plan** administered or managed by an **Insured**; or
 - 2. medical and health care services and other services rendered in conjunction with medical and health care services, including, without limitation: (i) medical, surgical, dental, psychiatric, mental health, chiropractic, osteopathic, nursing or other professional health care or related services; (ii) use, prescription, furnishing or dispensing of medications, drugs, blood, blood products or medical, surgical, dental or psychiatric supplies, equipment or appliances in connection with the services specified in (i); (iii) furnishing of food, beverages, or appliances in connection with the services specified in (i); (iv) counseling or other social services; or (v) handling of, or the performance of post-mortem examinations of, human bodies.
 - J. **“Plan”** means any:
 - 1. **Sponsored Plan**;
 - 2. health insurance plan for the benefit of **Employees** only purchased by an **Insured Organization** through an exchange established pursuant to the Patient Protection and Affordable Care Act; or
 - 3. government-mandated insurance program for workers compensation, unemployment, social security or disability benefits for **Employees**.
 - K. **“Procedural Appeal”** means any written notice of an appeal of any adverse benefits determination by an **Insured** pursuant to the United States Department of Labor claim procedure regulation at 29 C.F.R. Section 2560.503-1(h) or any similar claim procedure pursuant to applicable law.
 - L. **“Settlement Program”** means any voluntary compliance resolution program or similar voluntary settlement program administered by the United States Internal Revenue Service, United States Department of Labor or any other domestic or foreign governmental authority. Such programs include, without limitation, the Employee Plans Compliance Resolution System, Audit Closing Agreement Program, Voluntary Compliance Resolution Program, Walk-in Closing Agreement Program, Administrative Policy Regarding Self-Correction, Tax Sheltered Annuity Voluntary Correction Program, Delinquent Filer Voluntary Compliance Program, and Voluntary Fiduciary Correction Program.
 - M. **“Settlement Program Notice”** means prior written notice to the **Insurer** by any **Insured** of the **Insured’s** intent to enter into a **Settlement Program**.
 - N. **“Sponsored Plan”** means any:



1. employee benefit plan, pension benefit plan or welfare benefit plan, as each is defined in **ERISA**, operated solely by an **Insured Organization**, or jointly by any **Insured Organization** and a labor organization, for the benefit of **Employees** only;
2. employee benefit plan or program not subject to **ERISA** sponsored solely by any **Insured Organization** for the benefit of **Employees** only, including any fringe benefit or excess benefit plan;
3. employee benefit plan or program otherwise described in 1 or 2 above while such plan or program is being actively developed, formed or proposed by any **Insured Organization** prior to the formal creation of such plan or program; or
4. plan, fund, or program specifically included as a **Sponsored Plan** in a written endorsement issued by the **Insurer**.

Sponsored Plan excludes any multi-employer plan or employee stock ownership plan, unless such plan is specifically included as a **Sponsored Plan** by a written endorsement issued by the **Insurer**.

O. “Voluntary Settlement” means any fees, fines, or penalties paid by an **Insured** to a governmental authority pursuant to a **Settlement Program** for any actual or alleged inadvertent non-compliance by a **Sponsored Plan** with any statute, rule or regulation; provided that **Voluntary Settlement** shall not include any: (i) costs to correct the non-compliance, or any other charges, expenses, taxes or damages; or (ii) fees, fines, or penalties relating to a **Sponsored Plan** that, as of the earlier of inception date of this Policy or the inception date of the first policy in an uninterrupted series of policies issued by the **Insurer** of which this Policy is a direct or indirect renewal or replacement, any **Insured Person** knew to be actually or allegedly non-compliant.

P. “Wrongful Act” means any actual or alleged:

1. breach by any **Insured** in their capacity as such of the responsibilities, obligations or duties imposed by **ERISA** upon fiduciaries of any **Sponsored Plan**;
2. act, error or omission in **Administration** by any **Insured** in their capacity as such;
3. act, error omission by any **Insured** in their capacity as such in advising, counseling, or providing assistance to **Employees** regarding their purchase of health insurance through any public, private or government-sponsored insurance exchange that is set up to facilitate the purchase of health insurance in accordance with the Patient Protection and Affordable Care Act;
4. act, error or omission by any **Insured** in a settlor capacity regarding any **Sponsored Plan**; or
5. matter claimed against any **Insured Person** solely by reason of their service as a fiduciary of any **Sponsored Plan**.

3. COVERAGE EXTENSION: LABOR MANAGEMENT RELATIONS ACT

Subject to the provisions of this **Liability Coverage Part**, coverage shall apply to **Loss** of any **Insured Person** as a result of a **Claim** first made against such **Insured Person** during the **Policy Period** or Extended Reporting Period, if applicable, arising from any allegation that such **Insured Person** violated Section 301 of the Labor Management Relations Act relating to alleged violations of collectively bargained contracts in connection with a **Plan**.



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4. EXCLUSIONS

A. The **Insurer** shall not pay **Loss**:

1. in connection with any **Claim** for, based upon, arising from, or in any way related to any fact, circumstance or situation that, before the inception date of this Policy, was the subject of any notice given and accepted as sufficient under any directors and officers liability, employment practices liability, fiduciary liability, or similar liability policy;
2. in connection with any **Claim** for, based upon, arising from, or in any way related to any: (i) written demand, suit or proceeding made or initiated against any **Insured** on or prior to the applicable Prior Litigation Date in Item 6.E of the Declarations; or (ii) **Wrongful Act** described in any such demand, suit or proceeding or any **Interrelated Wrongful Acts** thereto;
3. for bodily injury, sickness, disease, emotional distress, mental anguish, humiliation or death of any person, or damage to or destruction of or loss of use of any tangible property, provided that this exclusion shall not apply to the selection by an **Insured** of any provider of **Managed Care Benefits**;
4. in connection with any **Claim** for, based upon, arising from, or in any way related to any contract or agreement, provided that this exclusion shall not apply to the extent that liability:
 - a. would have been incurred in the absence of such contract or agreement; or
 - b. was assumed in accordance with or under an agreement or declaration of trust pursuant to which a **Plan** was established;
5. for any violation of any workers' compensation, unemployment insurance, social security, disability benefits law or any similar law except the:
 - a. Consolidated Omnibus Budget Reconciliation Act of 1985; or
 - b. Health Insurance Portability and Accountability Act of 1996;
6. for discrimination in violation of any law other than **ERISA**;
7. in connection with any:
 - a. **Wage & Hour Claim**; or
 - b. **Claim** for, based upon, arising from, or in any way related to any violation of the: (i) Worker Adjustment and Retraining Notification Act; (ii) Occupational Safety and Health Act (OSHA); or (iii) any similar law to those mentioned in (i) through (ii) above;
8. in connection with any **Claim** for, based upon, arising from, or in any way related to the gaining of any personal profit, remuneration or financial advantage to which such **Insured** is not legally entitled, if established by any final, non-appealable adjudication against any such **Insured** in any proceeding other than a proceeding initiated by the **Insurer**, provided that this exclusion shall not apply to **Defense Costs**; or



9. in connection with any **Claim** for, based upon, arising from, or in any way related to any deliberately fraudulent or criminal act or omission or any willful violation of law by such **Insured**, if established by any final, non-appealable adjudication against any such **Insured** in any proceeding other than in a proceeding initiated by the **Insurer**, provided that: (i) a fraudulent or criminal act or omission under foreign law that is not a fraudulent or criminal act or omission under the federal or state laws of the United States of America shall not, by itself, be conclusive proof that a deliberately fraudulent or criminal act or omission occurred; and (ii) this exclusion shall not apply to **Defense Costs**.

Regarding exclusions 8 and 9 above: (i) no **Wrongful Act** of any **Insured Person** shall be imputed to any other **Insured Person**; and (ii) only a **Wrongful Act** by a past, present or future chief executive officer or chief financial officer of the **Named Organization** shall be imputed to an **Insured Organization** or **Plan**.

5. TERMINATED PLAN COVERAGE

If, before or during the **Policy Period**, any **Plan** is terminated, coverage for such **Plan** and its **Insureds** shall continue until termination of this Policy. Such coverage continuation shall apply to covered **Claims** for **Wrongful Acts** occurring prior to or after the date the **Plan** was terminated.

6. RECOURSE WAIVER

The **Insurer** shall have no right of recourse against any **Insureds** for any payment of **Loss** made by the **Insurer** under this **Liability Coverage Part** because of a **Wrongful Act** by such **Insureds** if the premium for this Policy was paid for by other than a **Plan**.

7. RETENTION WAIVER FOR CERTAIN PENALTIES

Notwithstanding any other provision of this Policy, no Retention shall apply to **Loss** constituting civil penalties under Section 4975 of the Internal Revenue Code of 1986, the Health Insurance Portability and Accountability Act of 1996, Section 502(c) of **ERISA**, the Pension Protection Act of 2006, or the Patient Protection and Affordable Care Act.

8. DISPROVEN ALLEGATION COVERAGE

If an allegation that potentially triggers coverage under this Policy is disproven, so that a **Claim** is outside the scope of coverage under this Policy, the **Insurer** shall not seek recovery of amounts that it has previously paid. Without limitation, examples of such situations would include:

- A. an **Insured Organization** alleged to be the sponsor of a **Plan** was not, in fact, the sponsor of such plan;
- B. an alleged **Plan** was not a plan or was not a covered **Plan**; or
- C. a director, officer or employee of an **Insured Organization** who was alleged to be a fiduciary of a **Plan** was not, in fact, a fiduciary of a **Plan**.

9. PRIORITY OF LOSS PAYMENTS

If **Loss** is incurred that is acknowledged by the **Insurer** to be covered under this **Liability Coverage Part** except that such **Loss** exceeds the remaining Limit of Liability for this Policy, the **Insurer** shall pay such **Loss** in the following order:

- A. first, **Non-Indemnifiable Loss**;



Policy Forms



Speak to an expert

B. second, **Loss** incurred by a **Plan**; and

C. third, **Loss** incurred by an **Insured Organization**.



Policy Forms



Speak to an expert

CRIME COVERAGE PART

TABLE OF CONTENTS

1. INSURING AGREEMENTS
2. DEFINITIONS
3. EXCLUSIONS
4. LIMIT OF LIABILITY & RETENTION
5. ERISA SPONSORED PLAN COVERAGE
6. OWNERSHIP OF PROPERTY; INTERESTS COVERED
7. DEFENSE COSTS COVERAGE
8. INVESTIGATION COSTS COVERAGE
9. COMPUTER RESTORATION COSTS
10. LOSS OCCURRING PRIOR TO THE POLICY PERIOD
11. CALCULATION OF LOSS
12. LOSS REPORTING RIGHTS AND DUTIES



CRIME COVERAGE PART

1. INSURING AGREEMENTS

A. Employee Theft

The **Insurer** shall pay **Loss** by an **Insured** for which **Discovery** first occurs during the **Policy Period** resulting from any **Employee**, acting alone or in collusion with others, committing any:

1. **Theft of Money, Property, or Securities;**
2. **Forgery;** or
3. regarding an **ERISA Sponsored Plan, Fraud or Dishonesty.**

B. Customer Property

The **Insurer** shall pay **Loss** by a **Customer** for which **Discovery** first occurs during the **Policy Period** resulting from any **Employee**, not in collusion with such **Customer** or such **Customer's** employees, committing any:

1. **Theft of Money, Property, or Securities;** or
2. **Forgery.**

C. Inside the Premises

The **Insurer** shall pay **Loss** by an **Insured** for which **Discovery** first occurs during the **Policy Period**:

1. of **Money** or **Securities** while inside the **Premises** or any **Banking Premises** resulting from any:
 - a. **Third Party** committing any **Robbery, Safe Burglary, or Theft;** or
 - b. destruction or mysterious unexplainable disappearance; or
2. inside the **Premises** resulting from any **Third Party** committing any:
 - a. damage to **Property** during any **Robbery** or attempted **Robbery;**
 - b. damage to **Property** contained inside any safe during any **Safe Burglary** or attempted **Safe Burglary;**
 - c. damage to a locked safe, cash drawer, cash box or cash register during any felonious entry or attempted felonious entry;
 - d. felonious abstraction of a locked safe, cash drawer, cash box or cash register; or
 - e. damage to the **Premises** during any **Safe Burglary** or attempted **Safe Burglary** or **Robbery** or attempted **Robbery.**

D. Outside the Premises



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The **Insurer** shall pay **Loss** by an **Insured** for which **Discovery** first occurs during the **Policy Period**:

1. of **Money** or **Securities** while **In Transit**, or while temporarily inside the home of an **Employee** or a partner of an **Insured Organization**, resulting from any:
 - a. **Third Party** committing any **Robbery** or **Theft**; or
 - b. destruction or mysterious unexplainable disappearance; or
2. resulting from any **Third Party** committing any:
 - a. damage to **Property** while **In Transit** during any **Robbery** or attempted **Robbery**; or
 - b. **Theft** of **Property** while temporarily inside the home of an **Employee** or a partner of an **Insured Organization**.

E. Forgery or Alteration

The **Insurer** shall pay **Loss** by an **Insured** for which **Discovery** first occurs during the **Policy Period** resulting from any **Third Party** committing any:

1. **Forgery** of a **Financial Instrument**; or
2. **Alteration** of a **Financial Instrument**,

other than **Loss** resulting from **Charge Card Fraud**.

F. Computer Fraud

The **Insurer** shall pay **Loss** by an **Insured** of **Money**, **Property** or **Securities** for which **Discovery** first occurs during the **Policy Period** resulting from any **Third Party** committing any **Computer Fraud**.

G. Fraudulent Transfer Instructions

The **Insurer** shall pay **Loss** by an **Insured** of **Money** or **Securities** for which **Discovery** first occurs during the **Policy Period** resulting from any **Third Party** committing any **Fraudulent Transfer Instructions**.

H. Social Engineering Fraud

The **Insurer** shall pay **Loss** by an **Insured** of **Money** or **Securities** for which **Discovery** first occurs during the **Policy Period** resulting from any **Social Engineering Fraud**.

I. Currency Fraud

The **Insurer** shall pay **Loss** by an **Insured** for which **Discovery** first occurs during the **Policy Period** resulting from any **Third Party** committing any **Currency Fraud**.

J. Charge Card Fraud



The **Insurer** shall pay **Loss** by an **Insured** for which **Discovery** first occurs during the **Policy Period** resulting from any **Third Party** committing any **Charge Card Fraud** provided that:

1. the terms and conditions imposed by the issuer of any credit, debit or charge card have been complied with; and
2. the **Insured** is legally liable for such **Loss**.

2. DEFINITIONS

Whether used in the singular or plural, the following terms shall have the meanings specified below:

- A. “**Alteration**” means the material modification of an original document by a person acting without authority and with the intent to deceive.
- B. “**Banking Premises**” means the interior portion of any building occupied by a banking institution or similar safe depository to conduct its business.
- C. “**Charge Card Fraud**” means **Forgery** or **Alteration** of any written instrument required in connection with any corporate credit, debit or charge card issued to any:
 1. **Insured Organization**; or
 2. **Executive** or **Employee** for which an **Insured Organization** has requested the issuance of such card to such **Executive** or **Employee**.
- D. “**Computer Fraud**” means **Theft** directed against an **Insured Organization** committed through the use of any computer or computer network, including all input, output, processing, storage, off-line media libraries and communication devices connected to any computer or computer network.
- E. “**Computer Restoration Costs**” means reasonable fees and expenses incurred by an **Insured** with the **Insurer’s** prior written consent to reproduce or duplicate damaged or destroyed **Data** or computer programs. If such computer programs cannot be duplicated from other computer programs, then **Computer Restoration Costs** also include reasonable costs incurred for computer time, computer programmers, technical experts, and consultants to restore the computer programs to substantially the same level of operational capability immediately preceding the covered **Loss**. **Computer Restoration Costs** exclude any compensation, benefit expenses, or overhead of any **Insureds** or any fees or expenses incurred by any **Customer**.
- F. “**Counterfeit**” means an imitation of an actual valid original that is intended to deceive and to be taken as the original.
- G. “**Currency Fraud**” means the good faith acceptance by an **Insured Organization** in the regular course of business and in exchange for merchandise, **Money**, or services of any:
 1. **Counterfeit** post office or express money order issued, or purporting to have been issued, by any post office or express company that is not paid upon presentation; or
 2. **Counterfeit** paper currency.



- H. “**Customer**” means any person or entity to which an **Insured Organization** provides goods or services for consideration.
- I. “**Data**” means information of any kind regardless of the medium in which such information is stored, including, without limitation, accounts, microfilms, tapes or other paper or electronic records. **Data** includes, without limitation, any financial information, credit card information, health information, confidential information or personally identifiable information.
- J. “**Discovery**” means knowledge acquired by an **Executive** that would cause a reasonable person to believe:
 - 1. a covered **Loss** has occurred; or
 - 2. that circumstances have arisen that may subsequently result in a covered **Loss**,including **Loss**: (i) sustained prior to the inception date of this Policy specified in Item 2 of the Declarations; (ii) not exceeding the applicable Retention specified in Item 6.F of the Declarations; or (iii) for which exact details are unknown.

Discovery excludes knowledge acquired by an **Executive** acting alone or in collusion with an **Employee** as a participant in a **Theft** or **Forgery**.
- K. “**Employee**” means any natural person who at the time of **Loss** is:
 - 1. an employee of an **Insured Organization**, including any full time, part-time, seasonal, leased, loaned, or temporary employee, as well as any volunteer or intern of an **Insured Organization** other than any volunteer acting as a fund solicitor during fund-raising activities;
 - 2. an **Executive** not meeting the definition of 1 above while performing acts within the scope of the usual duties of an employee of an **Insured Organization**;
 - 3. any person formerly meeting the definition of 1 or 2 above while retained by, and consulting for, an **Insured Organization** pursuant to a written contract;
 - 4. a fiduciary, trustee, administrator or employee of a **Sponsored Plan** or any other person required to be bonded in connection with a **Sponsored Plan** by Title 1 of **ERISA**; or
 - 5. an **Independent Contractor**.
- L. “**ERISA Sponsored Plan**” means any **Sponsored Plan** that is subject to **ERISA**.
- M. “**Financial Instrument**” means any check, draft, or similar order to pay a specific amount of money that is made, drawn by or drawn upon an **Insured Organization** or by anyone acting as an agent of an **Insured Organization**, or that is purported to have been so made or drawn.
- N. “**Fraud or Dishonesty**” means any larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, wrongful conversion or willful misapplication, or any other fraudulent or dishonest act, including acts prohibited by Title 18, Section 1954 of the United States Code.
- O. “**Forgery**” means the signing of another natural person’s name with the intent to deceive. **Forgery** excludes a signature that consists in whole or in part of one’s own name, signed



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with or without authority, in any capacity for any purpose. Mechanically or electronically produced or reproduced signatures shall be treated the same as hand-written signatures.

P. “Fraudulent Transfer Instructions” means any fraudulent written, electronic, telegraphic, cable, teletype or telephonic instructions issued to a financial institution directing such institution to initiate a transfer of **Money** or **Securities** from any account maintained by an **Insured Organization** at such institution which instructions purport to have been authorized by such **Insured Organization** but were, in fact, fraudulently transmitted by someone other than such **Insured Organization**.

Q. “In Transit” means a conveyance outside the **Premises** by an **Insured Organization** within the custody of any:

1. **Employee** or partner of an **Insured Organization**; or
2. authorized custodian of an **Insured Organization**.

Such conveyance begins upon receipt of the conveyance by any person described in 1 or 2 above from any **Insured Organization**, and ceases upon delivery of the conveyance to the designated recipient or its agent.

R. “Insureds” means any:

1. **Insured Organization**; or
2. **Sponsored Plan**.

Insureds exclude any **Customer**.

S. “Investigation Costs” means reasonable fees and expenses incurred by an **Insured** with the **Insurer’s** prior written consent to establish the existence and amount of a covered **Loss**. **Investigation Costs** exclude any: (i) compensation, benefit expenses, or overhead of any **Insureds**; and (ii) fees or expenses incurred by any **Customer**.

T. “Loss” means direct loss sustained to the immediate deprivation of:

1. regarding all Insuring Agreements other than Insuring Agreement B. Customer Property, an **Insured**; or
2. regarding Insuring Agreement B. Customer Property, a **Customer**.

Loss excludes any indirect or consequential loss of any nature, including, without limitation, any fees, expenses, compensation, interest, fines, penalties, damages, settlements, or judgments.

Notwithstanding the above, **“Loss”** also means any: (i) amounts paid under Section 7. Defense Costs Coverage (Forgery or Alteration); (ii) **Investigation Costs** if Investigation Costs Coverage is elected in Item 6.F of the Declarations; or (iii) **Computer Restoration Costs** if Computer Restoration Costs Coverage is elected in Item 6.F of the Declarations.

U. “Money” means any:

- A. currency, coin, and bank notes;
- B. bullion; or



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- C. travelers checks, registered checks or money orders held for sale to the general public.
- V. “**Premises**” means the interior portion of a building occupied by an **Insured Organization** to conduct its business.
- W. “**Property**” means tangible property other than **Money** or **Securities**. **Property** excludes **Data**.
- X. “**Robbery**” means a **Theft** from the care and custody of any:
 - 1. **Employee**; or
 - 2. authorized custodian of an **Insured Organization** other than a watchman, porter or janitor,by violence or threat of violence committed in the presence and cognizance of such person.
- Y. “**Safe Burglary**” means **Theft** from a locked vault or safe located inside the **Premises** by forcible or violent entry as evidenced by visible marks.
- Z. “**Securities**” means negotiable and non-negotiable instruments representing either **Money** or **Property**, including tokens, tickets, revenue or other stamps in current use. **Securities** exclude **Money**.
- AA. “**Social Engineering Fraud**” means a communication from a **Third Party** to an **Insured Organization** that: (i) purports to be from a customer, vendor, business affiliate, **Employee**, or **Executive**, of such **Insured Organization**, but is not actually from such customer, vendor, business affiliate, **Employee**, or **Executive**; and (ii) requests that such **Insured Organization** effectuate a transfer, payment or delivery of **Money** or **Securities**.
- BB. “**Sponsored Plan**” means any:
 - 1. employee benefit plan, pension benefit plan or welfare benefit plan, as each is defined in **ERISA**, operated solely by an **Insured Organization**, or jointly by any **Insured Organization** and a labor organization, solely for the benefit of employees of an **Insured Organization**;
 - 2. employee benefit plan or program not subject to **ERISA** sponsored solely by any **Insured Organization** for the benefit of employees of an **Insured Organization**, including any fringe benefit or excess benefit plan; or
 - 3. plan, fund, or program specifically included as a **Sponsored Plan** in a written endorsement issued by the **Insurer**.**Sponsored Plan** excludes any multi-employer plan.
- CC. “**Theft**” means any unlawful taking.
- DD. “**Third Party**” means any natural person other than:
 - 1. an **Employee** or an **Executive**; or
 - 2. a person acting in collusion with an **Employee** or an **Executive**.



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3. EXCLUSIONS

A. The **Insurer** shall not pay **Loss** resulting from any:

1. **Theft, Computer Fraud, Fraudulent Transfer Instructions** or any other fraudulent, dishonest or criminal act (other than **Robbery** or **Safe Burglary**), by any authorized representative of an **Insured Organization**, other than an **Employee**, provided that this exclusion shall not apply if an authorized representative is acting in collusion with an **Employee**;
2. fire, provided that this exclusion shall not apply to:
 - a. **Loss of Money** or **Securities**; or
 - b. damage to any safe or vault caused by the application of fire during any **Safe Burglary** or attempted **Safe Burglary**;
3. **Theft** or **Forgery** by an owner of an **Insured Organization**, whether acting alone or in collusion with others, provided that:
 - a. if such **Theft** or **Forgery** would have otherwise been a covered **Loss** if committed by someone else, the **Insurer** shall pay a percentage of such **Loss** equal to the percentage ownership of all innocent owners of such **Insured Organization** on the day immediately preceding the date of **Discovery**; and
 - b. this exclusion shall not apply to **Loss** by an **ERISA Sponsored Plan** resulting from **Fraud or Dishonesty**;
4. authorized or unauthorized trading, regardless of whether such trading is: (i) in the name of an **Insured** or another; (ii) in a genuine or fictitious account; or (iii) with or without the knowledge of any **Insured**, provided that this exclusion shall not apply to **Loss**:
 - a. caused by **Theft** or **Forgery** resulting in improper financial gain to an **Employee** (**Loss** as used in this exclusion means only the amount of improper financial gain to such **Employee** and excludes any compensation paid by an **Insured Organization** to such **Employee** such as salary, bonuses, incentive payments commissions, or employee benefits); or
 - b. by an **ERISA Sponsored Plan** resulting from **Fraud or Dishonesty**;
5. declared or undeclared war, civil war, insurrection, rebellion or revolution, military, naval or usurped power, governmental intervention or authority, expropriation or nationalization, or any act or condition incident or related to any of the foregoing;
6. loss of income, including, without limitation, interest and dividends;
7. **Employee** to the extent that **Loss** occurs after an **Executive** acquires knowledge of fraud or dishonesty committed by such **Employee** prior to or during employment with an **Insured** involving **Money, Property** or **Securities** valued at \$25,000 or more;
8. giving or surrendering **Money, Property**, or **Securities** in any exchange or purchase with any person or entity not in collusion with an **Employee**, provided that this exclusion shall not apply to **Currency Fraud** or **Social Engineering Fraud**;



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9. **Loss** sustained by one **Insured** to the advantage of any other **Insured**, provided that this exclusion shall not apply to **Loss** by an **ERISA Sponsored Plan** resulting from **Fraud or Dishonesty**;
 10. disappearance of, or damage to, **Money, Property, or Securities** while in the custody of any bank, trust company, similar recognized place of safe deposit, armored motor vehicle company or any person duly authorized by an **Insured Organization** to have custody of the property, provided that this exclusion shall not apply to **Loss** excess of the amount recovered or received by an **Insured Organization** under:
 - a. an **Insured Organization's** contract, if any, with, or insurance carried by, any of the foregoing; or
 - b. any other valid or collectible insurance or indemnity; or
 11. nuclear reaction, nuclear radiation or radioactive contamination, or any related act or incident.
- B.** Regarding all Insuring Agreements other than Insuring Agreements A. Employee Theft and H. Social Engineering Fraud, the **Insurer** shall not pay **Loss** resulting from **Social Engineering Fraud**.
- C.** Regarding Insuring Agreements A. Employee Theft and B. Customer Property, the **Insurer** shall not pay **Loss** resulting from any agent, broker, factor, commission merchant, consignee, contractor, independent contractor or other representative of the same general character, provided that this exclusion shall not apply to **Loss** resulting from any **Independent Contractor**.
- D.** Regarding Insuring Agreements C. Inside The Premises and D. Outside The Premises, the **Insurer** shall not pay **Loss** resulting from:
1. **Forgery, Computer Fraud, Currency Fraud, Charge Card Fraud or Fraudulent Transfer Instructions**; or
 2. destruction, disappearance or damage to **Money, Property or Securities** while in the mail or in the custody of a carrier for hire other than an armored motor vehicle company.
- E.** Regarding Insuring Agreements C. Inside The Premises, D. Outside The Premises, F. Computer Fraud, and G. Fraudulent Transfer Instructions, the **Insurer** shall not pay **Loss** resulting from kidnap, ransom or other extortion payment, provided that this exclusion shall not apply to **Robbery**.
- F.** Regarding Insuring Agreement E. Forgery or Alteration, the **Insurer** shall not pay **Loss** resulting from **Forgery** or **Alteration** of any:
1. **Financial Instrument** committed by any **Third Party** in collusion with any **Employee**; or
 2. registered or coupon obligations issued or purported to have been issued by the **Insured**.

4. LIMITS OF LIABILITY & RETENTION



- A. The **Insurer's** maximum liability for each single **Loss** under each elected Insuring Agreement shall not exceed the applicable Limit of Liability specified in Item 6.F of the Declarations, regardless of the number of **Insureds** sustaining such **Loss**.
 - B. All **Loss** resulting from a single act or any number of acts of the same **Employee** or **Third Party**, regardless of whether such act or acts occurred before or during the **Policy Period**, shall be treated as a single **Loss** and the applicable Limit of Liability of this Coverage Part shall apply, subject to Section 10. Loss Occurring Prior to the Policy Period.
 - C. If **Loss** is covered under more than one Insuring Agreement of this Coverage Part, the **Insurer's** maximum liability for such **Loss** under all such Insuring Agreements combined shall not exceed the largest applicable Limit of Liability of any such Insuring Agreement.
 - D. If there is more than one **Insured**, the maximum liability of the **Insurer** for any single **Loss** sustained by more than one **Insured** shall not exceed the amount for which the **Insurer** would have been liable if the single **Loss** had been sustained by one **Insured**.
 - E. The amount that the **Insurer** shall pay for any single **Loss** shall not be cumulative from the **Policy Period** to the period of any other policy.
 - F. The **Insurer's** liability under this Coverage Part shall apply only to that part of each **Loss** excess of the applicable Retention specified in Item 6.F of the Declarations.
5. **ERISA SPONSORED PLAN COVERAGE**
- A. Payment of **Loss** by an **ERISA Sponsored Plan** shall be paid by the **Insurer** to such **ERISA Sponsored Plan**.
 - B. The Limit of Liability applicable to any single **Loss** incurred by one or more **ERISA Sponsored Plans** shall be the applicable Limit of Liability specified in Item 6.F of the Declarations provided that such amount exceeds the minimum limit of liability for each **ERISA Sponsored Plan** (the "Minimum Limit of Liability") incurring such single **Loss**.
 - C. Notwithstanding any other provision of this Crime Coverage Part, the Minimum Limit of Liability for each **ERISA Sponsored Plan** shall be the greater of:
 - 1. \$1,000; or
 - 2. 10% of an **ERISA Sponsored Plan's** assets handled during such **ERISA Sponsored Plan's** preceding fiscal year,provided that such Minimum Limit of Liability shall not exceed: (i) \$500,000 for an **ERISA Sponsored Plan** that does not hold securities of any **Insured Organization** (i.e., employer securities); or (ii) \$1,000,000 for an **ERISA Sponsored Plan** that holds securities of any **Insured Organization** (i.e., employer securities).
 - D. If a single **Loss** is incurred by more than one **ERISA Sponsored Plan**, then the Limit of Liability applicable to such **Loss** shall be the greater of:
 - 1. the applicable Limit of Liability specified in Item 6.F of the Declarations; or
 - 2. the sum of the Minimum Limit of Liability for each **ERISA Sponsored Plan** incurring such single **Loss**.
 - E. Notwithstanding any other provision of this Crime Coverage Part:



1. no Retention shall apply to **Loss** by any **ERISA Sponsored Plan**; and
2. the **Insureds** shall have one year following the termination of this Policy to provide written notice of **Loss** by an **ERISA Sponsored Plan**:
 - a. sustained prior to the termination of this Policy; and
 - b. for which **Discovery** occurs during such one year following the termination of this Policy,

provided that the right to report such **Loss** shall terminate upon the effective date of any other insurance or bond providing coverage for such **Loss** in accordance with Section 412 of **ERISA**.

- F. Notwithstanding any other provision of this Crime Coverage Part, any restriction limiting coverage for **Loss** resulting from **Fraud or Dishonesty** by any partner, owner, or **Executive** of an **Insured Organization** because of their status as a partner, owner, or **Executive** of an **Insured Organization** shall not apply to **Loss** by an **ERISA Sponsored Plan** resulting from **Fraud or Dishonesty**.

6. OWNERSHIP OF PROPERTY; INTERESTS COVERED

- A. Regarding all Insuring Agreements other than Insuring Agreement B. Customer Property, coverage shall apply only to **Money, Property** or **Securities** owned by the **Insureds**, for which the **Insureds** are legally liable, or held by the **Insureds** whether or not the **Insureds** are liable, provided that:
1. the **Insurer** shall not be liable for damage to the **Premises** unless the **Insured Organization** is the owner or is liable for such damage; and
 2. regarding Insuring Agreement A. Employee Theft, no coverage shall apply for **Money, Property** or **Securities** of a **Customer**.
- B. Regarding Insuring Agreement B. Customer Property, coverage shall apply only to **Money, Property** or **Securities** of a **Customer** held by an **Insured Organization** or for which an **Insured Organization** is legally liable.

7. DEFENSE COSTS COVERAGE

The **Insurer** shall pay reasonable attorneys' fees and court costs incurred in defending an **Insured Organization** or an **Insured Organization's** financial institution in any legal proceeding brought to enforce payment of a **Financial Instrument**, provided that:

- A. **Loss** resulting from the **Forgery** or **Alteration** of such **Financial Instrument** is otherwise covered under Insuring Agreement E. Forgery or Alteration;
- B. as a condition precedent to coverage, the **Insured Organization** shall give the **Insurer** written notice of any such proceeding as soon as is practicable, but no later than 90 days after any **Claim Manager** first becomes aware of such proceeding;
- C. the **Insurer** shall not have any duty to defend such proceeding;
- D. payment of any fees and costs shall be subject to the prior written consent of the **Insurer**, such consent not to be unreasonably withheld;



- E. the **Insured Organization** shall give to the **Insurer** all information and cooperation as the **Insurer** may reasonably request; and
- F. payment of any fees and costs by the **Insurer** shall be part of, and not in addition to, the Limit of Liability that would otherwise apply under Insuring Agreement E. Forgery or Alteration for covered **Loss**.

8. INVESTIGATION COSTS COVERAGE

The **Insurer** shall pay **Investigation Costs** incurred by an **Insured** resulting from any **Loss** covered under any Insuring Agreement other than Insuring Agreement H. Social Engineering Fraud, provided that such **Loss** exceeds the Retention applicable to such Insuring Agreement.

This coverage shall be subject to the Investigation Costs Sublimit of Liability specified in Item 6.F of the Declarations. Such Sublimit of Liability shall be the maximum aggregate amount that the **Insurer** shall pay under this coverage. Such Sublimit of Liability shall be part of, and not in addition to, the Limit of Liability of the applicable Insuring Agreement. Other than as specified above, no Retention shall apply to this coverage.

9. COMPUTER RESTORATION COSTS

The **Insurer** shall pay **Computer Restoration Costs** incurred by an **Insured** resulting from any **Loss** covered under Insuring Agreements A. Employee Theft, B. Customer Property, or F. Computer Fraud, provided that such **Loss** exceeds the Retention applicable to the relevant Insuring Agreement.

This coverage shall be subject to the Computer Restoration Costs Sublimit of Liability specified in Item 6.F of the Declarations. Such Sublimit of Liability shall be the maximum aggregate amount that the **Insurer** shall pay under this coverage. Such Sublimit of Liability shall be part of, and not in addition to, the Limits of Liability applicable to the above Insuring Agreements. Other than as specified above, no Retention shall apply to this coverage.

10. LOSS OCCURRING PRIOR TO THE POLICY PERIOD

If **Loss** occurs prior to the **Policy Period** and such **Loss** is covered under this Policy and a bond or insurance policy issued prior to the **Policy Period**, then:

- A. if such bond or insurance policy is issued by any insurer other than the **Insurer** and **Discovery** of such **Loss** first occurred prior to the expiration of the time allowed for discovery under such bond or policy, this Policy shall provide excess coverage over the amount paid under such prior bond or policy or the amount that would have been paid had proper notice of such **Loss** been given under such prior bond or policy; or
- B. if such bond or insurance policy is issued by the **Insurer** or any affiliate of the **Insurer**, such prior bond or policy shall terminate as of the inception of this Policy and no coverage shall be provided under such prior bond or policy.

11. CALCULATION OF LOSS

- A. For **Loss of Securities**, the **Insurer** shall pay the lesser of either:
 - 1. the actual market value of lost, damaged or destroyed **Securities**, but only up to and including their value at the close of business on the business day immediately preceding the **Discovery** of such **Loss**;



2. the cost of replacing **Securities**; or
 3. the cost to post a Lost Securities Bond in connection with issuing duplicates of the **Securities**.
- B.** For **Loss** of books of account or other records, the **Insurer** shall pay the cost of blank books, pages or tapes or other blank materials to replace lost or damaged books of account or other records.
- C.** For **Loss** of **Property**, the **Insurer** shall pay the lesser of either:
1. the price paid by an **Insured** for the **Property**; or
 2. the cost to repair or replace **Property** with that of like kind, quality and value at the time that the **Named Organization** furnishes a proof of loss pursuant to Section 12. Loss Reporting Rights and Duties.
- D.** For **Loss** of foreign currency, the **Insurer** shall pay the United States of America dollar equivalent of foreign currency determined by the rate of exchange published in The Wall Street Journal on the date of **Discovery** of such **Loss**.
- E.** For **Loss** of precious metals, the **Insurer** shall pay the United States of America dollar equivalent of precious metals determined by the cash prices published in The Wall Street Journal on the date of **Discovery** of such **Loss**.
- F.** An **Insured** shall not use a comparison between its inventory records and a physical count of its inventory to prove that a covered **Loss** has been sustained under this Policy. Notwithstanding the foregoing, if an **Insured** establishes wholly apart from its inventory records that it has sustained a covered **Loss** caused by an identified **Employee**, then it may offer a comparison between its inventory records and a physical count of its inventory to prove the amount of such **Loss**.

12. LOSS REPORTING RIGHTS AND DUTIES

- A.** Knowledge possessed by any **Insured** or **Discovery** shall be deemed knowledge possessed or **Discovery** by all **Insureds**.
- B.** Upon **Discovery** of **Loss**, and as a condition precedent to coverage, the **Named Organization** shall:
1. provide written notice to the **Insurer** at the earliest practicable moment, but no later than 90 days after **Discovery**, provided that, if the **Named Organization** is voluntarily liquidated or dissolved during the **Policy Period**, written notice of **Loss** occurring during the **Policy Period** shall be given no later than one year following the expiration of the **Policy Period**;
 2. provide a sworn proof of **Loss** to the **Insurer** with full particulars within 120 days of **Discovery**;
 3. submit to an examination under oath and provide a signed statement of answers if requested by the **Insurer**;
 4. produce all pertinent records at such reasonable times and places as the **Insurer** shall request; and



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5. provide full and complete cooperation in all matters pertaining to a **Loss** or claim, including the investigation and settlement thereof.
- C.** No **Insured** shall institute legal proceedings against the **Insurer** regarding any **Loss**:
1. more than 2 years after **Discovery**; or
 2. to recover a judgment or settlement against it or its bank resulting from **Forgery** or **Alteration**, or defense costs as specified in Section 7. Defense Costs Coverage, more than 2 years after the date such judgment shall become final or settlement was entered.



Policy Forms



Speak to an expert

KIDNAP & RANSOM COVERAGE PART

TABLE OF CONTENTS

1. INSURING AGREEMENTS
2. DEFINITIONS
3. INSURED PERSON LOSS COVERAGE EXTENSION
4. EXCLUSIONS
5. LIMITS OF LIABILITY
6. BENEFIT PAYMENTS
7. LOSS REPORTING RIGHTS AND DUTIES
8. LOSS COOPERATION
9. CONFIDENTIALITY



KIDNAP & RANSOM COVERAGE PART

1. INSURING AGREEMENTS

A. Kidnapping, Express Kidnapping & Extortion Costs

The **Insurer** shall reimburse **Ransom Costs** incurred by an **Insured Organization** resulting from any **Kidnapping, Express Kidnapping, or Extortion** first commenced during the **Policy Period**.

B. Custody Costs

The **Insurer** shall reimburse **Custody Costs** incurred by an **Insured Organization** resulting from any **Kidnapping or Extortion** first commenced during the **Policy Period**.

C. Claims Costs

The **Insurer** shall reimburse **Claim Costs** incurred by an **Insured Organization** resulting from any **Kidnapping, Express Kidnapping, Hijacking, Hostage Crisis, Political Intimidation, or Wrongful Detention** first commenced during the **Policy Period**.

D. Response Costs

The **Insurer** shall reimburse **Response Costs** incurred by an **Insured Organization** resulting from any **Kidnapping, Disappearance, Extortion, Hijacking, Political Intimidation, Threat Incident or Wrongful Detention** first commenced during the **Policy Period** provided that:

1. **Response Costs** resulting from any single **Disappearance or Threat Incident**, and
2. **R&R Costs** resulting from any single **Kidnapping, Express Kidnapping, Hijacking or Wrongful Detention**,

shall be subject to the applicable Sublimit of Liability specified in Item 6.G of the Declarations which shall be: (i) the maximum aggregate amount that the **Insurer** shall pay for such **Response Costs or R&R Costs**; and (ii) part of, and not in addition to, the Limit of Liability applicable to this Insuring Agreement.

E. Personal Injury Benefits

The **Insurer** shall pay the **Benefit** for any **Personal Injury** resulting from any **Kidnapping, Express Kidnapping, Hijacking, Hostage Crisis, Political Intimidation, or Wrongful Detention** first commenced during the **Policy Period**.

F. Repatriation Costs

The **Insurer** shall reimburse **Repatriation Costs** incurred by an **Insured Organization** resulting from any **Repatriation** first commenced during the **Policy Period**.

G. Recall Costs

The **Insurer** shall reimburse **Recall Costs** incurred by an **Insured Organization** resulting from any **Extortion to Contaminate Products** first commenced during the **Policy Period**.

H. Express Kidnapping Response Costs



The **Insurer** shall reimburse **Express Kidnapping Response Costs** incurred by an **Insured Organization** resulting from any **Express Kidnapping** first commenced during the **Policy Period**.

I. Hostage Crisis Response Costs

The **Insurer** shall reimburse **Hostage Crisis Response Costs** incurred by an **Insured Organization** resulting from any **Hostage Crisis** first commenced during the **Policy Period**.

2. DEFINITIONS

Whether used in the singular or plural, the following terms shall have the meanings specified below:

- A. “Amputation”** means permanent total loss of function of any: (i) foot; (ii) hand; or (iii) thumb and index finger.
- B. “Assault”** means bodily harm to any **Insured Person**.
- C. “Benefit”** means the applicable Personal Injury Benefit Limit of Liability specified in Item 6.G of the Declarations.
- D. “Blindness”** means legal blindness involving permanent total loss of sight in one or both eyes.
- E. “Claim Costs”** means:
 - 1. reasonable and necessary defense costs; and
 - 2. damages, judgments and settlements,resulting from a lawsuit brought against any **Insured Organization, Executive, or Employee** by or on behalf of an **Insured Person** alleging negligence regarding victim retrieval operations involving, negotiations relating to, or prevention of, any **Kidnapping, Express Kidnapping, Assault, Hijacking, Hostage Crisis, Political Intimidation, or Wrongful Detention**.
- F. “Compensation”** means all compensation paid by any **Insured Organization** to an **Employee**, including, without limitation, salary, bonus, commission, incentive payments, and the cost of health, welfare and pension benefits.
- G. “Computer Attack”** means any:
 - 1. entry into, or deletion of data from, a **Computer System**;
 - 2. change to data elements or program logic kept in machine readable format in a **Computer System**; or
 - 3. introduction of instructions that propagate throughout a **Computer System**;provided that such occurrence is directed solely against, and is not authorized by, any **Insured Organization**.



- H. **“Computer System”** means any computer or computer network utilized by an **Insured Organization**, including any input, processing, storage, communication facilities, and off-line media libraries.
- I. **“Contaminate”** means to introduce any foreign substance into or upon any **Property** that renders such **Property** unfit for use or sale.
- J. **“Custody Costs”** means any currency or property that:
 - 1. was intended to be paid or transferred in response to the demands of any perpetrator of any **Kidnapping, Express Kidnapping, or Extortion**; and
 - 2. has been destroyed, disappeared, confiscated, or the subject of theft during a time when such currency or property was being held or conveyed by a person authorized by an **Insured Organization** to make a payment or transfer described in 1 above.
- K. **“Deafness/Muteness”** means permanent total loss of hearing or speech.
- L. **“Death”** means:
 - 1. death, including clinical death, determined by a medical examiner or similar governmental official; or
 - 2. absence of communication from an **Insured Person** following a **Kidnapping, Express Kidnapping, Hijacking, or Wrongful Detention** of such **Insured Person**, or the perpetrators of such event, for a period of one year following the later of:
 - a. such **Kidnapping, Express Kidnapping, Hijacking, or Wrongful Detention**;
 - b. the last communication from such **Insured Person**; or
 - c. the last communication from the perpetrators of such event.
- M. **“Disappearance”** means the unexplained vanishing by any **Insured Person** for a period longer than 36 hours in which no demand is made for payment as a condition for the release or disclosure of location of such **Insured Person**, provided that the missing **Insured Person** has been reported to local law enforcement authorities. The **Disappearance** of two or more **Insured Persons** last seen or reported together shall be deemed a single **Disappearance**. **Disappearance** excludes any **Kidnapping, Express Kidnapping, Hijacking, Hostage Crisis, or Wrongful Detention**.
- N. **“Domicile Country”** means:
 - 1. regarding **Repatriation**, a country in which an **Insured Person** is a citizen or legal resident; or
 - 2. regarding **Wrongful Detention**, a country in which: (i) an **Insured Person** is a citizen or legal resident; or (ii) any **Insured Organization** is headquartered.
- O. **“Employee”** means any natural person who is an employee of an **Insured Organization**, or an **Executive**, including any full time, part-time, seasonal, leased, loaned or temporary employee, as well as any volunteer or intern of an **Insured Organization**. **Employee** excludes any **Independent Contractor**.



- P. “**Express Kidnapping**” means any unlawful detention of an **Insured Person** by violence or threat of violence that lasts less than 24 hours in which a demand for payment is made as a condition of such person’s release. **Express Kidnapping** excludes any **Kidnapping, Hijacking** or **Wrongful Detention**.
- Q. “**Express Kidnapping Response Costs**” means reasonable and necessary fees and expenses for any:
1. security consulting by the security consultant scheduled in Item 6.G of the Declarations;
 2. independent public relations consulting;
 3. travel and lodging of an **Insured Person**;
 4. independent legal counsel;
 5. independent forensic analysis;
 6. **Compensation** paid to any replacement for an **Employee** following the **Express Kidnapping** of such **Employee**, provided that coverage of such **Compensation** for such replacement **Employee** shall be no greater than the rate in effect for the kidnapped **Employee** at the time of such **Express Kidnapping** and shall end on the earliest of the following occurrences: (i) **Death** of the kidnapped **Employee**; or (ii) 90 days after release of the kidnapped **Employee**;
 7. personal financial loss incurred by an **Insured Person** resulting from such **Insured Person’s** inability to attend to personal financial matters;
 8. medical, cosmetic, psychiatric and dental services following such **Insured Person’s** release; and
 9. **R&R Costs**.
- Express Kidnapping Response Costs** exclude any **Claim Costs, Recall Costs, or Repatriation Costs**.
- R. “**Extortion**” means any credible threat to:
1. commit a **Kidnapping, Express Kidnapping, Assault, Hijacking, or Wrongful Detention**;
 2. damage, destroy or **Contaminate** any **Property**;
 3. improperly disclose or utilize any trade secrets or other proprietary information of any **Insured Organization** provided that such **Insured Organization** makes all reasonable efforts to protect such information from unauthorized disclosure; or
 4. distribute counterfeit **Products** or disseminate negative information regarding **Products**,

in which a demand is made for payment as a condition for the avoidance or mitigation of such threat, provided that **Extortion** shall not include any threat: (i) to access or use any **Computer System**; or (ii) resulting from any actual or threatened access to, or use of, any **Computer System**.



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- S. “**Hijacking**” means any unlawful detention of an **Insured Person** while traveling in or on a vehicle, watercraft or aircraft. **Hijacking** excludes any **Kidnapping, Express Kidnapping, Disappearance, or Wrongful Detention**.
- T. “**Host Country**” means a country in which an **Insured Person** temporarily resides.
- U. “**Hostage Crisis**” means any wrongful abduction, and holding under duress, of an **Insured Person** in which the holding party makes a demand as a condition for the release of such **Insured Person** and the person upon whom satisfaction of the demand is made is within visual or hearing distance of such **Insured Person**. **Hostage Crisis** excludes any **Kidnapping, Express Kidnapping, Disappearance, Hijacking, or Wrongful Detention**.
- V. “**Hostage Crisis Response Costs**” means reasonable and necessary fees and expenses for any:
 - 1. security consulting by the security consultant scheduled in item 6.G of the Declarations;
 - 2. independent public relations consulting;
 - 3. travel and lodging of an **Insured Person**;
 - 4. independent legal counsel;
 - 5. independent security guard services up to a maximum of 90 days;
 - 6. **Compensation** paid to any **Employee** following the **Hostage Crisis** of such **Employee**, provided that coverage of such **Compensation** shall be no greater than the rate in effect for such **Employee** at the time of such **Hostage Crisis** and shall end on the earliest of the following occurrences: (i) **Death** of the hostage **Employee**; or (ii) 90 days after release of such hostage **Employee**;
 - 7. **Compensation** paid to any replacement for an **Employee** following the **Hostage Crisis** of such **Employee**, provided that coverage of such **Compensation** to each replacement **Employee** shall be no greater than the rate in effect for the hostage **Employee** at the time of such **Hostage Crisis** and shall end on the earliest of the following occurrences: (i) **Death** of the hostage **Employee**; or (ii) 90 days after release of such hostage **Employee**;
 - 8. **Compensation** paid to any **Employee** or the amount of salary or wages of a relative of an **Employee** paid by an **Insured Organization** in situations in which such **Employee** or relative has assisted in negotiations to resolve a **Hostage Crisis** and the rehabilitation of the **Insured Person** who was the victim of such **Hostage Crisis**, provided that coverage of such **Compensation** or amounts shall be limited to 90 days following the **Hostage Crisis** and an **Insured Organization** shall submit a written account of such **Employee’s** or relative’s assistance and specific compensable services and expenses; and
 - 9. medical, cosmetic, psychiatric and dental services for an **Insured Person** following their release.

Hostage Crisis Response Costs exclude any **Claim Costs, Recall Costs, or Repatriation Costs**.

- W. “**Insured**” means any:



1. **Insured Organization**; or
 2. **Insured Person**.
- X. “**Insured Person**” means any natural person who is:
1. an **Employee**;
 2. spouse, domestic partner, sibling (including step, half, foster, adopted or in-law), ancestor or spouse’s ancestor (“ancestor” includes adoptive parents and stepparents), niece, nephew, aunt, uncle, or lineal descendant or lineal descendant’s spouse of an **Employee** (“lineal descendant” includes adopted, foster and step- children);
 3. employed in the household of an **Employee** while in such **Employee’s** home;
 4. a normal resident or guest in an **Employee’s** home;
 5. a customer or guest of an **Insured Organization** while on the **Premises** or in an **Employee’s** home;
 6. a customer or guest of an **Insured Organization** while traveling with an **Employee**;
 7. retained by any **Insured** or independent security consultant to deliver a ransom or extortion payment; or
 8. if no similar coverage is available to such person, an **Independent Contractor** while acting in their capacity as such.

An **Employee**, independent security consultant, or **Independent Contractor** is an **Insured Person** during the time that such person is employed by, or in-service with, an **Insured Organization**. Each person described in 2 through 6 above is an **Insured Person** only if at the time of any **Kidnapping, Extortion, Hijacking, Political Intimidation, Wrongful Detention, Express Kidnapping, or Hostage Crisis**: (i) such person occupies the status described in 2 through 6 above; and (ii) the referenced **Employee** in 2 through 6 above is employed by, or in-service with, an **Insured Organization**.

- Y. “**Kidnapping**” means any wrongful abduction, and holding under duress or by fraudulent means, of an **Insured Person** in which a demand for payment of ransom is made as a condition for the release of such **Insured Person**. **Kidnapping** excludes any **Express Kidnapping, Hijacking, or Hostage Crisis**.
- Z. “**Loss**” means:
1. regarding Insuring Agreement A. Kidnapping, Express Kidnapping & Extortion Costs, **Ransom Costs**;
 2. regarding Insuring Agreement B. Custody Costs, **Custody Costs**;
 3. regarding Insuring Agreement C. Claims Costs, **Claim Costs**;
 4. regarding Insuring Agreement D. Response Costs, **Response Costs**;
 5. regarding Insuring Agreement E. Personal Injury Benefits, **Benefit**;
 6. regarding Insuring Agreement F. Repatriation Costs, **Repatriation Costs**;



7. regarding Insuring Agreement G. Recall Costs, **Recall Costs**;
 8. regarding Insuring Agreement H. Express Kidnapping Response Costs, **Express Kidnapping Response Costs**; or
 9. regarding Insuring Agreement I. Hostage Crisis Response Costs, **Hostage Crisis Response Costs**.
- AA. “Mutilation”** means permanent total loss of an entire: (i) ear; (ii) nose; (iii) finger; (iv) toe; or (v) genital organ.
- BB. “Personal Injury”** means **Death, Amputation, Blindness, Deafness/Muteness** or **Mutilation** of an **Insured Person** that:
1. is sudden and unexpected by such **Insured Person**;
 2. is not related to any illness, disease or other bodily malfunction of such **Insured Person**; and
 3. arises from a source external to such **Insured Person**.
- CC. “Political Intimidation”** means any threat to do bodily harm to any **Insured Person** by a person or group of persons acting, or purporting to act:
1. on behalf, or with the implied approval, of any government or governmental entity; or
 2. on behalf of any political terrorist or insurgent party, organization or group.
- DD. “Premises”** means buildings, facilities or properties occupied by an **Insured Organization** in conducting its business.
- EE. “Products”** means any: (i) raw materials, work in progress, or inventory owned by or in the care, custody, or control of, an **Insured Organization**; or (ii) products stored, manufactured or distributed by an **Insured Organization**.
- FF. “Property”** means all **Premises, Products**, and any other real or tangible personal property owned or leased by an **Insured Organization** or for which the **Insured Organization** is legally liable.
- GG. “R&R Costs”** means reasonable expenses of rest and rehabilitation for up to 30 days, including meals and recreation, for an **Insured Person** who has experienced a **Kidnapping, Express Kidnapping, Hijacking** or **Wrongful Detention**, provided that such expenses are incurred within one year following such **Insured Person’s** release.
- HH. “Ransom Costs”** means any payment, or property transfer, made by an **Insured Organization** in response to the demands of any perpetrator of any **Kidnapping, Express Kidnapping**, or **Extortion**.
- II. “Recall Costs”** means reasonable and necessary fees and expenses for the withdrawal, physical inspection or destruction of **Products** that are necessitated by an **Extortion** to **Contaminate** such **Products**.
- Recall Costs** also include any other fees and expenses incurred with the prior written consent of the **Insurer**.



Recall Costs exclude any: (i) refunds to customers for recalled **Products**; or (ii) costs incurred for any known or suspected defect, deficiency or use of substandard or flawed materials necessitating the recall of **Products**.

JJ. “Repatriation” means any:

1. nonmedical recommendation issued by a government official of a **Domicile Country** or **Host Country** that any category of persons that includes an **Insured Person** should leave a **Host Country**;
2. expulsion of an **Insured Person** by the recognized government of a **Host Country**, or the issuance of a written expulsion order or declaration of persona non grata regarding an **Insured Person** by the recognized government of a **Host Country**; or
3. wholesale confiscation or expropriation of the property, plant and equipment of an **Insured Organization** within a **Host Country**,

if such recommendation, expulsion, issuance, confiscation or expropriation occurs during the **Policy Period** and results in the departure of any **Insured Person** from a **Host Country**.

KK. “Repatriation Costs” means reasonable and necessary expenses for any:

1. travel of an **Insured Person** to the nearest place of safety or to a **Domicile Country**;
2. lodging of an **Insured Person** up to a maximum of 7 days; or
3. **Compensation** for an **Employee** who is the subject of a **Repatriation**; provided that such coverage shall apply to the **Compensation** in effect at the time of the **Repatriation** and shall end upon the earlier of: (i) 120 days from the beginning of the **Repatriation**; or (ii) the return of the **Employee** to the **Domicile Country**.

Reasonable and necessary travel expenses shall be limited to economy fares unless such fares are unavailable, clearly impractical, or the risk to the life of an **Insured Person** is such that the use of another appropriate means of transportation becomes essential.

Repatriation Costs exclude expenses incurred because of any: (i) violation of the laws of any **Host Country**; (ii) failure to comply with immigration, employment, residence or visa requirements; (iii) debt, insolvency, commercial failure, repossession of any property by a title holder, or any other financial cause; (iv) failure to honor any contractual obligation or bond or to obey any conditions in a license; (v) natural disasters, including, without limitation, any earthquake, flood, fire, famine, volcanic eruption or windstorm; or (vi) ionizing radiations or contamination by radioactivity from any irradiated nuclear fuel or nuclear waste, or the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof.

LL. “Response Costs” means reasonable and necessary fees and expenses for:

1. regarding any **Kidnapping, Disappearance, Extortion, Hijacking, Political Intimidation, or Wrongful Detention**:
 - a. security consulting by the security consultant scheduled in Item 6.G of the Declarations;
 - b. independent public relations consulting;



- c. travel and lodging of an **Insured Person**;
 - d. independent legal counsel;
 - e. independent security guard services up to a maximum of 15 days;
 - f. independent negotiation services;
 - g. foreign language interpretation services;
 - h. advertising, communications, or recording equipment;
 - i. independent forensic analysis;
 - j. personal financial loss incurred by an **Insured Person** resulting from such **Insured Person's** inability to attend to personal financial matters;
 - k. medical, cosmetic, psychiatric and dental services for an **Insured Person** following their release; and
 - l. **R&R Costs**;
2. regarding any **Kidnapping, Disappearance, Hijacking, or Wrongful Detention**:
- a. **Compensation** paid to any:
 - 1. kidnapped, disappeared, hijacked, or detained **Employee** following the **Kidnapping, Disappearance, Hijacking, or Wrongful Detention** of such **Employee**; and
 - 2. replacement **Employee** following the **Kidnapping, Disappearance, Hijacking, or Wrongful Detention** of another **Employee**,provided that coverage of such **Compensation** to each **Employee** shall be no greater than the rate in effect for the kidnapped, disappeared, hijacked, or detained **Employee** at the time that such **Kidnapping, Disappearance, Hijacking, or Wrongful Detention** began and shall end on the earliest of the following occurrences: (i) recovery of the deceased body of the kidnapped, disappeared, hijacked, or wrongfully detained **Employee**; (ii) 45 days after release of the kidnapped, disappeared, hijacked, or wrongfully detained **Employee**; (iii) 120 days after the last communication from the kidnapped, disappeared, hijacked, or wrongfully detained **Employee** or the perpetrators of the **Kidnapping, Disappearance, Hijacking, or Wrongful Detention**; or (iv) 5 years after the date of the **Kidnapping, Disappearance, Hijacking, or Wrongful Detention**;
 - b. expenses to retrain an **Employee** after such **Employee's** release from any **Kidnapping, Disappearance, Hijacking, or Wrongful Detention**, including external training courses and any **Compensation** paid to such **Employee** during the duration of retraining; and
 - c. travel expenses to return an **Insured Person** to the place where such **Insured Person** resided at the time of a **Kidnapping, Disappearance, Hijacking, or Wrongful Detention**;



3. regarding any **Kidnapping, Extortion, Hijacking, or Wrongful Detention**, any reward paid to a natural person who provides information leading to the arrest and conviction of the perpetrators of any **Kidnapping, Extortion, Hijacking, or Wrongful Detention**;
4. regarding any **Kidnapping or Extortion**, interest on a loan to finance any payment covered under Insuring Agreement A. Kidnapping, Express Kidnapping & Extortion Costs;
5. regarding any **Threat Incident**:
 - a. fees and expenses incurred for the security consultant scheduled in Item 6.G of the Declarations to provide an assessment of and advice concerning a **Threat Incident**; or
 - b. independent security guard services for the temporary protection of any threatened person or **Property** for a period commencing on the date of the **Threat Incident** continuing up to, but not exceeding, 90 days; and
6. other fees and expenses incurred with the prior written consent of the **Insurer**.

Response Costs exclude any **Claim Costs, Recall Costs, or Repatriation Costs**.

MM. "Threat Incident" means any credible threat to commit or attempt to:

1. inflict bodily harm to, or wrongfully abduct or detain, an **Insured Person**;
2. damage, destroy or **Contaminate** any **Property**, other than a **Computer System**; or
3. reveal confidential or proprietary information or trade secrets of an **Insured Organization**,

in which no demand is made for payment as a condition for avoidance or mitigation of such threat, provided that **Threat Incident** excludes any threat: (i) to access or use any **Computer System**; or (ii) resulting from any actual or threatened access to, or use of, any **Computer System**.

NN. "Wrongful Detention" means wrongful involuntary confinement of an **Insured Person** by others for a period of 24 hours or more. **Wrongful Detention** excludes any **Kidnapping, Express Kidnapping, Hijacking, or Hostage Crisis**.

3. INSURED PERSON LOSS COVERAGE EXTENSION

If an **Insured Person** incurs **Loss**:

1. that would have been covered under an Insuring Agreement if such **Loss** had been incurred by an **Insured Organization**; and
2. the **Named Organization** provides written notice to the **Insurer** directing the **Insurer** to treat such **Loss** as being covered under such Insuring Agreement,

then such **Loss** shall be deemed covered **Loss** under such Insuring Agreement, provided that this Section shall not apply to Insuring Agreements B. Custody Costs or E. Personal Injury Benefits.

4. EXCLUSIONS



- A.** The **Insurer** shall not pay **Loss** resulting from any:
1. fraudulent, dishonest or criminal act of an identifiable **Insured Person**, acting alone or in collusion with others, provided that this exclusion shall not apply if such **Loss** exceeds the amount available to the **Insureds**, whether collectible or not, under any other bond, insurance or indemnity covering such **Loss**, in which case this Coverage Part shall cover only such excess amount;
 2. fraud by an **Insured Person** allegedly the subject of a **Kidnapping, Express Kidnapping, Extortion, Hijacking, Hostage Crisis, Political Intimidation, or Wrongful Detention**, if, prior to payment, an **Insured Organization** had not made reasonable efforts to verify the authenticity of such **Kidnapping, Express Kidnapping, Extortion, Hijacking, Hostage Crisis, Political Intimidation, or Wrongful Detention**;
 3. unrealized income, including, without limitation, loss of interest and dividends;
 4. **Political Intimidation** or **Wrongful Detention** caused by:
 - a. any criminal law violation by an **Insured Person** if the **Domicile Country** of such **Insured Person** has a similar criminal law, provided that this exclusion shall not apply if it is determined by the **Named Organization** that a criminal law violation allegation is fraudulent and politically motivated; or
 - b. failure to comply with immigration, employment, residence or visa requirements;
 5. **Loss** sustained by one **Insured** to the advantage of any other **Insured**; or
 6. participation in political activities or military operations.
- B.** Regarding all Insuring Agreements other than Insuring Agreement A. Kidnapping, Express Kidnapping & Extortion Costs, the **Insurer** shall not pay **Loss** resulting from any money, property or other consideration surrendered as a ransom or extortion payment and covered under Insuring Agreement A.
- C.** Regarding Insuring Agreement A. Kidnapping, Express Kidnapping & Extortion Costs, the **Insurer** shall not pay **Loss** unless surrendered to the perpetrators of a **Kidnapping, Express Kidnapping, or Extortion**.
- D.** Regarding Insuring Agreements B. Custody Costs and D. Response Costs, the **Insurer** shall not pay **Loss** resulting from confiscation by any government or governmental entity.
- E.** Regarding Insuring Agreement D. Response Costs, the **Insurer** shall not pay **Loss** resulting from any **Disappearance**:
1. that is voluntarily initiated by an **Insured Person**, and the **Insurer** shall be entitled to a refund of any **Loss** paid resulting from a voluntary disappearance by an **Insured Person**;
 2. occurring during, or within 24 hours after the end of, a natural disaster that has been reported by global or local media;
 3. occurring while an **Insured Person** is located in an area declared unsafe or uninhabitable by a local government; or



4. occurring while an **Insured Person** is engaged in transit by air or sea.
- F. Regarding Insuring Agreement E. Personal Injury Benefits, the **Insurer** shall not pay **Loss** resulting from any fraud by an **Insured Person** allegedly the subject of a **Personal Injury**.

5. LIMITS OF LIABILITY

- A. The **Insurer's** maximum liability for each single **Loss** under each Insuring Agreement shall not exceed the applicable Limit of Liability specified in Item 6.G. of the Declarations of this Coverage Part, regardless of the number of **Insureds** incurring such **Loss**.
- B. If multiple Insuring Agreements apply to any event, then coverage for such event shall be limited to the single highest applicable Limit of Liability.
- C. If an **Insured Person** incurs multiple **Personal Injuries**, the **Insurer's** maximum liability for all such **Personal Injuries** combined shall not exceed the Death Benefit Limit of Liability specified in Item 6.G of the Declarations.
- D. If more than one **Insured Person** incurs a **Personal Injury** resulting from a single **Kidnapping, Express Kidnapping, Disappearance, Extortion, Hijacking, Hostage Crisis, Political Intimidation, or Wrongful Detention**, or any series of related **Kidnappings, Express Kidnappings, Disappearances, Extortions, Hijackings, Hostage Crises, Political Intimidations, or Wrongful Detentions**, all such **Personal Injuries** combined shall be considered a single **Loss** and the **Insurer's** maximum liability for all such **Personal Injuries** combined shall not exceed the Death Benefit Limit of Liability specified in Item 6.G of the Declarations.
- E. The following occurrences shall be considered a single **Loss**:
 1. regarding Insuring Agreement A. Kidnapping, Express Kidnapping & Extortion Costs, all **Ransom Costs** arising from any single **Kidnapping, Express Kidnapping, or Extortion** or any series of related **Kidnappings, Express Kidnappings, or Extortions**;
 2. regarding Insuring Agreement B. Custody Costs, all **Custody Costs** arising from any single **Kidnapping or Extortion** or any series of related **Kidnappings or Extortions**;
 3. regarding Insuring Agreement C. Claims Costs, all **Claim Costs** arising from any single **Kidnapping, Express Kidnapping, Hijacking, Hostage Crisis, Political Intimidation, or Wrongful Detention**, or any series of related **Kidnappings, Express Kidnappings, Hijackings, Hostage Crises, Political Intimidations, or Wrongful Detentions**;
 4. regarding Insuring Agreement D. Response Costs, all **Response Costs** arising from any single **Kidnapping, Disappearance, Extortion, Hijacking, Political Intimidation, Threat Incident or Wrongful Detention**, or any series of related **Kidnappings, Disappearances, Extortions, Hijackings, Political Intimidations, Threat Incidents, or Wrongful Detentions**;
 5. regarding Insuring Agreement F. Repatriation Costs, all **Repatriation Costs** arising from any single **Repatriation** or any series of related **Repatriations**;
 6. regarding Insuring Agreement G. Recall Costs, all **Recall Costs** arising from any single **Extortion to Contaminate Products** or any series of related **Extortions to Contaminate Products**;



7. regarding Insuring Agreement H. Express Kidnapping Response Costs, all **Express Kidnapping Response Costs** arising from any single **Express Kidnapping** or any series of related **Express Kidnappings**; and

8. regarding Insuring Agreement I. Hostage Crisis Response Costs, all **Hostage Crisis Response Costs** arising from any single **Hostage Crisis** or any series of related **Hostage Crises**.

F. If there is more than one **Insured**, the maximum liability of the **Insurer** for any single **Loss** sustained by more than one **Insured** shall not exceed the amount for which the **Insurer** would have been liable if the single **Loss** had been sustained by one **Insured**.

G. The amount that the **Insurer** shall pay for any single **Loss** shall not be cumulative from the **Policy Period** to the period of any other policy.

6. BENEFIT PAYMENTS

The **Benefit** for **Death** shall be paid to an **Insured Person's** estate. The **Benefit** for all other **Personal Injury** shall be paid to an **Insured Person**, unless otherwise directed by the **Insured Person**.

7. LOSS REPORTING RIGHTS AND DUTIES

As a condition precedent to coverage, the **Insureds** shall give the **Insurer** written notice of any event for which coverage is sought as soon as practicable after such event, but no later than 90 days after the end of the **Policy Period**.

8. LOSS COOPERATION

The **Insureds** shall give to the **Insurer** all information and cooperation as the **Insurer** may reasonably request. Regarding Insuring Agreement C. Claims Costs, and without limiting the foregoing, the **Insureds** shall:

A. allow **Insurer** the right to associate in the handling of any matters that may result in **Claim Costs**; and

B. not assume any liability, enter into any settlement agreement, stipulate to any judgment, or incur any **Claim Costs** without the prior written consent of the **Insurer**, which consent shall not be unreasonably withheld. The **Insurer** shall not be liable for any **Claim Costs** to which it has not consented.

9. CONFIDENTIALITY

The **Insureds** shall not disclose the existence of this insurance to any third party.



Policy Forms



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NETWORK SECURITY, PRIVACY, & MEDIA LIABILITY COVERAGE PART

TABLE OF CONTENTS

1. INSURING AGREEMENTS
2. DEFINITIONS
3. EXCLUSIONS
4. LIMITS OF LIABILITY
5. RETENTIONS
6. NOTICE & LOSS INVESTIGATION



NETWORK SECURITY, PRIVACY, & MEDIA LIABILITY COVERAGE PART

1. INSURING AGREEMENTS

A. Liability Insuring Agreements

1. Network and Privacy Liability

The **Insurer** shall pay **Network Loss** on behalf of an **Insured** resulting from a **Claim** first made against such **Insured** during the **Policy Period** or Extended Reporting Period, if applicable, for a **Network-Privacy Wrongful Act**.

2. Media Liability

The **Insurer** shall pay **Media Loss** on behalf of an **Insured** resulting from a **Claim** first made against such **Insured** during the **Policy Period** or Extended Reporting Period, if applicable, for a **Media Wrongful Act**.

B. Non-Liability Insuring Agreements

1. Data Incident Response

The **Insurer** shall pay **Response Costs** incurred by an **Insured Organization** directly resulting from a **Network Breach** or **Privacy Violation** for which **Discovery** first occurs during the **Policy Period**.

2. Business Interruption

The **Insurer** shall pay **Business Interruption Costs** incurred by an **Insured Organization** directly resulting from a **Network Breach** or **System Failure** that first occurs during the **Policy Period**.

3. Extortion

The **Insurer** shall pay **Extortion Costs** incurred by an **Insured Organization** directly resulting from an **Extortion** that first occurs during the **Policy Period**.

4. Reputation Harm

The **Insurer** shall pay **Income Reduction Costs** incurred by an **Insured Organization** directly resulting from a **Network Breach Disclosure** that first occurs during the **Policy Period**.

2. DEFINITIONS

A. “**Business Interruption**” means the actual and measurable interruption or suspension of an **Insured Organization’s** business operations.

B. “**Business Interruption Costs**” means the sum of the below listed amounts incurred during the **Recovery Period**:

1. reasonable and necessary costs that would not have been incurred but for a **Business Interruption**; and



2. net income (net profit or loss, including, without limitation, the impact of normal operating and payroll expenses on such amount, before income taxes), calculated on an hourly basis, that could have reasonably been earned or net loss that could have reasonably been avoided.

Business Interruption Costs include reasonable and necessary costs of a third-party forensic accounting firm ("Forensic Accounting Costs") retained to determine the amount described in 2 above, provided that such costs shall be subject to the Forensic Accounting Firm Costs Sublimit of Liability specified in Item 6.H of the Declarations which Sublimit shall be: (i) the maximum aggregate amount that the **Insurer** shall pay under this Coverage Part for all Forensic Accounting Costs combined; and (ii) part of, and not in addition to, the Sublimit of Liability applicable to Insuring Agreement B.2. Business Interruption.

Business Interruption Costs exclude any: (i) missed gain or avoidance of loss arising from the change in value of currency, securities, bonds or commodities, or any derivatives thereof; (ii) payments made as compensation for any injury or damages; (iii) costs to update, upgrade, enhance, or replace any **Computer System** to a level beyond that which existed prior to any **Network Breach** or **System Failure** for which coverage is sought; or (iv) **Defense Costs**.

In determining the amount of net profit or net loss for the purpose of calculating **Business Interruption Costs**, due consideration shall be given to: (i) the prior experience of an **Insured Organization's** business before the beginning of the **Business Interruption**; and (ii) the probable business an **Insured** could have performed if no **Business Interruption** had occurred, provided that such probable business shall exclude any increase in potential business occurring because any business that competes with an **Insured Organization's** business has experienced similar conditions to the **Network Breach** or **System Failure** that has caused an **Insured Organization** to experience a **Business Interruption**.

C. "Claim" means any:

1. written demand for civil monetary damages or injunctive or other civil non-monetary relief commenced by the receipt by any **Insured** of such demand;
2. civil proceeding or arbitration, mediation or other alternative dispute resolution proceeding, commenced by the receipt by, or service upon, any **Insured** of a complaint, arbitration demand, mediation request or similar document;
3. regarding Insuring Agreement A.1 Network and Privacy Liability only, **Regulatory Action**; or
4. written request to an **Insured** to toll or waive a period or statute of limitations regarding a potential **Claim** as described in 2 above commenced by the receipt by any **Insured** of such request,

provided that 1 and 2 shall not include any administrative or regulatory proceeding or investigation, including, without limitation, a **Regulatory Action**.

D. "Computer System" means any:

1. computer hardware, electronic mobile device, software or firmware, and components thereof, including data stored thereon, that is: (i) owned or leased by an **Insured Organization**; and (ii) under the direct operational control of an **Insured Organization**; or



2. electronic mobile device owned and under the direct operational control of an employee of an **Insured Organization**.

Regarding Insuring Agreement B.2, Business Interruption, **Computer System** also means any **Dependent Business Computer System**.

- E. **“Defense Costs”** means reasonable fees and expenses incurred in the defense or appeal of a **Claim**. **Defense Costs** include the premium for any appeal, attachment or similar bond, provided that the **Insurer** shall have no obligation to issue, or provide collateral for, such bond. **Defense Costs** exclude any compensation, benefit expenses, or overhead of any **Insureds**.

- F. **“Dependent Business Computer System”** means any computer hardware, software, firmware or components thereof that are owned or leased by any entity that: (i) is not owned by an **Insured Organization**; and (ii) provides necessary business services to an **Insured Organization** pursuant to a written contract, including, without limitation, cloud computing or servicing, data backup, data hosting, data processing, or data storage.

Dependent Business Computer System excludes any computer hardware, software, firmware or components thereof that are owned or leased by any: (i) public utility (including, without limitation, a provider of electricity, gas, water, or telecommunications); or (ii) securities exchange or market.

- G. **“Discovery”** means knowledge acquired by any **Executive** or a **Risk Manager** that a **Network Breach** or **Privacy Violation** has occurred, including any **Network Breach** or **Privacy Violation**: (i) sustained prior to the inception date of the **Policy Period**; (ii) for which **Loss** does not exceed the applicable Retention specified in Item 6.H of the Declarations; or (iii) for which exact details are unknown.

- H. **“Extortion”** means any threat, or series of causally connected threats, to:

1. commit an intentional attack against a **Computer System**; or
2. unlawfully use or publicly disclose **Private Information** misappropriated from an **Insured**,

for the purpose of demanding money, securities or other tangible or intangible property of value from an **Insured**.

- I. **“Extortion Costs”** means reasonable and necessary fees and expenses incurred with the **Insurer’s** prior written consent for:

1. terminating or ending an **Extortion** that would otherwise result in harm to an **Insured**, including payments of monies and digital currencies;
2. consultative legal services by an attorney approved by the **Insurer** to advise on an **Insured’s** response to an **Extortion**;
3. computer forensic investigatory services by a third party information security professional approved by the **Insurer** to: (i) advise an **Insured** in response to the **Extortion**; (ii) investigate the viability of any network backups an **Insured** may have; (iii) decrypt an **Insured’s** network; (iv) negotiate with the perpetrator of an **Extortion**; and (v) perform endpoint monitoring on an **Insured’s** network for a period of 90 days after the **Extortion** has been terminated;



4. services by a third party incident response professional approved by the **Insurer** to negotiate with the perpetrator of an **Extortion**; and
5. other services to appropriately respond to an **Extortion**.

Extortion Costs exclude any: (i) compensation or overhead of any **Insured**; (ii) payments made as compensation for any injury or damages; (iii) any costs to update, upgrade, enhance, or replace any **Computer System** to a level beyond that which existed prior to sustaining **Loss**; or (iv) **Defense Costs**.

- J. “Income Reduction Costs”** means loss of net income that is incurred during the **Recovery Period** directly resulting from a **Network Breach Disclosure**. In measuring loss of income, due consideration shall be given to the prior experience of an **Insured’s** business before the beginning of a **Network Breach Disclosure** and to the probable business an **Insured** could have performed had no **Network Breach Disclosure** occurred. **Income Reduction Costs** exclude any: (i) amounts arising out of liability to a third party for any reason; (ii) legal fees or expenses of any type; and (iii) compensation or overhead of any **Insured**.
- K. “Insured”** means:
1. regarding the Liability Insuring Agreements, any **Insured Organization** or **Insured Person**; or
 2. regarding the Non-Liability Insuring Agreements, any **Insured Organization**.
- L. “Insured Person”** means any natural person who is, was or becomes:
1. an employee of an **Insured Organization** or an **Executive**; or
 2. regarding the Liability Insuring Agreements, an **Independent Contractor** who is indemnified for any **Claim** by an **Insured Organization**.
- M. “Loss”** means:
1. regarding Insuring Agreement A.1 Network and Privacy Liability, **Network Loss**;
 2. regarding Insuring Agreement A.2 Media Liability, **Media Loss**;
 3. regarding Insuring Agreement B.1 Data Incident Response, **Response Costs**;
 4. regarding Insuring Agreement B.2 Business Interruption, **Business Interruption Costs**;
 5. regarding Insuring Agreement B.3 Extortion, **Extortion Costs**; or.
 6. regarding Insuring Agreement B.4 Reputation Harm, **Income Reduction Costs**.
- N. “Malicious Code”** means any virus, Trojan, worm or other similar malicious software program, code or script designed to infect, harm, harm data on, or steal data from, a **Computer System**.
- O. “Media Content”** means any data, text, sounds, images or similar matter. **Media Content** excludes any:



1. computer or telecommunications hardware, software, firmware or related electronic equipment; or
 2. goods, products or services described, illustrated or displayed in disseminated data, text, sounds, images or similar matter.
- P. “**Media Loss**” means **Defense Costs**, damages, settlements, judgments, pre- and post-judgment interest, including plaintiff legal fees and costs awarded pursuant to a covered settlement or judgment.

The following items are specifically included in, or excluded from, **Media Loss**:

1. **Media Loss** includes any punitive, exemplary or multiple damages awarded pursuant to a covered judgment or settlement.

Except where required by law, the **Insurer** shall not assert that the above type of **Loss** is uninsurable. Notwithstanding 2.e below, the insurability of the above type of **Loss** shall be governed by the laws of any applicable jurisdiction that does not prohibit coverage for such **Loss**.

2. **Media Loss**, other than **Defense Costs**, excludes any:
 - a. fines or penalties imposed by law;
 - b. taxes;
 - c. amount for which the **Insureds** are not financially liable or for which the claimants are without legal recourse to the **Insureds**;
 - d. non-monetary relief;
 - e. matters that are uninsurable pursuant to applicable law;
 - f. consideration owed or paid to any **Insured**, including, without limitation, royalties, professional fees, or other charges; or
 - g. fees or expenses incurred for any reprinting, reposting, recalling, repairing, withdrawing, replacing, upgrading, supplementing, removing or disposing of any **Media Content** or products or services from or in the marketplace, or for any loss of use that arises out of the above.

- Q. “**Media Wrongful Act**” means any **Wrongful Act** in the dissemination of **Media Content** including, without limitation, through print, posting on a website, podcasting, or any other type of electronic dissemination that results in any:

1. defamation, libel, slander, product disparagement, trade libel, or infliction of emotional distress, mental anguish, or outrage;
2. violation of the right to privacy or publicity, including false light, public disclosure of private facts, or misappropriation of name or likeness;
3. plagiarism or the misappropriation or unauthorized use of advertising ideas, advertising material, titles, literary or artistic formats, styles or performances;



4. infringement of copyright, domain name, trademark, trade name, trade dress, title or slogan, service mark, or service name;
5. false arrest, detention or imprisonment, harassment, trespass, wrongful entry or eviction, eavesdropping, or other violation of the right to private occupancy; or
6. improper deep linking or framing.

R. “Network Breach” means any:

1. unauthorized access to, or unauthorized use of, a **Computer System**;
2. transmission of **Malicious Code** into or from a **Computer System**; or
3. malicious attack intended to overwhelm the capacity of any **Computer System** by sending an excessive volume of data to such **Computer System** in order to prevent authorized access to such **Computer System**.

S. “Network Breach Disclosure” means a public disclosure of a Network Breach that impacts an Insured’s customers, clients, or patients. All Network Breach Disclosures relating to the same Network Breach shall be deemed to be a single event deemed to occur at the time of the first such Network Breach Disclosure.

T. “Network Loss” means Defense Costs, damages, settlements, judgments, pre- and post-judgment interest, including plaintiff legal fees and costs awarded pursuant to a covered settlement or judgment.

The following items are specifically included in, or excluded from, **Network Loss**:

1. Network Loss includes any:

- a. punitive, exemplary or multiple damages awarded pursuant to a covered judgment or settlement;
- b. amounts payable in connection with a **PCI-DSS Assessment**;
- c. amounts payable in connection with a consumer redress fund; or
- d. fines or penalties imposed by a governmental agency and arising from a **Regulatory Action**.

Except where required by law, the **Insurer** shall not assert that the above types of **Loss** are uninsurable. Notwithstanding 2.e below, the insurability of the above types of **Loss** shall be governed by the laws of any applicable jurisdiction that does not prohibit coverage for such **Loss**.

2. Network Loss, other than Defense Costs, excludes any:

- a. fines or penalties imposed by law, other than as specified in 1 above;
- b. taxes;
- c. amount for which the **Insureds** are not financially liable or for which the claimants are without legal recourse to the **Insureds**;



- d. non-monetary relief;
- e. matters that are uninsurable pursuant to applicable law;
- f. consideration owed or paid to any **Insured**, including, without limitation, royalties, professional fees, or other charges; or
- g. fees or expenses incurred for any reprinting, reposting, recalling, repairing, withdrawing, replacing, upgrading, supplementing, removing or disposing of any **Media Content** or products or services from or in the marketplace, or for any loss of use that arises out of the above.

U. “Network-Privacy Wrongful Act” means a **Wrongful Act** that results in, or is in response to, any **Network Breach** or **Privacy Violation**.

V. “PCI Standards” means generally accepted and published payment card industry standards for data security (commonly referred to as “PCI-DSS”).

W. “PCI-DSS Assessment” means any written demand received by an **Insured** to pay any monetary assessments (including a contractual fine or penalty), fraud recoveries, card reissuance costs, or assessments, when such demand:

1. specifies that an **Insured Organization’s** non-compliance with **PCI Standards** has resulted in a **Network Breach** or **Privacy Violation**; and
2. is received from a company with whom an **Insured** has a written agreement that enables an **Insured Organization** to accept credit cards, debit cards, prepaid cards or other payment cards for payments or donations.

X. “Personal Information” means any:

1. information from which a person may be uniquely and reliably identified or contacted, including, without limitation, any: (i) name; (ii) address; (iii) telephone number; (iv) social security number; (v) drivers license number or any other state identification number; (vi) medical or healthcare data, including protected health information; or (vii) credit, debit or other account numbers in combination with security codes, access codes, passwords or PIN numbers for such account numbers; or
2. non-public personal information as defined in any **Privacy Law**.

Y. “Privacy Law” means:

1. those parts of the following laws regulating the use and protection of non-public personal information:
 - a. Health Insurance Portability and Accountability Act of 1996 (HIPAA);
 - b. Gramm-Leach-Bliley Act of 1999 (GLBA);
 - c. Biometric Information Privacy Act (BIPA);
 - d. consumer protection and unfair and deceptive trade practice laws enforced by state Attorneys General or the Federal Trade Commission, including, without limitation, Section 5(a) of the Federal Trade Commission Act, 15. U.S.C § 45 (a); or



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- e. security breach notification laws that require notice to any person of the actual or potential theft of their non-public personal information, including, without limitation, the California Security Breach Notification Act of 2003 (CA SB1386); or
 - 2. any similar law to those specified in 1 above that regulates the use and protection of non-public personal information.
 - Z. “**Privacy Violation**” means any:
 - 1. failure to protect **Private Information** while in the care, custody or control of an **Insured**;
 - 2. violation of a **Privacy Law** by an **Insured**; or
 - 3. violation of an **Insured’s** privacy policy prohibiting any **Insured** from disclosing **Private Information**.
 - AA. “**Private Information**” means any:
 - 1. **Personal Information**; or
 - 2. confidential or proprietary business information that is not available to the general public.
 - BB. “**Recovery Period**” means the time period commencing on the expiration of the applicable **Waiting Period** specified in the Declarations and ending on:
 - 1. regarding Insuring Agreement B.2 Business Interruption, the earlier of: (i) 30 days after commencement; or (ii) the time when a **Business Interruption** ends or should have ended if an **Insured** had exercised due diligence and dispatch; or
 - 2. regarding Insuring Agreement B.4 Reputation Harm, the earlier of: (i) 180 days after commencement; or (ii) the time when **Income Reduction Costs** end or should have ended if an **Insured** had exercised due diligence and dispatch.
 - CC. “**Regulatory Action**” means any:
 - 1. civil administrative or regulatory proceeding, other than an investigation, commenced by the receipt by, or service upon, any **Insured** of a notice of charges or similar document; or
 - 2. civil administrative or regulatory investigation of any **Insured** once such **Insured** is served with a formal order of investigation, Wells Notice, subpoena or target letter (within the meaning of title 9-11.151 of the United States Attorneys Manual) from an investigating authority identifying such **Insured** as a target of an investigation,for a **Privacy Violation**. **Regulatory Action** excludes any criminal proceedings or investigations.
 - DD. “**Related Events**” means any actual or alleged **Network Breach, Privacy Violation, Extortion, Business Interruption, Claim, Wrongful Act** or series of causally connected **Network Breaches, Privacy Violations, Extortions, Business Interruptions, Claims, or Wrongful Acts** that have a common nexus any fact, circumstance, situation, event,



transaction, cause or series of causally connected facts, circumstances, situations, events, transactions or causes.

EE. “Response Costs” means reasonable and necessary fees and expenses incurred by an **Insured** with the **Insurer’s** prior written consent for any:

1. consultative and pre-litigation legal services by an attorney approved by the **Insurer** regarding any **Network Breach** or **Privacy Violation**;
2. computer forensic investigatory services by a third party information security professional approved by the **Insurer** to determine the cause of a **Network Breach** and identify the victims of any **Privacy Violation**;
3. notification of victims of any **Privacy Violation** and credit monitoring, identity theft education, identity theft call center, and other services for such victims;
4. public relations, crisis management or law firm services to mitigate reputation damage resulting from any **Network Breach** or **Privacy Violation**;
5. restoration of data that is damaged or destroyed as a direct result of a **Network Breach**; or
6. replacement of any part of a **Computer System** that is no longer functional, provided that replacement of such part is required to restore data as described in 5 above.

Response Costs exclude any: (i) compensation or overhead of any **Insured**; (ii) payments made as compensation for any injury or damages; (iii) costs to update, upgrade, enhance, or replace any **Computer System** to a level beyond that which existed prior to any **Network Breach**; or (iv) **Defense Costs**.

FF. “System Failure” means an unintentional and unplanned interruption of any **Computer System** other than an interruption resulting from or arising out of any: (i) **Network Breach**; or (ii) interruption of any third-party computer system.

GG. “Waiting Period” means the applicable duration specified in the Declarations for Insuring Agreement B.2 Business Interruption or Insuring Agreement B.4 Reputation Harm. Any **Loss** incurred by an **Insured** during the **Waiting Period** shall erode the Retention, but the **Insurer** shall not pay any **Loss** until the Retention is met and the **Waiting Period** has expired. The **Waiting Period** commences:

1. regarding Insuring Agreement B.2 Business Interruption, at the time a **Network Breach** or **System Failure** first occurs; or
2. regarding Insuring Agreement B.4 Reputation Harm, at the time a **Network Breach Disclosure** first occurs.

HH. “Wrongful Act” means any:

1. regarding an **Insured Person**, any actual or alleged;
 - a. act, error, omission, misstatement, misleading statement, neglect or breach of duty by an **Insured Person** in their capacity as such; or
 - b. matter claimed against an **Insured Person** by reason of their serving in such capacity; or



2. regarding an **Insured Organization**, any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by such **Insured Organization**.

3. EXCLUSIONS

- A. The **Insurer** shall not pay **Loss**, including **Loss** in connection with any **Claim**, for, based upon, arising from, or in any way related to any:
 1. fact, circumstance or situation that, before the inception date of this Policy, was the subject of any notice given and accepted as sufficient under any other policy;
 2. written demand, suit or proceeding made or initiated against any **Insured** on or prior to the applicable Prior Litigation Date in Item 6.H of the Declarations, any **Wrongful Act** described in such prior demand, suit or proceeding or any **Related Events** thereto;
 3. bodily injury, sickness, disease, or death of any person, or damage to or destruction of any tangible property, including loss of use thereof, provided that this exclusion shall not apply under: (i) Insuring Agreement A.2 Media Liability to **Loss** resulting from emotional distress or mental anguish because of false arrest, detention, imprisonment, wrongful entry or eviction, invasion of the right of privacy, or libel, slander or other defamatory or disparaging material; or (ii) Insuring Agreement B.1 to **Response Costs** as described in Section 2. Definitions, EE. "Response Costs", 6;
 4. discharge, dispersal, release, escape, seepage, migration or disposal of **Pollutants**, nuclear material or nuclear waste or any threat of such discharge, dispersal, release, escape, seepage, migration or disposal, or direction, request or voluntary decision to test for, abate, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, nuclear material or nuclear waste;
 5. violation of: (i) the Securities Act of 1933; (ii) the Securities Exchange Act of 1934; (iii) the Investment Company Act of 1940; (iv) the Investment Advisors Act; (v) any blue sky or securities laws; (vi) the Racketeer Influenced and Corrupt Organizations Act; (vii) any workers' compensation, unemployment, social security, disability or pension benefits laws; (viii) **ERISA**; (ix) the National Labor Relations Act; (x) the Worker Adjustment and Retraining Notification Act; (xi) the Consolidated Omnibus Budget Reconciliation Act of 1985; (xii) the Occupational Safety and Health Act, or (xiii) any similar law to those laws mentioned in (i) through (xii) above;
 6. **Insured Person** serving at any time as a director, officer, trustee, regent, governor or equivalent executive, or as an employee, of any entity other than an **Insured Organization** even if such service is with the knowledge and consent, or at the request, of an **Insured Organization**;
 7. **Network Breach** or **Privacy Violation** occurring prior to the inception of the **Policy Period** if, on or before the earlier of the effective date of this **Policy Period** or the effective date of any policy issued by the **Insurer** with similar coverage to that provided by this Policy of which this Policy is a continuous renewal or a replacement, any **Executive**:
 - a. regarding Insuring Agreements A.1 Network and Privacy Liability and A.2 Media Liability, knew that such **Network Breach**, **Privacy Violation** or **Media Wrongful Act** had occurred and could have reasonably foreseen that such



Network Breach, Privacy Violation or Media Wrongful Act would lead to a **Claim**; or

- b. regarding B.2 Business Interruption, Insuring Agreement B.3 Extortion, and B.4 Reputation Harm, knew that such **Network Breach** or **Privacy Violation** had occurred;
- 8. liability under any written contract or agreement, warranty, guarantee, cost estimate or promise, provided that this exclusion shall not apply: (i) to the extent that liability would have been incurred in the absence of such contract or agreement, warranty, guarantee, cost estimate or promise; or (ii) under Insuring Agreement A.1 Network and Privacy Liability to any failure to comply with **PCI Standards** or a **Privacy Violation** involving a confidentiality or non-disclosure provision of any agreement;
- 9. unsolicited communications, electronic messages, faxes, emails, telephone calls, text messages, chat room postings, bulletin board postings, newsgroup postings, "pop-up" or "pop-under" Internet advertising, fax-blasting, direct mailing, telemarketing, or violation of any statute, regulation or ordinance that addresses, limits or prohibits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of information or material, provided that this exclusion shall not apply to a **Network Breach**;
- 10. violation of: (i) the Drivers Privacy Protection Act; (ii) the Fair Credit Reporting Act (FCRA); (iii) the Fair and Accurate Credit Transaction Act (FACTA of 2003); or (iv) any similar law to those laws mentioned in (i) through (iii) above, provided that this exclusion shall not apply to a **Network Breach**;
- 11. wrongful employment termination, employment discrimination or any other employment related **Wrongful Act**, including a **Wage & Hour Claim**, provided that this exclusion shall not apply to Insuring Agreement A.1 Network and Privacy Liability for any: (i) invasion of privacy; or (ii) wrongful infliction of emotional distress, incurred by an employee of an **Insured Organization** arising out of the disclosure or theft of **Private Information** resulting from a **Network Breach**;
- 12. unauthorized or illegal collection or intentional dissemination of **Personal Information**, including, without limitation, the collection of **Personal Information** using cookies, spyware, or other **Malicious Code**, or the failure to provide adequate notice that **Personal Information** is being collected or shared, provided that this exclusion shall not apply to the acts of an **Insured Person** who is: (i) not an **Executive**; and (ii) acting outside the scope of their normal duties for the **Insured** without the knowledge of any **Executive**;
- 13. inaccurate, inadequate or incomplete description of the price or authenticity of goods, products or services or the failure of any goods or services to conform with any represented quality or performance;
- 14. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), strike, lockout, riot, civil war, rebellion, revolution, insurrection, uprising, military or usurped power, provided that this exclusion shall not apply to the premeditated use of disruptive activities against any **Computer System**, or the explicit threat to use such activities, outside of a military action, war or warlike operation, with the intention to: (i) cause harm; and (ii) further social, ideological, religious, political or similar objectives, or to intimidate any person in furtherance of such objectives;



15. gaining of any personal profit, remuneration or financial advantage to which such **Insured** is not legally entitled, if established by any final, non-appealable adjudication against any such **Insured** in any proceeding other than a proceeding initiated by the **Insurer**, provided that this exclusion shall not apply to **Defense Costs**; or
16. deliberately fraudulent or criminal act or omission or any willful violation of law by such **Insured**, if established by any final, non-appealable adjudication against any such **Insured** in any proceeding other than a proceeding initiated by the **Insurer**, provided that this exclusion shall not apply to **Defense Costs**.

Regarding exclusions 15 and 16 above: (i) no **Wrongful Act** of any **Insured Person** shall be imputed to any other **Insured Person**, and (ii) only a **Wrongful Act** by an **Executive** of the **Named Organization** shall be imputed to an **Insured Organization**.

- B. Regarding Insuring Agreement A.1 Network and Privacy Liability, the **Insurer** shall not pay **Loss** in connection with any **Claim** for, based upon, arising from, or in any way related to any:
 1. theft of money or securities from an **Insured**; or
 2. transfer or loss of money or securities from or to an **Insured's** accounts or any accounts under an **Insured's** control, including customer accounts.
- C. Regarding Insuring Agreement A.1 Network and Privacy Liability and Insuring Agreement A.2 Media Liability, the **Insurer** shall not pay **Loss** in connection with any **Claim** by or on behalf of any:
 1. **Insured**, in any capacity, provided that this exclusion shall not apply to any **Claim** by any **Employee** or **Independent Contractor** for a **Privacy Violation** if such **Employee** or **Independent Contractor** is not involved in any manner with the unauthorized access to, theft of, or copying of, **Private Information**; or
 2. entity who owns directly or indirectly more than 20% of the ownership interest of the **Named Organization**.
- D. Regarding Insuring Agreement A.1 Network and Privacy Liability, Insuring Agreement B.1 Data Incident Response, Insuring Agreement B.2 Business Interruption and Insuring Agreement B.3 Extortion, the **Insurer** shall not pay **Loss**, including **Loss** in connection with any **Claim**, for, based upon, arising from, or in any way related to any infringement of any intellectual property rights, including, without limitation, copyrights, patents, trademarks, trade names, trade dress, service marks, or trade secrets, provided that this exclusion shall not apply under Insuring Agreement A.1 Network and Privacy Liability to **Loss** resulting from a **Network Breach**;
- E. Regarding Insuring Agreement A.2 Media Liability, the **Insurer** shall not pay **Loss** in connection with any **Claim** for, based upon, arising from, or in any way related to any:
 1. infringement of any patent or trade secret;
 2. price fixing, restraint of trade, price discrimination, predatory pricing, monopolization, unfair competition, or violation of any law regulating any of the foregoing, including, without limitation, the Federal Trade Commission Act, Sherman Anti-Trust Act, Clayton Act, or any similar law; or
 3. unfair or deceptive trade practices or violation of consumer protection laws.



- F. Regarding Insuring Agreement B.1 Data Incident Response, Insuring Agreement B.2 Business Interruption, and Insuring Agreement B.3 Extortion, the **Insurer** shall not pay **Loss** for, based upon, arising from, or in any way related to any **Insured's** liability to third-parties.
 - G. Regarding Insuring Agreement B.2. Business Interruption, the **Insurer** shall not pay **Business Interruption Costs** for, based upon, arising from, or in any way related to any:
 - 1. seizure, nationalization, confiscation, or destruction of property or data by order of any governmental authority;
 - 2. failure or malfunction of satellites or of power, utility, water, steam, mechanical or telecommunications (including internet) infrastructure or services; or
 - 3. fire, flood, earthquake, smoke, riot, civil commotion, falling objects, volcanic eruption, explosion, lightning, wind, hail, tidal wave, landslide, act of God or other physical event.
 - H. Regarding Insuring Agreement B.4. Reputation Harm, the **Insurer** shall not pay **Income Reduction Costs** for, based upon, arising from, or in any way related to any:
 - 1. fees or expenses for the services of a public relations firm, crisis management firm or law firm to advise an **Insured** on minimizing the harm to an **Insured's** brand or reputation or restoring public confidence in an **Insured**;
 - 2. public relations expenses, advertising expenses, or expenses to notify those persons or entities that may have been affected by a **Network Breach** or **Privacy Violation**;
 - 3. dissemination of information that refers or relates to the security or privacy of other entities in the same or similar business or industry as an **Insured**, including any **Insured's** competitors, unless there are specific assertions as to a **Network Breach** or **Privacy Violation** impacting the **Insured**;
 - 4. liability to third parties, including, without limitation, any legal costs and expenses, liquidated damages, contractual penalties, civil or criminal fines or penalties, or consequential damages; or
 - 5. interruption or suspension of an **Insured's** business directly caused by a **Network Breach**.
4. **LIMITS OF LIABILITY**
- A. The Limit of Liability of this Coverage Part specified in Item 6.H of the Declarations shall be the maximum aggregate amount that the **Insurer** shall pay under this Coverage Part for all **Loss** combined.
 - B. The Sublimit of Liability for each Insuring Agreement of this Coverage Part specified in Item 6.H of the Declarations shall be the maximum aggregate amount that the **Insurer** shall pay under such Insuring Agreement for all **Loss** combined. Each such Sublimit of Liability shall be part of, and not in addition to, the Limit of Liability for this Coverage Part.
5. **RETENTIONS**
- A. The **Insurer** shall pay **Loss** for each covered event only to the extent such **Loss** exceeds the applicable Retention specified in Item 6.H of the Declarations.



- B. Each Retention shall be uninsured.
- C. If **Loss** resulting from **Related Events** is subject to multiple Retentions, then each Retention shall apply separately to such **Loss**, provided that the total Retention for such **Loss** shall not exceed the largest applicable Retention.

6. NOTICE & LOSS INVESTIGATION

- A. Regarding Insuring Agreements B.1 Data Incident Response, B.2 Business Interruption, B.3 Extortion, and B.4 Reputation Harm and as a condition precedent to coverage, the **Named Organization** shall:
 - 1. provide written notice to the **Insurer** of any **Network Breach, Privacy Violation, System Failure, Extortion, or Network Breach Disclosure** for which coverage is sought as soon as practicable, but no later than 60 days after the end of the **Policy Period**; and
 - 2. provide full and complete cooperation in all matters pertaining to any **Loss**.
- B. Regarding Insuring Agreements B.2 Business Interruption and B.4 Reputation Harm, the **Named Organization** shall:
 - 1. provide a sworn proof of **Loss** to the **Insurer** with full particulars within 120 days of providing written notice as described in A.1 above; and
 - 2. if requested by the **Insurer**, submit to an examination under oath and provide a signed statement of answers.
- C. If:
 - 1. written notice of a **Network Breach, Privacy Violation, System Failure, Extortion, or Network Breach Disclosure** has been given to the **Insurer** pursuant to A above;
 - 2. a **Claim** that is a **Related Event** to any **Network Breach, Privacy Violation, System Failure, Extortion, or Network Breach Disclosure** described in 1 above is commenced against an **Insured** after the expiration of the **Policy Period**; and
 - 3. the coverage provided by this Coverage Part has been continuously renewed in an insurance policy issued by the **Insurer** and such insurance policy is in effect at the time such **Claim** is commenced against an **Insured**,

then such **Claim** shall be deemed first made during the **Policy Period**.

Applications

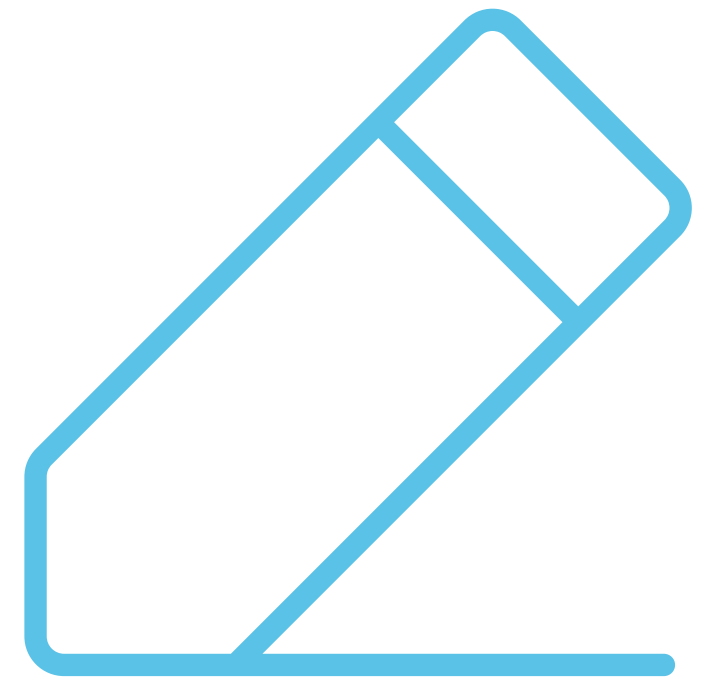
Ready to make a submission or renewal? Simply access the application forms directly by clicking on the relevant link below. We're ready to work with you to get the coverage you need.

[↓ Corporate Canopy Application](#)

[↓ Corporate Canopy – Renewal Application](#)



Applications



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Product Guides

Find out more about our cover and share the highlights with others.

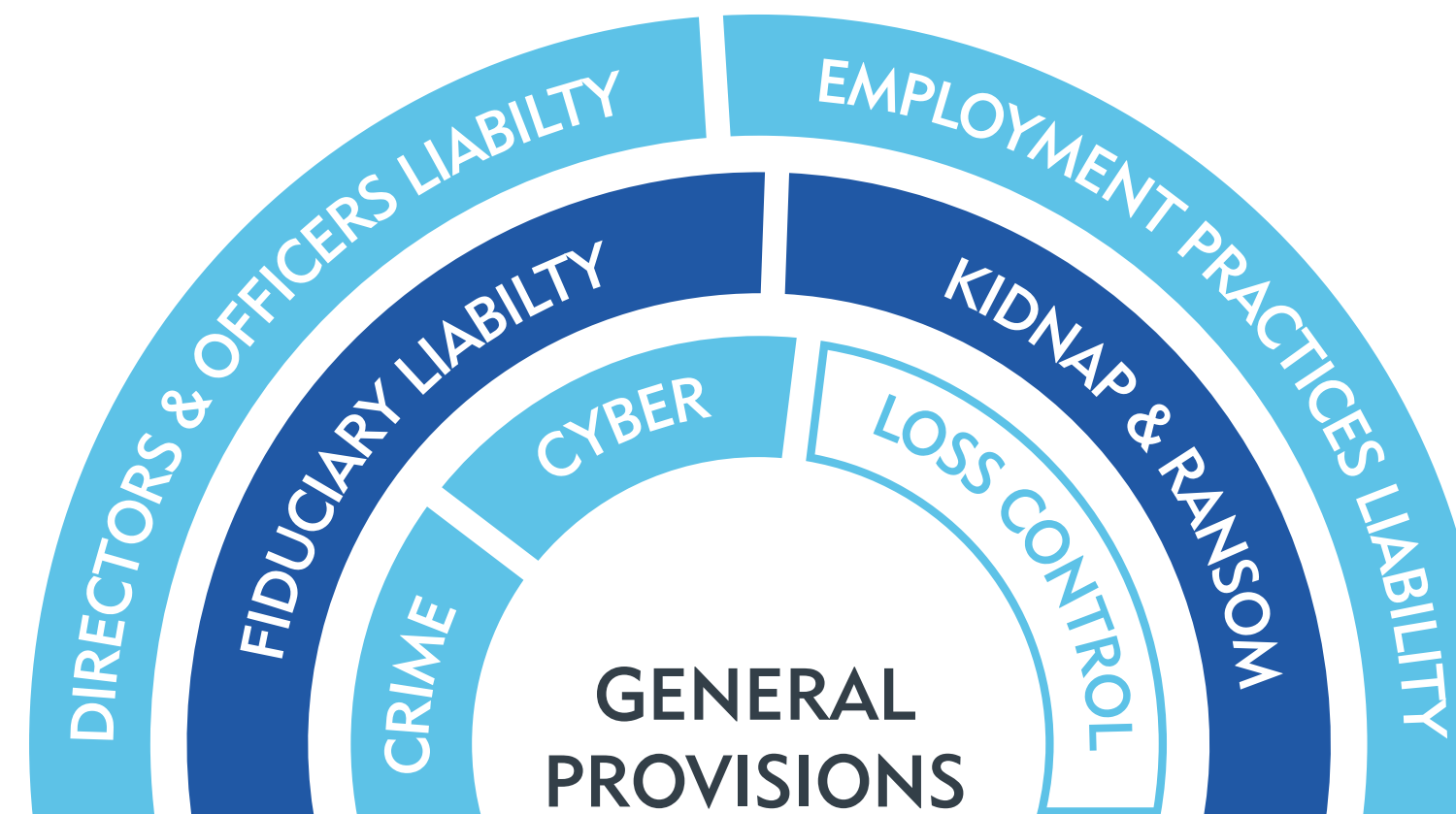


Coverage that's all together better

Arch Corporate Canopy® 2.0 (CANOPY 2.0) is our comprehensive and integrated management liability solution.

CANOPY 2.0 has our policyholders covered from every angle, with clients able to choose from up to six coverage parts: Directors & Officers Liability, Employment Practices Liability, Fiduciary Liability, Crime, Cyber and Kidnap & Ransom Coverage. Built on decades of experience and with our broking partners' unique insight, our combined coverage has been expertly refined to protect private companies and their employees and executives.

ARCH CORPORATE CANOPY 2.0SM



Capacity



Up to \$25 million in limits on a primary and excess basis.

Customer Profile



Private companies of all sizes, stages of growth and industries.

Financial strength

A+XV A.M. Best

A+ S&P

A+ Fitch

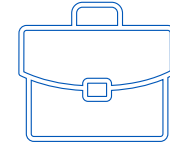
A2 Moody's



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Product highlights



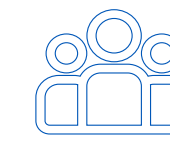
General Provisions

- › Extended reporting period post policy of 90 days.
- › No underwriting required or additional premium charged mid-term for M&A, regardless of size.
- › Broad definition of Insured Organization, including as Debtor in Possession.
- › Reimbursement form with the ability to tender the defense to the Insurer.
- › Worldwide coverage.



D&O Highlights

- › Broad definition of Claim including Insured Person Investigation, Inquiry, tolling a statute of limitations, or Appraisal Claim.
- › Comprehensive definition of Loss.
- › Additional Insured Persons Non-Indemnifiable (Side A) limit.
- › Ability to provide sub-limits for Insured Organization Investigation, Derivative Demand Investigation, Books & Records, Appraisal Claim, Asset Protection Costs, and Crisis Management Costs.
- › Security Wrongful Act carve out on several exclusions, including the contract exclusion.



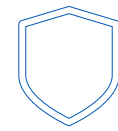
EPL Highlights

- › Broad definition of Claim including an administrative or regulatory investigation of any Insured.
- › Comprehensive definition of Loss.
- › Broad definition of Employment Practices Wrongful Act.
- › Ability to provide sub-limits for Wage & Hour, Workplace Violence Coverage, Employee Privacy Claim Coverage, and Immigration Investigation Defense Costs Coverage.
- › EEOC charge and written demand continuity protection coverage.



Fiduciary Highlights

- › Broad definition of Claim with certain types of claims that do not require a Wrongful Act to be committed including a Settlement Program notice, Fact-Finding Investigation, Procedural Appeal, or waiving a statute of limitations.
- › Comprehensive definition of Loss.
- › Wrongful Act includes an act in a settlor capacity regarding any Sponsored Plan.
- › Ability to provide sub-limits for Voluntary Settlement, and broad range of civil penalties including Section 4975 of the IRS Code, Health Insurance Portability and Accountability Act, Section 502(c) of ERISA, Pension Protection Act of 2006, Patient Protection and Affordable Care Act – no retention for certain civil penalties.
- › Coverage extension for violation of Section 301 of the Labor Management Relations Act.



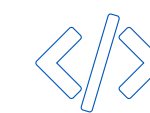
Crime Highlights

- › Insuring agreements for employee theft (including for an ERISA Sponsored Plan), customer property, inside the premises, outside the premises, forgery or alteration, computer fraud, fraudulent transfer instruction, social engineering fraud, currency fraud, and charge card fraud.
- › Sub-limits provided for computer restoration costs and investigation costs.
- › Social engineering coverage has no “call back” provision.
- › No retention for Loss by any ERISA Sponsored Plan.



Kidnap & Ransom Highlights

- › Includes express kidnaping response costs coverage.
- › Broad definition of Insured person including but not limited to an Employee, spouse, domestic partner, ancestor, employed in the household, normal resident or guest, and customer.
- › Broad coverage for hostage crisis response costs including but not limited to security consulting, independent public relations consulting, travel and lodging of an Insured Person, independent legal counsel, independent security guard service.
- › Ability to provide coverage for Repatriation Costs and Recall Costs.



Cyber Highlights

- › Includes liability insuring agreements for network and privacy liability and media liability and non-liability insuring agreements for data incident responses, business interruption, extortion, and reputation harm.
- › Full Limits available for Payment Card Industry Data Security Standard (“PCI-DSS”) Assessments and Regulatory Fines & Penalties.
- › Full Limits available for First Party Data Incident Response Expenses.
- › “Bring Your Own Device” included within Computer System definition.

Supported by loss control services

Available to all Arch Corporate Canopy 2.0SM policyholders, Arch offers a comprehensive risk management service to help manage your workforce proactively, reducing your exposure to employment claims.

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Underwritten by Arch Insurance



Our people

We put people at the heart of insurance

Over 100 market-leading underwriting and claims professionals

From experienced underwriting professionals to a claims team of qualified lawyers, behind every Arch interaction are experts dedicated to the success of our brokers and their policyholders.



Our reach

We speak your language

Based in 12 cities delivering location-specific expertise

When you submit an application, you'll be partnered with an underwriting expert who truly understands the nuances of your market.



Our experience

We've got you covered

Awarded 5-star Carrier 2022

With extensive experience in covering businesses at every level, we're confident that we can create a solution to suit you.



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General Provisions

Key product features

- › Extended reporting period post policy of 90 days.
- › No underwriting required or additional premium charged mid-term for M&A, regardless of size.
- › Broad definition of Insured Organization, including as Debtor in Possession.
- › The retention can be paid by a Side A DIC insurer and no retention applies for non-indemnifiable loss.
- › Reimbursement form with the ability to tender the defense to the Insurer.
- › No subrogation for liability coverage parts against Insureds, direct or indirect shareholders of Insured.
- › Pre-agreed runoff percentages for change in control as a result of M&A.
- › Cancellation by the Insurer only due to non-payment of premium and Insured cancellation will result in pro rata return premium.
- › Extension of coverage to domestic partners, and in the event of an insured persons death to the estate, trustee, beneficiaries, heirs, assigns, or legal representatives.
- › Worldwide coverage.



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Directors & Officers Liability Insurance

Protecting directors and officers personal assets, as well as the corporation itself, from claims related to business decisions and management of company affairs.

Key product features

- › Broad definition of Claim including Insured Person Investigation, Inquiry, tolling a statute of limitations, or Appraisal Claim.
- › Comprehensive definition of Loss.
- › Expansive definition of Insured Persons including Independent Contractors if the insured wishes to indemnify them within 60 days of a Claim made.
- › Additional Insured Persons Non-Indemnifiable (Side A) limit.
- › Ability to provide sub-limits for Insured Organization Investigation, Derivative Demand Investigation, Books & Records, Appraisal Claim, Asset Protection Costs, and Crisis Management Costs.
- › Security Wrongful Act carve out on several exclusions, including the contract exclusion.
- › Prior Notice exclusion includes given and accepted language.
- › Full limit carve out for UK Corporate Manslaughter Defense Costs in the Bodily Injury/ Property Damage exclusion.
- › Broad carve out in the Pollution exclusion including for non-indemnifiable loss and securities wrongful act.
- › Narrow exclusion for public offerings which provides coverage for a failed IPO, de-SPAC or other public shell transaction.
- › Conduct exclusions provide defense costs carve outs and only the CEO and CFO impute to the Insured Organization.

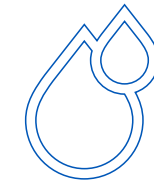


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Directors & Officers Liability Insurance

Private Company Claims Scenarios*



Gross negligence, mismanaging & self-dealing

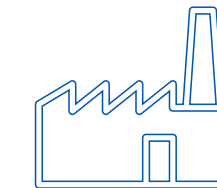
INDUSTRY

Oil & Gas

TOTAL CLAIM PAYOUT

\$1,000,000

A group of shareholders of an oil & gas company with \$51 million in revenues brought a derivative demand against its CEO and CFO, alleging they were negligent in the management of the company and its operations. It was also alleged they transacted business with related third parties, ultimately benefiting themselves personally, but to the detriment of the company and its shareholders. The company sustained \$310,000 in defense costs and the two officers were held personally liable to repay their improper gains of \$690,000 to the company, although they never admitted to committing any wrongdoing. The D&O insurance company funded both the defense costs and indemnity amounts.



Breach of Fiduciary Duty & Mismanagement

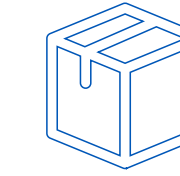
INDUSTRY

Manufacturing

TOTAL CLAIM PAYOUT

\$1,335,000

A bankruptcy trustee of an electronic components manufacturing company with \$29 million in revenues, and a group of unsecured creditors of the company, sued its directors and officers for failure to identify, evaluate, negotiate, and secure the sale of company assets in a timely manner, which resulted in the company defaulting on its outstanding loans and filing Chapter 7 bankruptcy. A final settlement of \$975,000 was paid along with defense costs exceeding \$360,000.



Financial misrepresentation & misstatements

INDUSTRY

Wholesale & Distribution

TOTAL CLAIM PAYOUT

\$145,000

A supplier to a hardware distributor with \$16 million in revenues sued the company and its directors and officers for intentional financial misrepresentation and financial misstatements. The lawsuit alleged the supplier had sustained a financial loss due to the company's inability to pay for the inventory purchases that were shipped upfront, sent in "good faith", and were based on submitted financials that were false and misleading. The lawsuit was settled after a payment plan was entered into and the company had incurred \$145,000 in defense costs.

* These claims examples are for illustrative purposes only, and certain facts have been altered from the actual events. Every claim is different, and the final outcome depends on the unique facts, law and insurance policy involved. You should consult an insurance professional or attorney if you have questions involving an insurance policy or claim. Insurance coverage is underwritten by a member company of Arch Insurance Group Inc. The information provided is a brief description of the insurance coverage(s) available under the policy. The policy contains reductions, limitations, exclusions and termination provisions. Full details of the coverage are contained in the policy.

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Employment Practices Liability

Protecting employers in the event of employment related claims, including matters involving discrimination, harassment, wrongful termination or retaliation.

Key product features

- › Broad definition of Claim including an administrative or regulatory investigation of any Insured.
- › Comprehensive definition of Loss.
- › Broad definition of Employment Practices Wrongful Act.
- › Expansive definition of Insured Persons including Independent Contractors if the insured wishes to indemnify them within 60 days of a Claim being made.
- › Ability to provide sub-limits for Wage & Hour, Workplace Violence Coverage, Employee Privacy Claim Coverage, and Immigration Investigation Defense Costs Coverage.
- › EEOC charge and written demand continuity protection coverage.
- › Insuring agreements provide the same limits and retentions for first party and third party coverage.
- › Prior Notice exclusion includes given and accepted language.

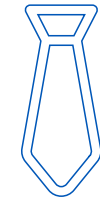


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Employment Practices Liability

Private Company Claims Scenarios*



Sexual harassment

INDUSTRY

Professional Services

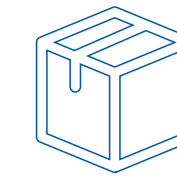
NUMBER OF EMPLOYEES

1500

TOTAL CLAIM PAYOUT

\$540,000

A male employee of a 1500-person consulting firm alleged that his manager engaged in numerous and repeated instances of sexual harassment, creating a hostile work environment. The employee also alleged that the continued sexual harassment caused severe emotional distress and mental anguish over a two-year period and forced him to resign. A jury awarded the employee \$300,000 for emotional distress & mental anguish and \$90,000 in lost income. Both of these, plus the consulting firm's \$150,000 loss in defence costs were covered under the firm's insurance policy.



Racial Discrimination

INDUSTRY

Wholesale & Distribution

NUMBER OF EMPLOYEES

540

TOTAL CLAIM PAYOUT

\$490,000

A 540-employee textile distributor agreed to settle a class action lawsuit brought by a group of African American employees for \$490,000. The class alleged that the distributor paid African Americans less than other employees, as well as failed to adequately train and promote them.



Wrongful Termination of Employment

INDUSTRY

Oil & Gas

NUMBER OF EMPLOYEES

25

TOTAL CLAIM PAYOUT

\$115,000

An employee of an oil and gas company with 25 employees filed a complaint with the EEOC and then filed a lawsuit alleging wrongful termination after he was dismissed for returning to work with nose and tongue piercings. The employee maintained that his performance evaluations had been positive and that he had recently been promoted to a supervisory role. The company incurred just over \$40,000 in defense costs and paid the employee \$75,000 to settle the case.

* These claims examples are for illustrative purposes only, and certain facts have been altered from the actual events. Every claim is different, and the final outcome depends on the unique facts, law and insurance policy involved. You should consult an insurance professional or attorney if you have questions involving an insurance policy or claim. Insurance coverage is underwritten by a member company of Arch Insurance Group Inc. The information provided is a brief description of the insurance coverage(s) available under the policy. The policy contains reductions, limitations, exclusions and termination provisions. Full details of the coverage are contained in the policy.

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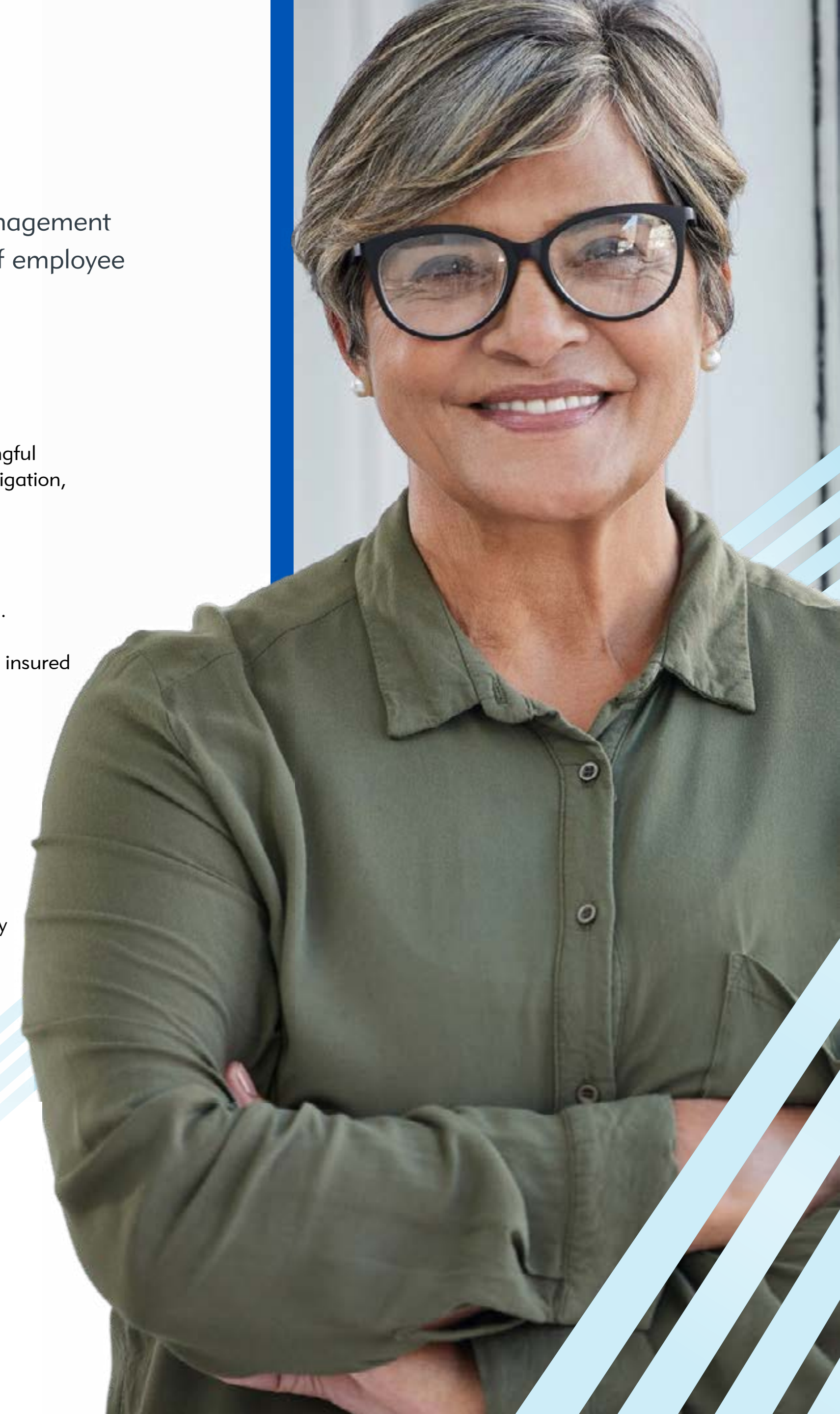
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Fiduciary Liability

Protecting a business and its fiduciaries from claims of mismanagement and legal liability related to management and administration of employee benefit plans.

Key product features

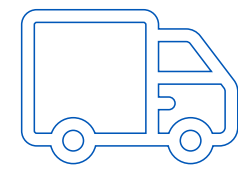
- › Broad definition of Claim with certain types of claims that do not require a Wrongful Act to be committed including a Settlement Program notice, Fact-Finding Investigation, Procedural Appeal, or waiving a statute of limitations.
- › Comprehensive definition of Loss.
- › Wrongful Act includes an act in a settlor capacity regarding any Sponsored Plan.
- › Expansive definition of Insured Persons including Independent Contractors if the insured wishes to indemnify them within 60 days of a Claim made.
- › Ability to provide sub-limits for Voluntary Settlement, and broad range of civil penalties including Section 4975 of the IRS Code, Health Insurance Portability and Accountability Act, Section 502(c) of ERISA, Pension Protection Act of 2006, Patient Protection and Affordable Care Act – no retention for certain civil penalties.
- › Fact-Finding Investigation coverage for any written notice of an investigation regarding a Plan by the Department of Labor (“DOL”), Pension Benefit Guaranty Corporation or any similar domestic or foreign government agency.
- › Broad definition of Administration, Plan, and Sponsored Plan.
- › Coverage extension for violation of Section 301 of the Labor Management Relations Act.
- › Prior Notice exclusion includes given and accepted language.
- › No pollution exclusion.



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Fiduciary Liability

Private Company Claims Scenarios*



Failure to Fund Employee Pension Plan

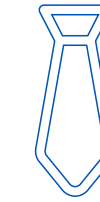
INDUSTRY

Transportation

TOTAL CLAIM PAYOUT

\$210,000

After failing to fund a pension plan, a privately owned transportation company, its fiduciaries, and the plan were sued by plan participants under Breach of Fiduciary Duty & Failure to Fund claims. The lawsuit alleged that the fiduciaries failed to protect the plan's assets and make required contributions as communicated to plan participants through various newsletters. After spending over \$210,000 in defense costs, the company agreed to replenish the pension plan and adhere to a revised plan document that allowed a two-year repayment plan.



Violation of 401(k) Investment Guidelines

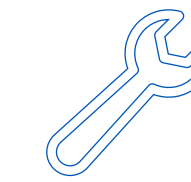
INDUSTRY

Professional Services

TOTAL CLAIM PAYOUT

\$352,000

Plan participants of a consulting company's 401(k) plan with \$680,000 in plan assets brought a class action lawsuit against the company, the plan, and the plan administrator, for Breach of Fiduciary Duty. The lawsuit alleged that plan assets were heavily invested in high risk bonds in violation of the plan's investment guidelines. The company paid in excess of \$237,000 to settle the lawsuit and \$115,000 in defense costs.



Misleading Communication of Benefits

INDUSTRY

Construction

TOTAL CLAIM PAYOUT

\$95,000

Participants in a construction company's profit sharing plan sued the company and the plan fiduciaries for misleading communications regarding the company's recent merger of two employee benefit plans. The participants alleged that the plan fiduciaries withheld pertinent information regarding a reduction of benefits under the new plan. The company paid \$95,000 in defense costs.



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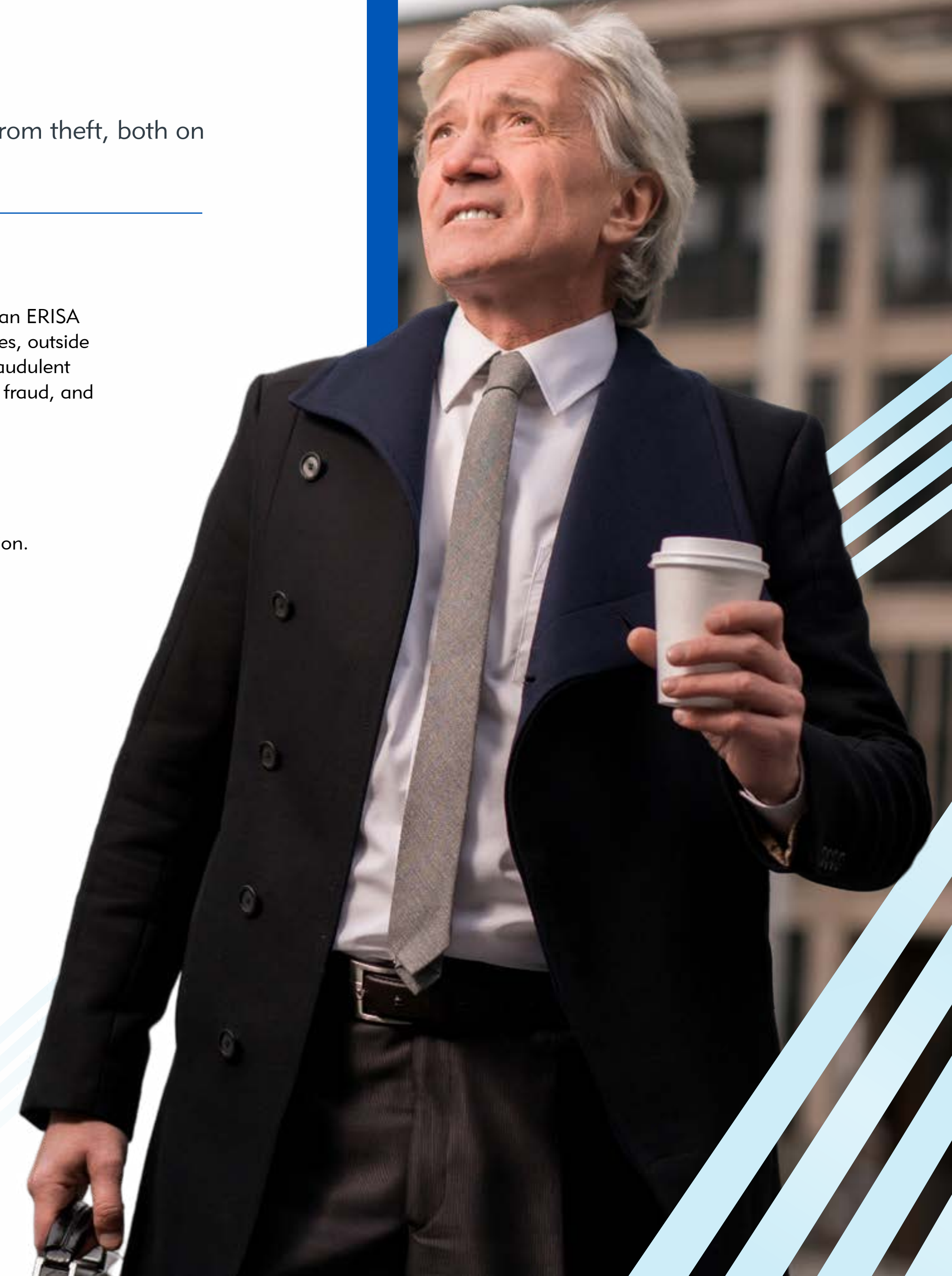
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Crime

Mitigating the financial loss to a company from theft, both on and off premises.

Key product features

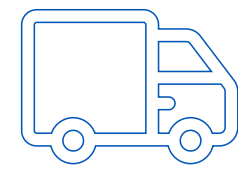
- › Insuring agreements for employee theft (including for an ERISA Sponsored Plan), customer property, inside the premises, outside the premises, forgery or alteration, computer fraud, fraudulent transfer instruction, social engineering fraud, currency fraud, and charge card fraud.
- › Sub-limits provided for computer restoration costs and investigation costs.
- › Social engineering coverage has no “call back” provision.
- › No retention for Loss by any ERISA Sponsored Plan.



Speak to an expert

Crime

Private Company Claims Scenarios*



Embezzlement by the Executive Vice President of Finance

WHOLESALE & DISTRIBUTION

Transportation

TOTAL CLAIM PAYOUT

\$625,000

An Executive Vice President of Finance for a food distributor was found to be collecting and tabulating all receipts for the day, skimming 2%- 3% off the top for deposit into an account they controlled, and recording daily sales at 98% or 97% of the actual amount. They were successful in doing this over a six-year period, embezzling over \$625,000 from the company.



Computer Fraud / Wire transfer Fraud

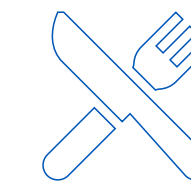
INDUSTRY

Construction

TOTAL CLAIM PAYOUT

\$49,000

A construction company discovered five unauthorized electronic transfers of money from its bank account within two days of each other, totaling \$49,000. Through its investigation, the company discovered that an unsuspecting finance employee had received a phishing email and had responded with his bank credentials. The credentials were used by the hacker to access the bank account and effectuate the transfers.



Unsolved Safe Burglary

INDUSTRY

Food & Drink

TOTAL CLAIM PAYOUT

\$55,000

A coffee shop & bakery was burglarized during the night and \$55,000 in cash was stolen out of the safe. The safe had been damaged and there were signs of forced entry but the police were unable to lift any fingerprints and no potential suspects were identified in the case.



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Kidnap & Ransom

Protecting your organization and its employees from expenses related to a kidnap, ransom, extortion in both foreign or domestic locations. Coverage provides access to leading risk consultant Control Risks.

Key product features

- › Includes express kidnaping response costs coverage.
- › Broad definition of Insured person including but not limited to an Employee, spouse, domestic partner, ancestor, employed in the household, normal resident or guest, and customer.
- › Broad coverage for hostage crisis response costs including but not limited to security consulting, independent public relations consulting, travel and lodging of an Insured Person, independent legal counsel, independent security guard service.
- › Ability to provide coverage for Repatriation Costs and Recall costs.

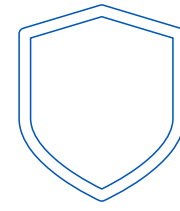


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Kidnap & Ransom

Private Company Claims Scenarios*

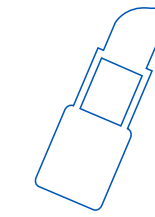


Kidnapping in Mexico

INDUSTRY
Technology

TOTAL CLAIM PAYOUT
\$30,000

A software salesman and his wife were kidnapped after men in two cars forced them to stop their car on a highway. The victims were handcuffed and beaten. They were forced to disclose the pin numbers to their bank cards and released after the maximum amount had been withdrawn for the day. The salesman's employer's insurance paid for \$10,000 in medical expenses and \$20,000 for 30 days of rest and relaxation costs for the couple.



Extortion of Trade Secrets in the US

INDUSTRY
Cosmetics & Personal Care

TOTAL CLAIM PAYOUT
\$195,000

A perfume manufacturer received an extortion threat in which the extortionists claimed to have gained illegal access to the company's proprietary information regarding the mixtures of essential oils and aroma compounds for their top-selling perfume lines. Within three days, the extortionist was exposed and arrested. The manufacturer's Kidnap, Ransom, and Extortion insurance policy ultimately paid over \$195,000 in expenses for independent forensic analysts, communications equipment, security guard services, and outside legal counsel.



Extortion by Threat of Product Contamination in the US

INDUSTRY
Dairy

TOTAL CLAIM PAYOUT
\$160,000

A dairy manufacturer and distributor received an extortion threat in which the extortionist claimed to have his own team within the company's processing plant that would contaminate the company's product within 48 hours unless a \$1 million demand was paid. Once the company's insurance carrier was notified, a team of independent security consultants, security guards, public relations advisors, and legal counsel were put in place and able to respond. Production was temporarily stopped and a significant amount of product was recalled. The company's Kidnap, Ransom, and Extortion insurance policy paid just under \$160,000 for the expenses related to the recall.

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Cyber

Protecting your business financially in the event of a cyber-attack or data breach, or as a result of litigation following such an event. Coverage provides access to experienced and dedicated resources and vendors to assist you during and after an incident.

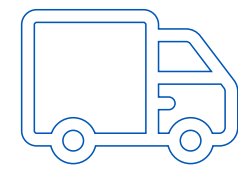
Key product features

- › Includes liability insuring agreements for network and privacy liability and media liability and non-liability insuring agreements for data incident responses, business interruption, extortion, and reputation harm.
- › Full Limits available for Payment Card Industry Data Security Standard ("PCI-DSS") Assessments and Regulatory Fines & Penalties.
- › Full Limits available for First Party Data Incident Response Expenses.
- › "Bring Your Own Device" included within Computer System definition.
- › Carve-Back to the Contract Exclusion for PCI Data Security and Non-Disclosure Agreements.



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Cyber



Ransomware – PII accessed

INDUSTRY

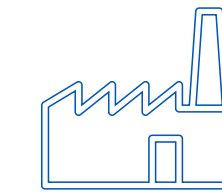
Transportation

TOTAL CLAIM PAYOUT

\$323,000

A logistics company with 100 employees and \$35M in revenue fell victim to a ransomware attack when unauthorized access was gained via an open portal at one of their 3rd party hosted servers. The company's emails were originally disrupted followed by their servers being encrypted unless a ransom of \$55,000 in bitcoin was paid. The company hired a breach coach which assisted the company in engaging an IT security firm and a separate forensics firm to conduct an initial investigation into the cause of the incident. Ultimately, the IT security firm recommended in paying the ransom in order to decrypt their servers after failing to decrypt the virus themselves. The forensics firm concluded that no 3rd party PII was stolen, however their employees domiciled in MI and NC had their healthcare and other personal information compromised. Due to state reporting regulations, the company had to provide notification and credit monitoring to those MI and NC employees.

Insurance covered the \$80,000 breach coach cost, \$55,000 in bitcoin ransom, \$150,000 IT security/forensics firm costs and \$38,000 in state notification costs.



Malware – no PII stolen identified

INDUSTRY

Manufacturing

TOTAL CLAIM PAYOUT

\$132,000

A small designer of custom cabinets located in Wisconsin with \$30M in revenue and 250 employees was hit with a malware attack that encrypted its systems after an employee accidentally clicked a link in an email. The company had to shut down all of its systems and attempted to rebuild their backup systems from scratch. The company engaged a breach coach who recommended hiring a forensic firm to assist in rebuilding their backup systems while also conducting a thorough forensic investigation. The forensics firm was able to decrypt the initial malware and the company was able to restore their systems from back-ups with the help of their internal IT team after 16 hours of being down. After the systems were back to being fully operational, the forensic firm conducted additional screening for any malware left on the companies systems which they concluded was no longer a threat.

Insurance covered the \$55,000 incurred from the breach coach services and \$77,000 for the forensic services. Additional business interruption costs may be covered.

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Loss Control

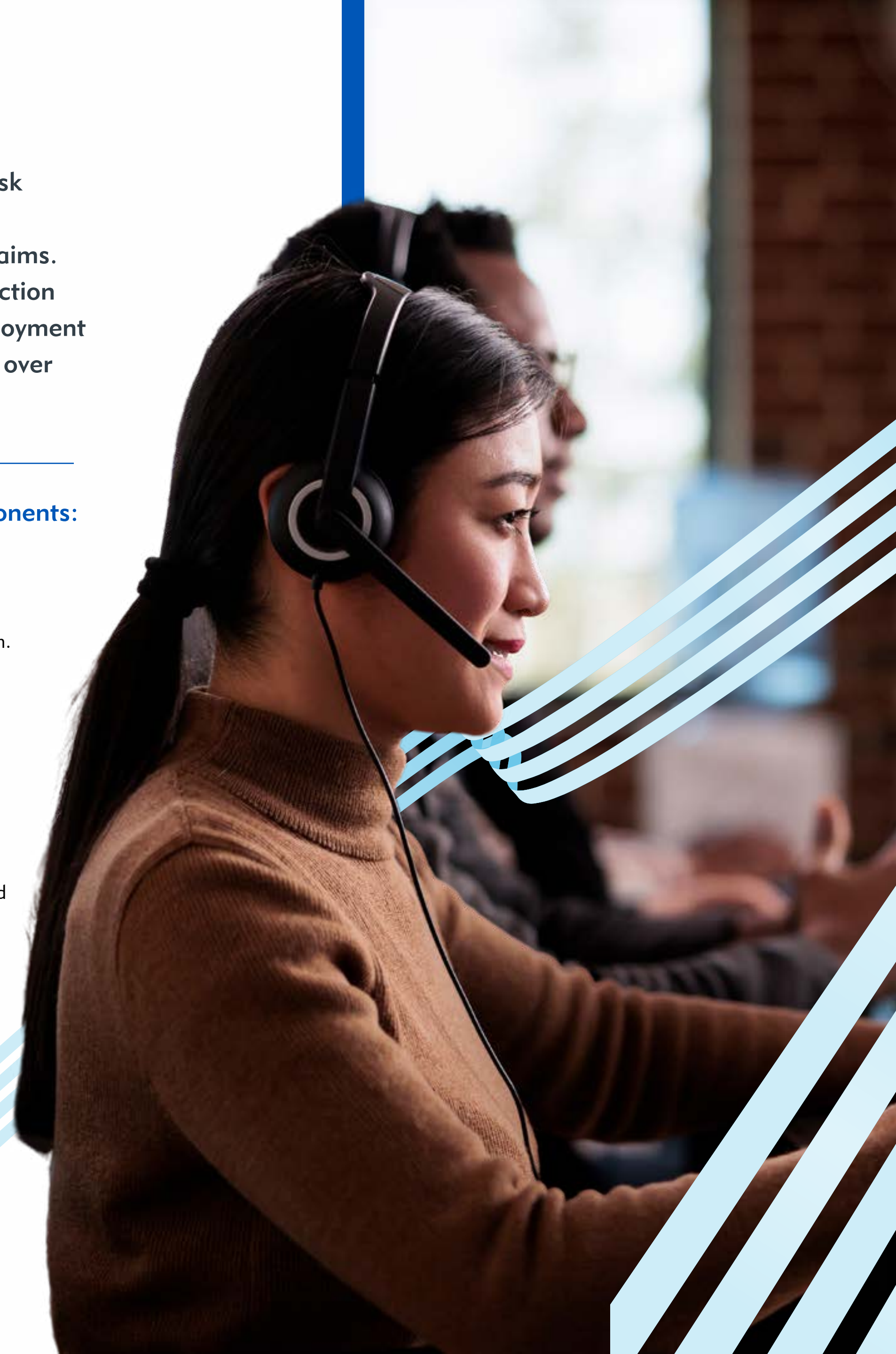
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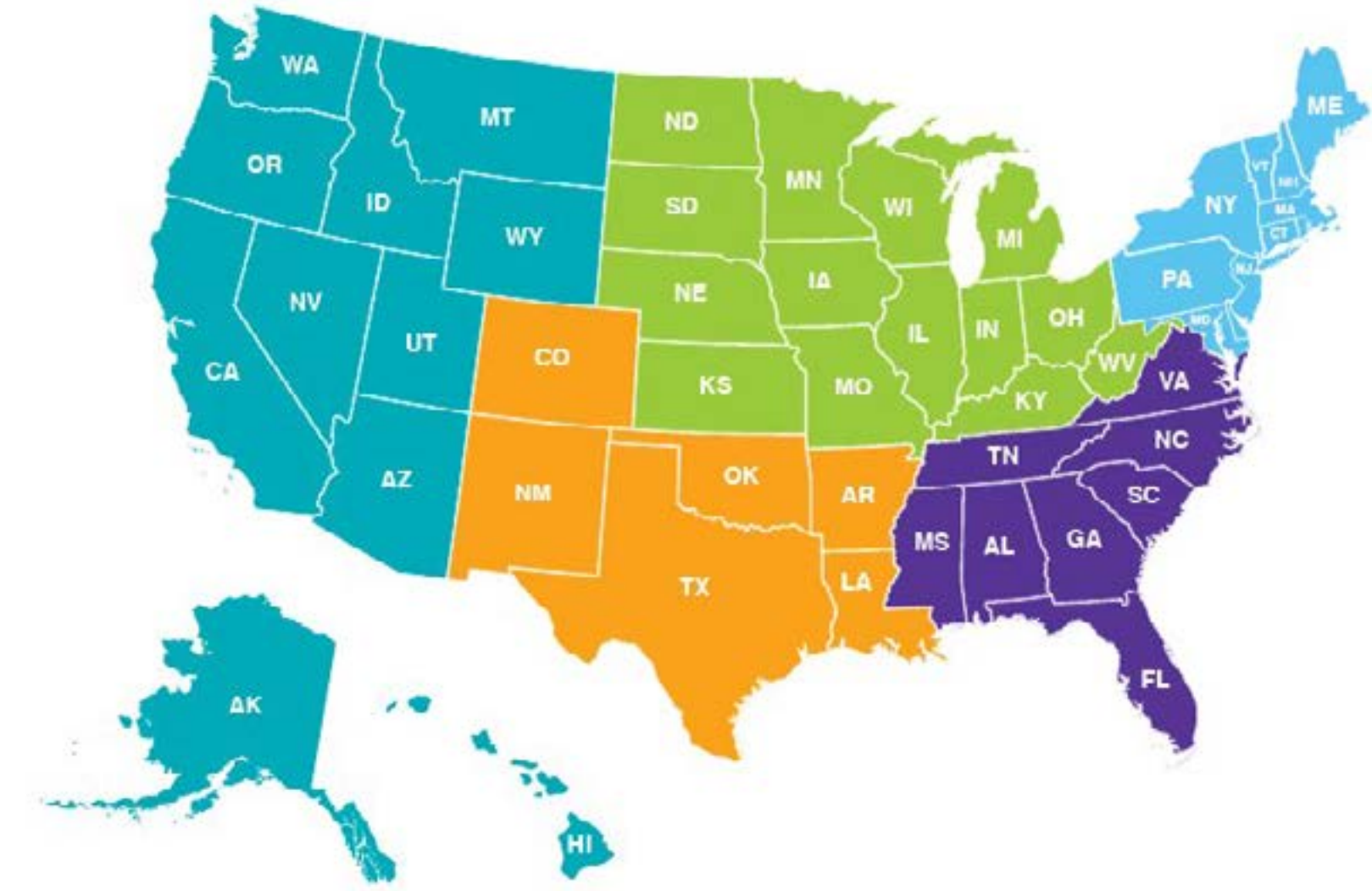
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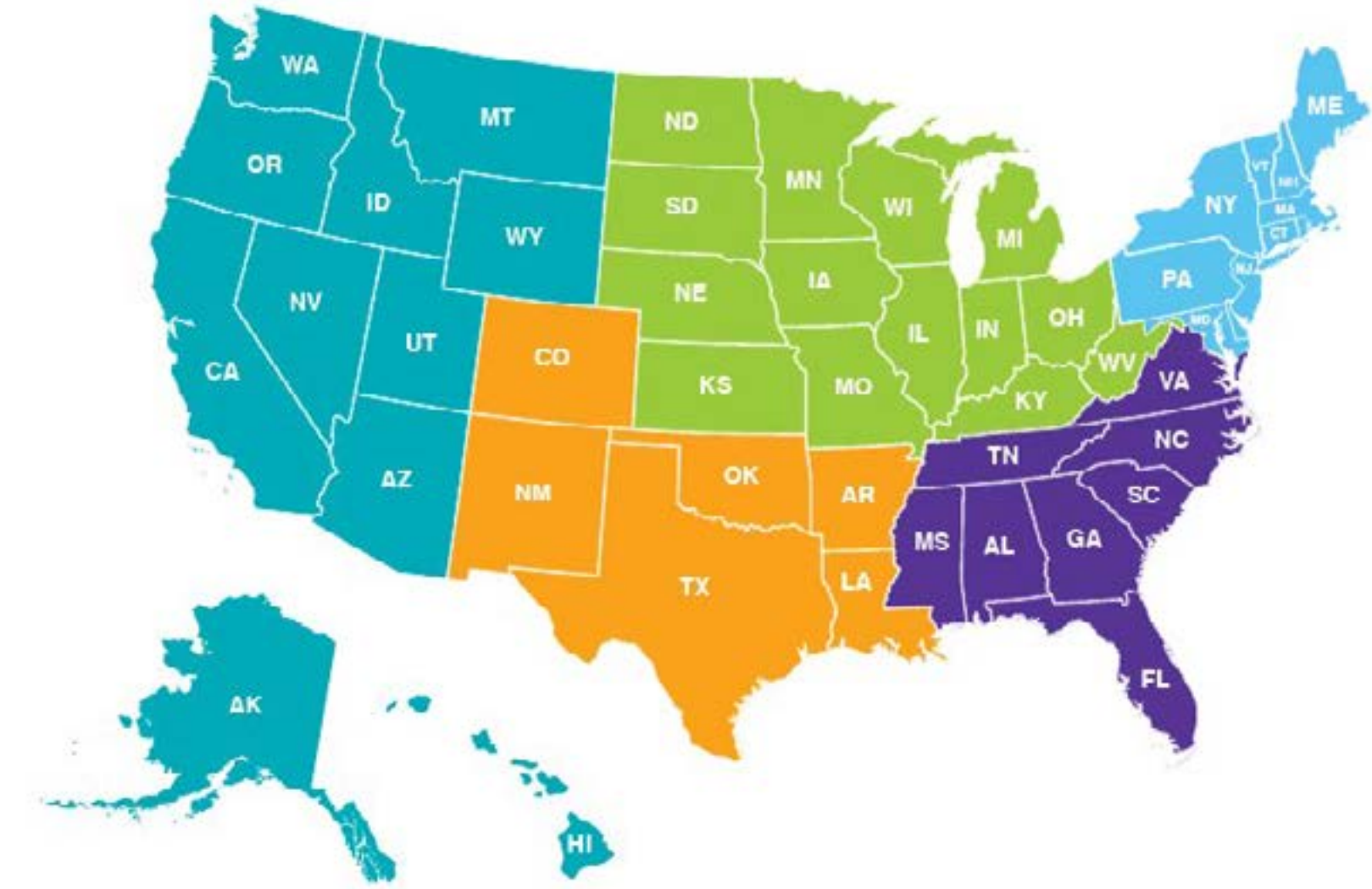
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